MINUTES OF THE
JOINT EXECUTIVE APPROPRIATIONS COMMITTEE

Tuesday, October 18, 2011 - 1:00 p.m. - Room 445 State Capitol

Members Present:
Sen. Lyle W. Hillyard, Co-Chair
Rep. Melvin R. Brown, Co-Chair
Sen. Kevin T. Van Tassell, Vice Chair
Rep. John Dougall, Vice Chair
Sen. Scott K. Jenkins
Sen. Peter C. Knudson
Sen. Benjamin M. McAdams
Sen. Karen W. Morgan
Sen. Wayne L. Niederhauser
Sen. Ross I. Romero
Sen. Michael G. Waddoups, President
Rep. Brad L. Dee
Rep. Gregory H. Hughes
Rep. Jennifer M. Seelig
Rep. David Litvack
Rep. Brian S. King
Rep. Rebecca D. Lockhart, Speaker
Rep. Ronda Rudd Menlove
Rep. Christine F. Watkins

Members Excused:
Sen. Patricia W. Jones

Staff Present:
Jonathan Ball, Legislative Fiscal Analyst
Steven Allred, Deputy Director
Greta Rodebush, Legislative Secretary

Note: A list of others present, a copy of related materials, and an audio recording of the meeting can be found at www.le.utah.gov.

1. Call to Order/Approval of Minutes

Co-Chair Hillyard called the meeting to order at 1:38 p.m. He noted that Sen. Pat Jones had asked to be excused from today's meeting.

MOTION: Co-Chair Brown moved to approve the minutes of the September 20, 2011 meeting. The motion passed unanimously with Speaker Lockhart absent for the vote.

2. Federal/Non-Federal Grants Reports

Jill Flygare, Governor's Office of Planning and Budget (GOPB), presented the Federal/Non-Federal Grants Reports dated October 18, 2011. There were four new federal grants and four continuations of existing federal grants requiring legislative action. The Governor's Office approved one new federal grant and two continuations of existing federal grants.

There were no new non-federal grants or reapplications of existing non-federal grants to approve.

MOTION: Co-Chair Brown moved to recommend acceptance of the federal grants outlined on page 1 of the handout entitled, "Federal/Non-Federal Grants Review and Approval" under the heading, "Grants Requiring EAC Review and Recommendation" and dated today, October 18, 2011. The motion passed with Rep. Dougall voting in opposition. Speaker Lockhart was absent for the vote.

Ms. Flygare informed the committee that each member had been given access to the grants.utah.gov website. She distributed a one-page, double-sided handout, "Grants.utah.gov," that explains how to log in to the system, change a password, and run reports.

3. Impacts of Federal Deficit Reduction Actions

The GOPB distributed two handouts: a copy of a memorandum from Ron Bigelow, Executive Director, GOPB, dated October 18, 2011, and a list of programs by agency entitled, "Federal Discretionary Spending in Utah."

Juliette Tennert, Deputy Director, GOPB, reported on potential federal funds reductions. She stated that if Congress does not pass the Joint Select Committee on Deficit Reduction recommendations by December 23, 2011, or if passed recommendations are not enacted by January 15, 2012, automatic across-the-board cuts to both discretionary and non-exempt mandatory spending will go into effect in January 2013. The GOPB estimates that the state budget would see a reduction of approximately $90 million in federal funds.

In addition to deliberations associated with the Budget Control Act of 2011 (BCA), Congress is currently negotiating the federal budget for FFY 2012. If Congress adopts a FFY 2012 budget that reflects the current Continuing Resolution's 1.5 percent across-the-board cuts to discretionary spending, the impact on Utah's budget would be a reduction of about $15 million.

Ms. Tennert stated that the GOPB will continue to work with state agencies and the Office of the Legislative Fiscal Analyst to identify impacts of federal fund reductions. In the November Executive Appropriations Committee meeting, the Division of Finance may be presenting agency contingency plans for implementing hypothetical 5 percent and 25 percent reductions in federal funds.

Co-Chair Hillyard asked that legislators be given some preliminary notice on any federal reductions that may impact budgets for FY 2013. He requested that the GOPB provide the Legislature with a list of prioritized programs that the state may have to fund in lieu of federal funding. He asked for this list before the next General Session.

Rep. Litvack asked if the state would have any role in deciding where those cuts are taken. Ms. Tennert explained that the across-the-board cuts are at the account level and that federal agencies will not have a lot of flexibility in working with the states.

Pres. Waddoups stated that the Executive Branch needs to make sure that the departments are aware that these federal reductions could be forthcoming.

4. Revenue Update

Co-Chair Hillyard introduced staff economist/statistician, Angela Oh, the newest member of the LFA office. Ms. Oh will be working with Higher Education and the Department of Environmental Quality.

Dr. Andrea Wilko, Chief Economist, LFA, and Dr. Thomas Young, Economist, LFA, presented the Revenue Update for October 2011. The report structure included collections to date (General Fund and Education Fund), economic indicators, interstate job comparisons, tax uncertainty, debt and expectations, and macro conditions.

Dr. Wilko noted that the revenue update provides a range forecast for FY 2012. Based on revised indicators and collection patterns, FY 2012 revenues will be between $50 million less and $100 million more than estimated last spring. In addition, Utah ended FY 2011 with a $107 million General and Education Fund revenue surplus. When adjusted for expenditures and transfers, the available one-time revenue that can be expended in 2012 is close to $60 million.

The key risk factors for economic growth continue to be the housing market, wage growth, consumer spending, inflation, and corporate volatility. The report indicates that Utah's economy continues to experience a dull recovery. There are, however, positive signs of recovery as noted in increased residential permit values, accelerating employment growth, and retail sales growth.

Dr. Wilko and Dr. Young responded to committee questions on tracking cigarette purchases, corporate tax collections, unemployment rates and reporting standards, federal volatility and economic indicators, tax liability changes, and the effects of stimulus spending.

5. Actuarial Valuation of Other Post Employment Benefits

Steven Allred, Deputy Director, LFA, explained that the Governmental Accounting Standards Board (GASB) requires an actuarial valuation of Utah's accrued liability for Other Post Employment Benefits (OPEB) every two years. In Utah, OPEB generally refers to state-paid health and life insurance for retirees. The Legislature has appropriated ongoing funds to the Division of Finance to carry out these actuarial studies. The Division of Finance has contracted with Aon-Hewitt Consulting to look at Utah's accrued liability and calculate its value as of December 31, 2010.

Debra Donaldson and Megan Heine, Aon-Hewitt Consultants, reported on the latest actuarial valuation of the liability associated with OPEB. The valuation shows that, compared to two years ago, the state's Annual Required Contribution (ARC) to the OPEB trust fund has declined from $44 million to $38 million.

Rep. King, referencing slide 5, "State of Utah Employees' OPEB Plan," asked if the OPEB plan was on sounder financial footing compared to December 31, 2008. Ms. Donaldson indicated that as Utah continues to fund the OPEB plan, the percentage funded will go up until the plan is fully funded in approximately 25 years.

6. Department of Technology Services (DTS) Budget Issues

Stephen Jardine, LFA, and Gary Ricks, LFA, presented the Issue Brief, "Department of Technology Services Budget and Oversight."

Mr. Jardine prefaced his remarks by stating that in a recent audit of the Department of Technology Services (DTS), the Legislative Auditor General suggested that increased legislative oversight could improve DTS operations. In this report, the Office of the Legislative Fiscal Analyst has identified short-term and long-term actions to improve DTS oversight.

For example, Mr. Jardine pointed out that DTS has consistently used less staff and capital outlay than it has requested from the Legislature. In addition, DTS has not met the requirement to report contracted employee estimates on its pro-forma financial statements. Mr. Jardine also indicated that DTS has collected excess funds from state agencies and shows FY 2011 Contributed Capital/Retained Earnings equaling $15,931,603. However, an analysis of DTS' average monthly cash balances indicates that as a result of the constant acquisition of technology equipment and software, DTS does not have excess cash balances on an ongoing basis. Mr. Jardine suggested that the Legislature consider further limiting DTS FTE and capital acquisition authority in order to improve accountability.

The Analyst recommends that the Legislature reduce DTS FTE authorization by 122 FTE and establish a FY 2012 and FY 2013 capital outlay authorization of $6,500,000. The Analyst also recommends DTS report to the Legislature contract employment estimates for the past three years and revise its financial statements to include contract employment counts all to improve DTS accountability.

Gary Ricks, LFA, explained that DTS' organization chart has evolved since it was established in 2005. The current organization chart differs from statute in that the Division of Agency Services and the Division of Integrated Technologies now reside within the Division of Enterprise Technology. While this arrangement may allow greater flexibility for agency managers, and may lead to better coordination, the Legislature should consider how to reconcile the differences with statute.

Mr. Ricks also discussed two issues within the market force area. Customers do not have to actively "pay" DTS because DTS bills agencies for consumption and automatically deducts payments through interdepartmental transactions. Customer agencies are not able to review and appeal payments to DTS until after-the-fact. Another issue hindering market forces is the policy that requires an agency to subscribe to IT services provided by DTS unless the agency gets a waiver from DTS.

The Analyst recommends conducting an in-depth budget review of DTS during the 2012 interim to include an investigation of differences between DTS' operating structure and its enabling statute; mechanisms by which agencies can affirmatively validate DTS charges; and necessity of exclusive relationship between DTS and customer agencies.

Steve Fletcher, Executive Director, DTS, responded to Rep. Menlove's inquiries about cost savings and guidelines pertaining to contracted employees, the executive director's reporting line of authority, and policies that require agencies to contract for services with DTS.

Rep. Seelig commented that DTS should focus on measuring outcomes and providing customer service.

Sen. Jenkins asked how DTS measures customer satisfaction, how DTS ranks itself, and how DTS compensates its employees. Mr. Fletcher stated that DTS surveys each executive director on various levels, has earned a rank of 4.6 out of 5, and has offered modest salary increases based on meeting performance goals.

Rep. Watkins inquired about the recommendation to reduce DTS FTE authorization by 122 to 725.

MOTION: Rep. Dougall moved to refer this report to the Infrastructure and General Government Appropriations Subcommittee for further consideration, and to direct the Legislative Fiscal Analyst to add the Department of Technology Services to a list of potential subjects for next year's in-depth budget review. He further moved that the Executive Appropriations Committee request DTS to provide service level metrics to LFA staff so that they can forward that information to members of this committee.

The motion passed unanimously with President Waddoups, Sen. McAdams, Sen. Van Tassell, Speaker Lockhart, and Rep. Litvack absent for the vote.

7. Eligibility Determination Systems Study

Dr. David Patton, Executive Director, Department of Health, gave an update on the Medicaid Eligibility Determination Systems Study and distributed a one-page handout entitled, "HB 174, Contracting for Medicaid Eligibility Determination Systems."

Mr. Patton reviewed H. B. 174 that requires the Department of Health to work with the Department of Workforce Services (DWS), the Department of Human Services (DHS), and the Privatization Policy Board (PPB) to study the state's eligibility determination system.

The study must include eligibility determination for the state Medicaid program; the Utah Children's Health Program; the Primary Care Network; the Utah Premium Partnership; and other eligibility systems administered by DWS. The study must also include the workflow and operations of the eligibility determination systems, and efficiencies that may be obtained through consolidation, privatization, and other technology or organizational solutions.

Mr Patton reported that study and contract preparations represent a coordinated effort between the agencies. The Department of Health has contracted with a research team from Southern Utah University and Utah State University to complete the study. Mr. Patton highlighted the scope of the study that consists of seven research and analysis tasks. The research teams thus far have worked on state comparisons and statutory requirements, but will begin working with the agencies shortly.

Kristen Cox, DWS, indicated that DWS had looked at outsourcing to address cost reductions, timeliness, and quality issues a couple of years ago. DWS conducted its own internal study as well. She pointed out that the sponsor of H.B. 174 has also requested an independent study. Ms. Cox stated that DWS is interested in new findings and areas for improvement.

Co-Chair Hillyard asked about the study's time line. Dr. Patton said that realistically, the study results will be available in January or February of 2012.

Sen. Neiderhauser asked how the Department has worked with the Privatization Policy Board and if they have been supportive. Dr. Patton said the Privatization Policy Board has been involved all along in the process and has been very helpful and supportive.

8. Utah Science, Technology, and Research (USTAR) Annual Report

Zack King, LFA, presented the Issue Brief, "USTAR Achievements, Expenditures, and Nonlapsing Balances." He discussed the USTAR's background, estimated J-curve return on investment, structural deficit and nonlapsing balances, cumulative expenditures through FY 2011 by universities, and performance differentials between universities.

Mr. King reported that USTAR is beginning its sixth year of operations. As an investment type of program, USTAR is following the J-curve process, where initial years of losses are anticipated to turn into deferred profits. The estimated net profit to the state through FY 2011 represents a loss of $245 million. When comparing against the original economic prospectus, which excludes the costs of building construction, USTAR is about $15 million below target, but within the margin of error.

Mr. King brought to the committee's attention two issues the Legislature may want to address in the upcoming session: 1) USTAR's structural deficit and nonlapsing balance, and 2) a performance differential between the University of Utah and Utah State University.

For the past three years, USTAR has used one-time federal assistance to fund ongoing operational costs. Absent further assistance, USTAR's projected ongoing expense budget will fall by $4.6 million in FY 2013. USTAR has sufficient nonlapsing balances to cover the difference between its ongoing costs and ongoing revenue until FY 2013.

USTAR funding is split between the University of Utah (60%) and Utah State University (40%). Based upon USTAR's own performance metrics, it appears that investment at the University of Utah yields higher returns than investment at Utah State University. The Legislature may want to allocate funding based upon performance instead of on a 60/40 split.

Rep. Dougall asked for a clarification on USTAR funding requests.

Jonathan Ball, Director, LFA, clarified that if USTAR keeps spending at its current rate, it is going to come up short by about $5 million. The Legislature will have to reduce USTAR's spend rate or come up with some money to replace ARRA funds. In regards to the performance differential between the University of Utah and Utah State University, if the Legislature wants to fund based on performance, it may wish to revisit the current 60/40 USTAR funding allocation.

Rep. Dougall inquired about performance returns.

Ted McAleer, Executive Director, USTAR, addressed the committee. He was joined by Dinesh Patel Ph.D., Chairman, USTAR Governing Authority.

USTAR distributed its Annual Report for 2011 and a power point presentation entitled, "Annual Report to Executive Appropriations Cmte, USTAR Investment & Results: Nanotechnology Ex."

Mr. McAleer briefly discussed the USTAR five-year results overview, the preliminary impact analysis, and Program 1, 2 and 3 that includes research focus areas, research buildings, and regional technology outreach, respectively. Mr. McAleer gave examples of how state and federal funding has been put to use, and he lauded the commercialization efforts of USTAR directors at the regional universities.

Mr. McAleer clarified where USTAR stands in terms of funding. He stated that USTAR will be tightly managing its budget in FY 2012 and FY 2013. He also pointed out that USU has been very aggressive in putting together a new leadership team to manage its USTAR project. He felt that the new leadership should be given the opportunity to drive the kind of results and the example that was originally set forward by the U of U.

Sen. Jenkins asked if the commercialization projects have generated any revenues, and if so, where do the revenues return. Mr. McAleer explained that there are two types of commercialization projects. Revenues generated through commercialization projects at the University of Utah and Utah State University are split 50/50 with the USTAR Governing Authority. Revenues in excess of $1 million generated through the technology commercialization grants will repay the grant to the regional higher education institution. Sen. Jenkins stated that he is anxious to see some of these programs pay for themselves.

Rep. Menlove commented that technology commercialization is being seen as a revenue source for universities.

Sen. Romero stated that he is very impressed with USTAR and the caliber of people that are employed with the program.

Rep. King referred to the J-curve chart and the progress USTAR is making. Mr. McAleer stated that he is very optimistic about the progress of USTAR and indicated that he believes USTAR is ahead of the J-curve. Now that there is five years of data, USTAR has asked the Bureau of Economic Business Research (BEBR) to update the prospectus and to give them some new projections. Rep. King expressed his support for the USTAR project.

MOTION: Sen. Jenkins moved to refer this report to the Business, Economic Development, and Labor Appropriations Subcommittee for further consideration. The motion passed unanimously with President Waddoups, Sen. McAdams, Sen. Van Tassell, Co-Chair Brown, Speaker Lockhart, and Rep. Dougall absent for the vote.

9. Other Business

There were no other business items to discuss.

MOTION: Sen. Morgan moved to adjourn. The motion passed unanimously with President Waddoups, Sen. Van Tassell, Sen. McAdams, Rep. Brown, Speaker Lockhart, and Rep. Dougall absent for the vote.

Co-Chair Hillyard adjourned the meeting at 3:52 p.m.