

**MINUTES OF THE
EXECUTIVE APPROPRIATIONS COMMITTEE**
Tuesday, June 19, 2012 - 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. Ben McAdams
Sen. Karen W. Morgan
Sen. Wayne L. Niederhauser
President Michael G. Waddoups
Rep. Brad L. Dee
Rep. Gregory H. Hughes
Rep. Brian King
Rep. David Litvack

Speaker Rebecca D. Lockhart
Rep. Ronda Rudd Menlove
Rep. Christine Watkins

Members Excused:

Sen. Patricia W. Jones
Sen. Peter C. Knudson
Sen. Ross I. Romero
Rep. Jennifer M. Seelig

Staff Present:

Mr. Jonathan Ball, Legislative Fiscal Analyst
Mr. Steven Allred, Deputy Director
Ms. Greta Rodebush, Legislative Secretary

Note: A copy of related materials and an audio recording of the meeting can be found at www.leg.utah.gov.

1. Call to Order/Approval of Minutes

Co-Chair Brown called the meeting to order at 1:37 p.m. Sen. Jones, Sen. Knudson, Sen. Romero, and Rep. Seelig were excused from the meeting.

MOTION: Sen. Hillyard moved to approve the minutes of May 15, 2012. The motion passed unanimously. President Waddoups, Rep. Dee, Rep. Hughes, Rep. Litvack, and Speaker Lockhart were absent for the vote.

2. Federal/Non-Federal Grants

Jill Flygare, Governor's Office of Planning and Budget (GOPB), presented the Federal/Non-Federal Grants Report dated June 19, 2012.

Ms. Flygare stated that the Governor's Office had modified its federal/non-federal grants review process. She explained that on occasion, a grant needs changing or additional information becomes available after a report has been sent to the Executive Appropriations Committee (EAC). In order to give everyone an opportunity to fully understand the implications of the changes, the GOPB will hold such grants until the next EAC meeting.

Ms. Flygare listed the federal grants and non-federal grants requiring legislative action in the handout, "Revised Federal/Non-Federal Grants Review and Approval," dated June 19, 2012. Under federal grants, there were two new grants, two reapplications/continuations of existing grants, and one revision of an existing grant requiring legislative action. In addition, there was one non-federal reapplication/continuation of an existing grant requiring legislative action.

Ms. Flygare noted that the Governor's Office had approved two new federal grants.

The committee did not take any action on the Federal/Non-Federal Grants Report at this time.

3. Revenue Update

Dr. Andrea Wilko and Dr. Thomas Young presented the "Revenue Update" dated June 19, 2012.

Dr. Wilko reported that based upon revised economic indicators and collections, current General Fund and Education Fund revenues are expected to end FY 2012 within a range of \$30 million below to \$60 million above the May Executive Appropriations Committee (EAC) FY 2012 target. She commented that there is more upside potential than downside risk.

The General Fund is expected to end FY 2012 in the range of \$15 million below target to \$15 million above the May EAC target, while the Education Fund is expected to end FY 2012 in the range of \$15 million below target to \$45 million above target. Dr. Wilko stated that the Transportation Fund is still struggling and that revenues could be as much as \$20 million below target.

Dr. Wilko noted that job growth, wage increases, growth in sales tax, consumer confidence, and improving residential construction are having a favorable impact on tax collections. She expects revenues to remain within the range of the adopted May forecast.

Dr. Young discussed Utah's economic cycle. He stated that the economy was in expansion territory for most of 2010 and three-fourths of 2011. Since then, the economy has fluctuated between expansion and slowdown, with most of 2012 in slowdown territory.

Dr. Young reported on the tax collections for the General Fund from sales tax, cigarette and tobacco taxes, and severance taxes. Sales tax is growing but has flattened out due to the reinstatement of the Centennial Highway Fund earmark from 1.93 percent in FY 2011 to 8.3 percent in FY 2012. Cigarette and tobacco taxes are coming in below target, and at least \$4 million in cigarette tax revenue has shifted to neighboring states. Severance taxes are underperforming largely due to supply and demand pressures, the prices of natural gas and oil, and global growth risk factors.

Dr. Wilko reported on the tax collections for the Education Fund which are largely driven by employment and wage growth. She stated that the year over year growth rate for withholding remains solid at 5.5 percent, and for net final payments at 8 percent. In addition, personal income is expected to grow by 4.5 percent in 2012 and by 5.5 percent in 2013. Corporate tax is expected to come in above target due to the fact that corporate taxable income is largely flat compared to the previous two years.

Dr. Wilko briefly discussed corporate profits on a nationwide basis, which are expected to grow by about 13 percent in 2012 and about 11 percent in 2013. She noted that national profit growth has not resulted in an equivalent growth in revenues because of loss carry forwards, credits, expensing, and other factors influencing state taxable income.

Dr. Young reported that revenue to the Transportation Fund is anticipated to end FY 2012 below target by up to \$20 million. The motor fuel tax has remained flat for quite a while due to increases in estimated fuel economy (people buying smaller cars).

Dr. Wilko reviewed Utah's employment trends, unemployment, population working or looking for work, and industry changes. She also presented some intrastate comparisons which show that in the next two years, business growth will become more geographically widespread.

Dr. Wilko reviewed national economic indicators which suggest some improvement in the national economy. There is evidence, however, that growth rates are decelerating due to risks in the world and national outlook.

Finally, Dr. Wilko reported that the year-to-date growth rate for General Fund and Education Fund revenue collections is 2.3 percent. She stated that the growth rate is well within range of the FY 2012 consensus forecast of 2.5 percent.

Dr. Wilko and Dr. Young responded to committee questions. Sen. Hillyard commented that it is important to maintain a proper spending perspective when it comes to revenue figures. Mr. Ball pointed out that revenue collections can vary on a day-to-day basis, but we are right on forecast.

4. Department of Corrections Prison and Jail Space Report

Mr. Tom Patterson, Executive Director, Utah Department of Corrections (UDC), and Mr. Mike Haddon, Deputy Director, distributed and discussed the handout, "Male Inmate Capacity and Projection: June 2012 to July 2017."

Mr. Patterson explained that typically the male prison population has grown about 144 inmates a year, but projections are showing a slight downward shift. The UDC maintains its operational capacity at 96.5 percent which leaves some flexibility in beds at the state prison in Draper and Gunnison to move inmates around for medical and various other reasons.

Mr. Patterson pointed out that more than 20 percent of the state's inmates are housed on contract in twenty county jails. In the 2012 General Session, the Legislature appropriated \$1.1 million in one-time funding to increase the daily contract rate to help with the projected growth in the county jails. This one-time funding will need to be replaced with ongoing funding if the state wants to continue at the same rate in the future.

According to UDC projections, inmate capacity for the state will reach its maximum levels by August 2016, at which time it will be necessary to have more available beds. The UDC recommended building an additional jail pod in the Gunnison area. Mr. Patterson pointed out that it would take 36 months from funding to operation to complete such a facility.

Sen. Hillyard inquired about the one-time funding for jail contracting, educational opportunities in county jails, last year's use of nonlapsing balances, mental health treatment programs, and sentencing issues related to sex offenders who deny committing a crime.

Mr. Patterson reviewed the "Projected Appropriations Need for Jail Contracting" included in the handout. Based on the FY 2013 jail contracting rate of \$46.85, the current total cost for contracted jail beds is \$27,262,800. If the jail contracting rate continues at that rate, jail contracting funding will increase by almost \$3 million in FY 2014, \$2.8 million in FY 2015, and \$1.7 million in FY 2016. The shortage in FY 2016 will be the result of having reached capacity in the county jails.

Mr. Patterson responded to committee questions regarding additional funds for sex offender treatment, clarifications on the male inmate capacity and projection chart, funding county jails vs. private jail contractors, inmate education programs, and low reimbursement rates and county jails.

5. Department of Corrections Health Care Cost Report

Mr. Patterson reported on the rising costs for medical services within prison systems. In the handout, "Clinical Services Bureau - Inmate Medical," a history of the Clinical Services budget shows that since 2007, the UDC has had to request supplemental appropriations in order to meet its medical service obligations. Mr. Patterson talked about the difference in expenditures vs. appropriated (one-time funding excluded) for FY 2006 going forward and gave two examples of recent unexpected medical situations that arose requiring supplemental funding.

The UDC has taken proactive steps to reduce medical costs, increase efficiencies, and protect the public. These steps include the following: On-site dialysis at the Draper Prison, Tele-medicine, Mobile MRI, Medicaid Access, Utah Medical Center Contract Adjustments, and supporting legislation allowing inmates to use their private insurance.

Rep. Litvack asked if changing demographics, such as aging, are increasing the cost of incarceration. Mr. Patterson stated as inmates age, medical costs do tend to escalate. He also commented that experts agree that when an inmate turns 55 years old, he or she is considered to have reached old age.

Mr. Haddon indicated that the geriatric population in Utah and nationally is increasing, and research shows that along with aging comes increasing costs. He noted that about one-third of Utah's inmate population are sex offenders and they tend to be older and stay longer.

Sen. Niederhauser asked about efforts to encourage good diets, wellness, and exercise at the prison. Mr. Patterson stated that full-time dietitians ensure that inmates are receiving the minimum dietary requirements. While exercise is based upon an inmate's classification, he would like to see more progress in this area, particularly from a mental health perspective.

Co-Chair Brown entertained a motion on the Federal/Non-Federal Grants Report.

MOTION: Sen. Hillyard moved to recommend acceptance of the federal and non-federal grants as outlined on page 1 of the handout entitled, "Revised Federal/Non-Federal Grants Review and Approval" under the heading, "Grants Requiring EAC Review and Recommendation" and dated today, June 19, 2012.

President Waddoups asked if the Social Services Appropriations Subcommittee had reviewed the Heart Disease and Stroke Prevention Programs grant subsequent to last month's EAC meeting.

Mr. Zack King, Fiscal Analyst, LFA, stated that the Co-Chairs of the Social Services Appropriations Subcommittee had submitted a letter stating that the subcommittee had met on June 13, 2012 and voted to recommend that the EAC accept the \$56,628 additional federal funds for the Heart Disease and Stroke Prevention Programs requested by the Department of Health. Additionally, the subcommittee voted to look at some federal grants in more detail at some future date.

A vote was taken on the motion. The motion passed with Rep. Dougall voting in opposition.

6. Deferred Maintenance and Capital Improvement Funding Report

Mr. Rich Amon, Fiscal Analyst, LFA, presented the Issue Brief, "Capital Improvement Funding and Allocation," that included as Appendix A, a list of capital improvement requests for FY 2013.

Mr. Amon reported that Utah has made capital improvement funding a priority. For FY 2013, the Legislature committed \$71.7 million to capital improvement funding, nearly the same as the highest funding level in FY 2008. And yet, the \$71.7 falls short of the statute which requires the Legislature to fund capital improvements at a level equal to 1.1 percent of the replacement value of existing state buildings. To maintain the current budget, the Legislature will need to replace \$30 million in one-time funding for capital improvements going forward in FY 2014.

Mr. Amon discussed some issues associated with deferred maintenance. The Facility Condition Assessment has identified approximately \$450 million in "immediate" repair needs and an additional \$1,550 million of needs in the next five to ten years, for a total of \$2 billion.

Mr. Amon reviewed four recommendations that could help address the challenges in capital improvement funding. They include the following: 1) Codify recent intent language requiring capital improvement funds to be used primarily for infrastructure projects; 2) Use restricted revenue sources for improvements on facilities built with agency restricted funds; 3) Amend statute to require funding of operation and maintenance and capitol improvements at the time of authorization; 4) Fund DFCM administration with General Fund rather than capital improvement money.

Mr. Lynn Hendricks, Deputy Director, DFCM, and Kurt Baxter, Capital Budget Manager, DFCM, were available for comment and questions. Mr. Hendricks confirmed that there is a big backlog of work and not enough staff to complete \$450 million worth of projects. Currently, there are 400 open improvement projects, which represent only 6 percent of all state buildings that could require attention. He also noted that there are some improvement projects that are too large to fit under the \$2.5 million limit.

In regards to the intent language adopted during the 2012 General Session, Mr. Hendricks felt that directing capital improvement funds toward infrastructure was good, but indicated that there are some agencies that do not have big infrastructure needs and could use the funding elsewhere. He commented that the wording of the intent language does give the State Building Board some flexibility when considering agency funding requests.

Sen. Hillyard asked what happens to unspent improvement funds. Mr. Hendricks stated that these monies are placed in a reserve fund to be drawn from to pay for projects that are over budget or on the capital improvement funding list but are not funded.

Sen. Niederhauser inquired about funding for remodels. Mr. Amon explained that the recently adopted intent language designates that capital improvement funds are to be used primarily for infrastructure projects, but it does not preclude those funds from being used for other projects. Sen. Niederhauser said that he would be in favor of separating out the maintenance issues from remodeling projects.

Sen. Niederhauser asked for a clarification on the replacement of capital improvement funds with General Fund for DFCM administration. Mr. Amon stated that the replacement with General Fund pertained only to DFCM administration on the State Capitol Complex. Mr. Hendricks clarified that this involved just the project managers for the improvement projects.

Rep. King asked if the state is in the "right spot" in spending money on the right project at the right time. Mr. Hendricks commented that the state is improving in this area and gave some examples on how the state is managing and maintaining projects.

MOTION: Sen. Hillyard moved to refer this report to the Infrastructure and General Government Appropriations Subcommittee for further consideration. The motion passed unanimously with Rep. Dee absent for the vote.

7. Performance Note Report

Co-Chair Brown announced that the Performance Note Report would be rescheduled for the August 14, 2012 meeting.

8. Other Business

MOTION: Sen. Hillyard moved to adjourn. The motion passed unanimously.

Co-Chair Brown adjourned the meeting at 3:22 p.m.