MINUTES OF THE
EXECUTIVE APPROPRIATIONS COMMITTEE

Tuesday, October 16, 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. Patricia W. Jones
Sen. Peter C. Knudson
Sen. Karen W. Morgan
Sen. Wayne L. Niederhauser
Sen. Ross I. Romero
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. Jennifer M. Seelig
Rep. Christine Watkins

Members Excused:
Sen. Ben McAdams

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.le.utah.gov.

1. Call to Order/Approval of Minutes

Co-Chair Hillyard called the meeting to order at 1:20 p.m.

MOTION: Rep. Brown moved to approve the minutes of September 18, 2012. The motion passed unanimously with Sen. Jones, Sen. Romero, Sen. Van Tassell, President Waddoups, Speaker Lockhart, and Rep. Menlove absent for the vote.

2. Federal/Non-federal Grants

Ms. Jill Flygare, Governor's Office of Planning and Budget (GOPB), presented the Federal/Non-federal Grants Report dated October 16, 2012. Under the federal grants, there was one new grant and two reapplications/continuations of existing grants requiring legislative action. The Governor's Office approved two new grants and one reapplication/continuation of an existing grant.

Ms. Flygare also noted that the Governor's Office had responded to the EAC request for additional information on three grants listed on the Federal/Non-federal Grants Report for September 18, 2012.

Under the non-federal grants, there were no new grants and no reapplications/continuations or revisions of existing grants requiring legislative action. The Governor's Office approved one new non-federal grant.

Sen. Jenkins asked about the condom distribution component for the Department of Health's reapplication, Comprehensive HIV Prevention Programs for Health Departments. Ms. Flygare stated that she would contact the department to find out where the distribution will take place and get back to him.

MOTION: Rep. Brown moved to recommend acceptance of the federal grants as 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 16, 2012. The motion passed unanimously with Sen. Romero, Sen. Van Tassell, President Waddoups, and Speaker Lockhart absent for the vote.

3. Revenue Update

Dr. Andrea Wilko, Chief Economist, LFA, and Dr. Thomas Young, Economist, LFA, presented the "Revenue Update" for October 16, 2012, which includes an overview of year-end revenue totals for FY 2012 and a range forecast for FY 2013. Dr. Wilko discussed tax collections, the General and Education Funds, and state economic indicators. Dr. Young discussed interstate comparisons, real estate markets, and national macro conditions.

Dr. Wilko reported that the total General and Education Fund revenue surplus for FY 2012 was $85 million. After expenditure adjustments and transfers to the Rainy Day Funds, the actual budget surplus was $46.3 million ($11.3 million General Fund and $35 million Education Fund). Based on consensus economic indicators developed by the Revenue Assumptions Working Group (RAWG), FY 2013 General Fund and Education Fund revenue will be in the range of flat to $100 million over last forecast.

Dr. Wilko indicated that current range forecast and the consensus economic indicators are based on the assumption that worldwide growth will continue at a low or moderate pace, with no positive or negative shocks to the overall economy. She pointed out that there are some upside and downside risks to consider. Downside risks include a potential European crisis, federal tax and spending decisions, and an erosion of business and consumer confidence. On the upside, the acceleration in building due to a stronger real estate market could enhance the appetite for risk and enhance business and consumer confidence.

Dr. Wilko responded to committee questions regarding the Bush tax cuts, the spike in home sales in 2009, severance tax trends and volatility, and the growth in liquor sales.

Dr. Young discussed charts illustrating employment by state (2000-2012), home price changes by county (2007-2011), and macro indicators. He noted that businesses in Utah are generally outperforming businesses located in other states and that the state's overall employment growth places Utah sixth in the nation. With new home building and home price appreciation, the real estate market is expected to be a source of revenue growth in CY 2012 and CY 2013.

Nationally, Dr. Young noted improved growth in the Gross Domestic Product (GDP), employment, prices, or retail sales, job creation, business investment, new order for manufacturing and non-manufacturing, consumer sentiment, and home sales.

Dr. Young concluded his remarks stating that the current national unemployment rate stands at 7.8 percent and is expected to hover around 8 percent for the remainder of 2012 and 2013. He stated that the interest rates will likely remain low until the job outlook improves. Dr. Young noted that the Economic Cycle Research Institute's (ECRI) Weekly Leading Index continues to improve but only at a moderate pace.

Dr. Young indicated that the point forecasts for FY 2013 and FY 2014 will be presented in the December EAC meeting.

4. State Board of Education Report on Student-Based Funding Allocation Model for CTE

Dr. Martel Menlove, Deputy Superintendent, and Ms. Mary Shumway, Director, Career and Technical Education (CTE), Utah State Office of Education (USOE), presented the report, "Student and Course Based Funding for Career and Technical Education."

Ms. Shumway explained that through intent language, the Legislature directed the State Board of Education to study a student-based funding allocation model for the CTE Add-on program in the Minimum School Program. The intent language also specifies that the new model take into account the relative cost difference associated with providing various CTE programs.

Ms. Shumway noted that last year, there was considerable interest in finding out whether or not the school districts were shying away from funding some of the higher cost CTE programs.

Ms. Shumway reviewed a brief history of CTE funding, discussed CTE funding measures implemented since a funding allocation change in 1995, and presented factors that might be utilized in developing additional funding distribution models. Prior to 1995, the state used a cost-based allocation model. However, with a change in statute in 1995, the state moved to a student-based model and incorporated improved accountability systems for CTE. In regards to developing a new distribution model, Ms. Shumway identified the following factors: course cost, high-skill level, high-wage potential, high-demand, achievement, non-traditional careers, and enrollment by head count.

Ms. Shumway discussed a spreadsheet that gives an example of possible weighting for CTE add-on funding distribution in FY 2014 for the Alpine School District.

Dr. Menlove spoke in support of USOE's current system of program accountability and reviewing CTE courses on an individual basis.

Sen. Jones felt that it is important to not only keep pace with high-wage, high-demand jobs, it is also important for students to embrace other kinds of learning.

5. Dept. of Heritage and Arts and Dept. of Workforce Services Report on HB 139

Ms. Julie Fisher, Executive Director, Department of Heritage and Arts (DHA), and Jon Pierpont, Acting Director, Department of Workforce Services (DWS), addressed the committee.

During the 2012 General Session, the Legislature passed H.B. 139, Department of Community and Culture Amendments. H.B. 139 changed the name of the Department of Community and Culture (DCC) to the Department of Heritage and Arts and moved the Division of Housing and Community Development (HCD) to the Department of Workforce Services.

Referring to a handout, Ms. Fisher reported on the costs and savings associated with H.B. 139. She discussed some technical changes, moving costs to the Rio Grande, build out costs, and security upgrades. Ms. Fisher stated that DCC realized a savings of $280,000 General Fund ongoing in yearly leases and $253,300 in FTE optimizations.

Mr. Jon Pierpont discussed the DWS handout, "HB139 Savings and Cost Baseline Tracking." He stated that much of what DWS has done in the transition stages of moving has been administrative in nature. He mentioned the moving of employees, getting computers up and running, sending out paychecks, and so forth, effective July 1, 2012. Mr. Pierpont noted that the transition was seamless and smooth.

Mr. Pierpont reported that DWS had conducted an HR classification review of all HCD positions to try and fit them into titles and classifications used by DWS. He also mentioned that a transition steering committee, which is now fully staffed and will meet with DWS on a quarterly basis, had approved performance benchmarks.

Mr. Pierpont referred to a handout that shows an annual savings of $280,000 on leasing costs, a reduction of 2.5 HCD administrative/finance positions that were vacant at the time of H.B. 139, and an estimated savings of 3 FTEs that will be realized through the implementation of Web Grants.

Rep. Seelig thanked Mr. Pierpont for mentioning the performance benchmarks. Mr. Pierpont indicated that he would send her a copy of the thirteen benchmarks drafted by HCD and DWS staff. He reiterated that the performance benchmarks were approved by the transition steering committee and confirmed that the steering committee includes community representation.

6. USTAR Report on Achievements, Expenditures, and Nonlapsing Balances

Mr. Ted McAleer, Executive Director, Utah Science, Technology, and Research Initiative (USTAR) and Mr. Danesh Patel, Chairman, Utah Governing Authority, presented the report and distributed “USTAR 6 Year Report FY 2012 Results Summary for the EAC.”

Mr. Danesh reported that in the six years that USTAR has been in operation, USTAR has more than achieved its initial goals in three program areas: recruiting world class faculty members, providing state of the art research facilities, and establishing a technology outreach program.

Mr. McAleer gave an overview of the 6 year Program 1 results as of June 30, 2012. Accomplishments included: 21 research teams and 51 faculty hires, $131 million in research grants, $238 million in proposed research grants for FY 2013 and beyond, 330 invention disclosures, 220 provisional patents and patent filings, 9 companies, 4 licensees, and 10+ active commercialization projects. Mr. McAlair noted that USTAR projects are relevant and aligned with key Utah issues.

Mr. McAleer highlighted the accomplishments of Program 2, USTAR’s Research Buildings at the University of Utah and Utah State University, and Program 3, the Regional Technology Outreach Program. He discussed the success of the seed grant program citing the Enve Composites project in Northern Utah, the SBIR-STTR Assistance Program, and Bioinnovations Gateway (BiG).

Mr. McAleer also reported on nonlapsing balances. In FY 2012, USTAR had a year-end nonlapsing balance of $10.9 million, which differed from the original projection of $6 million. Mr. McAleer explained that because the faculty teams were successful in winning grants and commercializing projects, USTAR did not have to spend as quickly as they had budgeted for. He noted that USTAR plans to carry forward and expend the $10.9 million in FY 2013 and will seek a $9 million building block for FY 2014.

Mr. McAleer commented that the National Governor’s Association and the Brookings Institute featured USTAR in their best practices guides.

Sen. Jones asked if there was any data available that shows USTAR’s impact on the economy beyond the obvious rewards. Mr. McAleer stated that USTAR did a five year report with the Bureau of Economic and Business Research, which shows the indirect effects of USTAR on the economy. He stated that he would send this report to Sen. Jones along with a pdf of the annual report.

Rep. Jones also asked if USTAR has been able to recruit well trained research teams or if there were certain gaps we need to be aware of. Mr. McAleer indicated that the teams are made up of a diverse mix of well educated students from Utah and beyond, and that there is no shortage of well qualified Utah students to fill those positions. Mr. Patel also noted that there are many high caliber individuals looking to move to Utah to fill high tech jobs. He stated that the University of Utah, Utah State University, and Brigham Young University are ranked in the top 25 in commercial spinoffs this year.

7. Dynamic Fiscal Notes

Mr. Ball presented a report on the possible use of dynamic fiscal notes. He remarked that dynamic fiscal notes have been the topic of a number of forums this past summer. Using a power point presentation, Mr. Ball explained what a dynamic fiscal note is, gave some examples, talked about what other states are doing, and reviewed the pros and cons of the dynamic fiscal note process.

Mr. Ball explained that dynamic fiscal notes include direct cost and/or revenue impacts plus projected behavioral responses to proposed legislation. He emphasized that a dynamic fiscal note is not a cost benefit analysis.

Mr. Ball discussed an example of a dynamic fiscal note on a bill that reduces the corporate tax rate from 5 percent to 4 percent. He showed how a dynamic fiscal note differs from a static fiscal note when projected behavioral responses come into play. A dynamic approach requires the use of a dynamic multiplier system, econometric modeling of estimated effects, subscriptions to certain databases, and/or surveying of affected parties.

Mr. Ball indicated that a survey was sent out to see what other states were doing in their approach to fiscal notes. Of the twelve states that responded, a number of states do static fiscal notes, three states do limited dynamic fiscal notes, and one state does a quasi-dynamic fiscal note. He pointed out that none of the states do dynamic fiscal notes on all of their bills. Mr. Ball reported on conversations with colleagues in Arizona, Indiana, Maryland, and Nebraska on their limited dynamic approach to fiscal notes.

Mr. Ball pointed out that while Utah's approach to fiscal notes is static, LFA has done dynamic fiscal notes on some tax increases. He showed an example of a dynamic fiscal note on a tobacco tax bill from the 2010 General Session that includes an offset from reduced consumption of cigarettes that results from an increase in the cost of cigarettes.

Mr. Ball reviewed a list of pros and cons legislators may want to consider in deciding whether or not to pursue dynamic fiscal notes. While dynamic fiscal notes are more realistic, they take more time and effort to develop. Dynamic fiscal notes increase accuracy, but also increase the risk of being wrong. Lastly, a dynamic fiscal note may reveal a smaller revenue loss than a static fiscal note and more money available for spending needs.

Mr. Ball commented that a fiscal note is not intended to influence the passage of a bill but rather, provides legislators with information to use in making policy decisions.

Mr. Ball demonstrated the Legislature's new website: www.le.utah.gov.

Rep. Brown observed that dynamic fiscal notes can and usually do affect our revenue projections. He pointed out that the tobacco tax bill had to have a dynamic fiscal note in order to understand other factors besides the dollars themselves. Rep. Brown recognized that doing a dynamic fiscal note on every bill that meets certain qualifications could take a lot of time and require more staff. Mr. Ball said that Rep. Brown's assessment was accurate, but with careful management, some dynamic fiscal notes could probably be done.

MOTION: Speaker Lockhart moved to direct the Legislative Fiscal Analyst to work with the Revenue and Taxation Interim Committee to implement a pilot program on dynamic fiscal notes during the 2013 Interim. The pilot would be limited to bills under consideration by the Revenue and Tax Interim Committee between April and October of calendar year 2013. She furthered moved that we include this pilot in the Master Study Resolution this coming General Session and that we ask the Fiscal Analyst and the Revenue and Taxation Interim Committee to report back to us a year from now.

Rep. King indicated that he did not have a problem with the motion. He stated that it sounds as if the LFA has been able and willing to perform a dynamic analysis when they felt it was necessary. Mr. Ball responded that there is nothing that prevents the analyst from doing a dynamic analysis but LFA can not make the fiscal note public until the sponsor approves it.

Rep. King also asked for an assessment on the fiscal note for the single tax rate, had it been a dynamic fiscal note. Dr. Wilko indicated that the fiscal note showed a $200 million loss in revenue. However, a dynamic fiscal note might have shown a $180 million loss in revenue.

Rep. Litvack asked who decides what factors to include in the dynamic fiscal note analysis. Mr. Ball stated that the Revenue Assumptions Working Group (RAWG) would decide most of the factors that would go into the model, but ultimately the Legislative Fiscal Analyst does the analysis. Mr. Ball assured the committee that his office would remain nonpartisan and non-biased in that estimate.

Rep. Litvack expressed his support of the motion and suggested that in structuring the pilot, some of the decision points, be a part of the pilot study.

A vote was taken on the motion. The motion passed unanimously with Rep. Dee absent for the vote.

8. Fines Revenue Going to the Entity Imposing the Fines

Mr. Spencer Pratt, Fiscal Manager, LFA, presented the report.

Mr. Pratt explained that Item 62 of the Master Study Resolution requests looking at prohibiting funds from fines and forfeitures from going to the governmental entity imposing the fines. The purpose of the study is to determine if the governmental entities imposing the fines and forfeitures are abusing the privilege to increase their budgets, and if the fines and forfeitures should go into a permanent fund, of which only the interest could be used for the governmental entities.

Current statute allows fines and forfeitures for violations of state statute and municipal ordinances. Generally, revenue from violations to state statute is deposited to the State Treasurer, while revenue from violations to municipal ordinances is retained by the municipality.

Mr. Pratt called attention to "Table 1, Disposition of Fines and Forfeitures," and "Table 2, Sampling of Fines and Forfeitures Revenue." He stated that a review of the 29 county seats' FY 2011 financial reports filed with the State Auditor showed that fines and forfeitures generated a total of $15.2 million. Table 2 shows that this revenue source represents an average of 3.6 percent of the county seats' total general revenue, although the range is from 0.51 percent to 19.1 percent. The sample of cities and towns shows that the revenue collected from fines and forfeitures is a small portion of the total general revenue for some, but a significant portion of others.

Mr. Pratt pointed out that the question on whether or not the fines and forfeitures should stay with the municipalities is more of a policy question rather than a budget question. The Analyst listed some options the committee may want to consider: 1) Maintain the status quo (leave disposition of fines and forfeitures as currently in place); 2) Refer the study to an interim, standing, or appropriations committee; 3) Ask LFA to study this item further; or 4) Change statute to deposit all or part of fines and forfeitures into a permanent fund.

The committee discussed instances where local entities enforce state statutes, assess fines, and then are required by law to transfer the fines and forfeitures to the state. Co-Chair Hillyard felt that the committee should take a closer look at the fines and forfeiture issue. He expressed an interest in knowing what the fines and forfeitures are.

Sen. Jenkins spoke on behalf of the cities who do all the work for which they are responsible but have to deal with the heavy hand of the state.

Sen. Niederhauser commented that the fines and forfeitures do provide revenue to some cities and that he did not want to necessarily take away the cities' authority to collect those revenues. However, he did feel that it would be important to create some transparency and accountability.

MOTION: Rep. Brown moved to refer this study to the Government Operations Interim Committee for further review and recommendation. The motion passed unanimously with Rep. Dee, Rep. Hughes, and Rep. Menlove absent for the vote.

9. Other Business

There was no other business.

MOTION: Rep. Brown moved to adjourn. The motion passed unanimously with Rep. Dee, Rep. Hughes and Rep. Menlove absent for the vote.

Co-Chair Hillyard adjourned the meeting at 3:25 p.m.