



# FISCAL HIGHLIGHTS

VOLUME 3, ISSUE 2

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John Massey	Director
Mark Bleazard	Deputy Director & Transportation
Jonathan Ball	Deputy Director & Information Technology
Steven Allred	Capital Facilities
Derek Byrne	Criminal Justice
Ivan Djambov	Natural Resources
Stan Eckersley	Commerce & Revenue
Debbie Headden	Human Services
Ben Leishman	Public Education
Spencer Pratt	Higher Education
Gary Ricks	Executive Offices & Public Safety
Danny Schoenfeld	Public Education
Juliette Tennert	Department of Health
Todd Wardrop	Capitol Construction
Dr. Andrea Wilko	Chief Economist & Economic Development
Kirk Broadhead	LAN Administrator
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Full Reports and Staff E-mail Addresses are Available on the LFA Website: [www.le.utah.gov/lfa](http://www.le.utah.gov/lfa)



## EXECUTIVE APPROPRIATIONS COMMITTEE

SENATOR LYLE HILLYARD & REPRESENTATIVE RON BIGELOW  
MEETING DATE: MAY 15, 2007

### Report: Federal Funds

#### Summary:

Tenielle Young, Governor's Office of Planning and Budget, presented the list of federal fund grant applications submitted since the last EAC meeting. The list showed one new application and two reapplications requiring action by the EAC, five new applications and one reapplication that have been approved by the Governor's Office, and 318 grants currently being tracked by the Governor's Office.

#### Committee Action:

The committee approved the applications requiring EAC action.

**Staff Contact:** Juliette Tennert

ment growth. Residential construction has slowed however non-residential construction remains very strong.

The Executive Appropriations Committee will hear a report next month which provides updated economic indicators and details their impact on state revenues.

#### Committee Action:

The Committee approved a motion to move the revenue reporting dates to June and October. Next month, EAC will hear a report which provides updated economic indicators and details their impact on state revenue.

**Staff Contact:** Andrea Wilko

### Report: Revenue Update

#### Summary:

Andrea Wilko, Office of the Legislative Fiscal Analyst provided the committee with a status of the development of the revenue report that was requested during the last EAC meeting. Dr. Wilko asked the Committee to change the interim revenue reporting dates from May and September to June and October due to the timing of the release of data that is used to develop the report.

Dr. Wilko told the committee that an initial review of revenues for FY 2007 indicates that the combined General Fund and Education Fund total will come in between \$75 million and \$125 million above target. April collections for income tax remained strong. However, withholding is moderating somewhat. The low unemployment rate in the state could create upward wage pressure and constrain employ-

### Report: Tobacco MSA Payments

#### Summary:

Juliette Tennert, Office of the Legislative Fiscal Analyst presented the committee with a briefing on Tobacco Master Settlement Agreement Payments. Landmark litigation between tobacco companies and the states was settled in 1998 in the Master Settlement Agreement (MSA). The MSA requires participating tobacco companies to pay approximately \$206 billion over 25 years, of which Utah's share is approximately \$836 million. To date, payments to Utah total \$230.2, which includes the withholding of Non-Participating Manufacturer (NPM) adjustments of \$3.5 million in FY 2006 and \$3.3 million in FY 2007.

Utah Code Title 63, Chapter 97, Tobacco Settlement Funds and Endowment, directs the use of all funds received by the State related to the MSA. For FY 2007, 75% of all payments (\$20.3 million) ac-

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BEN LEISHMAN AND JULIETTE TENNERT, EDITORS

crued to the Tobacco Settlement Restricted Account and the remaining amount (\$6.8 million) was deposited to the Tobacco Settlement Trust Fund. Including a beginning balance, FY 2007 restricted account monies are sufficient to cover \$22.9 million in appropriations from the account. Depending on tobacco companies' pursuit of future NPM adjustments, future balances may not adequately cover appropriations from the account and therefore the Analyst suggests further research of options to mitigate possible shortfalls.

#### Committee Action:

The committee directed the Office of the Legislative Fiscal Analyst to work with the Governor's Office of Planning and Budget and the Attorney General's Office to develop options to deal with possible shortfalls in the Tobacco Restricted Account and report back.

**Staff Contact:** Juliette Tennert

#### Report: Preferred Drug List

The Department of Health reported on the implementation of SB 42, *Preferred Prescription Drug List* (2007 General Session). Michael Hales, Director of the Division of Financing—which administers the Medicaid Program—told the committee that the division has a target implementation date for the Medicaid Preferred Drug List (PDL) of August. 1. Proton-pump inhibitors and statins are the first two drug classes that will be on the PDL. The Division is currently working to assemble a panel of professionals for a Pharmaceutical and Therapeutics (P&T) Committee to determine which drugs of each of the first two drug classes should be included on the PDL. Once the PDL is up and running, four additional drug classes will be added.

Mr. Hales told the committee that the division will be able to experience secondary rebates on PDL drugs since Utah has been accepted into the Sovereign States Drug Purchasing Pool. There was some concern about acceptance early on because statute prohibits the establishment of a prior authorization requirement. However, Utah will be able to participate with the requirement that in order for Medicaid to pay for non-PDL drugs, a physician must hand write "medically necessary, dispense as written" on a prescription.

Members committee expressed concern that psychotropic and anti-psychotic drugs could eventually be included on the PDL. Mr. Hales assured them that statute does not allow the division to include such classes on the PDL.

The committee turned the discussion to the practices of the Drug Utilization Review (DUR) Board and asked about the prior authorization requirements for psychotropic drugs recently imposed by the board. Mr. Hales answered that, in their normal course of administering existing pharmaceutical practices, the board has imposed a prior authorization requirement for the psychotropic drug Invega. Members of the

committee expressed concern over this requirement. Mr. Hales stated that the division will prepare a written statement describing the DUR Board's decision on Invega.

**Staff Contact:** Juliette Tennert

#### Report: Funds Consolidation

##### Summary:

Forty years ago the state went through a major funds consolidation process in which the number of funds was reduced from 171 to ten. Five years ago, the Fiscal Analyst's Office recommended eliminating nine restricted funds and consolidating fourteen back to the General Fund. The 2002 Legislature passed House Bill 61 to eliminate the nine funds, but didn't consolidate the other fourteen.

Today Utah has 128 "major" (General Fund, Education Fund, Transportation Fund) restricted accounts, plus 57 "non-major" (special revenue) funds, for a total of 185, or more than we had 40 years ago when the state first did a funds consolidation.

The trend for creating new funds has increased of late. The Legislature created twenty new funds in the 2007 General Session (thirteen are restricted funds, six are special revenue or enterprise funds, and one is a trust fund). Over half of the restricted funds in place today were created in the last ten years.

Non-major special revenue funds haven't seen quite as rapid growth, with an average of two created per year.

Restricted funds create certain advantages and disadvantages for the state. State government is more complex today than it was forty years ago, and in some cases necessitates separate funds for adequate accounting. However, a large number of restricted funds creates increased workload and complexity for the Division of Finance and others, and could arguably lead to an erosion of flexibility or decision-making ability by future budgeters, particularly during times of economic downturn.

##### Committee Action:

The Executive Appropriations Committee approved the Analyst's recommendations to:

- Update the major fund types listed in statute to match the governmental fund types listed in Governmental Accounting Standards Board (GASB) Statement 34;
- Consolidate nineteen funds which have experienced little or no activity recently, and
- Use an implementation date of July 1, 2008 on any bill to consolidate funds.

The committee requested further study of additional funds for consolidation, as well as a method to control the number of new accounts created in future sessions.

**Staff Contact:** Steven Allred

**Report:** Balanced Scorecard

**Summary:**

John Nixon, Director for the Governor's Office of Planning and Budget (GOPB), and Steve Starks, Utah Policy Partnership (UPP), gave the committee an overview of the Governor's Balanced Scorecard Initiative. The Balanced Scorecard is a performance evaluation tool that the Governor is implementing agency-wide with the oversight of GOPB and UPP.

Mr. Nixon told the committee that GOPB is working with the Office of the Legislative Fiscal Analyst as well as all of the appropriations committee co-chairs to be sure that the Legislature's feedback on performance evaluation is included in the development of each agency's Balanced Scorecard.

**Staff Contacts:** All OLFA Analysts

## NATURAL RESOURCES

### *Zebra Mussels*

Zebra mussels are a small, D-shaped shaped animal, similar to a clam. They have tiny stripes down their shells, hence the name Zebra Mussels. In size they are microscopic as larvae, and the adults range from 1/4 to 1 1/2 inches long. A close cousin to the Zebra mussel is the Quagga mussel, which was recently found in Lake Meade and Lake Havasu in the lower Colorado River drainage in Arizona and Nevada. These mussels are usually spread through commercial or recreation boats and/or through canal systems and other water delivery mechanisms.

The Zebra mussels have no predators and have quickly spread into streams and rivers across the country. One female produces up to a million eggs a year. They can grow so close together that they block off pipelines and screens for culinary water, sanitation, intakes to power plants and irrigation. They also impact the habitat needed to grow sport fish in large lakes, reservoirs and streams. These mussel shells are sharp and have been documented to cut swimmers and boaters on beaches. According to infested states, the cost to unclog piping systems and change fisheries management after they become established runs into the millions of dollars per year.

The Zebra mussel has not yet been found in Utah waters, but DNR employees are fearful that due to their proximity to Lake Powell and other southern reservoirs in Utah, they could be spread to state waters. To prevent that, DNR has prepared a policy by focusing on educating the public on how to avoid transporting them on their boats. Enforcement officers will be stopping and inspecting boats for mussels during the year, particularly those coming from the southern Nevada area.

**Staff Contact:** Ivan Djambov

### *State Building Board's Responsibilities Relating to UCAT Capital Development*

Even though the Utah College of Applied Technology (UCAT) is an institution in the state system of higher education, the UCAT Board of Trustees may, separately from the State Board of Regents, receive capital development funding requests from each college campus, ensure that the requests comply with statute, prioritize the requests, and submit the prioritized requests to the State Building Board.

According to statute (53B-2a-112), before a UCAT campus develops its own new instructional facilities, it must give priority to:

- Ensuring that all existing instructional space is maintained and maximized
- Coordinating with other higher education institutions to maximize the use of their existing facilities
- Developing agreements with local school districts, businesses, industries, and other community groups to maximize use of their existing facilities

The State Building Board is required to make a "finding" that the requirements of law have been met before it may consider a funding request from UCAT for capital facilities and land purchases. The Legislature has delegated authority to the Building Board to determine if the actions of UCAT are in compliance with the law.

As a result of communications between the Legislature, Commissioner's Office and UCAT, the Building Board has recently strengthened its documentation requirements of facts supporting capital development requests. Documents may include letters from school districts stating that they do not have space available for UCAT use; an inventory/utilization report of the current UCAT space; a summary of the applied technology programs being offered by the college campuses in the UCAT area and copies of current cooperative agreements or a summary of efforts to develop such agreements. This improved process should strengthen the needs assessment of UCAT development requests. The Legislature must give final approval to all such requests.

In the 2007 General Session the Legislature funded three UCAT requests (Davis ATC Technology/ Manufacturing Building, Mountainlands ATC Building Planning, and Southwest ATC 11 Acre Land Purchase) and authorized two property exchanges (Southeast ATC and Mountainlands ATC).

**Staff Contact:** Steven Allred

**WICC/WEEDA Consolidation**

On March 21, 2007, The Workforce Improvement Coordinating Committee (WICC) and the Workforce, Education, and Economic Development Alliance (WEEDA) were consolidated into one organization under the WEEDA name. Membership of the new WEEDA includes the DWS Executive Director, the Commissioner of Higher Education, the Superintendent of Public Education, the Executive Director of the Governor's Office of Economic Development, the Executive Director of Utah State Office of Rehabilitation, the Chair of Workforce Services State Council, the Governor's Deputy for Public Education, and a community representative.

In 2003, WICC, a subcommittee of the State Council on Workforce Services, created WEEDA to make recommendations to the State Council. Among WEEDA's accomplishments are Careers.utah.gov, a comprehensive career exploration resource; a comprehensive school to retirement career exploration resource to investigate careers, explore education and training options, find a job, and find information about paying for training; Business.utah.gov, which provides information on starting, running, relocating, and closing a business; Big Opportunities in Registered Nursing (BORN), a partnership among the Hospital Corporation of America, Salt Lake Community College's Nursing Program and Workforce Services; and the Work Readiness Project, a collaboration between education partners, local employers and Workforce Services to help job seekers understand basic employment skills.

**Staff Contact:** Stan Eckersley

**Utah Educational Savings Plan**

Because the costs of higher education continue to increase, it becomes more important for people to plan ahead and save money in anticipation of furthering their education. The State of Utah has authorized the Utah Educational Savings Plan (UESP), a 529 plan which allows for tax-advantaged savings to help individuals with the costs of higher education. Funds grow tax-free (both federal and state) in the UESP. Earnings are also exempt from federal and state income taxes when used for qualified disbursements. In addition, Utah taxpayers may deduct contributions on their state income tax forms. UESP offers a wide range of investment options with low fees.

The UESP has received favorable mention in several national publications recently, including Morningstar, Money Magazine, and the Wall Street Journal. All of the publications praise the UESP's fund selections and low fees. UESP now has more than 90,000 account holders and more than \$2 billion in total assets under management.

**Staff Contact:** Spencer Pratt

**Health and Human Services Appropriations Subcommittee Interim Meeting**

The Health and Human Services Appropriations Subcommittee held their first interim meeting on May 2, 2007 at the Utah State Hospital in Provo. During the meeting:

- Staff provided an update on the 2007 General Session funding for the Departments of Health and Human Services;
- Staff explained the process and a time-line for completion of the local and private providers contract study;
- The Department of Workforce Services provided an update on the eREP enhancements of the Departments of Workforce Services, Health and Human Services;
- The subcommittee discussed suggested programs for in-depth review by the Governor's staff;
- Staff provided an outline of study items for the 2007 interim relating to the Departments of Health and Human Services;
- The Departments of Health and Human Services on their Balanced Scorecard initiatives;
- The Department of health briefed the committee on its efforts to implement the Medicaid Adult Vision plan; and
- The Departments of Health and Workforce Services presented a brief update on their eligibility consolidation progress.

In addition to the general meeting, the subcommittee toured the Utah State Hospital and the Utah State Developmental Center in American Fork. The next subcommittee meeting is scheduled for September 5.

**Staff Contacts:** Debbie Headden & Juliette Tennert

**Upcoming Meetings**

- Joint Education Committees - Public Education & Higher Education Appropriations Subcommittees and Education Interim Committee  
**Date:** Wednesday, June 13, 2007  
**Time:** 8:00 A.M.  
**Location:** Granite Education Center
- Medicaid Interim Committee  
**Date:** Friday, July 20, 2007  
**Time:** 9:00 A.M.  
**Location:** House Building, W135
- Health & Human Services Appropriations Subcommittee  
**Date:** Wednesday, September 15, 2007  
**Time:** To Be Announced  
**Location:** To Be Announced

### ***Crime Victim Reparations***

The Office of Crime Victim Reparations (CVR) is established within the Commission on Criminal and Juvenile Justice. The Office administers the Crime Victim Reparations Program, which distributes awards to qualifying individuals who are victims of crime. CVR has made the following information available concerning the program as a public service.

Over the last 20 years, CVR has distributed \$154.5 million to thousands of victims who have experienced financial loss, physical injuries, and emotional trauma due to violent crime. By the end of fiscal year 2006 alone, CVR awarded more than \$6.1 million to victims.

No tax dollars are used to fund this program; funds are derived through state and federal surcharges on fines, penalties, and forfeitures assessed for unlawful conduct.

Qualifications for compensation benefits include:

- Victims who suffer physical or psychological injury or death directly resulting from the criminally injurious conduct of the perpetrator(s).
- Family and dependents of deceased victims.
- Representatives acting on behalf of victims.
- Victims must be residents of Utah; or the criminally injurious conduct must have occurred in Utah.
- The crime must be reported to state or local law enforcement; conviction is not necessary, but adequate information is required to verify a crime occurred.
- Full cooperation with law enforcement in the investigation and prosecution of the case is required.

Certain individuals and situations do not qualify:

- Victims whose own misconduct contributed to the crime.
- Victims who suffered property loss or damage.
- Victims engaged in illegal conduct at the time of the crime.
- Offenders or accomplices or others whose award would unjustly enrich the offender or accomplice.
- Incarcerated individuals in correctional facilities when the crime occurs.
- Individuals in violation of parole or probation when victimized.

It may take up to 30 days for CVR to determine eligibility for assistance. Payment is made after all required information is received.

The maximum award is \$25,000. But awards for medical expenses only incurred as a result of Homicide, Attempted Homicide, Aggravated Assault or Driving Under the Influence may be up to \$50,000. Financial resources and alternatives such as insurance, Medicaid, Medicare, or Social Security must be considered first, however.

More information is available at the CVR website: <http://www.crimevictim.utah.gov>

**Staff Contact:** Gary Ricks

### ***Executive Offices and Criminal Justice Appropriations Subcommittee Interim Meeting***

The Subcommittee toured the new Larry H. & Gail Miller Public Safety Training Center at Salt Lake Community College and the Department of Public Safety Crime Lab at the Cal Rampton Complex in Salt Lake on Wednesday, May 9, 2007.

The Subcommittee reviewed state-of-the-art law enforcement training provided at the Training Center including, computerized firearms training, arrest protocols, self defense techniques, physical confrontation methods and chemical drug analysis.

The Subcommittee also received reports regarding the State Auditor's implementation of performance auditing; a preliminary budget request from the Department of Corrections; and three reports concerning Peace Officers' Standards and Training Certification Issues, Correctional Officer Turnover, and Jail Contracting/Jail Reimbursement.

The Subcommittee then toured the Crime Lab and received information concerning procedures and methods associated with evidence collection and analysis as part of the criminal investigation process.

**Staff Contacts:** Gary Ricks & Derek Byrne

### ***Mercury in Utah***

Mercury is a natural occurring element that is found in air, water, and soil. Mercury is used in many products such as thermometers, fluorescent light bulb, and some electrical switches to make our existence more comfortable. When concentrations of mercury exceed certain amounts it can become toxic in humans. Mercury poisoning interferes with the way nerve cells function. It can cause a decreased ability to see, hear, talk, or walk. The groups most vulnerable to the effects of mercury are women and young children. The most common source of human exposure to mercury is through eating contaminated fish.

The Legislature appropriated \$66,500 during the 2007 General Session to the Department of Environmental Quality to fund a study to determine the sources of record high levels of mercury found in several water bodies in Utah. Some of the early results of their studies have prompted the Department to issue fish consumption advisories for certain species of trout in six popular fishing areas, including two in northern Utah and four in southern Utah.

More information about the advisories and the health effects of mercury is available at [http://www.deq.utah.gov/Issues/Mercury/fish\\_advisories.htm](http://www.deq.utah.gov/Issues/Mercury/fish_advisories.htm).

**Staff Contact:** Mark Bleazard



RETURN SERVICE REQUESTED

**Good for a Rainy Day, Part II**

Last month we wrote that "\$11.4 million in disaster relief loan payments will bring the combined (rainy day) funds to \$313 million." Which was correct...then. Since then, on April 30, House Bill 46 *Disaster Recovery Funding (Oda)* went into effect. The bill creates a third reserve fund - one designated for disaster relief - which will automatically receive a portion of General Fund surpluses as well as any disaster loans repayments. We now project that Utah's reserve fund balances will be around \$312 million in FY 2007, that there will be three funds and not two, and that the \$11.4 million in disaster relief loan payments will go to the third fund. An updated chart is included at the right.

Our point in last month's newsletter remains valid. Bond rating agencies like states to have healthy reserve funds that are rarely used and, when used, quickly replenished. In fact, in its latest ratings update, Standard and Poors Rating Services remarked of Utah, "Indicative of its fiscal prudence, the mechanism for a new disaster relief fund was also adopted during the legislative session whereby 25% of any [General Fund] surplus (after funding the general and [Education] rainy day funds) will be transferred to a disaster recovery fund." (*U.S. States Fiscal 2008 Proposed Budgets Indicate A More Cautious Revenue Environment*, www.standardandpoors.com /ratingsdirect, 4/12/2007, p. 17.)

One might naturally ask what constitutes "healthy" reserve funds? In meetings with the rating agencies earlier this month, Utah's financial managers asked the same question. While ratings analysts did not give a conclusive answer, they did respond by asking "How much did you need last time?". The answer is, had we covered the entire revenue shortfall of FY 2001 - FY 2003 using rainy day proceeds, we

would have needed reserves equal to 20% of current year appropriations. But we didn't cover the entire revenue shortfall using rainy day funds. Instead, we used other fiscal tools - structural surpluses, budget cuts, revenue enhancement, etc. - to cover most of the shortfall and thus we required a rainy day amount equal to 3.3% of current year appropriations.

Our reserve funds are currently at about 6% of appropriations. They will not automatically grow beyond 6% (except for interest earnings), but legislators could, without statutory limit, make additional deposits into them via appropriation. Whether or not a 6% level is "healthy" remains debatable. But perhaps we can all agree that it is "good".

**Staff Contact:** Jonathan Ball

