

FISCAL HIGHLIGHTS

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OFFICE OF THE LEGISLATIVE FISCAL ANALYST

STATE CAPITOL COMPLEX
HOUSE BUILDING, SUITE W310
P.O. BOX 145310
SALT LAKE CITY, UTAH 84114

PHONE: (801) 538-1034
FAX: (801) 538-1692

WWW.LE.UTAH.GOV/LFA



Update on Federal Funds Sequester

GOVERNMENT OPERATIONS

Staff Contact: *Steven Allred*

When Congress enacted the Budget Control Act (BCA) of 2011, it included automatic spending cuts known as sequester, to ensure deficit reductions of \$1.2 trillion over ten years, even if Congress and the President failed to approve a Joint Select Committee (JSC) bill by January 15, 2012. Sequestration was never intended to be implemented, but to be a threat to force Congress to act. However, the JSC did not reach an agreement, and a bill was not enacted. Therefore, the BCA sequester is scheduled to occur on January 2, 2013.

Congress is expected to revisit this issue, along with expiring tax and other provisions in the “fiscal cliff,” in a lame duck session after the November election. Both the House and the President have proposed alternatives, but no agreement has been reached. Reports are that Mitt Romney’s advisors are quietly talking to government officials about developing an alternative plan in case he wins the election. Still, observers are expressing doubt that Congress will reach a deal before the January 2 deadline.

In recent weeks, the federal Office of Management and Budget (OMB) issued a report on implementation of the sequester and Congress adopted a six-month Continuing Resolution (CR) for the first half of federal FY 2013. The precise reductions that would occur will depend on the FFY 2013 funding levels in place on January 2, but OMB’s report sheds additional light on how they interpret the law:

- The across-the-board cuts will be in four different percentages. OMB estimates a 9.4% cut for defense discretionary programs, a 10% cut for defense mandatory programs, a 7.6% cut for nondefense mandatory programs, and an 8.2% cut for nonde-

fense discretionary programs.

- Funding levels in place on January 2 are likely to be annualized amounts included in the recent CR. The CR provided a 0.612% across-the-board increase for most programs.
- In FFY 2013, federal agencies cannot determine what areas to cut in order to reach the target reductions. Once the sequester percentage is determined, OMB must apply the percentage to each program. This will change in FFY 2014-2021, when funding levels for specific programs will be set through the regular appropriations process.

The Federal Funds Information for States (FFIS) estimates that states could see a \$7.5 billion funding reduction for FY 2013 (compared to FY 2012) for grants in their database that are covered by the sequester. FFIS estimates Utah’s share of this reduction at \$76.2 million; however, not all federal grants to Utah come through the state budget, so the impact on the state budget would probably be less than this amount. Most funding states receive from federal grants is exempt from sequester.

During the summer, it was believed the President and Congress would delay implementation of the sequester. Since then, the administration has said it will veto any legislation that simply delays the implementation date. While it is still possible that Congress could delay the issue into 2013 or even reach a modest compromise, most observers believe a “grand bargain,” where Congress addresses all of these issues, is unlikely. Interestingly, OMB has instructed agencies to continue normal spending and operations, under the assumption that the sequester will be reversed.



EXECUTIVE APPROPRIATIONS COMMITTEE

SENATOR LYLE HILLYARD & REPRESENTATIVE MEL BROWN, CO-CHAIRS

MEETING SUMMARY - OCTOBER 16, 2012

Report: Federal/Non-Federal Funds

Staff Contact: Gary Syphus

<http://le.utah.gov/interim/2012/pdf/00002370.pdf>

The Executive Appropriations Committee (EAC) recommended approval of the following federal grants:

1) Health – Adult Medicaid Quality Grant, 2) Health – Comprehensive HIV Prevention Programs for Health Departments, and 3) Natural Resources – Land and Water Conservation Fund – 2014 SCORP.

Report: Costs and Savings Resulting from H.B. 139

Staff Contact: Stephen Jardine

<http://le.utah.gov/interim/2012/pdf/00002373.pdf>

During the 2012 General Session the Legislature passed H.B. 139, *Department of Community and Culture Amendments*. H.B. 139 modified the Community and Culture Development Code and the Utah Workforce Services Code by changing the name of the Department of Community and Culture to the Department of Heritage and Arts, and by moving the Division of Housing and Community Development to the Department of Workforce Services. The departments of Heritage and Arts and Workforce Services presented reports to EAC on Costs and Savings resulting from H.B. 139.

Report: Revenue Update

Staff Contact: Thomas Young

<http://le.utah.gov/interim/2012/pdf/00002371.pdf>

Using updated consensus economic indicators and current revenue trends, legislative economists forecast that FY 2013 GF/EF revenue can be in a range from flat to \$100 million above the May 2012 EAC-adopted target. The range breaks down into flat to \$30 million above target in the General Fund, and flat to \$70 million above target in the Education Fund. In December, staff will have updated consensus forecasts for FY 2013 and FY 2014.

Report: State Board of Education

Staff Contact: Ben Leishman

<http://le.utah.gov/interim/2012/pdf/00002417.pdf>

Intent language passed by the 2012 Legislature in S.B. 2, *Public Education Budget Amendments*, required the State Board of Education to “study a student-based allocation model for the Career and Technical Education (CTE) Add-on program that takes into account the relative cost difference associated with providing various CTE programs and does not exceed current funding levels” and report to EAC. Dr. Martell Menlove, Deputy Superintendent, and Mary Shumway, Director of CTE Education at the Utah State Office of Education, presented the Board report to EAC. The presenters provided a brief history of CTE funding. Prior to 1995, the state used a cost-based allocation model and

“it is the recommendation of the State Board and the State Office of Education that this funding allocation method should not be implemented again.” Instead, the study provided several factors for consideration in developing a new distribution model. Formula factors may include: course cost, high-skill level, high-wage potential, high-demand, achievement, non-traditional careers, and enrollment.

Report: USTAR

Staff Contact: Zackery King

<http://le.utah.gov/interim/2012/pdf/00002374.pdf>

Ted McAleer, Executive Director of the Utah Science, Technology, and Research Initiative (USTAR) presented the agency’s FY 2012 accomplishments during the October 16th EAC meeting. Attracting “star faculty” to the state, providing state of the art research facilities, and establishing a technology outreach program to assist Utah entrepreneurs and businesses innovate and commercialize ideas are the three major pursuits of USTAR.

To these pursuits, Mr. McAleer presented the following accomplishments for FY 2012: 21 research teams have been created with lead researchers and 51 faculty hires, \$131 million (\$86 million U of U and \$45 million USU) in federal grant awards received with \$238 million (\$89 million U of U and \$149 million USU) in federal funding grants proposed for and awaiting federal decisions. In addition, Mr. McAleer highlighted a few of the various current projects under way at USTAR. Research areas where projects are being carried out are air quality, water management, energy, education, health care, transportation, and homeland defense and security.

In FY 2012, USTAR had year-end nonlapsing balances of \$10.9 million compared to \$21.7 million in FY 2011. USTAR’s report projects they will expend all of their nonlapsing balances during FY 2013.

Report: Fines Revenue Going to the Entity Imposing the Fines

Staff Contact: Spencer Pratt

<http://le.utah.gov/interim/2012/pdf/00002377.pdf>

Item 62 of S.J.R. 3, *Joint Resolution — Master Study*, requests looking at “prohibiting funds from fines and forfeitures from going to the governmental entity imposing the fines.” The purpose is to look at whether the governmental entity that imposes the fine or forfeiture should continue to be able to retain the revenue generated from that activity, or require that fines and forfeitures go into

Please see EAC Meeting on p. 3.

EAC Meeting, continued from page 2.

a permanent fund, of which only the interest earnings may be used for the budget of the government agency that imposes the fines. Generally, revenue derived from violations of state statutes go to the state, while revenue from violations of local ordinances goes to the local governmental entity.

The Analyst reviewed the financial reports from the 29 county seats, where revenue from fines and forfeitures is listed. It appears that fines and forfeitures fund an average of 3.5% of county seats' general revenue, although it varies from less than 1% to over 19%.

Because this study was determined to be a policy issue rather than a budgetary issue, the EAC passed a motion to refer this study item to the Governmental Operations Interim Committee for further review.

Report: Dynamic Fiscal Notes

Staff Contact: Jonathan Ball

<http://le.utah.gov/interim/2012/pdf/00002375.pdf>

As part of the process to improve the accuracy of the fiscal notes, staff presented a report on the possible use of dynamic fiscal notes. Dynamic fiscal notes include projected behavioral responses to proposed legislation, whereas current fiscal notes generally do not.

EAC passed a motion directing the Fiscal Analyst to implement a pilot program on dynamic fiscal notes during the 2013 Interim for bills considered by the Revenue and Taxation Interim Committee. The motion would also include the pilot in the next Master Study Resolution, and require a report of the results a year from now.

Jail Contracting Basics

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

Staff Contact: Gary Syphus

The Department of Corrections' contracts with county jails to house state inmates benefit both the counties and the state. It helps the state by lowering housing expenditures and benefits the counties by filling their excess capacity.

How is the amount paid to counties determined?

The Department of Corrections reports each September the 3-year rolling average rate (average state daily incarceration rate). This number informs the Legislature on the daily cost of an inmate in a state facility. For 2012 the cost was \$77.94 (down from \$79.44 prior year).

The Legislature sets the "final" rate, or the rate used in the percentage paid to counties when contracting out state inmates in county facilities. For FY 2012, the Legislature set this final rate at \$64.18 per day.

When contracting with counties, the state actually pays

about 2/3 of the average cost to the state. In the 2012 General Session, the amount paid was calculated as follows:

- Non-treatment beds: $\$64.18 \times 73\% = \46.85
- Treatment beds: $\$64.18 \times 79\% = \50.70

So, \$46.85, or even \$50.70, is much less costly than the estimated cost for an inmate in a state facility at \$77.94 per person per day. The state gets much bigger "bang for the buck" when contracting with counties.

Why doesn't the state contract more?

Since housing state inmates in county facilities is significantly less, why doesn't the state contract for more or all state inmates? There are various reasons, including:

Space – The space in county jails is limited. Although currently there is still additional space available, projections show that it will be exhausted in the next few years.

Discretion – County jails have the ability to reject any potential inmate for any reason. They may reject all inmates that cost more than an average inmate – i.e. inmates that act out, those with expensive medical conditions, especially violent inmates, etc. Conversely, the Department of Corrections prefers to have direct oversight in many cases, especially for problematic inmates.

Geography – Inmates benefit from being housed near family. As family and friends are able to visit more frequently, inmate behavior improves and makes it safer for other inmates and correctional staff.

Balance – Related to discretion, the Department of Corrections aims to have about 20% of the population housed in county jails as they have found this mix is optimal in maintaining safety in both the county jails and state prison facilities.

National Guard Change of Command

EXECUTIVE APPROPRIATIONS

Staff Contact: Mark Bleazard

The Utah National Guard reports they had a change of command on September 29, 2012 at Camp Williams. Major General Brian L. Tarbet relinquished command after 12 years to Major General Jefferson S. Burton.

Appointed by Governor Leavitt in 2000, General Brian L. Tarbet is retiring after completing his second six-year term as adjutant general. During his 12 years as adjutant general, Tarbet oversaw the operations of the Utah Guard in the critical days following 9/11 and the ensuing flurry of deployments to Iraq, Afghanistan, and other worldwide deployments.

Burton graduated from Brigham Young University's ROTC program and was commissioned a second lieutenant in 1984. For the past five years Burton has served as Assistant Adjutant General. He assumes command of 7,000 airmen and soldiers.



Public Education Appropriations Subcommittee Meeting Summary

PUBLIC EDUCATION

Staff Contact: Ben Leishman

On October 10, 2012, the Public Education Appropriations Subcommittee met to follow-up on items from the 2012 General Session. The subcommittee received reports on the implementation of intent language, new legislation, and discussed new education technologies.

The morning session focused largely on Career and Technical Education (CTE). 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. The Utah State Office of Education (USOE) highlighted several considerations to include in a new allocation model:

1. Provide funding based on program cost level designations;
2. Provide funding based on high wage high demand courses or pathways;
3. Combine 1 & 2; and,
4. Adjust allocations based on school days and school schedule.

USOE continues to work on developing actual allocation models based on the intent language. Feedback from the subcommittee focused on providing incentives to school districts and charter schools to provide CTE courses in high wage and high demand subjects.

The subcommittee received written reports on the implementation status of four new programs established by the Legislature during the 2012 General Session. In addition, the subcommittee was updated on the ongoing implementation of six additional programs established during prior sessions.



Workers' Compensation Advisory Council Meeting Summary

BUSINESS, ECONOMIC DEVELOPMENT AND LABOR

Staff Contact: Zackery King

The Workers' Compensation Advisory Council (WCAC) convened on Wednesday, October 10. Among agenda items was Deloitte Consulting's actuarial presentation and recommendations for the Employers' Reinsurance Fund (ERF) and the Uninsured Employers' Fund (UEF), both private purpose trust funds administered by the Labor Commission. Following the actuary's presentation and

recommendations, WCAC recommended two changes in the surcharge percentages for these two funds.

1. A reduction to the ERF surcharge of 10 basis points, from 3% to 2.9%; and
2. An increase to the UEF surcharge of 10 basis points, from .05 percent to .15%.

These surcharge rates impact fund revenues for both UEF and ERF, and the ability of these funds to meet accrued liabilities, among other costs. They are accounted for by calendar year and would take effect beginning January 2013 if approved by the Labor Commission. The WCAC recommendations fall within the timeline and the percentage range provided by the actuary in order to maintain a positive balance in the funds, and to pay off unfunded liabilities accrued prior to 1994.

ERF began FY 2012 with a negative balance of about \$73 million and ended the year with a negative balance of about \$66 million. UEF's beginning FY 2012 balance was approximately \$9 million, it ended FY 2012 with an approximate \$6.6 million balance. For the current fiscal year, the recommended surcharge rates will reduce revenue to ERF and prolong its timeline of meeting its \$66 million in unfunded liabilities. The recommendations will allow UEF to maintain its positive balances into FY 2014. If approved by the Labor Commission, the recommended rates would retain the overall surcharge amount insurance companies pay on premiums, reflecting WCAC's desires to avoid increasing costs to insurance companies during a slow economy, but also accounting for the actuary's warnings of possible shortfalls in meeting their liabilities as soon as FY 2014.

Although these two funds do not require an appropriation to expend funds, they have been reported to the Legislature as part of the Labor Commission's budget. Changes in the accounting of these two funds and how they are reported to the Legislature will take effect in FY 2014.



New Chief Information Officer

INFRASTRUCTURE AND GENERAL GOVERNMENT

Staff Contact: Gary Ricks

The Senate confirmed Governor Herbert's appointment of Mark VanOrden as the state's permanent Chief Information Officer and Executive Director of the Department of Technology Services on October 17, 2012. Mr. VanOrden had been serving as acting CIO/Executive Director since May of 2012. Prior to the interim appointment, Mr. VanOrden had served as an IT Director at DTS attached to the Department of Workforce Services. He has been nationally recognized for advancing IT excellence in Utah State Government.



Social Services Appropriations Subcommittee Meeting Summary

SOCIAL SERVICES

Staff Contact: Russell Frandsen & Stephen Jardine

The Social Services Appropriations subcommittee held an October 4, 2012 all-day interim meeting and discussed the following:

Federal Health Care reform (Affordable Care Act or ACA)

Estimates and Explanation of Medicaid Costs and Options – staff provided [Federal Health Care Reform Impacts to the State of Utah](#) summarizing agency estimates of ACA costs to state funds for 2014. Social Services agencies may see \$86.2 million in costs from mandatory federal health care reform impacts. Social Services agencies may see another \$4.8 million if the state opts to expand Medicaid.

Kaiser Summary – the subcommittee went through a summary of all key aspects of federal health care reform.

U.S. Supreme Court Decision on the Affordable Care Act – a summary on the Supreme Court ACA decision and its effect on the state Medicaid program.

IT Requirements – the Department of Workforce Services discussed potential impacts resulting from information technology requirements associated with federal health care reform.

Panel Discussion – the panel included representatives from the departments of Health ([ACA Eligibility Impacts on Medicaid](#)), Human Services, Workforce Services, the Medicaid Office of the Inspector General, Salt Lake County Behavioral Health Services, and a client of programs that could be affected by the reforms.

Public Input – 17 individuals, representing a wide variety of backgrounds, gave public input to the subcommittee regarding expanding Medicaid under federal health care reform.

Two Medicaid Audits

Office of the Legislative Auditor General (OLAG) presented: 1) [A Performance Audit of Medicaid Eligibility](#) and 2) [A Performance Audit of the Medicaid Fraud Control Unit](#). Recommendations from the audits included:

1. Workforce Services regularly reporting to the Legislature on the progress of achieving its goal to reduce multiple unique identifiers.
2. Developing a process that tracks the impact of individual worker initiatives and case review changes to clarify the benefits from improvement initiatives.
3. Providing Medicaid recipients with a one-time, plastic eligibility card.

4. The Utah Medicaid Fraud Control Unit (MFCU) implementing improved case management controls that include monitoring the statute of limitations as well as weekly investigative activity for each case.

Other Reports

- [Payment & Service Reform in Medicaid](#)
- [Report on Medicaid Home and Community Based Waivers](#)
- [Reimbursement Options for Pharmaceutical Drugs](#)
- [Reimbursement Options for Medicaid Drugs](#)
- [Medicaid Management Information System \(MMIS\) Replacement Report](#)
- [340B Legislative Report](#)
- [Report Regarding Salt Lake County Efforts to Reduce Inpatient Placements](#)
- [DSAMH Report on Salt Lake County Inpatient Placements](#)
- [Utah State Office of Rehabilitation Answers to Subcommittee Questions](#)
- [H.B. 211 update CMS Utah Letter](#)
- [Alliance House Presentation](#)



Uintah Basin Applied Technology College Receives \$250,000 from Newfield

HIGHER EDUCATION

Staff Contact: Angela Oh

Uintah Basin Applied Technology College (UBATC) is one of eight regional campuses of the Utah College of Applied Technology. The eight ATCs provide market-driven career and technical education to both secondary and adults students to meet the demand by Utah employers for technically skilled workers. UBATC serves Daggett, Duchesne, and Uintah counties.

Newfield Exploration Company, Utah's largest oil producer, donated \$250,000 to UBATC this past summer. Newfield is engaged in the exploration, development and production of crude oil, natural gas and natural gas liquids. The \$250,000 donation will help build classrooms and provide lab space for the college's Petroleum Technology Certificate program. The program is designed to meet the local needs of the oil and gas industry.



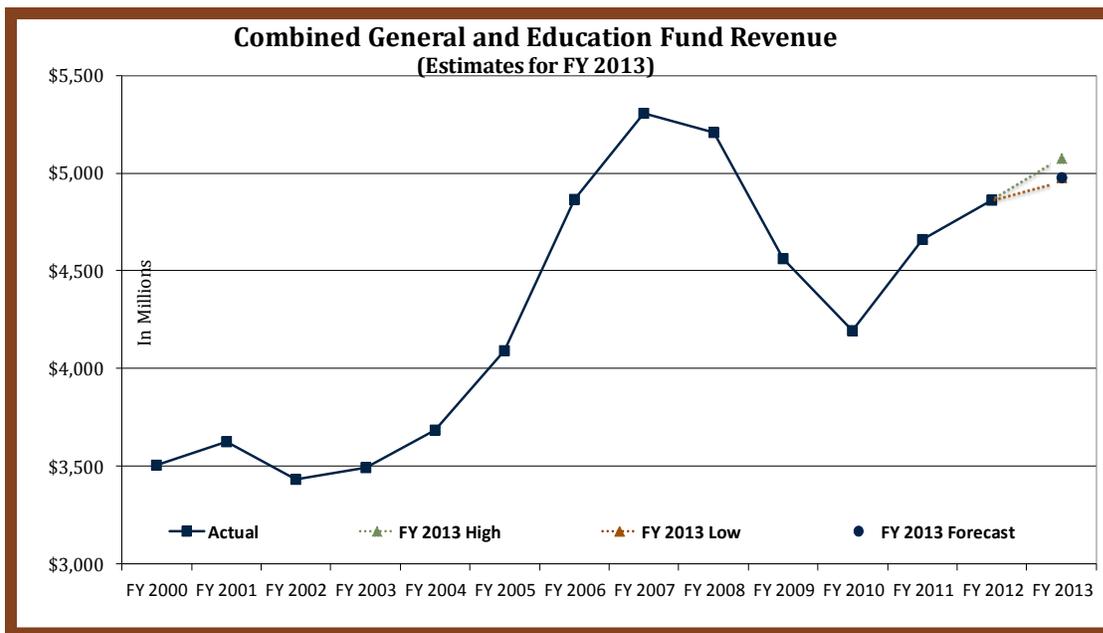
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SALT LAKE CITY, UTAH 84114-5310

RETURN SERVICE REQUESTED



Recovering Revenues

Staff Contact: Jonathan Ball



Recovering Revenues: According to most recent range revenue estimates for FY 2013, the state's General and Education Fund revenue could once again pierce the \$5 billion threshold in FY 2013. To view the full report, please go to: <http://le.utah.gov/interim/2012/pdf/00002371.pdf>