



# HUMAN SERVICES - FOLLOW-UP ON PREVIOUS INTENT LANGUAGE

SOCIAL SERVICES APPROPRIATIONS SUBCOMMITTEE  
STAFF: STEPHEN JARDINE

ISSUE BRIEF

## **SUMMARY**

This report summarizes Department of Human Services intent language passed by the Legislature during its 2012 General Session and provides an agency response regarding the status of each piece of passed intent language.

## **LEGISLATIVE ACTION:**

1. The Division of Child and Family Services (DCFS) is requesting the use of nonlapsing funds for ongoing programs. The Fiscal Analyst does not recommend the subcommittee authorize that request for the following reasons: 1) allowing DCFS to use one-time funds to establish ongoing programs creates a structural imbalance (that would require a legislative appropriation in a subsequent year); 2) [UCA 63J-1-603](#) (the section under which the DCFS nonlapsing authority was granted) does not provide for the option of using the funding for ongoing purposes; and 3) UCA 63J-1-603(3)(b) explicitly states, "An agency may not include a proposed expenditure on its one-time projects list if: the expenditure creates a new program; the expenditure enhances the level of an existing program; or the expenditure will require a legislative appropriation in the next fiscal year." It is the opinion of the Fiscal Analyst DCFS ought to be able to find one-time uses for its nonlapsing funding and shift ongoing state funding and other funding sources to cover ongoing programs in order to comply with UCA 63J-1-603 and the above intent language.

## **EXECUTIVE DIRECTOR'S OFFICE:**

### **House Bill 2, Item 96 (for FY 2013):**

*The Legislature intends that the Department of Health, in conjunction with the Department of Workforce Services and the Department of Human Services, use part of their appropriations to pursue obtaining CHIPRA Performance Bonuses if the Department of Health determines that it would be in the best financial interest of the state.*

### **Agency Response:**

The Department of Human Services has cooperated with DOH in their analysis and in implementing applicable requirements.

*The Legislature intends that the Departments of Health and Human Services conduct a study to identify one or more Medicaid home and community based waivers that could be expanded to save money or be cost neutral. The Departments shall submit their detailed proposals by September 1, 2012 to the Office of the Legislative Fiscal Analyst.*

### **Agency Response:**

The Departments of Health and Human Services conducted a study ([Home and Community Based Waiver Study](#)) to identify one or more Medicaid home and community based waivers that could be expanded to save money or be cost neutral and submitted their proposals to the Office of the Legislative Fiscal Analyst by September 1, 2012. The study was subsequently presented to the Social Services Appropriations Subcommittee on October 4, 2012.

*The Legislature intends the Department of Health, the Utah State Office of Rehabilitation and the Utah State Office of Education (Special Education) use funds previously transferred to support the UDDC information and referral phone/website to instead provide direct client services to individuals with disabilities. The Legislature further intends the Utah Developmental Disability Council (UDDC), as a federally-established and federally-governed agency, use its federal funds to support its information and referral phone/website.*

### **Agency Response:**

Access Utah was an information and referral service established initially by the Center for Person's with Disabilities at Utah State University through a collaboration of state agencies involved with disability clients. Access Utah was sponsored and hosted around several different offices over the years, but ended up being housed in the Utah Developmental Disabilities

Council's office and hosted there for a number of years with various agencies working together to provide the funding for the service. The UDDC does not provide direct services. As a result of the intent language, the state staff member who provided the phone service for Access Utah and the website was transferred to the United Way 2-1-1 Information and Referral line. The Council supported the staff member to work at 2-1-1 to train and transfer the knowledge until his scheduled retirement in February 2013. United Way 2-1-1 will continue to answer disability questions past the staff member's retirement.

*The Legislature intends the Department of Health, the Utah State Office of Rehabilitation and the Utah State Office of Education (Special Education) use funds previously transferred to support the Access Utah program to instead contract with a private human services directory database entity to provide a free information and referral service statewide for individuals with disabilities.*

**Agency Response:**

The Department of Health, the Utah State Office of Rehabilitation and the Utah State Office of Education should respond regarding use of these funds [see issue brief [USOR Follow Up on Intent Language \(2013 General Session\)](#)].

*The Legislature intends the Department of Human Services report back during the 2013 General Session its progress regarding the following items found in the document titled Human Services - Follow Up on In-depth Budget Review affecting the departments Fiscal Year 2013 appropriated budget as reported to the Social Services Appropriations Subcommittee on January 25, 2012: item numbers 1, 2, 4, 6, 7,8, 10, 12, 13, 14, and 15 of the Selected Major Recommendations and numbers 1, 2, 5, 6, 7, 8, 9, and 14 of the remaining recommendations.*

**Agency Response:**

The Department of Human Services reported its progress regarding the In-depth Budget Review Recommendations. The responses are addressed under a separate issue brief titled [Follow Up on Human Services In-depth Budget Review \(2013 General Session\)](#).

**Senate Bill 3, Item 92 (for FY 2012):**

*The Legislature intends that the Department of Health, in conjunction with the Department of Workforce Services and the Department of Human Services, use part of their appropriations to pursue obtaining CHIPRA Performance Bonuses if the Department of Health determines that it would be in the best financial interest of the state.*

**Agency Response:**

The Department of Human Services has cooperated with DOH in their analysis and in implementing applicable requirements.

**SUBSTANCE ABUSE AND MENTAL HEALTH:**

**House Bill 2, Item 97 (for FY 2013):**

*The Legislature intends the DORA (Drug Offender Reform Act) program report to the Office of the Legislative Fiscal Analyst by September 1, 2012 regarding how it has implemented the five strategies intended to strengthen the DORA program recommended by the Utah Criminal Justice Center in its November 2011 Drug Offender Reform Act: DORA Statewide Report. If these strategies have not been implemented, the Legislature further intends the DORA program provide specifically why each recommendation has not been adopted.*

**Agency Response:**

The DORA Oversight Committee of the Utah Substance Abuse Advisory Council submitted [DORA Program Report to the Office of the Legislative Fiscal Analyst](#) on September 1, 2012. The DORA Oversight Committee subsequently presented the report to Executive Appropriations Committee on September 18, 2012. The DORA Oversight Committee is currently working on the responses included in the report, with this work scheduled to be completed by October 1, 2013. The Division of Substance Abuse and Mental Health (DSAMH) participated in the development of the report and concurs with the responses.

*The Legislature intends that the FY 2013 appropriation increase of \$551,400 for DORA be used to treat probationers, and that the DORA Oversight Committee, the Division of Substance Abuse and Mental Health, and the Department of*

*Corrections, in cooperation with the Utah Association of Counties, study and develop recommendations to the Legislature for expansion of treatment and supervision models for DORA parolees in future years.*

**Agency Response:**

On July 1, 2012, the Division of Substance Abuse and Mental Health distributed \$2,590,900 (\$2,039,500 base funding plus the \$551,400 in new funding) to eight local substance abuse authority areas to be used to treat probationers participating in DORA. This included increases for the six local authority areas that have been implementing DORA since FY 2008 (Cache, Weber, Davis, Salt Lake, Utah, Iron/Washington Counties), as well as funding to reinstate two additional local authority areas that lost funding following budget cuts in FY 2010 (Tooele and Carbon/Emery Counties).

The DORA Oversight Committee, which includes representatives from the Division of Substance Abuse and Mental Health, the Department of Corrections, the Utah Association of Counties and other key stakeholders, is currently in the process of examining the DORA model as it was applied to parolees who participated in DORA during FY 2008 and FY 2009, as well as conducting a review of the literature regarding new strategies for helping parolees succeed at both treatment and supervision. The results of this study will be utilized by the DORA Oversight Committee to develop recommendations to the Legislature regarding expansion of the DORA treatment and supervision model for parolees in future years. The recommendations to the Legislature are scheduled to be completed by October 1, 2013

*The Legislature intends the Division of Substance Abuse and Mental Health and Salt Lake County report to the Office of the Legislative Fiscal Analyst by September 1, 2012 regarding current Salt Lake County efforts to reduce inpatient placements in both community inpatient hospital settings and the Utah State Hospital for individuals with mental illness in order to maintain individuals in the least restrictive and most enabling settings.*

**Agency Response:**

The Division of Substance Abuse and Mental Health ([DSAMH Report on Reducing Inpatient Placements](#)) and Salt Lake County ([SL Co Report on Reducing Inpatient Placements](#)) provided a report to the Office of the Legislative Fiscal Analyst by September 1, 2012. DSAMH and Salt Lake County subsequently presented these reports to the Social Services Appropriations Interim Committee on October 4, 2012.

**Senate Bill 3, Item 93 (for FY 2012):**

*Under Section 63J-1-603 of the Utah Code the Legislature intends that the appropriations provided for the Division of Substance Abuse and Mental Health line item for the Drug Courts in Item 13 of Chapter 4 Laws of Utah 2011 not lapse at the close of Fiscal Year 2012. The use of any nonlapsing funds is limited to "Other Charges/Pass Through" expenditures.*

**Agency Response:**

The Division of Substance Abuse and Mental Health had \$6,700 remaining appropriations for Drug Courts at the end of FY 2012. These funds have been budgeted as "Other Charges/Pass Through" expenditures in FY 2013.

*Under Section 63J-1-603 of the Utah Code the Legislature intends that the appropriations provided for the Division of Substance Abuse and Mental Health line item for State Substance Abuse Services and Local Substance Abuse Services in Item 13 of Chapter 4 Laws of Utah 2011 not lapse at the close of Fiscal Year 2012. The use of any nonlapsing funds is limited to "Other Charges/Pass Through" expenditures.*

**Agency Response:**

The Division of Substance Abuse and Mental Health had \$155,000 remaining appropriations for State Substance Abuse Services and Local Substance Abuse Services at the end of FY 2012. These funds have been budgeted as "Other Charges/Pass Through" expenditures in FY 2013.

*Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$50,000 of appropriations provided for the Division of Substance Abuse and Mental Health line item in Item 13 of Chapter 4 Laws of Utah 2011 not lapse at the close of Fiscal Year 2012. The use of any nonlapsing funds is limited to computer equipment and software, capital equipment or improvements, equipment, or supplies.*

**Agency Response:**

The Division of Substance Abuse and Mental health has budgeted \$47,100 for the purchase of computer equipment and software, capital equipment or improvements, equipment, or supplies in FY 2013 from appropriations not lapsed at the end of FY 2012.

### **SERVICES FOR PEOPLE WITH DISABILITIES:**

#### **House Bill 2, Item 98 (for FY 2013):**

*The Legislature intends the Division of Services for People with Disabilities (DSPD) develop several options to measure the safety of individuals in its care and bring these measures back to the Subcommittee for review and input during one of its 2012 interim meetings. After receiving input from the Subcommittee, DSPD begin to report the measure regarding safety of individuals in its care in the Output and Outcome Measures report provided annually to the Social Services Appropriations Subcommittee.*

#### **Agency Response:**

The Division of Services for People with Disabilities reported to the Social Services Appropriations Subcommittee on June 13, 2012 regarding this item. As a result, the division is now including the following additional measure in its annual Output and Outcome Measures report to the Social Services Appropriations Subcommittee: Percent of Consumers with an Injury Accident.

*The Legislature intends the Division of Services for People with Disabilities (DSPD), in consultation with stakeholders, providers, and the state Medicaid agency, explore options for a tier approach for individuals waiting for services to be utilized as an alternative or in addition to programs currently funded as part of the FY 2013 DSPD appropriations. It is further the intent of the Legislature that these efforts, along with recommendations, be reported back to the Social Services Appropriations subcommittee by January 2013.*

#### **Agency Response:**

The Division of Services for People with Disabilities (DSPD), in consultation with stakeholders, providers, and the state Medicaid agency, reported on options for a tier approach for individuals waiting for services to be utilized as an alternative or in addition to programs currently funded as part of the DSPD appropriations. The report is addressed under a separate issue brief titled *Options for a Tier Approach for DSPD Community Services (2013 General Session)*.

#### **House Bill 3, Item 99 (for FY 2013):**

*The Legislature intends the Division of Services for People with Disabilities (DSPD) use FY 2013 beginning nonlapsing funds and any one-time funding appropriated for FY 2013 to provide services for individuals needing emergency services, individuals needing additional waiver services, individuals who turn 18 years old and leave state custody from the divisions of Child and Family Services and Juvenile Justice Services, individuals court ordered into DSPD services, and/or lease expenses.*

#### **Agency Response:**

The Division of Services for People with Disabilities has added \$695,000 in nonlapsing funding to the budget for the Community Supports Waiver to be used for the purposes included in the Legislative Intent Language.

### **CHILD AND FAMILY SERVICES:**

#### **House Bill 2, Item 100 (for FY 2013):**

*The Legislature intends the Department of Human Services and the Division of Child and Family Services (DCFS) report back during the 2013 General Session actions and progress regarding the following items from the Auditor General's audit of DCFS and the affect of these items on the DCFS Fiscal Year 2013 appropriated budget: 1) the mixture of in-home services compared to out-of-home services; 2) progress on policies, training, and implementation of enhancements to in-home services; 3) funding by program as shown in audit figure 1.2 with enhanced information regarding annual numbers served and the cost per individual served; 4) trends of in-home and foster care services as shown in audit figures 2.1 and 2.3; 5) cost and utilization of foster care services by region as shown in audit figures 3.1 and 3.2; 6) inter-region placements and use of courtesy worker visits by region as shown in audit figure 5.1; 7) number of full-time equivalent (FTE) positions that staff all child protective services, in-home, and foster care cases on the last day of the fiscal year as a percentage of all FTEs*

shown by region; 8) annualized subsidy cost per adoption by region as shown in audit figure 6.6; 9) regular review, monitoring, and reevaluation of the appropriateness of all foster care placements; 10) review of staffing practices among the divisions five regions to ensure accurate caseload calculations; and 11) adoption subsidy policies and funding practices to bring more consistency to regional practices.

**Agency Response:**

The Division of Child and Family Services has reported back regarding actions and progress from the Auditor General’s audit of DCFS and the effect of these items on the DCFS appropriated budget.. The report is addressed under a separate issue brief titled *Follow Up on Child and Family Services Performance Audit (2013 General Session)*.

*The Legislature intends the Division of Child and Family Services (DCFS) report to the Office of the Legislative Fiscal Analyst (LFA) by September 1, 2012 regarding lowering its front line worker turnover rates, including child protective service, foster care, and in-home service workers. The Legislature further intends DCFS report information regarding its current tracking of worker turnover by category and by region and provide to the LFA a range of strategies that could be implemented within existing DCFS budgets to reduce turnover for critical frontline workers. The Legislature further intends DCFS report to the LFA by September 1, 2012 exit information it currently collects by worker category and by region regarding why frontline workers leave their positions and where workers go after leaving these positions.*

**Agency Response:**

The Division of Child and Family Services reported to the office of the Legislative Fiscal Analyst by September 1, 2012 regarding lowering its front line worker turnover rates and other related issues. The report is addressed under a separate issue brief titled *DCFS Front Line Staff Turnover Rates (2013 General Session)*.

**Senate Bill 3, Item 95 (for FY 2012):**

*Under Section 63J-1-603 of the Utah Code the Legislature intends that any remaining funds provided by item 16, Chapter 4 of the Laws of Utah 2011 for the Division of Child and Family Services not lapse at the close of Fiscal Year 2012. It is further the intent of the Legislature that nonlapsing funds are to be used only for one-time costs associated with Adoption Assistance, Out of Home Care, Service Delivery, In-home Services, and SAFE Management Information System modernization. If nonlapsing funds are to be used for ongoing programs, the division must first receive specific approval from the Social Services Appropriations Subcommittee in FY 2013 at either an interim meeting or during the 2013 General Session.*

**Agency Response:**

The Division of Child and Family Services has non-lapsing funds of \$7,254,000 to be used in Fiscal Year 2013 for Adoption Assistance, Out of Home Care, Service Delivery, In-home Services and SAFE Management Information System modernization one-time costs. The Division of Child and Family Services respectfully requests that the authorized use of non-lapsing funds be allowed for ongoing purposes. Most of the costs of the Division are ongoing in nature. As clients receive services on a month to month basis the costs, by their nature, are not considered one-time. The Division is experiencing increasing caseloads and needs flexibility with the transition from Out of Home to In-home Services. Authorization of use for ongoing costs will allow the division to continue transition over time, as service providers are identified and contracted with, caseworkers are trained on the new services, and on the client population increases due to transition from Out of Home or clients that previously would have been Out of Home clients.

Consistent with the intent language *“If nonlapsing funds are to be used for ongoing programs,”* DCFS is requesting to *“receive specific approval from the Social Services Appropriations Subcommittee in FY 2013 at either an interim meeting or during the 2013 General Session.”* The fiscal analyst points out that: 1) allowing DCFS to use one-time funds to establish ongoing programs creates a structural imbalance (that would require a legislative appropriation in a subsequent year) and 2) [UCA 63J-1-603](#) (the section under which this nonlapsing authority was granted) does not provide for the option of using the funding for ongoing purposes. UCA 63J-1-603(3)(b) explicitly states: *“An agency may not include a proposed expenditure on its one-time projects list if: the expenditure creates a new program; the expenditure enhances the level of an existing program; or the expenditure will require a legislative appropriation in the next fiscal year.”* It is the opinion of the Fiscal Analyst that DCFS can find one-time uses for its nonlapsing funding and shift ongoing state funding and other funding sources to cover ongoing programs in order to comply with UCA 63J-1-603 and the above intent language.

*Under Section 63J-1-603 of the Utah Code the Legislature 991 intends that any remaining funds provided by item 16, Chapter 4 of the Laws of Utah 2011 for the Division of Child and Family Services not lapse at the close of Fiscal Year 2012. The Legislature further intends that nonlapsing funds be used for the Division of Child and Family Services (DCFS) to begin modernizing its SAFE database system and routinely report on the modernization projects status and current cost estimates at both interim and General Session subcommittee meetings as well as to the Office of the Legislative Fiscal Analyst. The Legislature further intends DCFS develop performance measures associated with organizational efficiencies and worker productivity to demonstrate the anticipated benefits that modernizing the SAFE system would have on the core purposes of DCFS and share these measures with the subcommittee prior to any significant expenditure of funds for the SAFE project.*

**Agency Response:**

The Division of Child and Family Services has non-lapsing funds of \$7,254,000 at the end of Fiscal Year 2012 to be used in Fiscal Year 2013 for Adoption Assistance, Out of Home Care, Service Delivery, In-home Services and SAFE Management Information System modernization. Non-lapsing funds will only be used for purposes outlined in the intent language. Latest cost estimates for the total eight year project is \$9,958,000. Federal funding is estimated to pay for 68.8% of the project. The existing SAFE system was developed back in 1995. It is based on technologies that have become outdated and are difficult and costly to maintain. Problems with the outdated technology include the inability to obtain and retain technical staff familiar with SAFE software programs and database. The developer of the software platform no longer supports system maintenance. When completed the new system will be web based, it will enhance caseworker efficiency, and be more adaptable to changing business practices helping to ensure accuracy of information.