



INTENT LANGUAGE & NONLAPSING BALANCES FOLLOW-UP

SOCIAL SERVICES APPROPRIATIONS SUBCOMMITTEE
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ISSUE BRIEF

SUMMARY

The objective of this issue brief is to determine if the Department of Workforce Services complied with the eight intent language statements adopted by the Legislature during the 2012 General Session and seven intent language statements from the 2011 General Session that had impacts through June 30, 2012. This issue brief provides a follow up to each of the pieces of intent language passed. The Analyst has no concerns of non-compliance. Additionally, the purpose of this issue brief is to inform the Social Services Appropriations Subcommittee of \$7,411,600 in nonlapsing balances at the end of FY 2012 for the Department of Workforce Services.

DISCUSSION AND ANALYSIS

Intent Language Overview

The Analyst has no concerns of non-compliance with any intent language issued last year, neither does the Department of Finance. The following is a list of eight legislative intent statements from the 2012 General Session with the Department of Workforce Services' response or comments by the Analyst. Intent language may be adopted by the Legislature to explain or place conditions on the use of funds. Intent language is binding for one year and may not contradict or change statutory language. Follow up to intent language related to ARRA (federal stimulus) funding can be found in the Issue Brief entitled "ARRA Funds Approval." The Subcommittee may want to direct the agency to take further action on the information presented in the reports requested by the Legislature.

Intent Language from the 2012 General Session

There are eight intent language statements reviewed below. These eight statements can be grouped into the following two categories:

1. Providing nonlapsing authority (4 intent language statements).
2. Providing specific direction (4 intent language statements)

1. Nonlapsing Authority for Administration (S.B. 3, Item 87):

The Legislature intends that, Under Section 63J-1-603 of the Utah Code appropriations provided for the Department of Workforce Services Administration line item in Item 18 of Chapter 4 Laws of Utah 2011 not lapse at the close of Fiscal Year 2012. The amount of any nonlapsing funds is limited to \$201,000 from the General Fund. The use of any nonlapsing funds is for Administration line item expenses. (The agency nonlapsed \$201,000).

Agency Response: "DWS non-lapsed \$201,000 General Fund in the Administration line item. The department plans to use this for computer equipment and software and one-time projects and studies."

2. Nonlapsing Authority for Operations and Policy (S.B. 3, Item 88):

The Legislature intends that, Under Section 63J-1-603 of the Utah Code appropriations provided for the Department of Workforce Services Operations and Policy line item in Item 19 of Chapter 4 Laws of Utah 2011 not lapse at the close of Fiscal Year 2012. The amount of any nonlapsing funds is limited to \$3,100,000 from the General Fund, \$3,900,000 from the Special

Administrative Expense Account, and \$3,300,000 from Reed Act Funds. The use of any nonlapsing funds is for Operations and Policy line item expenses. (The agency nonlapsed \$6,555,600).

Agency Response: “DWS non-lapsed \$3,100,000 General Fund in the Operations and Policy line item. DWS plans to use this for computer equipment/software and one-time projects associated with: 1) addressing client services due to caseload growth or 2) refugee services.

DWS non-lapsed \$3,455,600 Special Administrative Expense Account in the Operations and Policy line item. DWS plans to use this for employment development projects and activities or one-time projects associated with client services.

DWS non-lapsed \$0 Reed Act funds in the Operations and Policy line item.”

3. Nonlapsing Authority for General Assistance (S.B. 3, Item 89):

The Legislature intends that, Under Section 63J-1-603 of the Utah Code appropriations provided for the Department of Workforce Services General Assistance line item in Item 20 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 \$600,000 for General Assistance line item expenses. (The agency nonlapsed \$600,000).

Agency Response: “DWS non-lapsed \$600,000 General Fund in the General Assistance line item. DWS plans to use this for computer equipment/software and one-time projects associated with client services.”

4. Nonlapsing Authority for Unemployment Insurance (S.B. 3, Item 90):

The Legislature intends that, Under Section 63J-1-603 of the Utah Code appropriations provided for the Department of Workforce Services Unemployment Insurance line item in Item 21 of Chapter 4 Laws of Utah 2011 not lapse at the close of Fiscal Year 2012. The amount of any nonlapsing funds is limited to \$55,000 from the General Fund. The use of any nonlapsing funds is for Unemployment Insurance line item expenses. (The agency nonlapsed \$55,000).

Agency Response: “DWS non-lapsed \$55,000 General Fund in the Unemployment Insurance line item. DWS plans to use this for computer equipment and software.”

5. Pursue CHIPRA Performance Bonuses in FY 2012 & FY 2013 (S.B. 3, Item 88 & H.B. 2, Item 92):

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: “DWS assisted DOH as needed in this. The CHIPRA Bonus was a grant a State could pursue by simplifying and increasing access to CHIP for children. There were 8 identified items, and a State had to successfully implement 5 of them in order to apply for the CHIPRA bonus. The 5 completed were:

Medical No Interview (not requiring an interview at application)

Same Application and Review

Simplified Assets

Simplified Renewal

Presumptive Eligibility

These were completed by both DWS and DOH. DOH then applied to be considered for the grant, and the State of Utah was awarded a little over \$10 Million (sent to DOH).

[Here] is the awarded grants by State - <http://www.insurekidsnow.gov/professionals/eligibility/pb-2012-chart.pdf>."

6. Direction for Spending Reed Act Funds in FY 2013 (H.B. 2, Item 92):

It is the intent of the Legislature that the Reed Act funds appropriated for FY 2013 to the Department of Workforce Services be used for workforce development and labor exchange activities.

Agency Response: "The Reed Act funds will be used for Wagner Peyser activities to help customers search for employment. This was done by helping them search for employment, directing customers to the department's online job search resources, helping them write and improve cover letters and resumes, and providing other general guidance in seeking employment."

7. Direction for Spending Reed Act Funds in FY 2012 (S.B. 3, Item 88):

It is the intent of the Legislature that the Reed Act funds appropriated for FY 2012 to the Department of Workforce Services be used for workforce development and labor exchange activities.

Agency Response: "The Reed Act funds will be used for Wagner Peyser activities to help customers search for employment. This was done by helping them search for employment, directing customers to the department's online job search resources, helping them write and improve cover letters and resumes, and providing other general guidance in seeking employment."

8. Direction for General Assistance Reduction (H.B. 2, Item 93):

The Legislature intends that the ongoing reduction of \$97,900 beginning FY 2013 to the Department of Workforce Services General Assistance program be taken from the administration costs of the program.

Agency Response: "This was done. There was no decrease and no decreases are planned to services provided customers as a result of the appropriation reduction. The department improved the eligibility determination process which increased the productivity of eligibility workers. Through attrition, eligibility services costs were saved so the amount of these costs allocated to General Assistance has decreased."

Nonlapsing Balances

Under the Budgetary Procedures Act (UCA 63J-1-602), no revenue collection, appropriation from a fund or account, or appropriation to a program may be treated as nonlapsing unless:

1. It is expressly referenced in UCA 63J-1-602
2. It is designated in a condition of appropriation in the appropriations bill, or
3. Nonlapsing authority is granted under UCA 63J-1-603.

UCA 63J-1-602 also states that "each legislative appropriations subcommittee shall review the accounts and funds that have been granted nonlapsing authority under this section of Section 63J-1-603."

The tables on the following pages detail the \$7,411,600 in nonlapsing balances at the end of FY 2012 for the Department of Workforce Services (most of the information in the table represents responses and information from the Department of Workforce Services received via email).

The Office of the Legislative Fiscal Analyst presented a statewide report entitled, "Preliminary FY12 Lapsing and Nonlapsing Balances Report," to the Executive Appropriations Committee in September of 2012. The report is available at <http://le.utah.gov/interim/2012/pdf/00002069.pdf>.

INTENT LANGUAGE & NONLAPSING BALANCES FOLLOW-UP

Department of Workforce Services				
FY 2012 Nonlapsing Funds				
Division & Program	Nonlapsing Authority	Amount	Restrictions	Reason
Administration				
Executive Director's Office	2012 General Session SB3 Item 87	201,000	The use of any nonlapsing funds is for Administration line item expenses.	Match dollars to draw down federal funds for programs such as Medicaid and Food Stamps.
Operations and Policy				
Eligibility Services	2012 General Session SB3 Item 88	3,100,000	The use of any nonlapsing funds is for Operations and Policy line item expenses.	Match dollars to draw down federal funds for programs such as Medicaid and Food Stamps.
Other Assistance	2012 General Session SB3 Item 88	3,455,600	The use of any nonlapsing funds is for Operations and Policy line item expenses.	To pay for projects and activities to promote and facilitate the development of jobs in Utah.
General Assistance				
General Assistance	2012 General Session SB3 Item 89	600,000	The use of any nonlapsing funds is limited to \$600,000 for General Assistance line item expenses.	General Assistance client services
Unemployment Insurance Administration				
Unemployment Insurance Administration	2012 General Session SB3 Item 90	55,000	The use of any nonlapsing funds is for Unemployment Insurance line item expenses.	Match dollars to draw down federal funds for programs such as Medicaid and Food Stamps.
Grand Total		7,411,600		

Intent Language from the 2011 General Session

The following seven items of intent language were passed in the 2011 General Session. These items could not be fully reviewed until the close of FY 2012. There are seven intent language statements reviewed below. These seven statements can be grouped into the following three categories:

1. Providing nonlapsing authority (five statements)
2. Requiring a report (1 intent language statement)
3. Providing specific direction (1 intent language statement)

1. Nonlapsing Authority for Special Administrative Expense Account (H.B. 3, Item 84):

Under Section 63J-1-603 of the Utah Code the Legislature intends that appropriations of the Special Administrative Expense Account up to \$1,500,000 provided for DWS Workforce Services line item in Item 54 of Chapter 2 Laws of Utah 2010 not lapse at the close of Fiscal Year 2011 and be transferred to DWS-Operations and Policy line item, as created by the Legislature in the 2010 General Session. (The agency nonlapsed \$1,419,200).

Agency Response: "DWS non-lapsed \$1,419,200 Special Administrative Expense Account in the Workforce Services line item into the Operations and Policy line item. DWS used this for employment development projects."

2. Nonlapsing Authority for Workforce Services (H.B. 3, Item 84):

Under Section 63J-1-603 of the Utah Code the Legislature intends that appropriations provided for DWS Workforce Services line item in Item 54 of Chapter 2 Laws of Utah 2010 not lapse at the close of Fiscal Year 2011 up to \$3,000,000 General Fund and be transferred to the following line items: DWS-Administration up to \$133,200, DWS-Operations and Policy up to \$2,626,200, DWS-General Assistance up to \$232,800 and DWS-Unemployment Insurance Administration up to \$7,800. (The agency nonlapsed \$3,000,000).

Agency Response: "DWS non-lapsed \$3,000,000 General Fund in the Workforce Services line item into the following line items with respective amounts for each line item:

- **Administration: \$133,200. The department used this for one-time projects and studies.**

- **Operations and Policy: \$2,626,200.** DWS used this for one-time projects associated with addressing client services due to caseload growth.
- **General Assistance: \$232,800.** DWS used this for computer equipment and software and one-time projects associated with client services.
- **Unemployment Insurance: \$7,800.** DWS used this for computer equipment and software.”

3. Nonlapsing Authority for Refugee Services (H.B. 3, Item 84):

Under Section 63J-1-603 of the Utah Code the Legislature intends that appropriations provided for DWS Workforce Services line item in Item 54 of Chapter 2 Laws of Utah 2010 not lapse at the close of Fiscal Year 2011 up to \$50,000 General Fund for Refugee Services, Community Services Block Grants and be transferred to the following line items: DWS-Administration up to \$2,400 and DWS-Operations and Policy up to \$47,600. (The agency nonlapsed \$47,600).

Agency Response: “DWS non-lapsed \$47,600 General Fund in the Workforce Services line item into the following line items with respective amounts for each line item:

- **Administration: \$0**
- **Operations and Policy: \$47,600.** DWS used this for refugee services grants.”

4. Nonlapsing Authority for Unemployment Insurance (H.B. 3, Item 85):

Under Section 63J-1-603 of the Utah Code the Legislature intends that appropriations provided for DWS Unemployment Insurance line item in Item 54 of Chapter 2 Laws of Utah 2010 not lapse at the close of Fiscal Year 2011 up to \$50,000 General Fund. (The agency nonlapsed \$0).

Agency Response: “DWS non-lapsed \$0 General Fund in the Unemployment Insurance line item.”

5. Nonlapsing Authority for Food Bank Capital Improvements (H.B. 3, Item 59):

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$24,500 of any remaining amount of the \$289,800 ongoing General Funds provided by the Laws of Utah 2010 Chapter 2, State Agency and Higher Education Base Budget, Item 82, for the Department of Community and Culture -Housing and Community Development (Emergency Food Network) line item not lapse at the close of Fiscal Year 2011. This funding would be used specifically for food bank capital improvements. (The agency nonlapsed \$24,500).

Agency Response: “\$24,500 was non-lapsed, and these funds were expended by food banks as planned for capital improvements.”

6. Replacement Maintenance of Effort Proxies for Temporary Assistance for Needy Families (S.B. 2, Item 90):

The Legislature intends that, if the Department of Workforce Services continues to pursue proxies for Temporary Assistance for Needy Families (TANF) maintenance of effort requirements, "replacement MOE", the Department shall also identify one-time General Fund budget adjustments equivalent to replacement MOE amounts. The Department shall also develop a plan for implementing such adjustments in the event replacement MOE declines or is disallowed by the federal government.

Agency Response: “DWS pursued proxies for [Temporary Assistance for Needy Families] MOE to make up for shortfalls in GF and ensure the continuity of services provided. DWS also created a plan for the event replacement MOE declined. The General Fund of the department is used in three different ways.

- **Match for entitlement programs like Medicaid and SNAP.**
- **General Assistance and other ongoing state funded programs.**
- **Maintenance of Effort for Child Care and [Temporary Assistance for Needy Families].**

These are ongoing activities the department has been asked to provide for the residents of Utah. There are no significant one-time costs to eliminate. In the event the available replacement MOE declines significantly or is disallowed, the department would need to address the shortfall with ongoing spending reductions and/or a temporary increase in appropriations. In such an event, the department would work with the Governor and Legislature to determine if funding could be appropriated to replace the funds needed to pay for these services.”

7. Use Replacement Maintenance of Effort Proxy Money First (S.B. 2, Item 90):

The Legislature intends that, if the Department of Workforce Services continues to pursue proxies for Temporary Assistance for Needy Families (TANF) maintenance of effort requirements, "replacement MOE", the Department shall in accordance with Utah Code 63J-1-104(6)(a) use any and all replacement MOE first, prior to expending free or restricted revenue.

Agency Response: “DWS used funds unencumbered by the claiming of [Temporary Assistance for Needy Families] replacement MOE first.”