



INTENT LANGUAGE & NONLAPSING BALANCES FOLLOW-UP

SOCIAL SERVICES APPROPRIATIONS SUBCOMMITTEE
STAFF: RUSSELL FRANSEN

ISSUE BRIEF

SUMMARY

The objective of this issue brief is to determine if the Department of Health complied with the 24 intent language statements adopted by the Legislature during the 2012 General Session and 14 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 \$39,838,900 in nonlapsing balances at the end of FY 2012 for the Department of Health. The Department of Health originally requested additional nonlapsing authority of \$345,600 or 3%. Additionally, there is an issue with some nonlapsing authority with recommendations for possible legislative action.

LEGISLATIVE ACTION

The nonlapsing authority provided in HB 272 from the 2012 General Session for all Medicaid funds to the Department of Health does not meet the requirements for nonlapsing authority in [UCA 63J-1-602](#). Any of the following changes would make HB 272 compliant with [UCA 63J-1-602](#) for FY 2013:

- (1) Provide nonlapsing authority in an appropriation bill for FY 2013 (the Department of Finance already treated the funds as nonlapsing for FY 2012).
- (2) Remove the nonlapsing authority from HB 272 contained in [UCA 26-18-402](#) via legislation.

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 24 legislative intent statements from the 2012 General Session with the Department of Health's 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 24 intent language statements reviewed below. These 24 statements can be grouped into the following three categories:

1. Providing nonlapsing authority of more than \$12.5 million in FY 2012 from FY 2011 funds (17 intent language statements). The table below details the \$12.5 million of specific nonlapsing authority provided as well as the five areas with unlimited nonlapsing authority. The Department of Health has \$12,108,400 in nonlapsing from these intent language statements. For more information on the purposes and uses of these nonlapsing balances, please see the section below entitled "*Nonlapsing Balances*."
2. Providing specific direction (5 intent language statements)
3. Requiring a report (2 intent language statements)

Nonlapsing Authority via Intent Language		
Purpose	Authorized Total	Actual Nonlapsing
Medicaid Management Information System Replacement	\$ 5,300,000	\$ 5,261,000
Autism Services (HB 272)	\$ 4,500,000	\$ 4,500,000
Federally-mandated Projects	\$ 679,000	\$ 643,500
Drug Prevention Programs	\$ 500,000	\$ 500,000
Primary Care Grants Program	\$ 400,000	\$ 166,000
Laboratory Equipment	\$ 250,000	\$ 250,000
Emergency Medical Services - Fees	\$ 250,000	\$ 239,100
Facility Plan Review Activities	\$ 210,000	\$ 210,000
Equipment and Improvements	\$ 175,000	\$ 175,000
Computer Equipment	\$ 90,000	\$ 90,000
Computer Equipment	\$ 50,000	\$ 50,000
Bleeding Disorders Program	\$ 50,000	\$ 23,800
Children's Health Insurance Program	all	\$ 2,866,100
Medicaid Sanctions	all	\$ 1,082,900
Emergency Medical Services - Fines	all	\$ 731,600
Civil Money Penalties	all	\$ 89,100
Provider Trainings (Child Care)	all	\$ 85,600
Total	\$ 12,454,000	\$16,963,700

1. Nonlapsing Authority for Computer Equipment in the Executive Director's Office (S.B. 3, Item 78):

Under Section 63J-1-603 of the Utah Code the Legislature intends that appropriations provided for Executive Director's Office in Item 1 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 \$90,000 for computer equipment, software, and employee training. (The agency nonlapsed \$90,000).

Agency Response: "The division anticipates the entire \$90,000 and more will be expended for [Data Processing] equipment and replacement in FY13."

2. Nonlapsing Authority for Testing Supplies and Processes for Emergency Medical Services (S.B. 3, Item 79):

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$250,000 of Item 2 of Chapter 4, Laws of Utah 2011 for Emergency Medical Services not lapse at the close of Fiscal Year 2012. The use of any nonlapsing funds is limited to testing, certifications, background screenings, replacement testing equipment, and testing supplies. (The agency nonlapsed \$239,100).

Agency Response: "The nonlapsing funds will be used for practical and written testing for EMS certification. Training requirements include classroom hours, certain hours of clinical experience, and a competency exam. Quality assurance reviews will also be conducted by staff for courses, recertification practical testing and licensing."

3. Nonlapsing Authority for Criminal Fine and Forfeiture Money for Emergency Medical Services (S.B. 3, Item 79):

Under Section 63J-1-603 of the Utah Code, the Legislature intends that criminal fines and forfeiture money collected for Emergency Medical Services in Item 2 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 purposes outlined in Section 26-8a-207(2). (The agency nonlapsed \$731,600).

Agency Response: “The nonlapsing funds will be used in accordance with statute, which includes EMS grants and administrative costs. These funds will be distributed to all local EMS agencies and training centers to be used for the purchase of equipment, supplies, and EMS training to help deliver emergency medical services to the citizens of the state.”

4. Nonlapsing Authority for Civil Penalty Money from Childcare and Health Care Provider Violations (S.B. 3, Item 79):

Under Section 63J-1-603 of the Utah Code, the Legislature intends that civil money penalties collected for Item 2 of Chapter 4, Laws of Utah 2011 from childcare and health care provider violations not lapse at the close of Fiscal Year 2012. The use of any nonlapsing funds is limited to trainings for providers. (The agency nonlapsed \$89,100).

Agency Response: “Nonlapsing Childcare funds are used to deliver ongoing training throughout the state to assist providers in complying with the rules. Non lapsing funds are used for trainer salaries and for in-state travel costs and training materials. Funds collected in one year are used to pay for training in the next year. We anticipate spending all the nonlapsing funding this year. The nonlapsing funds for Health Facility Licensing/Certification were not used this year. The Centers for Medicare/Medicaid Services (CMS) must authorize expenditures in this area for residents of nursing facilities. Some projects may be proposed by the Utah Health Care Association in the coming year to utilize these funds for the residents of nursing care facilities. Some of these funds may also be used for a CMS grant for background screening in the coming year.”

5. Nonlapsing Authority for Bureau of Health Facility Licensure, Certification and Resident Assessment for Plan Reviews (S.B. 3, Item 79):

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$210,000 of Item 2 of Chapter 4, Laws of Utah 2011 from fees collected for the purpose of plan reviews by the Bureau of Health Facility Licensure, Certification and Resident Assessment not lapse at the close of Fiscal Year 2012. The use of any nonlapsing funds is limited to plan review activities. (The agency nonlapsed \$210,000).

Agency Response: “The nonlapsing funds for Health Facility Licensing/Certification are used for evaluating health care facility new construction and remodel projects to endure compliance with appropriate building and fire codes in accordance with stat health facility construction rules. The funds were used for salaries for architects and inspection staff to complete construction this year. An additional .50 FTE architect was added. In addition the software for facilities to submit plans to Health Facility Licensing is being upgraded to make the process easier for facilities.”

6. Nonlapsing Authority for People with Bleeding Disorders (S.B. 3, Item 79):

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$50,000 of Item 2 of Chapter 4, Laws of Utah 2011 of unused funds appropriated for the Assistance for People with Bleeding Disorders Program not lapse at the close of Fiscal Year 2012. The use of any nonlapsing funds is limited to services to eligible clients. (The agency nonlapsed \$23,800).

Agency Response: “During FY 13, the nonlapsing funds for Bleeding Disorders will be included in the contract with the Utah Hemophilia Foundation, who will distribute this funding to additional eligible individuals for the cost of obtaining hemophilia services or the cost of insurance premium coverage of hemophilia services.”

7. Nonlapsing Authority for Primary Care Grants Program (S.B. 3, Item 79):

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$400,000 of Item 2 of Chapter 4, Laws of Utah 2011 for Primary Care Grants Program not lapse at the close of Fiscal Year 2012. The use of any nonlapsing funds is limited to primary care grants. (The agency nonlapsed \$166,000).

Agency Response: "The nonlapsing funds for Primary care will be incorporated and distributed to grants for the FY13."

8. Nonlapsing Authority for Equipment and Improvements for the Medical Examiner (S.B. 3, Item 80):

Under Section 63J-1-603 of the Utah Code the Legislature intends that appropriations provided for Disease Control and Prevention in Item 77 of Chapter 379 Laws of Utah 2011 not lapse at the close of Fiscal Year 2012. The use of any nonlapsing funds is limited to the following: \$175,000 for replacement computer equipment, software, laboratory equipment, and for facility improvements/expansion for the Office of the Medical Examiner. (The agency nonlapsed \$175,000).

Agency Response: "The nonlapsing funds will be used to replace obsolete computer equipment, upgrade the autopsy and specimen handling facilities, and equipment. Upgrading and replacement is necessary to maintain the required national medical examiner standards and proper documentation while handling an increasing workload of cases."

9. Nonlapsing Authority for Laboratory Equipment (S.B. 3, Item 80):

Under Section 63J-1-603 of the Utah Code the Legislature intends that appropriations provided for Disease Control and Prevention in Item 3 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 the following: \$250,000 for laboratory equipment, computer equipment, software and building improvements for the Unified State Laboratory. (The agency nonlapsed \$250,000).

Agency Response: "During fiscal year 2013, the Unified State Laboratory: Public Health plans to use FY2012 nonlapsing funds to replace an ICP-MS System in the Environmental Chemistry section. The laboratory will be able to share the total cost, \$275,000, with a federal grant, thus spending only \$134,000 of these state funds. The remainder of these nonlapsing funds will be used to cover the continual replacement of aging computers, aging instrumentation and equipment, and upgrades to the laboratory's computer-based security and data communication infrastructure, thereby enabling the laboratory to remain modern and efficient, and able to provide the testing capabilities needed by the citizens of Utah."

10. Nonlapsing Authority for Drug Prevention Programs (S.B. 3, Item 80):

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$500,000 of Item 3 of Chapter 4 and Item 77 of Chapter 379, Laws of Utah 2011 for the alcohol, tobacco, and other drug prevention reduction, cessation, and control programs not lapse at the close of Fiscal Year 2012. The use of any nonlapsing funds is limited to alcohol, tobacco, and other drug prevention, reduction, cessation, and control programs. (The agency nonlapsed \$500,000).

Agency Response: "Nonlapsing funds will be used to support the continuation of tobacco use reduction, cessation, and control programs conducted statewide and to ensure the continued availability of quit-line services."

11. Nonlapsing Authority for Computer Equipment in Health Care Financing (S.B. 3, Item 81):

Under Section 63J-1-603 of the Utah Code the Legislature intends that appropriations provided for Health Care Financing in Item 5 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 \$50,000 for the purchase of computer equipment. (The agency nonlapsed \$50,000).

Agency Response: "The Division is currently in the process of expending the total amount of nonlapsed funds from FY 2012 for computer equipment in FY 2013."

12. Nonlapsing Authority to Comply With Federally-mandated Projects (S.B. 3, Item 81):

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$679,000 for Health Care Financing not lapse at the close of Fiscal Year 2012. The use of any nonlapsing funds is limited to compliance with federally-mandated projects. (The agency nonlapsed \$643,500).

Agency Response: "The nonlapsed funds of \$643,500 are being used in State of Utah FY 2013 as match for the federally-mandated projects. . The developmental IT projects that are using the \$643,500 nonlapsing funds are: ICD-10, 5010, Point of Sale, and the HIT project. The nonlapsing general fund is being used for federal match to cover expenses such as personnel, current expense and data processing current expense of the various projects."

13. Nonlapsing Authority for Medicaid Management Information System Replacement (S.B. 3, Item 82):

Under Section 63J-1-603 of the Utah Code the Legislature intends that appropriations provided for Medicaid Management Information System Replacement in Item 79 of Chapter 379 Laws of Utah 2011 not lapse at the close of Fiscal Year 2012. The use of any nonlapsing funds is limited to \$5,300,000 for the redesign and replacement of the Medicaid Management Information System. (The agency nonlapsed \$5,261,000).

Agency Response: "The Division plans on using the nonlapsing funds for project implementation. The nonlapsing general fund is currently being used to match expenses such as personnel, travel, current expense and data processing current expense. The payment schedule with CNSI the main vendor on the MMIS Implementation project is currently underway. The payments to CNSI will be significant and will use a portion of the nonlapsed general fund. The MMIS Implementation replacement is a multi-year project and will continue past SFY 2013."

14. Nonlapsing Authority for Medicaid Sanctions (S.B. 3, Item 83):

The Legislature intends that funds collected as a result of sanctions imposed under Section 1919 of Title XIX of the federal Social Security Act and authorized in UCA 26-18-3 shall not lapse at the close of Fiscal Year 2012. The use of any nonlapsing funds is limited to the purposes outlined in Section 1919. (The agency nonlapsed \$1,082,900).

Agency Response: "The Denver Regional Office component of the Western Division of Survey & Certification (WDSC), as delegated by both CMS Central Office Leadership and the WDSC Associate Regional Administrator, has approved the Utah Department of Health, Bureau of Health Facility Licensing to utilize federal Civil Money Penalties (CMPs) to offset the cost of the new FBI fingerprinting requirements for Background Criminal Information (BCI) checks. BCI checks are now required for all staff and volunteers that have access to patients in nursing homes. Previously only staff with direct patient care duties were required to have a BCI check. It is intended to use \$350,000 of CMPs during State Fiscal Year 2013 to subsidize \$15 of the \$51 licensing fee for each renewal application for nursing facilities. The subsidization would only apply to renewal applications that require new FBI fingerprint information. This would not apply to new hires the facilities submit. It is estimated that there will be approximately 23,300 renewal applications during the state fiscal year."

15. Nonlapsing Authority for Children’s Health Insurance Program Caseload Increases (S.B. 3, Item 84):

Under Section 63J-1-603 of the Utah Code the Legislature intends that appropriations provided for the Children's Health Insurance Program in Item 82 of Chapter 379 Laws of Utah 2011 not lapse at the close of Fiscal Year 2012. The use of any nonlapsing funds is limited to caseload and utilization increases. (The agency nonlapsed \$2,866,100).

Agency Response: "The fiscal year 2012 CHIP nonlapsing funds of \$2,866,100 are proposed to be included as part of a negative FY 2013 supplemental to reimburse the General Fund. This decision was based on a consensus forecast developed by the Department of Health, the Office of the Legislative Fiscal Analyst, and Governor's Office of Planning and Budget."

16. Nonlapsing Authority for Autism Services (HB 272):

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$4,500,000 of appropriations provided for the Department of Health - Medicaid Optional Services line item not lapse at the close of Fiscal Year 2012. The use of any nonlapsing funds is limited to the autism waiver program to provide services and treatment for children with autism spectrum disorder between the age of two to six years. (Same intent language passed for both FY 2012 & FY 2013. The agency nonlapsed \$4,500,000).

Agency Response: "The Department has established the autism waiver program and has begun to expend the nonlapsed funds from FY 2012 on activities related to the program in FY 2013."

17. Nonlapsing Authority for Rural County Health Care Special Service District Retirement Grant Program (HB 512):

The Legislature intends that, under Section 63J-1-603 of the Utah Code, appropriations under this section not lapse at the close of fiscal year 2013.

Agency Response: "The \$900,000 has been given to the Kane County Hospital on 9/11/12. Therefore no nonlapsing authority is needed."

18. Redirect Funds Previously Going to the Utah Developmental Disability Council (H.B. 2, Item 83):

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: "DOH intends to comply with this intent language in FY13, we are seeking assistance from the Legislative Fiscal Analyst Office to complete this task."

19. Redirect Funds Previously Going to the Utah Developmental Disability Council to Free Referral Service (H.B. 2, Item 83):

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: "DOH intends to comply with this intent language in FY13, we are seeking assistance from the Legislative Fiscal Analyst Office to complete this task."

20. Pursue CHIPRA Performance Bonuses (H.B. 2, Item 89 & S.B. 3, Item 85):

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. (Same intent language passed for both FY 2012 & FY 2013).

Agency Response: “The Department of Health has worked with the Department of Workforce Services and the Department of Human Services to implement new eligibility processes and simplification to pursue the CHIPRA bonus. The Department believes it has met all the criteria to qualify and has submitted the application for the bonus.”

21. Cover Emergency Adult Services in Medicaid (H.B. 2, Item 90):

The Legislature intends that the Department of Health fund the cost of covering emergency dental services for adults on Medicaid within existing appropriations up to \$250,000 General Fund for FY 2013 as an offset for current emergency room expenditures. If existing appropriations prove to be insufficient, the Legislature intends that the Department of Health request funding in future years to cover the costs of providing these services. The Department shall report to the Office of the Legislative Fiscal Analyst by January 1, 2013 on the net cost of providing these services. The report shall include recommendations if the services should be continued.

Agency Response: “The Department has been covering emergency dental services for adults on Medicaid. A full report will be submitted by January 1, 2013.”

22. Use of \$3,000,000 Appropriation Limited to Autism Services (HB 272):

The Legislature intends that the Department of Health use the appropriations of \$3,000,000 to provide services and treatment for children with autism spectrum disorder between the age of two to six years within Medicaid.

Agency Response: “The \$3,000,000 appropriation from FY 2012 is included in the \$4,500,000 nonlapse amount being used to implement the autism waiver program in FY 2013.”

23. Report on Possible Expansion of Medicaid Home and Community Based Waivers (H.B. 2, Item 86):

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 submitted their detailed report to the Office of the Legislative Fiscal Analyst prior to September 1, 2012. The full report can be found at <http://health.utah.gov/medicaid/stplan/LegReports/LFAReport-HomeandCommunityBasedWaiversStudyFINAL.pdf>.”

24. Quarterly Status Reports on Replacement of Medicaid Management Information System (H.B. 2, Item 87):

The Legislature intends that the Department of Health report quarterly to the Office of the Legislative Fiscal Analyst on the status of replacing the Medicaid Management Information System replacement beginning September 30, 2012. The reports should include, where applicable, the responses to any requests for proposals.

Agency Response: “Quarterly reports on the status of the MMIS Implementation project are being completed and submitted as required.” The most recent quarterly report is Appendix A.

Nonlapsing Authority Issue

The Legislature may want to give intent language or change statute for some nonlapsing authority provided by HB 272 *Pilot Program for Autism Spectrum Disorders Services*

(<http://le.utah.gov/~2012/bills/hbillenr/hb0272.pdf>) from the 2012 General Session. HB 272 provided nonlapsing authority for all Medicaid funds provided to the Department of Health for FY 2012 and FY 2013. UCA 63J-1-602(2) (http://le.utah.gov/~code/TITLE63J/htm/63J01_060200.htm) states the following regarding nonlapsing authority:

- (2) No revenue collection, appropriation from a fund or account, or appropriation to a program may be treated as nonlapsing unless:
 - a. it is listed in Sections 63J-1-602.1 through 63J-1-602.5;
 - b. it is designated in a condition of appropriation in the appropriations bill; or
 - c. nonlapsing authority is granted under Section 63J-1-603.

The nonlapsing authority provided in HB 272 does not meet the requirements for nonlapsing authority in [UCA 63J-1-602](#). Any of the following changes would make HB 272 compliant with [UCA 63J-1-602](#):

- (1) Provide nonlapsing authority in an appropriation bill for FY 2013 (the Department of Finance already treated the funds as nonlapsing for FY 2012).
- (2) Remove the nonlapsing authority from HB 272 contained in UCA 26-18-402 via legislation.

The Analyst recommends the Legislature provide authority in line with the intent of HB 272 with the following language:

- *Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$4,500,000 of Item 11 of Chapter 14, Laws of Utah 2012 for Medicaid Optional Services line item not lapse at the close of Fiscal Year 2013. The use of any nonlapsing funds is limited to the autism waiver program to provide services and treatment for children with autism spectrum disorder between the age of two to six years.*

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 \$39,838,900 in nonlapsing balances at the end of FY 2012 for the Department of Health (most of the information in the table represents responses and information from the Department of Health received via email from prior year communications). Of this amount \$11,295,100 or 28% of nonlapsing authority came via intent language, while \$28,543,800 or 72% of nonlapsing authority came from statute (UCA 26-8a-207 (1)(C), 26-18-3 (5), & 26-46-102 (4)(b)).

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 Health				
FY 2012 Nonlapsing Funds				
Division & Program	Nonlapsing Authority	Amount	Restrictions	Reason
Executive Director's Office				
Program Operations	2012 General Session SB3 Item 78	90,000	Intent language limits the money for computer equipment and/or software up to \$90,000.	The Department wants funds to update its computers. As part of budget reductions, the Department changed its computer replacement schedule from 3 to 5 years.
Family Health and Preparedness				
Emergency Medical Services (EMS)	2012 General Session SB3 Item 79	731,600	Staff Support, administrative expenses, trauma system development, and emergency medical services grants from the remaining funds received as dedicated credits. A recipient of a grant under this Subsection must actively provide emergency medical services within the state.	Because these are ongoing system development programs and merge between cities, counties, and state agencies, with different budget years, the nonlapsing authority allows the Department to utilize the funds ensuring EMS is readily available to those who call.
Emergency Medical Services (EMS) - Fees for Training and Equipment	2012 General Session SB3 Item 79	239,000	The nonlapsing funds are for testing, certifications, background screenings, replacement testing equipment, and testing supplies.	The nature of the training requirements mean that most testing and licensing begins in one fiscal year and ends in another fiscal year. Often training requirements include classroom hours, certain hours clinical experience, and a competency exam.
Primary Care Grants Program for Medically Underserved Populations	2012 General Session SB3 Item 79	166,000	Intent language designates use in Primary Care Grants Program up to \$400,000 limited to final Fiscal Year 2012 contract payments to contractors based on contract reviews.	Final payments on primary care grants come after final reports from contractors. The state pays contractors quarterly. This results in a need to have 1/4 of the funding available to make final payments in the following fiscal year.
Plan Review Fees	2012 General Session SB3 Item 79	210,000	Intent language designates use in Plan Review Program up to \$210,000 and is limited to plan review activities.	Previous year's nonlapsing collections fund current year program activities. Fees come in at different and unpredictable times during the year depending on status of application and/or building project.
Child Care License Violations - Civil Money Penalties	2012 General Session SB3 Item 79	55,500	Intent language designates use in Child Care Licensing Program and is limited to trainings for providers.	The fines collected in one year fund the training for providers in the following year.
Civil Money Penalties - Health Providers	2012 General Session SB3 Item 79 and Section 1919(h)(2)(A)(ii) of the Social Security Act	33,600	Civil money penalties are for the protection of the health or property of residents of nursing care facilities. Using these funds also requires federal approval.	Per federal regulation for cost of client relocation, reimbursing a client for funds lost, and/or temporary management to oversee a facility.
Bleeding Disorders	2012 General Session SB3 Item 79	23,800	Bleeding disorder program funds for services to newly eligible clients up to \$50,000.	The contracted provider is processing applications for eligibility and anticipates more expenses from this fund once more individuals have been determined to be eligible.
Prostate Cancer Support Restricted Account	UCA 63J-1-602.1(7)	200	UCA 26-21a-303 says the money is for raising awareness and prevention of prostate cancer.	
Workforce Financial Assistance				
Workforce Loan Program	UCA 26-46-102 (4)(b)	48,000	Statute provides for professional educational loan repayment and scholarship assistance to health care professionals who locate or continue to practice in medically underserved areas of Utah.	Funds are obligated but dispersed across state fiscal years. Contracts may range from 2 to 4 years in length for contractual service obligations for health care professionals providing primary health care services to Utah's medically underserved populations.

INTENT LANGUAGE & NONLAPSING BALANCES FOLLOW-UP

Disease Control and Prevention				
	Nonlapsing Authority	Amount	Restrictions	Reason
Alcohol, tobacco & Drug Prevention	2012 General Session SB3 Item 80	500,000	Limited to alcohol, tobacco, and drug prevention, reduction, cessation, and control programs or for emergent disease control and prevention needs as a result of revenue shortfalls in the Tobacco Restricted Account.	Sometimes contractors do not expend contract amounts within the fiscal year the money was received.
Unified State Laboratory - Equipment and Building Improvements	2012 General Session SB3 Item 80	250,000	Limited to laboratory equipment, computer equipment and/or software, and building improvements up to \$250,000.	No ongoing funding available for equipment needs. Funds are pieced together to pay for needed equipment.
Medical Examiner - Equipment and Facility Improvements	2012 General Session SB3 Item 80	175,000	Limited to replacement computer equipment, software, laboratory equipment, and for facility improvements/expansion up to \$175,000.	No ongoing funding available for equipment needs. Funds are pieced together to pay for needed equipment.
Medicaid Services & Administration (Medicaid and Health Care Financing)				
Civil Money Penalties	2012 General Session SB3 Item 83 and Title XIX of the Social Security Act Paragraph (h) Section (2) and UCA 26-18-3 (5)	1,082,900	Funds collected as a result of a sanctions imposed under Section 1919 of Title XIX of the federal Social Security Act shall be deposited in the General Fund as nonlapsing dedicated credits to be used by the division in accordance with the requirement of that section.	Funds may be used for the costs of relocation of residents to other facilities, maintenance of operation of a facility pending correction of deficiencies or closure, and reimbursement of resident for personal funds lost.
Federally-mandated Projects	2012 General Session SB3 Item 81	643,500	Money is for compliance with federally-mandated projects.	
Financial Services	2012 General Session SB3 Item 81	50,000	Intent language limits funds to the purchase of computer equipment up to \$50,000.	The Department wants funds to update its computers. As part of budget reductions, the Department changed its computer replacement schedule from 3 to 5 years.
Medicaid Management Information System (MMIS)	2012 General Session SB3 Item 82	5,261,000	Intent language provides for up to \$5,300,000 of the funding to not lapse at the close of FY 2011 is limited to the redesign and replacement of MMIS.	This project began in FY 2008 and is still in progress for FY 2013.
Autism Services	2012 General Session HB 272	4,500,000	The funds are for the autism waiver program to provide treatment services to children ages 2 to 6 with autism spectrum disorder.	HB 272 created and granted this nonlapsing authority.
Medicaid Mandatory Services	2012 General Session HB 272	15,266,700	HB 272 provided no restrictions for the nonlapsing funds.	HB 272 granted nonlapsing authority for all unspent General Fund for Medicaid services in the Department of Health.
Medicaid Optional Services	2012 General Session HB 272	7,646,000	HB 272 provided no restrictions for the nonlapsing funds.	HB 272 granted nonlapsing authority for all unspent General Fund for Medicaid services in the Department of Health.
Children's Health Insurance Program (CHIP)				
CHIP	2012 General Session SB3 Item 84	2,866,100	Use of all nonlapsing funds limited to caseload and utilization increases	State statute requires the CHIP program to serve all clients who qualify for services.
Grand Total		39,838,900		

Intent Language from the 2011 General Session

The following 14 items of intent language were passed in the 2011 General Session. These items could not be fully reviewed until the close of FY 2012. Most of these items were partially reviewed in an Issue Brief from the 2012 General Session entitled "*Intent Language Follow-Up From Prior Year*" (http://www.le.utah.gov/lfa/reports/BBIB/APPSOC_2-7-12_13.pdf).

There are 14 intent language statements reviewed below. These 14 statements can be grouped into the following two categories:

1. Providing nonlapsing authority of more than \$4.5 million in FY 2012 from FY 2011 funds (13 intent language statements). For more information on the purposes and uses of these nonlapsing balances, please see the 2012 Issue Brief entitled "*Nonlapsing Balances*," available at http://www.le.utah.gov/lfa/reports/BBIB/APPSOC_2-7-12_6.pdf.

2. Requiring a report (1 intent language statement)

1. Nonlapsing Authority for Computer Equipment in the Executive Director’s Office (H.B. 3, Item 72):

Under Section 63J-1-603 of the Utah Code the Legislature intends that appropriations provided for Executive Director’s Office in Item 95 of Chapter 2 Laws of Utah 2010 not lapse at the close of Fiscal Year 2011. The use of any nonlapsing funds is limited to \$90,000 for computer equipment and/or software. (The agency nonlapsed \$90,000).

Agency Response: “In FY12, the EDO division expended \$92,100 in computer hardware and software upgrades. With additional DTS costs, the total DP current expense costs were \$2,965,000.”

2. Nonlapsing Authority for Civil Penalty Money from Childcare and Health Care Provider Violations (H.B. 3, Item 73):

Under Section 63J-1-603 of the Utah Code, the Legislature intends that civil money penalties collected for Item 204 of Chapter 408, Laws of Utah 2010 from childcare and health care provider violations not lapse at the close of Fiscal Year 2011. The use of any nonlapsing funds is limited to trainings for providers. (The agency nonlapsed \$85,600).

Agency Response: “Non lapsing Childcare funds are used to deliver ongoing training throughout the state to assist providers in complying with the rules. Non lapsing funds are used for trainer salaries and for in-state travel costs and training materials. Funds collected in one year are used to pay for training in the next year. We anticipate spending all the nonlapsing funding this year.

The nonlapsing funds for Health Facility Licensing/Certification were not used this year. The Centers for Medicare/Medicaid Services (CMS) must authorize expenditures in this area for residents of nursing facilities. Some projects may be proposed by the Utah Health Care Association in the coming year to utilize these funds for the residents of nursing care facilities. Some of these funds may also be used for a CMS grant for background screening in the coming year.”

3. Nonlapsing Authority for Primary Care Grants Program (H.B. 3, Item 73):

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$400,000 of Item 204 of Chapter 408, Laws of Utah 2010 for Primary Care Grants Program not lapse at the close of Fiscal Year 2011. The use of any nonlapsing funds is limited to final Fiscal Year 2011 contract payments to contractors based on contract reviews. (The agency nonlapsed \$0).

Agency Response: “The Primary Care Grants Program had no nonlapsing funds in FY2011”

4. Nonlapsing Authority for Bureau of Health Facility Licensure, Certification and Resident Assessment for Plan Reviews (H.B. 3, Item 73):

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$210,000 of Item 204 of Chapter 408, Laws of Utah 2010 from fees collected for the purpose of plan reviews by the Bureau of Health Facility Licensure, Certification and Resident Assessment not lapse at the close of Fiscal Year 2011. The use of any nonlapsing funds is limited to plan review activities. (The agency nonlapsed \$67,100).

Agency Response: “The funds were used for evaluating health care facility new construction and remodel projects to ensure compliance with appropriate building and fire codes in accordance with state health facility construction rules. The funds were used for salaries for architects and inspection staff to complete construction reviews.”

5. Nonlapsing Authority for People with Bleeding Disorders (H.B. 3, Item 73):

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$50,000 of Item 204 of Chapter 408, Laws of Utah 2010 of unused funds appropriated for the Assistance for People with Bleeding Disorders Program not lapse at the close of Fiscal Year 2011. The use of any nonlapsing funds is limited to services to newly eligible clients. (The agency nonlapsed \$50,000).

Agency Response: "The nonlapsing funding were used to assist newly eligible bleeding disorders clients."

6. Nonlapsing Authority for Testing Supplies and Processes for Emergency Medical Services (H.B. 3, Item 73):

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$250,000 of Item 204 of Chapter 408, Laws of Utah 2010 for Emergency Medical Services not lapse at the close of Fiscal Year 2011. The use of any nonlapsing funds is limited to testing, certifications, background screenings, replacement testing equipment, and testing supplies. (The agency nonlapsed \$250,000).

Agency Response: "The nonlapsing funds were used for practical and written testing for EMS certification. Training requirements include classroom hours, certain hours of clinical experience, and a competency exam. Quality assurance reviews will also be conducted by staff for courses, recertification practical testing and licensing."

7. Nonlapsing Authority for Criminal Fine and Forfeiture Money for Emergency Medical Services (H.B. 3, Item 73):

Under Section 63J-1-603 of the Utah Code, the Legislature intends that criminal fines and forfeiture money collected for Emergency Medical Services in Item 204 of Chapter 408, Laws of Utah 2010 not lapse at the close of Fiscal Year 2011. The use of any nonlapsing funds is limited to purposes outlined in Section 26-8a-207(2). (The agency nonlapsed \$19,300).

Agency Response: "The nonlapsing funds were used in accordance with statute, which includes EMS grants and administrative costs. These funds will be distributed to all local EMS agencies and training centers to be used for the purchase of equipment, supplies, and EMS training to help deliver emergency medical services to the citizens of the state."

8. Nonlapsing Authority for Laboratory Equipment (H.B. 3, Item 74):

Under Section 63J-1-603 of the Utah Code the Legislature intends that appropriations provided for Disease Control and Prevention in Item 202 of Chapter 408 Laws of Utah 2010 not lapse at the close of Fiscal Year 2011. The use of any nonlapsing funds is limited to the following: \$250,000 for laboratory equipment, computer equipment and/or software and building improvements for the Unified State Laboratory. (The agency nonlapsed \$250,000).

Agency Response: "During fiscal year 2012, the Unified State Public Health Laboratory used nonlapsing funds to replace aging computers in its sample receiving area which improved compatibility with a new requisition scanning system (which was purchased with a federal grant). The laboratory also purchased several pieces of testing instruments: an Agilent GCMS 7890-DXI with an Elemental SC_4-DXI auto sampler, a Fisher Scientific ICS 1100, and a Mettler Toledo Alkalinity Testing instrument system. These new instruments enable the laboratory to remain at the forefront of public health testing capability."

9. Nonlapsing Authority for Equipment and Improvements for the Medical Examiner (H.B. 3, Item 74):

Under Section 63J-1-603 of the Utah Code the Legislature intends that appropriations provided for Disease Control and Prevention in Item 202 of Chapter 408 Laws of Utah 2010 not lapse at the close of Fiscal Year 2011. The use of any nonlapsing funds is limited to the following: \$175,000 for replacement computer equipment, software, laboratory equipment, and for facility

improvements/expansion for the Office of the Medical Examiner. (The agency nonlapsed \$175,000).

Agency Response: “The nonlapsing funds were used to repair or replace damaged or obsolete histology, autopsy, and investigation equipment. The repairs and equipment upgrades were needed to maintain core operating capabilities and to meet the demands of a significantly increased workload.”

10. Authority Changing Allowed Use of FY 2010 Nonlapsing Funds for Drug Prevention Programs (H.B. 3, Item 74):

Notwithstanding the intent language included in Item 66 of Chapter 408, Laws of Utah 2010, the Legislature intends that any nonlapsing funds authorized by that item that carried forward into FY 2011 be used to address FY 2011 appropriation reductions resulting from revenue shortfalls in the Tobacco Restricted Account. Use of these funds is limited to alcohol, tobacco, and drug prevention, reduction, cessation, and control programs or for emergent disease control and prevention needs. (The agency nonlapsed \$0).

Agency Response: “No nonlapsing funds were carried forward into FY 2012.”

11. Nonlapsing Authority for Computer Equipment in Health Care Financing (H.B. 3, Item 75):

Under Section 63J-1-603 of the Utah Code the Legislature intends that appropriations provided for Health Care Financing in Item 101 of Chapter 2 Laws of Utah 2010 not lapse at the close of Fiscal Year 2011. The use of any nonlapsing funds is limited to \$50,000 for the purchase of computer equipment. (The agency nonlapsed \$40,400).

Agency Response: “During FY 2012, Health Care Financing used the full \$40,400 nonlapsing balance to purchase computer equipment.”

12. Nonlapsing Authority for Medicaid Management Information System Replacement (H.B. 3, Item 76):

Under Section 63J-1-603 of the Utah Code the Legislature intends that appropriations provided for Medicaid Management Information System Replacement in Item 207 of Chapter 408 Laws of Utah 2010 not lapse at the close of Fiscal Year 2011. The use of any nonlapsing funds is limited to \$3,223,600 for the redesign and replacement of the Medicaid Management Information System. (The agency nonlapsed \$2,488,400).

For more information please see the budget brief entitled “Medicaid Management Information System Replacement.” “The agency nonlapsed \$2,488,400 from FY 2011 and Health Care Financing continued with the MMIS replacement project during FY 2012. Health Care Financing nonlapsed \$5,261,048 into FY 2013.”

13. Nonlapsing Authority for the Children’s Health Insurance Program (H.B. 3, Item 79):

Under Section 63J-1-603 of the Utah Code the Legislature intends that appropriations provided for the Children’s Health Insurance Program in Item 104 of Chapter 2 Laws of Utah 2010 not lapse at the close of Fiscal Year 2011. The use of any nonlapsing funds is limited to caseload and utilization increases. (The agency nonlapsed \$649,300).

Agency Response: “The Department utilized the \$649,300 of nonlapsed funding in FY 2012 for CHIP caseload and utilization.”

14. Quarterly Status Reports on Replacement of Medicaid Management Information System (S.B. 2, Item 79):

The Legislature intends that the Department of Health report quarterly to the Office of the Legislative Fiscal Analyst on the status of replacing the Medicaid Management Information System replacement beginning September 30, 2011. The reports should include, where applicable, the responses to any requests for proposals.

Agency Response: The most recent quarterly report is Appendix A. "The Division submits quarterly reports on the MMIS replacement project to the Legislative Fiscal Analyst."

APPENDIX A - REPORT ON REPLACEMENT OF MEDICAID MANAGEMENT INFORMATION SYSTEM



State of Utah

GARY R. HERBERT
Governor

GREG BELL
Lieutenant Governor

Utah Department of Health

W. David Patton, PhD
Executive Director

Division of Medicaid and Health Financing

Michael Hales
Deputy Director, Utah Department of Health
Director, Division of Medicaid and Health Financing

December 24, 2012

Jonathan Ball, Director
Office of Legislative Fiscal Analyst
State Capitol Complex
House Building, Suite W310
Salt Lake City, UT 84114

Reference: Medicaid Management Information System Quarterly Report

Dear Mr. Ball:

Legislative intent language from the 2012 Legislative General Session directs the Utah Department of Health to report quarterly on the status of replacing the Medicaid Management Information System (MMIS). This letter and its contents constitute the Department's report for the quarter ending December 31, 2012.

MMIS Replacement Project Status by Component

Pre-Payment Editing System

The editing software has been in production since December 20, 2010. The total avoided claim payments for the fourth calendar quarter of 2012 was \$696,301, the amount avoided since the implementation of the system is \$5,176,712.

Fraud and Abuse Detection System (FADS)

The requirements for a FADS tool will be incorporated with the development of the new MMIS replacement. In the interim, the Department is providing the necessary data extracts and clarification of the data to the Medi-Medi contractor. The vendor is utilizing the State's data to analyze Medicare-to-Medicaid claims.

Point of Sale (POS) and Drug Rebate Management System (DRMS)

The POS/DRMS contract was awarded to Goold Health Systems (GHS). The Point of Sale System was implemented on February 19, 2012. The DRMS went into production April 16, 2012. The 2012 first quarter rebates were invoiced in May utilizing the new DRMS. A Pharmacy Provider Portal is the last functionality to be implemented as part of this project. The Portal will, in part, allow prescribing providers to submit prescriptions and prior authorizations, and verify eligibility. GHS demonstrated the Pharmacy Provider Portal functionality on September 20, 2012 and the Portal was put into production October 1, 2012. This was the last piece of the Pharmacy system to be implemented as part of the Point of Sale project. The Portal allows a registered provider to submit prescriptions and prior authorizations, verify eligibility and view drug formulary information. The Department has submitted a request for certification review by CMS. This on-site certification review is tentatively scheduled for February 2013.



Data Warehouse Upgrade

The Data Warehouse upgrade was completed in February 2011 and is in production.

Core MMIS replacement

The Department received \$3 million in general fund in FY2011, which is a portion of what is needed to replace the entire system. Using the initial appropriation, the Department proceeded with work on the system components mentioned above and carried forward a balance of \$2,488,000 into FY 2012. The Department received an additional \$3 million in general fund for FY2012 for a total of \$5,488,000. The Department did not receive additional funds for FY2013. Total project expenditures as of FY 2012 closeout were \$2,273,536. Of this amount, \$227,354 was from General Fund. The Department has carried forward a balance of \$5,261,048 into FY 2013.

On February 2, 2012, the Department received approval from CMS for both the Implementation Advanced Planning Document (IAPD) securing enhanced federal funding and the Request for Proposal (RFP) for the core system replacement. The RFP was posted on the State Purchasing Bid Notification System, BidSync on February 2, 2012. The Department received four letters of intent from potential bidders. Two Vendors completed and submitted proposals on the closing date of the RFP—May 2, 2012.

In August 2012, CNSI was named the successful bidder because it received more technical points and was priced lower than the other bidder, Xerox. There was no protest of the award. The Department has been in active contract negotiations with CNSI and is close to finalizing the contract language. CNSI is expected to begin its role on the project in early 2013.

The State received a total of six responses to the Independent Verification and Validation (IV&V) RFP. The Department reviewed these responses, held oral presentations and completed the evaluation process in October 2012. The State awarded the IV&V contract to Cognosante. The contract content has been finalized between the two parties and is currently with CMS for final review.

During this quarter, the State procured suitable facilities for the project work.

The program governance, communications and risk / issues / work plan management structures have been ratified and are in place. Weekly program meetings have begun internally. Additionally, three coordinating committees are meeting regularly. These are the Sub-Cabinet Committee, a program committee to work through technical issues and a multi-agency project committee (which includes DOH, DHS, DTS and DWS).

The Governor's budget proposal was released in December. It includes a request for \$4 million general fund, one-time appropriation. This would be the third of four installment appropriations. Based upon the current contractor payment and project schedules, the Department will need the additional General Fund appropriation of \$4 million by July 2013 to meet expected project cash flow requirements.

Specific Accomplishments of the Planning Project

- State Self-Assessment completed
- Assessment of State Capabilities completed
- Gap Analysis completed

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- Cost/Benefit Analysis completed
 - Request for Information (RFI) completed
 - Requirement Analysis and Documentation drafted
 - Draft I-APD for System Design, Develop, Implement (DDI) completed
 - Draft RFP for Core System Development written
 - FADS I-APD submitted to CMS Regional Office and approved
 - FADS I-APD amendment approved by CMS
 - FADS Request for Proposal (RFP) submitted to CMS Regional Office and approved
 - FADS RFP posted on BidSync
 - FADS canceled-5 year functionality provided free of charge by CMS Medi-Medi project
 - Pre-Pay RFP posted and contract awarded
 - Pre-Pay project implemented
 - Point of Sale (POS) I-APD approved
 - Point of Sale (POS) RFP approved and posted on BidSync
 - Point of Sale responses evaluated
 - Point of Sale intent to award was sent
 - Point of Sale contract awarded to GHS
 - Data Warehouse RFP posted and contract awarded
 - Data Warehouse upgrade completed
 - I-APD submitted to CMS for review and approval
 - DDI RFP submitted to CMS for review and approval
 - Draft core IV&V RFP circulated for internal comment
 - I-APD approved
 - DDI RFP Approved and posted on BidSync
 - IV&V RFP submitted to CMS for review and approval
 - DDI RFP responses evaluated
 - IV&V RFP Approved and posted on BidSync
 - DDI Contract Awarded
 - DDI Protest period cleared without protest
 - IV&V RFP responses evaluated
 - IV&V Contract Awarded
 - IV&V Protest period cleared without protest
 - MMIS Replacement Project has begun Phase 0 – State Preparatory Tasks required for vendor arrival and vetting / updating of system requirements

Please let me know if you have any questions related to this report. You can reach me at (801) 538-6689.

Sincerely,



Michael Hales
Deputy Director, Department of Health
Director, Division of Medicaid and Health Financing