

Issue Brief – Intent Language for Human Services

DEPARTMENT OF HUMAN SERVICES

NUMBER DHS-07-01

INTENT LANGUAGE FOR HUMAN SERVICES

According to a 1988 Memorandum to Chairs of the Appropriations Committee and Subcommittees from the Office of Legislative Research and General Counsel, “. . . the general appropriation acts should not implement substantive law. Consequently, all directives to state agencies made in the general appropriations act should be intimately related to the appropriation itself to avoid most potential conflicts.” The committee members, analyst or agency may introduce new intent language during the legislative process. All proposed intent language is subject to review by Legislative Research and General Counsel.

OBJECTIVE

The Objective of this issue brief is to determine if the agency complied with the prior year intent language, adopt the analyst recommendations and introduce any new intent language for the 2006 General Session.

DISCUSSION AND ANALYSIS

The following is a list of legislative intent from the 2005 General Session with the agency’s response and the analyst’s recommendation.

Prior Year Intent Language to be Excluded in FY 2007:

S.B. 3 Item 108 Inter-country Adoption Fee: *“The Legislature approves the following fee under terms and conditions of Section 63-38-3 for the use and support of the government of the State of Utah for the fiscal year beginning July 1, 2005 and ending June 30, 2006: Intercountry Adoption Accreditation Fee - \$15,000.”*

Agency Response: This fee was adopted for FY 2005 with passage of House Bill 22, “Inter-country Adoption Accreditation”. It is included in the fee schedule in Budget Brief DHS-07-01.

Analyst Recommendation: It is the recommendation of the Analyst that this intent language not be included in FY 2007 since the fee has been adopted and will be included in the approved fee schedule in Budget Brief DHS-07-01.

H.B. 301, Item 32 Identify Critical Issues for Substance Abuse and Mental Health for Persons with Hearing Disabilities: *“It is the intent*

of the Legislature that the Division of Substance Abuse and Mental Health, in consultation with local mental health and substance abuse authorities and their providers, the Robert G. Sanderson Community Center of the Deaf and Hard of Hearing Programs within the Utah State Office of Rehabilitation, and others, identify critical issues related to the delivery of substance abuse and mental health services to persons with a hearing disability and report on those issues to the Health and Human Services Joint Appropriations Subcommittee and the Health and Human Services Interim Committee before October 1, 2005.”

Agency Response: A copy of the report was distributed to and reported to the Health and Human Services Appropriations Subcommittee in the interim meeting on December 6, 2005.

Analysts Recommendation: It is the recommendation of the Analyst that this intent language not be included in FY 2007.

H.B. 1 Item 103 Hiring of Six Positions: *“It is the intent of the Legislature that up to \$350,000 of funds appropriated to the Division of Child and Family Services for adoption assistance may be used to*

hire up to six positions to provide adoptive parents with information, services, and counseling in an effort to prevent adoptive placements from failing, and to ensure efficient and appropriate services and accountability of funds.”

Agency Response: The Division of Child and Family Services has requested each region to present a plan showing how the additional FTEs have been effective in providing information, services and counseling to adoptive parents.

Analyst Recommendation: It is the recommendation of the Analyst that this intent language be excluded in FY 2007. It is further the recommendation of the Analyst that the Division of Child and Family Services submit a report to the Health and Human Services Appropriations Subcommittee on the additional FTEs by region.

S.B. 1 Item 111 Loss of Medicaid Funds for Non-Medicaid Eligible Clients: *“It is the intent of the Legislature that these funds, which are appropriated to address the loss of Medicaid funds used for mental health services provided by local mental health centers to non-Medicaid eligible clients, be used solely for that purpose.”*

Agency Response: The Division is requesting the \$2,000,000 be made ongoing and does not plan on asking for intent language with this appropriation. The Division will continue to require the local authorities to use the funds to address the loss of Medicaid funds for mental health services, by contract.

Analysts Recommendation: It is the recommendation of the Analyst that this intent language not be included in FY 2007.

Prior Year Intent Language to be Included in FY 2007:

H.B. 1 Item 98 e-REP System Funding: *“It is the intent of the Legislature that funds appropriated to the Office of Technology in the Executive Director Operations budget for e-REP enhancements are nonlapsing.”*

Agency Response: The Office of Technology has not spent the non-lapsing funds authorized by intent language because the department is not ready for this phase of the enhancement. However, the plan is to use the non-lapsing funds for the required modifications to the existing data base in order to interface with the Department of Workforce Services e-REP system.

Analyst Recommendation: It is the recommendation of the Analyst that this intent language be continued in FY 2007 until the e-REP system modifications are complete.

S. B. 1 Item 34 One-time Expenditures with Non-lapsing Funds: *“If funds are available, the Foster Care Citizens Review Board is authorized to not lapse funds at the end of FY 2005. These funds are to be used solely for one-time development, maintenance, and upgrading of computer software and equipment and for recruitment, training and retention of volunteers.”*

Agency Response: The agency has not used the funds to date but intends to use the non-lapsing funds as stipulated in the intent language for development, maintenance, and upgrading computer software and equipment, and for the recruitment, training and retention of volunteers.

Analyst Recommendation: It is the recommendation of the Analyst that this intent language be continued in FY 2007.

H.B. 1 Item 102 E-Rep System: *“It is the intent of the Legislature that funds appropriated to the Office of*

Recovery Services for e-REP enhancements are nonlapsing.”

Agency Response: The \$45,500 nonlapsing funds appropriated to the Office of Recovery Services (ORS) for e-REP should continue to be designated as nonlapsing by the Legislature. ORS will continue to earmark the appropriation for e-REP purposes.

Analyst Recommendation: It is the recommendation of the Analyst that this intent language be continued until the e-REP enhancements are completed.

Appropriations Subcommittee during the 2006 General Session on the use of such funds, based on reports from providers, regarding its distribution and impact on salaries of various categories of staff, including, but not limited to, administrators, supervisors and direct care workers.”

Agency Response: The Division of Services for People with Disabilities will report to the Health and Human Services Appropriations Subcommittee during the 2006 General Session.

Analyst Recommendation: It is the recommendation of the Analyst that the Subcommittee may want to consider adopting this intent language in statute for the Division of Services for People with Disabilities. It is further the recommendation of the Analyst that a written report be submitted to the Health and Human Services Appropriations Subcommittee annually.

H.B. 1 Item 101 Emergency Services: “It is the intent of the Legislature that the Division of Services for People with Disabilities (DSPD) use nonlapsing funds carried over from FY 2005 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, and individuals court ordered into DSPD services. DSPD will report to the Office of Legislative Fiscal Analyst on the use of these funds.”

Agency Response: The Division of Services for People with Disabilities used the non-lapsing funds for emergency services, additional waiver services and services for youth who reach the age of 18 who have been in state custody. The Division reported to the Health and Human Services Appropriations Subcommittee on December 6, 2005.

Analyst Recommendation: The Division Of Services for People with Disabilities statutorily has non-lapsing authority (UCA 62A-5-102 (7)), however, the Analyst

Prior Year Intent Language Recommended for Inclusion in Statute:

H.B. 1 Item 101 and H.B. 301 Item 33 Use of Waiting List

Funding: *“It is the intent of the Legislature that funds appropriated for the home and community based services waiting list for people with disabilities be used exclusively for direct services and related support.”*

Agency Response: The division has used the funds for home and community based services for the waiting list and reported to the Health and Human Services Appropriations Subcommittee on December 6, 2005.

Analyst Recommendation: It is the recommendation of the Analyst that the Subcommittee may want to consider including this in statute in section 62A-5-402-1 (b).

H.B. 301 Item 33 Private Provider COLAs: *“It is the intent of the Legislature that funds appropriated for cost of living increases for employees of private service providers contracting with the Division of Services for People with Disabilities and the Division of Child and Family Services be used exclusively for that purpose. It is further the intent of the Legislature that these divisions report to the Health and Human Services*

recommends that the subcommittee may want to consider including in statute that the non-lapsing authority may be used to provide emergency services, additional waiver services and services for youth who reach the age of 18 who have been in state custody. The Analyst also recommends that the division be required to report to the subcommittee annually on the use of the non-lapsing funds.

H.B. 301 Item 35 Private

Provider COLAs : *“It is the intent of the Legislature that funds appropriated for cost of living increases for employees of private service providers contracting with the Division of Services for People with Disabilities and the Division of Child and Family Services be used exclusively for that purpose. It is further the intent of the Legislature that these divisions report to the Health and Human Services Appropriations Subcommittee during the 2006 General Session on the use of such funds, based on reports from providers, regarding its distribution and impact on salaries of various categories of staff, including, but not limited to, administrators, supervisors and direct care workers.”*

Agency Response: The Division of Child and Family reported to the Health and Human Services Appropriations Subcommittee on December 6, 2005.

Analyst Recommendation: It is the recommendation of the Analyst that the Subcommittee may want to consider adopting this intent language in statute for the Division of Child and Family Services. It is further the recommendation of the Analyst that a written report be submitted to the Health and Human Services Appropriations Subcommittee annually.

S.B. 1 Item 37 Purchase of Computers and Software : “If funds are available, the Division of Child and Family Services is authorized to not lapse up to \$50,000 at the end of FY 2005.

These funds are to be used for the purchase of computer equipment and software.”

Agency Response: The Division had \$50,000 of non-lapsing funds, which has been earmarked for the purchase of servers and computers for the SAFE case management process. Some of the equipment has already been purchased and installed.

The Division would like to continue with the intent statement for FY 2007. DCFS needs to replace approximately one third to one-fourth of the PC’s used by staff each year. This amounts to over \$200,000 annually for the hardware. Due to the variability of eligibility of children in care of the Division and the requirement to provide services, the exact amount of Federal funding available is not known until the fiscal year ends. The ability to not lapse \$50,000 assists in helping determine that a particular year does not incur a deficit and if there is a surplus of \$50,000, it can be used in the ensuing year toward the cost of new equipment

Analyst Recommendation: It is the recommendation of the Analyst that the Subcommittee may want to consider a statutory change allowing non-lapsing authority up to \$50,000 each year for one-time expenditures for the Division of Child and Family Services.

S. B. 1 Item 38 Non-lapsing Funds for One-time Expenditures:

“If funds are available, the Division of Aging and Adult Services is authorized to not lapse up to \$100,000 at the end of FY 2005. These funds are to be used for senior center renovations and to assist with vehicle maintenance and replacements within local area agencies on aging.”

Agency Response: The Division of Adult and Aging Services used the non-lapsing funds of \$100,000 for senior center renovations and vehicle maintenance and replacement.

Analyst Recommendation: It is the recommendation of the Analyst that the Subcommittee may want to consider a statutory change in section 62A-3 to allow the Division of Aging and Adult Services the authority to use non-lapsing funds up to \$100,000 each fiscal year to renovate senior centers and for the maintenance or replacement of vehicles.

S.B. 1 Item 36 One-time Expenditures with Non-lapsing

Funds: *“If funds are available, the Division of Substance Abuse and Mental Health is authorized to not lapse up to \$65,000 at the end of FY 2005. These funds are to be used for the purchase of computer equipment and software, capital equipment or improvements, and equipment or supplies.”*

Agency Response: The Division had \$56,000 of non-lapsing funds, which will be used at the State Hospital for computer equipment and software.

Analyst Recommendation: It is the recommendation of the Analyst that the Subcommittee may want to consider a statutory change to allow non-lapsing authority for the Division of Substance Abuse and Mental Health.

H.B. 1 Item 103 Adoption

Assistance: *“It is the intent of the Legislature that funds appropriated for the Adoption Assistance program and the Out of Home Care program in the Division of Child and Family Services not lapse at the end of FY 2006. It is further the intent of the Legislature that these funds be used for Adoption Assistance and Out of Home Care programs.”*

Agency Response: The Division of Child and Family Services used the funds appropriated for Adoption Assistance and Out of Home Care Programs to only serve those clients.

Analyst Recommendation: It is the recommendation of the Analyst that the Subcommittee may want to consider a statutory change to allow non-lapsing authority for the Division of Child and Family Services.

S. B. 1 Item 35 Tobacco

Settlement Account: *“It is the intent of the Legislature that funds appropriated for Drug Courts and Drug Boards from the Tobacco Settlement Restricted Account for FY 2005 be non-lapsing.”*

Agency Response: The Division did not have any non-lapsing funds in this appropriation unit

Analyst Recommendation: It is the recommendation of the Analyst the Subcommittee may want to consider a statutory change to allow non-lapsing authority for Drug Courts/Boards.