Report: Revenue Update
Andrea Wilko and Thomas Young provided their Revenue and Economic Update. They reported that wages and employment continue to show weakness which may impact revenue collections to the state. They also gave updates on saving rates and consumer spending trends. The report also mentioned that Utah is currently below average in several key areas and may remain so for some time.

Contact: Andrea Wilko and Thomas Young

Report: Federal Funds/ARRA/Non-Federal Funds Grants Reports
Tenielle Young from the Governor’s Office of Planning and Budget and Danny Schoenfeld from the Legislative Fiscal Analyst’s Office presented the Federal Funds report and ARRA grants. The Committee approved the new applications.

Staff Contact: Danny Schoenfeld

Report: Fiscal Notes for Substitutes and Amendments
The study examines Rule JR4-2-403: “If an amendment or a substitute to legislation appears to substantively change the fiscal impact of the legislation, the Legislative Fiscal Analyst shall prepare an amended fiscal note for the legislation.”

Current practice is:
• Bills go through the full 72 hour process.
• Substitutes are treated like bills and given the full 72 hour process.
• Amendments are given the full process at the Analyst’s discretion. Amendments have different characteristics than bills in that they are usually prepared just before presentation, leaving no time for a full 72 hour process. Once presented, it would be awkward to wait 72 hours before proceeding. Last year, there were only 4 out of 782 that were given the full 72 hour process. There were no complaints about amendments last session. If the Analyst gave every amendment the full 72 hour process, the LFA’s session workload would increase by 50%.

The report gave five options:
• No Change
• Mandatory Notes
• By Legislator Request
• Sifting
• Action Triggered Notes

No action was taken.

Staff Contact: Stan Eckersley

Report: Agency Plans for Implementing FY 2011 Base Budget Allocations
Judiciary
Due to budget changes, the Utah State Courts have changed business practices aiming to at least maintain pre-budget reduction service levels. Changes are significant but necessary as FTEs will be reduced by 66.5 by FY 2011. These changes included eliminating the remaining 18 court reporters at the end of FY 2009 and subsequently replacing all court reporting with digital recording (judges may opt for a court reporter to provide court reporting services). The Courts also placed a freeze on judicial hiring in January of 2009 (approximately 8 out of 110 total judges) with a target of filling 6 of 8 judgeships within a set time frame.

Indirect ARRA funding through a competitive grant helped fund one-time clerk positions. With this change, the (Continued on page 2)
Courts accelerated the development and release of online business such as e-filing, e-payment, and e-documents. With this change, the Courts do not require as many clerks processing paperwork and it also increases the speed at which the Courts process transactions. Other changes include reduction and reorganization of the Administrative Office of the Courts (reduction of 11 FTEs), expanded videoconferencing capabilities and usage, and reduction of Juvenile Probation staff (11.5 FTEs).

**Higher Education**

Because 80% of Higher Education expenditures are personnel-related, budget cuts will necessarily affect employees of the institutions. To meet reduced budget levels, Higher Education institutions have reduced over 1,000 positions. USHE institutions (excluding UCAT) reported that 940 positions have been eliminated, while UCAT reports 79 positions eliminated. An additional 600 -700 positions will be terminated by June 30, 2010.

President Bioteau of Salt Lake Community College, told the Committee that there has been an increase in the number adjunct faculty, to accommodate the budget cuts and the increase in the number of students. However, for FY 2011, when the full impact of the cuts will be implemented, the number of sections will need to be reduced. With fewer sections, it will likely take students longer to complete their degree. Pres. Young, University of Utah stated that the University has been responsive in implementing the reductions, but further reductions will result in eliminating programs, which will impact the state. He also stated that USTAR faculty and other research faculty will bring in $300 million to the State this year - money that comes from outside the state and which is largely spent within the state.

**Department of Human Services**

The Department of Human Services (DHS) reported to Executive Appropriations Committee (EAC) during its September meeting on the department’s plans for implementing FY 2011 base budget allocations. This presentation included a discussion of service impacts, employee impacts, and department strategies to meet both the FY 2010 reductions as well as to plan for the FY 2011 base budget. The reductions for FY 2010 have seen the elimination of 271 full-time equivalent (FTE) staff for the entire department, including JJS.

**Staff Contact:** Gary Syphus (Courts), Spencer Pratt (Higher Education), Stephen Jardine (Human Services)

**Public Treasurers’ Investment Fund Earns Historically Low Interest**

As anybody with a savings account knows, today’s investment market is returning very low interest rates, particularly investments in low-risk securities. While this climate can be beneficial for the state (our latest general obligation bonds sole for a “true interest” rate of 1.70% and we are about to bond for a billion dollars more), it is detrimental to state and local governments’ ability to earn interest.

The State Treasurer administers the Public Treasurers’ Investment Fund (PTIF) on behalf of any State of Utah public treasurer. This includes local governments, boards, commissions, institutions, school districts, and other public entities. The PTIF is a simple way to temporarily invest money until it is needed to cover obligations. The State Treasurer pools the money and invests it in low risk securities as required by the State Money Management Act. Such securities include short-term money market securities, certificates of deposit, “first tier” commercial paper, U.S. Treasury obligations, local government obligations, and other instruments.

In June of this year, average annualized PTIF interest rates declined to less than 1% and continued to fall in July and August, to 0.84%. A review of records back to 1981 shows this is the first time interest rates have fallen below 1% in the review period. The high during the same time period was over 17.7% in August of 1981—a time of high inflation.

The following chart shows PTIF interest rates earned during the past ten years.
**Utah Fund of Funds Update**

The Utah Fund of Funds was created to incent venture capital in the state. Financing is provided by a third party and backed by contingent tax credits. The fund is intended to be self sustaining from the profits made off investments. The Fund of Funds is required to report annually to the Legislature. In response to the mandate the Utah Fund of Funds presented an annual report to the Executive Appropriations Committee on the September 15th Meeting. Highlights from the report include the following:

- 31 firms have received investment capital since the inception of the fund
- $179 million has been invested in the 31 companies
- The 31 firms have created 2,000 new jobs.

In spite of the current economic climate the Fund of Funds remains self sustaining as intended. To date no tax credits have been claimed.

**USTAR Funding Update**

During the 2009 General Session, the Legislature appropriated an additional $24,433,500 in total funding to the Utah Science Technology and Research Initiative (USTAR) in an effort to spur long-term economic growth. Recently, USTAR committed $14,400,000 of General Fund and ARRA funding to three new initiatives at Utah State University. The first group, receiving $2,350,000 in funding, is the Interactive Design for Instructional Applications and Simulations. The top goal of this team is to expand upon recent advances in consumer game technology to develop serious game environments for security, firefighting, medical, and other emergency responders in their real-life emergencies; other goals include simulation to measure and evaluate environmental changes, improvements to education, and development of instructional materials for certification programs. The second group, receiving $7,050,000 in funding, is the Veterinary Diagnostics and Infectious Disease team. The goal of the team is to address animal disease screening and diagnostics. The third group, receiving $5,000,000 in funding, is the Institute for Intuitive Buildings team. The goal of the team is to decrease energy consumption used for lighting, cooling, and ventilation in commercial buildings by creating a system of self-adapting lights and cooling systems based on such things as room occupancy and occupant activities. One concern from a budget perspective is that one-time funds are being spent on ongoing research programs.

**UDOT Contractor/Consultant Qualified Health Care**

In the last legislative general session House Bill 331 “Health Insurance Coverage in State Contracts” was enacted that requires all contractors/consultants who enter into a contract with UDOT after July 1, 2009 where the prime contract value is $1,500,000 or greater, or where a subcontract value is $750,000 or greater, meet the qualified health requirements outlined in the bill. A qualified health plan as defined in the statute must prove the actuarially equivalent benefit plan defined in the Children’s Health Insurance Program under Section 26-40-106 UCA.

The Department of Transportation has established Administrative Rule R-916-5 that states prior to issuing a Notice to Proceed or approval to sublet work the contractor/consultant must demonstrate compliance with provisions of the bill. To demonstrate compliance two statements are needed. An original signed statement and completed by an accredited Actuary and an original signed statement from the contractor/consultant stating that they will maintain an offer of qualified health Insurance coverage as required by Utah Code 72-6-107.5 for the duration of any contract between the contractor/consultant) and UDOT.

UDOT is developing a database listing of all contractors, prime and sub, that have adequately demonstrated compliance which will include an expiration date. Additional information from UDOT’s Civil Rights Division concerning how this will affect federally funded projects and wage rates will be forth coming.

UDOT Consultant Services will develop a listing of all consultants that have adequately demonstrated compliance in the Contract Management System (CMS) which will include an expiration date. During negotiation of contracts, the Consultant Services Contract Administrator will notify the prime consultant of the compliance status of the sub-consultants where applicable.
HEALTH AND HUMAN SERVICES
Staff Contact: Russell Frandsen

The Fiscal Note Team has been running hard for most of the interim to get as much of the new fiscal note program completed and tested as we could before session. We knew at the outset that it was a multi-year project. At our midway assessment we set goals to do the following before the session:

1. The software will assign the bill to the analysts, select a lead analyst, email the affected agencies and request their response at the same instant that the bill is assigned to the Fiscal Analyst.
2. Legislative Research and General Counsel agreed to prepare a Comparison document that will help us quickly find bill changes.
3. The Program will be able to assign the bill to as many analysts as necessary. (We used to be limited to 3 analysts.)
4. We will finish the screens for the Analyst, Coordinator, Director, and one for Legislators.
5. We will finish the May Pass – Must Pass function. This will smooth out preparation of the “Bill of Bills”.
6. We have a “work around” that will give us real-time legislative bill status. This will help free up LFA & LRGC personnel on the session’s last night.
7. The software will have a new fiscal note status display.

Required Report – Medicaid 340B Drug Pricing Programs

As required in HB 74 “Medicaid 340B Drug Pricing Programs” from the 2008 General Session, the Department of Health submitted their quarterly report on August 21, 2009. In the May 21, 2008 report, the Department of Health estimated potential savings (i.e. - $400,000 Total Funds ($115,000 General Fund)) for multiple sclerosis drugs. Primarily, savings come via lower prescription drug reimbursements to the contracted providers. Other savings may be available by changing reimbursements to 340B pharmacies by approximating reimbursement levels closer to actual drug costs. The current 340B program provider for hemophilia drugs and a major pharmacy contractor for the community health clinics have indicated they may discontinue participation in Medicaid if prescription drug reimbursements are set too low. If there are no willing providers, there is no 340B program.

Current Prison Population vs. Capacity

Prison systems are like freeways – they do not decide who enters and exits, they only operate with what they are dealt. Not unlike other state agencies, the Utah Department of Corrections budget decreased 12.5 % from the beginning of Fiscal Year 2009 to the end of the fiscal year ($294 million to $261 million). The Legislature managed to make such reductions without requiring releasing inmates early. While the budget has decreased, the prison population has increased - tracking historical trends. Balancing increasing prison populations with decreased funds is a challenge for the Department of Corrections.

The Department of Corrections has two main metrics to assess prison capacity and plan for housing – maximum capacity and operational capacity. Maximum capacity is the total number of prison beds available at the prison which is about 6,900. Operational capacity is approximately 95% of maximum capacity, or about 6550. Operational capacity is the maximum point at which the Department estimates that they can safely manage inmates and ensure a reasonably safe environment for staff.

Beyond this amount, the safety risk increases for staff and inmates. This increased safety risk includes the lack of flexibility in shuffling inmates within the system including pairing two inmates together in the same room that poses the minimal safety risk. For example, having available open beds gives the Department options when they have two violent high-risk offenders that may clash if they were to be housed together.

Currently, the Department is approaching this operational capacity (as of August 11, prison population was 6,539) threshold. While prison population does fluctuate, historically it increase at about 18-20 inmates per month. As of late, the population has somewhat leveled off and is constantly being monitored and is continuously a concern so as to anticipate and notify of possible prison “pileups”.

August 2009

- 198,200 August 2009 Medicaid caseloads
- 900 member increase over July 2009
- 18.5% increase over August 2008
Higher Education Energy Improvements Update

In conjunction with DFCM, Higher Education institutions are moving forward with several large-scale energy efficiency and renewable energy projects. Using a public/private partnership, tax-exempt municipal lease funds, and $8.5 million in American Recovery and Reinvestment Act (ARRA) funds, these projects will result in energy savings, something that is of significant concern as costs increase and appropriations are reduced.

Energy Services Companies (ESCOs) provide some of the financing with the expectation of energy and operational savings by designing and building high-efficiency infrastructure projects that provide energy savings, operational savings and more predictability in costs of energy. The benefits of using these services include:

- Better use of tax funds
- Immediate solutions for energy issues
- Private sector expertise
- Access to best technologies

Larger USHE institutions have gone through the RFP process for these projects. Smaller USHE institutions and various UCAT campuses are focusing on smaller-scale energy projects. The smaller projects will be funded with ARRA stimulus funds as a matching grant to the existing state revolving loan funds for energy efficiency projects.

This Is The Place Park

This Is The Place Park (the Park) was established in 1957 and was managed by the Division of Parks and Recreation until 1998, when the operation of the Park was transferred to a non-profit corporation, This Is The Place Foundation. After serious financial problems, the Foundation changed its leadership in 2006.

One of the first steps of the new leadership was to reduce the Park’s personnel expenses and increase the number of volunteer hours. The volunteer hours in 2008 were 21,071, which is more than twice the amount of hours they had during the last year under the old leadership (10,185 volunteer hours in 2005). This increase is equivalent to more than $180,000 in donated labor.

In the last four years the Park has increased the revenues earned from admission, events and entertainment fees more than two times, from $614,800 in FY 2005 to $1,353,600 in FY 2009. Also, the amount of private donations has grown by 26% since 2005.

The Park used to be open April through October but the new management made provisions for the Park to be open year round. The visitation since 2005 has increased three-and-a-half times, from 58,711 in 2005 to 197,233 in 2008. The projections for calendar year 2009 are to reach 227,000 visitors.
You may have been surprised this week when you learned that state revenue was $23 million short for the fiscal year ending June 30, 2009. You may have been surprised because you read somewhere, back in July, that the state had a $30 million surplus. I bet you’re not surprised that you can’t always believe what you read in the paper!

How did the newspaper reporter in question get it that wrong?

In July the Utah State Tax Commission released it’s TC-23 for twelve months of fiscal year 2009. Collections reported on that TC-23 were indeed ahead of projections reported on the TC-23. And it was July, after the end of the fiscal year, for the full twelve months, right?

Yes. But...

1. There are thirteen "months" in a fiscal year. Really, it's twelve months and one forty-five day closing period. But a number of big transactions occur in the thirteenth period, including revenue transfers and refunds.

2. The projections on the TC-23 do not include all budgeted revenue. It reflects "status-quo" consensus revenue estimates prior to the end of the last General Session without having been adjusted for one-time revenue, statute changes passed by the Legislature, or appropriated transfers.

3. The TC-23 reports on 95% of General and Education fund revenue. But the other 5% is equivalent to $250 million. That's not insignificant and it can cause swings in the total.

So, was the newspaper wrong? Yes and no. It was not wrong in stating that the TC-23 reported revenue collections in excess of estimates by $30 million in July. It was wrong in characterizing that as a year-end "surplus".

I want to be clear that the $23 million we reported to the Executive Appropriations Committee this month is not a final year-end budget shortfall either. We still have to calculate expenditures and compare them to the revenue in order to tell you where the fiscal year finally ended.

For now, the General and Education Funds collected $23 million less than we anticipated. But, other accounts collected more than $23 million in excess of what we estimated. And we carried $150 million in revenue from FY 2009 into FY 2010 for expenditure this year.

We'll give you final surplus/(shortfall) numbers next month, and new revenue estimates for FY 2010 in December. Until then, don't believe everything you read!