SUMMARY
The Analyst has identified five potential funding sources from the nine funds, accounts, or grants discussed in this brief that could provide ongoing and/or one-time funding to replace or support traditional General Fund expenditures. The nine funds, accounts, or grants discussed in this brief include: (1) State Endowment Fund (formerly known as the Tobacco Permanent Endowment Fund), (2) Medicaid Restricted Account, (3) Victims of Domestic Violence Services Account, (4) Children’s Account, (5) Account for People with Disabilities, (6) Social Services Block Grant, (7) Transfer of Temporary Assistance for Needy Family (TANF) block grant to the Social Services Block Grant, (8) Community Mental Health Services Block Grant, and (9) Substance Abuse Prevention and Treatment Block Grant. In total these options provide $17,232,500 of ongoing resources and $111,495,200 in one-time resources beginning in FY 2012. The Analyst has provided four options for action for the committee’s consideration including doing nothing.

A number of these funding sources have some limitations and restrictions. For example, the State Endowment Fund, where the one-time balance can only be accessed by a ¾ vote of each house of the legislature and the signature of the governor. The ongoing revenue from the fund could be accessed by a change in statute. All funds shown below that are restricted accounts in the General Fund can be accessed by inclusion in the annual appropriation bills when passed and would not require a change in statute under the following condition as outlined in UCA 63J-1-211:

63J-1-211. Appropriating from restricted accounts.
(1) As used in this section, "operating deficit" means that estimated General Fund or Uniform School Fund revenues are less than budgeted for the current or next fiscal year.
(2) Notwithstanding any other statute that limits the Legislature’s power to appropriate from a restricted account, if the Legislature determines that an operating deficit exists, unless prohibited by federal law or court order, the Legislature may, in eliminating the deficit, appropriate monies from a restricted account into the General Fund.

DISCUSSION AND ANALYSIS
Of the nine funding sources discussed in this brief, the Analyst has identified the following five with one-time or ongoing revenue available for FY 2012:

<table>
<thead>
<tr>
<th>Fund/Source Name</th>
<th>Statute</th>
<th>Money Available FY 2012</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>One-time</td>
</tr>
<tr>
<td>State Endowment Fund</td>
<td>51-9-202</td>
<td>$110,300,600</td>
</tr>
<tr>
<td>Medicaid Restricted Account</td>
<td>26-18-402</td>
<td>$44,600</td>
</tr>
<tr>
<td>Victims of Domestic Violence Services Account</td>
<td>51-9-401</td>
<td>$900,000</td>
</tr>
<tr>
<td>Children’s Account</td>
<td>62-4a-309</td>
<td>$250,000</td>
</tr>
<tr>
<td>TANF to SSBG Transfer</td>
<td></td>
<td>$2,300,000</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>$111,495,200</td>
</tr>
</tbody>
</table>

State Endowment Fund
The State Endowment Fund currently receives 40% of the annual payments in April from tobacco companies from the 1998 Master Settlement Agreement (UCA 51-9-202). Article XXII, Section 4 of the Utah Constitution explains the purpose of the fund: “the state treasurer shall, as provided by statute, hold all trust funds and
assets in trust and invest them for the benefit of the people of the state in perpetuity.” Additionally, Article XXII, Section 4 of the Utah Constitution directs that money currently in the fund can only be accessed by a ⅔ vote of each house of the Legislature and the approval of the Governor. A change in the ongoing funding to the fund would require the normal approval process for a statutory change. There are no regular expenditures approved for this trust fund. UCA 51-7-12.1 outlines the restrictions on investments for the State Endowment Fund. The State Endowment Fund is estimated to have a balance of $110,300,600 by the end of FY 2011, which could be a one-time revenue source. In FY 2012 the fund is estimated to receive revenue of $14,932,500.

Additionally, UCA 51-9-202 directs that the fund keep half of its interest earnings from the tobacco payments and the other half be deposited into the General Fund. The amount deposited into the General Fund for the last 5 fiscal years has ranged from $362,200 in FY 2006 to $628,800 in FY 2010. The State Endowment Fund made a five year contribution to the General Fund totaling $2,743,200. Any changes to the fund balance would impact the interest deposited into the General Fund and interest retained by the fund. This fund also receives excess severance tax revenues over statutory limits at the end of each year as per UCA 51-9-305. FY 2010 was the first year for these type of transfers to the fund and $7,193,200 was transferred.

HB 464 from the 2010 General Session diverted $11,350,900 one-time from potential money to the State Endowment Fund to the General Fund for FY 2011.

**Medicaid Restricted Account**

The Medicaid Restricted Account does not receive constant, consistent revenues. The $44,600 unobligated balance represents a one-time funding resource. As per Utah Code 26-18-402, the account usually receives all the unspent monies in the Medicaid program; however, due to requirements of the federal stimulus package, unspent funds will not be coming to this fund for FY 2009 through FY 2011. Unspent Medicaid funds during this time will remain with the Department of Health as non-lapsing balances.

Statute also says that the money in the account may be used to expand medical assistance coverage to low income persons not traditionally covered by Medicaid. Historically the fund has been used for items like Medicaid caseload growth, provider rates, a lawsuit settlement, replacing federal funding, and paying for a redesign study of the Medicaid Management Information Systems.

**Victims of Domestic Violence Services Account:**

The Victims of Domestic Violence Services Account is a restricted account within the General Fund. This account, by statute, allocates 4.0 percent of the surcharge assessed in 51-9-401 to the Division of Child and Family Services for domestic violence services.

The beginning balance for this account as of July 1, 2010 was $947,148. The restricted funds amount from this account budgeted in FY 2011 for domestic violence services is $840,700. There is also $1,187,600 ongoing General Fund appropriated to this program for FY 2011. The department anticipates that the current expenditure level will likely not be met by current year revenues. As a result, the department anticipates that approximately $900,000 of the total $947,148 beginning balance is not committed for the current fiscal year.

The goal of the program is to protect from harm those who are at risk of being abused, neglected, or exploited. The objective of the program is to provide prompt services to children, adults, and the elderly who are in abusive or neglectful situations. The goal and objective are met by:

1) Domestic violence case workers who are specifically trained and experienced in dealing with issues related to domestic violence. In addition, domestic violence workers: 1) provide other DCFS workers with information
about domestic violence as it relates to child abuse, 2) staff cases to assist in risk determination, and 3) provide resources and referrals to assist DCFS workers in keeping children and adult victims safe. Other services include services to adults without children, community collaboration, support to contract providers, and data collections and reporting.

2) Domestic violence treatment provides a range of treatment options available for both court ordered and voluntary services. Services are available (but limited) to perpetrators, victims, and children who have witnessed domestic violence. Services may be provided directly or by contract with a treatment provider.

3) Family Violence Shelters provide adults and their children who have been abused with a safe, short-term refuge where they can assess their situation and evaluate available options and opportunities to choose a course of action to end the abuse. Services include temporary shelter, case planning, information and referral to community resources, adult victim and children counseling, educational supports for families with children, and transportation assistance.

The number of clients sheltered was 3,450 in FY 2009 and 2,965 in FY 2010.

**Children’s Account:**

The Children’s Account is a restricted account within the General Fund. The Children’s Account, by statute, may be used only to implement programs to fight against abuse and neglect as described in 62A-4a-305. HB 306, *Health and Human Services-related Commission, Committee, and Council Amendments* (Bigelow, 2009 GS) eliminated the Board of Child and Family Services and also changed statute to require that funds may not be expended unless approved by the director of the Division of Child and Family Services within the Department of Human Services (instead of the previous DCFS board), and added " in consultation with the executive director of the department." Language found at 62A-4a-305 about the prevention and treatment programs states:

> Programs contracted under this part shall be designed to provide voluntary primary abuse and neglect prevention, and voluntary or court-ordered treatment services, including, without limiting the generality of the foregoing, the following community-based programs:
> (1) those relating to prenatal care, perinatal bonding, child growth and development, basic child care, care of children with special needs, and coping with family stress;
> (2) those relating to crisis care, aid to parents, abuse counseling, support groups for abusive or potentially abusive parents and their children, and early identification of families where the potential for abuse and neglect exists;
> (3) those clearly designed to prevent the occurrence or recurrence of abuse, neglect, sexual abuse, sexual exploitation, medical or educational neglect, and such other programs as the division and council may from time to time consider potentially effective in reducing the incidence of family problems leading to abuse or neglect; and
> (4) those designed to establish and assist community resources that prevent abuse and neglect.

This program is entirely funded with restricted funds. The FY 2011 appropriated budget for the Children’s Account is $400,000. The beginning balance as of July 1, 2010 is $254,060. The department anticipates that only $250,000 of this balance would not be committed if it maintains current service levels for the current fiscal year. Currently, the Children’s Account funds approximately 30 contracts which range in services from school-based personal body safety education for elementary and middle school children to home visiting for teen parents of infants and toddlers as well as home visiting for families whose first language is Spanish to parenting education and support.
Account for People with Disabilities

The Account for People with Disabilities was initially created during the 1995 General Session of the Legislature by HB 21, Trust Fund for People with Disabilities (Hammond), to receive revenues from the sale, lease (except any lease existing on May 1, 1995), or other disposition of real property associated with the Utah State Developmental Center. The 1998 Legislature, through HB251, Disability Center Trust Fund Amendments (Davis), changed the statute so that the principal of the fund cannot be appropriated. Through HB 132, Sale of State Lands at Developmental Center (Dayton, 2002 GS), Legislative approval is required to sell or long-term lease any land or water rights associated with the State Developmental Center. Also, the sale or lease price cannot be below the average of two real estate appraisals. HB 306, Health and Human Services-related Commission, Committee, and Council Amendments (Bigelow, 2009 GS) (2009 GS) eliminated changed statutory language to require that funds may not be expended unless approved by the director of the Division of Services for People with Disabilities within the Department of Human Services and adds "in consultation with the executive director of the department." The beginning balance of the account as of July 1, 2010 is $3,765,228. The Legislature appropriated $3,682,100 from the account for FY 2011 and another $100,000 request in authority to use the account for FY 2012. These amounts exceed the current balance in the account by $16,872. The division cannot spend in excess of what is in the account, but the FY 2012 request in authority would allow the division to spend up to $100,000 if that amount become available.

Social Services Block Grant

Title XX of the Social Security Act, also referred to as the Social Services Block Grant (SSBG), is a capped entitlement program. As a result, states are entitled to their share, according to a formula, of a nationwide funding ceiling or “cap,” which is specified in federal statute. Funds are allocated to the states on the basis of population. These federal funds are available to states without a state matching requirement. Block grant funds are given to states to help them achieve a wide range of social services policy goals, which include preventing child abuse and providing community-based care for the elderly and disabled. Annual federal allotments to states of SSBG are for two years. States are given wide discretion to determine the services to be provided and the groups that may be eligible for services, usually low income families and individuals. In addition to supporting social services, the law allows states to use their allotment for staff training, administration, planning, evaluation, and purchasing technical assistance in developing, implementing, or administering a state social service program. States decide what amount of the federal allotment to spend on services, training, and administration. Some restrictions are placed on the use of Title XX funds.

The State has authority to transfer up to 10 percent of the Social Services Block Grant to applicable block grants “...for support of health services, health promotion, and disease prevention activities, low-income home energy assistance, or any combination of these activities ...” [OMB Circular A-133 June 2010 Compliance Supplement].

Although Title XX of the Social Security Act was initially created in 1975, it was the Omnibus Reconciliation Act (OBRA) of 1981 that amended Title XX to establish a "block grant to States for social services." The initial national allotment was $2.9 billion. Under the Transportation Equity Act enacted in 1998 the Title XX entitlement ceiling was scheduled to be permanently reduced to $1.7 billion beginning in Federal Fiscal Year 2001.

Because the department has received the Social Services Block Grant over a number of years, it has the potential to build up a one-time reserve of the fund. When a reserve exists, it may be appropriated one time in lieu of state General Fund throughout the department where doing so would meet the general purposes of SSBG and would not create federal matching issues. The department indicates that as of December 31, 2010, it has a cash flow reserve of SSBG of $2,200,000. The department has also stated “this reserve is used to cover
the timing difference between the federal fiscal year (October 1st) and the actual date of receipt of SSBG authorization” (approximately 2 months).

**Transfer of Temporary Assistance for Needy Families (TANF) to Social Services Block Grant (SSBG)**

In some instances states have been given the ability to transfer funds among different federal block grants. Federal welfare reform legislation enacted in 1996 replaced the previous Aid to Families with Dependent Children (AFDC) program with a block grant program passed through to states called the Temporary Assistance for Needy Families or TANF (Public Law 104-193). The welfare reform law initially gave states the ability to transfer up to 30 percent of their TANF allotments to either the SSBG or to the Child Care and Development Block Grant (CCDBG). When it was originally enacted, the welfare reform law required that for every dollar transferred to SSBG, a state would then have to transfer $2 to the CCDBG. This provision was revised by the Balanced Budget Act of 1997 (Public Law 105-33) so that states were authorized to transfer up to 10 percent of their TANF allotment to SSBG subject to a total transfer limitation involving the CCDBG. The allowable transfer percentage to SSBG was reduced to 4.25 percent but the actual percentage has been changed yearly to 10 percent. The welfare reform law requires that any TANF funds transferred to SSBG be used for families with incomes no higher than 200 percent of the federal poverty level.

For Utah, the TANF grant amount is $76,829,200. Ten percent of that amount would be $7,682,900. The Department of Human Services has made a FY 2012 budget request showing $5,307,000 of TANF to SSBG being transferred. The additional amount of approximately $2,300,000 would be available on an ongoing basis depending on transfer authority and TANF funding, subject to limitations.

**Community Mental Health Services Block Grant**

The purpose of the Community Mental Health Services (CMHS) Block Grant is to provide financial assistance to states and territories to assist them in carrying out their plans for providing comprehensive community mental health services to adults with a serious mental illness and to children with a serious emotional disturbance. The CMHS block grant is also used to monitor the progress in implementing a comprehensive community based mental health system, and provide technical assistance to aid states in planning and implementing a comprehensive community based mental health system.

CMHS block grant funds may be used at a state’s discretion to achieve state objectives except for certain requirements including: 1) a state’s plan must meet certain prescribed criteria and 2) services under a state’s plan will be provided only through appropriate, qualified community programs which may include community mental health centers, child mental-health programs, psychosocial rehabilitation programs, mental health peer-support programs and mental-health primary consumer-directed programs.

Up to 5 percent of grant funds may be used to administer the CMHS funds. Funds may not be used for certain other activities including: 1) to provide inpatient services; 2) to make cash payments to intended recipients of health services; and 3) to purchase or improve land, purchase, construct, or permanently improve any building or other facility, or purchase major medical equipment.

The CMHS block grant program has no matching requirements. The CMHS block grant program does, however, have maintenance of effort (MOE) requirements. Under section 1915(b) of the Public Health Service Act, a state is required to maintain aggregate state expenditures for authorized activities at a level that is not less than the average level of such expenditures maintained by the state for the 2-year period preceding the fiscal year for which the state is applying for the grant. Recently, the state has not maintained expenditures at the prescribed level and is in MOE failure. The penalty is a $1 reduction in block grant funds for each $1 that state expenditures fail to meet the required amount. If the waiver submitted to the federal Department of Health
and Human Services is not approved, the department estimates it will lose approximately $2,300,000 in block grant funds during the current fiscal year.

Because the department has received the Community Mental Health Services Block Grant over a number of years, it has the potential to build up a one-time reserve of the fund. When a reserve exists, it may be appropriated one time in lieu of state General Fund where doing so would meet the general purposes of the CMHS block grant and would not create federal matching issues. The department indicates that as of December 31, 2010, it has a cash flow reserve of CMHS block grant of $800,000. The department has also stated “this reserve is used to cover the timing difference between the beginning of the federal fiscal year (October 1st) and the actual date of receipt of MHS Block Grant authorization” (approximately 3 months).

**Substance Abuse Prevention and Treatment Block Grant**

The purpose of the Substance Abuse Prevention and Treatment (SAPT) block grant is to provide financial assistance to states to support projects for the development and implementation of prevention, treatment and rehabilitation activities directed to the diseases of alcohol and drug abuse.

SAPT block grant funds may be used at a state’s discretion to achieve state objectives except for certain requirements including: 1) not less than 20 percent of the funds can be spent for education, counseling, and risk-reduction programs for individuals who do not require treatment for substance abuse, 2) not less than 5 percent of the grant can be spent to increase (relative to fiscal year 1994) the availability of treatment services designed for pregnant women and women with dependent children, and 3) states will provide, directly or through arrangements with other public or nonprofit entities, tuberculosis services for substance abusers at risk for the human immunodeficiency virus (HIV) disease.

The SAPT block grant program has no matching requirements. The SAPT block grant program does, however, have maintenance of effort (MOE) requirements. Under section 1930 Public Health Service Act, a state is required to maintain aggregate state expenditures for authorized activities at a level that is not less than the average level of such expenditures maintained by the state for the 2-year period preceding the fiscal year for which the state is applying for the grant. Recently, the state has not maintained expenditures at the prescribed level and is in MOE failure. The penalty is a $1 reduction in block grant funds for each $1 that state expenditures fail to meet the required amount. If the waiver which will be submitted to the federal Department of Health and Human Services is not approved, the department estimates it could lose over $2,300,000 in FY 2012.

Because the department has received the Substance Abuse Prevention and Treatment Block Grant over a number of years, it has the potential to build up a one-time reserve of the fund. When a reserve exists, it may be appropriated one time in lieu of state General Fund where doing so would meet the general purposes of the SAPT block grant and would not create federal matching issues. The department indicates that as of January 14, 2011, it has a cash flow reserve of SAPT of $2,800,000. The department has also stated “this reserve is used to cover the timing difference between the beginning of the federal fiscal year (October 1st) and the actual date of receipt of SAPT Block Grant authorization” (approximately 2 months).

**Recommendations**

The Committee has at least the following options when considering these nine funding sources:

1. Do nothing. This may allow fund balances to remain at current levels, grow if they are able to earn interest, or otherwise fluctuate depending upon revenues and expenditures.
2. Appropriate up to $17,232,500 in ongoing funding and/or $111,495,200 in one-time resources (some of these options would also require statutory changes).

3. Change which agencies and programs receive funding from those funds with annual recipients that allow for that flexibility.

4. Change the level of funds provided to current recipients from those funding sources with regular, annual appropriations.