



INTERIM HIGHLIGHTS

Office of Legislative Research
and General Counsel

Office of the Legislative
Fiscal Analyst

Office of the Legislative
Auditor General

***USA Today* Calls Utah's Financial Management "Excellent"**

Restraint. That is the word used to describe how Utah and two other states have managed to weather declining tax revenues that are the result of the nation's current economic troubles. In a recent edition of *USA Today*, Utah, Georgia, and Delaware are lauded for their excellence in managing their states' finances. The paper notes that "during the economic boom of the 1990s, these states limited both spending growth and tax cuts. After the economy weakened in early 2001, these states acted swiftly and decisively to keep their finances sound."

What did Utah do right? *USA Today* notes that the Utah Legislature "made hundreds of small but difficult changes to balance spending and revenue, while keeping a small reserve fund to protect against future problems." But more important, "Utah's budget balancing was made easier by its cautious behavior during the boom. Spending grew five percentage points faster than inflation and population growth from 1997 through 2002, compared with the national average of 18 percentage points. What also set Utah apart from most other states is that it did not dawdle. The Legislature began adjusting this year's budget within weeks after the (2003) fiscal year began last July."

Spending by state and local governments has historically been around 11-12% of the nation's gross domestic product (GDP). But in 2002, these governments spent 13% of the GDP—the highest in recorded history. If the economy improves later this year, as many economists are predicting, states may escape more tough tax and spending decisions in future. But balancing limited revenues with demands for publicly provided services, especially education, will probably always be a challenge for policy makers. The newspaper concludes by asking "Will citizens pay permanently higher taxes in exchange for better-funded public schools and health care? Or will they demand that taxes return to a more comfortable level? The narrow question is: Tax increases or spending cuts? The broader question is: What do citizens want from government?"

INTERIM COMMITTEE ACTIONS

Business and Labor

STUDIES:

- Conducted sunset reviews of the Employers' Reinsurance Fund Special Assessment and the State Olympic Coordination Act.
- Studied the potential privatization of the Workers Compensation Fund and discussed legislative options. The Committee received information from the Fund, the Insurance Department, and business and employer groups. The Committee plans to continue studying this issue at its next meeting.

ACTION: Recommended that the State Olympic Coordination Act sunset on its scheduled date (July 1, 2004) based on the recommendation of the Deputy State Olympic Coordinator.

*Chairs: Sen. Parley Hellewell/Rep. Katherine M. Bryson
Staff: Mary Catherine Perry (analyst)/Patricia Owen (attorney)/Sandra Wissa (secretary)*

Education

STUDIES:

- Received testimony from the State Board of Education on reasons for declining certain charter school applications, and a statement from the Alpine School District Board of Education on its decision to no longer approve charter schools.
- Examined the pros and cons of moving local school board elections to odd-numbered years.

ACTION: Encouraged committee members and others to draft a definition of public education for consideration at a future meeting.

*Chairs: Sen. Howard A. Stephenson/Rep. Margaret Dayton
Staff: Constance Steffen (analyst)/Dee Larsen (attorney)/Glenda Whitney (secretary)*

Government Operations

ACTIONS:

- Discussed a conflict between a state constitutional provision and statutory provisions governing the local referendum process and directed staff to draft legislation to resolve the conflict.
- Discussed early voting and no-excuse absentee voting and directed staff to draft legislation modifying absentee voting.
- Recommended draft legislation "Repeal of Utah Interstate Commission for Cooperation in Higher Education."

*Chairs: Sen. John W. Hickman/Rep. James A. Ferrin
Staff: John Cannon (analyst)/John Fellows (attorney)/Cassandra Bauman (secretary)*

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Health and Human Services

STUDIES:

- Considered whether to amend Utah's surrogate parenthood statute in light of an April U.S. District Court decision.
- Reviewed the recent legislative audit of the mental health system.

REPORT: Received a report from the director of the Utah Addiction Center on the disease nature of chemical addiction.

Chairs: Sen. Sheldon Killpack/Rep. Mike Thompson

Staff: Mark Andrews (analyst)/Catherine Dupont, Stacey Snyder (attorneys)/Joy Miller (secretary)

Judiciary

REPORTS:

- Received a report regarding the adoption of the "Uniform Parentage Act," which provides for new definitions to clarify the participants in determinations of parentage and provides for the voluntary acknowledgment of paternity, including procedures for adjudicating parentage and provisions for children born as a result of assisted reproductive technologies.
- Received a report regarding the adoption of the "Uniform Nonjudicial Foreclosure Act," which provides for residential and commercial mortgage foreclosures without judicial involvement under the premise that mortgage foreclosures typically do not involve a dispute between the debtor and the creditor.

Chairs: Sen. David L. Gladwell/Rep. Ben C. Ferry

Staff: Jerry Howe (analyst)/Esther Chelsea-McCarty (attorney)/Cassandra Bauman (secretary)

Law Enforcement and Criminal Justice

STUDIES:

- Received information from the Department of Corrections regarding the effectiveness of drug treatment programs in the state prisons and county jails and the need for more treatment capacity.
- Received information from the Commission on Criminal and Juvenile Justice regarding its efforts to create a comprehensive strategic plan to more effectively deal with drug offenders.
- Received information regarding the Crime Victims Reparation Process, including the structure, effectiveness, and funding sources of the program.
- Received information regarding the adult and juvenile restitution programs, including their processes, effectiveness, and difficulties in collecting from offenders.

Chairs: Sen. D. Chris Buttars/Rep. DeMar "Bud" Bowman

Staff: Chyleen Arbon (analyst)/Susan Creager Allred (attorney)/Tracey Fredman (secretary)

Natural Resources, Agriculture, and Environment

REPORTS:

- Received a report from the Division of Wildlife Resources on the creation of a wolf management plan in Utah.
- Received a report from the Department of Natural Resources and several county commissioners on the impact of the federal Wild and Scenic Rivers Act.
- Received a report from the Division of Water Resources on drought conditions in the state.

ACTIONS:

- Approved "Joint Resolution Approving Solid Waste Permit," which gives approval to Green River Landfill to construct and operate a Class V landfill in Green River, Utah.
- Passed a motion to emphasize its support of 2003 General Session H.J.R. 12, "Resolution Providing Management of Wolves in Utah."

Chairs: Sen. Beverly Evans/Rep. Craig W. Buttars

Staff: Brian Allred (analyst)/Jeanenne Larson (attorney)/Joy Miller (secretary)

Political Subdivisions

STUDIES:

- Received an update on the status of an ad hoc workgroup discussing issues relating to eminent domain.
- Discussed a proposal that would require notice in a first class county to be sent to all affected property owners of a pending annexation.
- Received information from Utah's seven AOGs (Associations of Governments) on the purpose of and services provided by AOGs.
- Received comments on a proposal regarding local planning for source protection of drinking water and surface waters.

Chairs: Sen. Carlene M. Walker/Rep. Kory M. Holdaway

Staff: Joseph Wade (analyst)/Robert Rees (attorney)/Wendy Bangerter (secretary)

Public Utilities and Technology

STUDY: Discussed existing state rights-of-way laws regarding rates and access by telecommunication service providers and received a recommendation to create a working group for additional study of this issue.

REPORTS:

- Received a report on wireless telephone service growth nationwide and for Utah. The report included information on market trends in the provision of wireless services.
- Received a report covering statutory requirements for phone company billings and discussed issues related to those requirements, including quality of service and consumer protection mechanisms.

Chairs: Sen. Leonard M. Blackham/Rep. Stephen H. Urquhart

Staff: Richard North (analyst)/Thad LeVar (attorney)/Jennifer Markham (secretary)

Transportation

STUDIES:

- Received a progress report on the work of the Transportation Planning Task Force. Under current revenues, the Centennial Highway Fund will have a balance of \$1.4 billion instead of \$1.9 million at the end of FY 2007 and will be paid out by FY 2017.
- Received a presentation on Fuel Taxes for Alternatively Fueled Vehicles. Draft legislation was considered to administer the tax at the retail level, rather than requiring alternative vehicle owners to purchase an annual permit.
- Received a presentation on the status of photo radar, red light cameras, and other electronic traffic enforcement options.

Chairs: Sen. Dan R. Eastman/Rep. Joseph G. Murray

Staff: Benjamin Christensen (analyst)/Shannon Halverson (attorney)/Jennifer Markham (secretary)

Revenue and Taxation

STUDY: Discussed appeals by firms that are assessed for property tax purposes by the Utah State Tax Commission. The Committee discussed options available to taxing entities that must pay refunds when a firm prevails in its appeal of its property tax value and considered how different counties in Utah are affected by this problem.

Chairs: Sen. Curtis S. Bramble/Rep. Wayne A. Harper

Staff: Bryant Howe (analyst)/Rebecca Rockwell (attorney)/Sandra Wissa (secretary)

Workforce Services & Community and Economic Development

STUDY: Received information from state tourism officials regarding the importance of tourism to Utah's economy and the benefits with enhanced tourism promotion funding.

REPORT: Received a report from poverty advocacy groups outlining the Utah Family Employment Program and its limitations in helping people overcome their barriers to self-sufficiency before they exhaust their benefits.

Chairs: Sen. Scott Jenkins/Rep. David N. Cox

Staff: Jami Momberger (analyst)/Jim Wilson (attorney)/Glenda Whitney (secretary)

Impact of Administrative Rulemaking

Listed below are the 2003 General Session bills passed that impact state agency rulemaking authority.

In the 2003 General Session, the Legislature passed 64 bills that affected state agencies' authority to regulate the public. When a law does not include all details of implementation, the Legislature delegates authority to a state agency to regulate the remaining detail by administrative rule. When considering legislation, the Legislature's challenge is to balance the benefits of agency flexibility and discretion with the need to ensure that agency administrative rules reflect legislative intent. For an agency, implementing rules can impact its workload and resources.

H.B. 1	Appropriations Act	S.B. 9	Comprehensive Health Insurance Pool Am.
H.B. 3	Minimum School Program Act Am.	S.B. 23	State and Local Taxes, Fees, and Charges Related to Telecommunications
H.B. 4	Viatical Settlements	S.B. 27	Susan Gall Involuntary Commitment Am.
H.B. 7	Special Group License Plate Revisions	S.B. 32	Driver Education Courses
H.B. 22	Property Tax Relief	S.B. 43	Providing Information Relating to Tax Credits and Tax Filing Due Dates
H.B. 28	Oil and Gas Severance Tax Am.	S.B. 61	Public Utility Related Am.
H.B. 29	Fees and Taxes on Oil and Gas	S.B. 65	Reclamation Surety for Mining Operations
H.B. 31	Workforce Services Overpayment Am.	S.B. 83	Occupational and Professional Licensing Modifications
H.B. 37	Restructure Spend down Provision for Medicaid	S.B. 91	Funeral Services Am.
H.B. 39	Repeal of Education Reports and Duties	S.B. 92	Land Surveyor Am.
H.B. 47	Fire Prevention Am.	S.B. 96	Division of Occupational and Professional Licensing Act Am.
H.B. 55	Tow Truck Requirements	S.B. 131	Individual Income Tax - Subtractions from Federal Taxable Income
H.B. 73	Withholding Exemption for Certain Nonresident Shareholders	S.B. 147	Streamlined Sales Tax Project Am.
H.B. 106	Foster Care Guidance Through Providers Contracts	S.B. 148	Property Tax - Farmland Assessment Act
H.B. 108	Fully Interactive Driving Simulators in Driver Education	S.B. 151	Amendments Related to Information Technology
H.B. 116	Property Tax - Calculation of Certified Tax Rate	S.B. 153	Alcoholic Beverage Am.
H.B. 126	Medicaid Benefit Am.	S.B. 154	Public Education Am.
H.B. 145	Department of Administrative Services Am.	S.B. 155	Professional Employer Organizations
H.B. 161	Snow College Richfield Campus	S.B. 157	Regulation of Credit Union Service Organizations and Other Credit Union Related Entities
H.B. 162	Amendments Related to Financial Institutions	S.B. 158	Division of Child and Family Services Management Information System Am.
H.B. 175	Management of Notaries Public by Lieutenant Governor	S.B. 172	Hazardous Waste Regulation and Tax Policy Task Force and Moratorium on Acceptance of Class B and C Radioactive Waste
H.B. 180	Trauma Registry Data	S.B. 177	Regulation of Debt Cancellation Agreements and Debt Suspension Agreements
H.B. 189	Lending Law Amendments	S.B. 180	Emergency Medical Services
H.B. 219	Wages for Tipped Employees	S.B. 188	Fuel Tax Credit
H.B. 231	Health Care Facility Licensure Am.	S.B. 194	Commerce and Trade - Telephone and Facsimile Solicitation Act
H.B. 240	Venture Capital Enhancement Act	S.B. 198	Division of Real Estate - Definitions Am.
H.B. 277	Residential Mortgage Practices Am.	S.B. 209	Registration for Atv's and Nonautomobiles
H.B. 286	Waste Tax and Fee Amendments	S.B. 225	Limitation of Judgments Against Government Entities
H.B. 290	Exemptions Related to Exchange of Securities		
H.B. 299	Trust Law Am.		
H.B. 308	Health and Human Services Boards and Commission Am.		
H.B. 316	Aerospace and Aviation Development Zone		
H.B. 353	Vehicle Disclosure Requirements		
H.B. 372	Captive Insurers Act		
H.B. 373	Insurance Law Revisions		
H.B. 374	Insurance Producers Am.		

LEGISLATIVE MANAGEMENT COMMITTEE

REPORTS:

- Received the interim study schedule from the Natural Resources, Agriculture and Environment Interim Committee as requested by Legislative Management Committee.
- Received a report that a Motion to Dismiss the *Ivie v. State* lawsuit has been filed in Third District Court. Responsive pleading is due July 25, 2003. If a decision is not given in a timely manner, the Office of Legislative Research and General Counsel will ask the court for a hearing to expedite the matter.
- Received three reports relating to the issue of protected records: 1) the Workers Compensation Fund legal records that were claimed by the Governor to be protected records, which consisted of a white paper produced by the Office of the Attorney General and six reports produced by the law firm Suitter Axland; 2) the Legislative Records Committee and the conflict between conducting *in camera* reviews and the Open and Public Meetings law; and 3) a recent audit of the State Tax Commission by the Office of Legislative Auditor General where most of the audit became a protected record and could not be discussed in an open meeting.
- Received a request from the Legislature of the Kyonggi Province, South Korea to visit Utah and meet legislators and observe the legislative process.

ACTIONS:

- Approved the request of the Public Utility and Technology Interim Committee to have Master Study Resolution #165, Coordination of Utility Services, transferred to the Political Subdivisions Interim Committee.
- Authorized the Health and Human Services Interim Committee to work with the Department of Insurance to complete the health insurance mandate studies required by law (H.B. 228, 2000 General Session) within existing budgets and to report their findings to the Business and Labor Interim Committee.
- Approved the itinerary and request of the Native American Legislative Liaison Committee to visit the San Juan portion of the Navajo reservation.

- Approved the itinerary and request of the Capital Facilities and Administrative Services Appropriation Subcommittee for site visits: August 7-8 to Washington County; and September 2-3 to Uintah County.
- Approved the request of the Kyonggi Province, South Korea to send approximately 15 legislators to Utah to observe the legislative process for 1-2 days.
- Moved to make public the six legal documents relating to the studies of the Workers Compensation Fund produced by Suitter Axland.
- Asked Legislative General Counsel to have recommendations ready to address the conflict in the laws of discussing nonpublic records in open meetings at the next Legislative Management Committee meeting.

NCSL AWARDS

The Office of Legislative Research and General Counsel (OLRGC) will be receiving two awards this year from NCSL at its Annual Meeting in San Francisco. OLRGC will receive the 2003 Notable Document Award for its Briefing Paper Series: *Senate Confirmation of Judicial Appointments; Medicaid Spending-Controlling Costs; Future of Highway Funding; and Tax Primer*. OLRGC will receive a second 2003 Notable Document Award in the area of Redistricting and Reapportionment for its *Demographic Profile of Legislative Districts*. The official letters notifying OLRGC of the awards stated in part, "We believe this is the second consecutive year you have won an award! Congratulations . . . on continued excellence in your work."

President Mansell stated at the Legislative Management Committee Meeting (July 15) where the announcement of these awards was first made, "It's nice to know that we are being helped in our process by people who are doing a good job and being recognized nationally for the quality of that work. We congratulate you and thank you for all your help."



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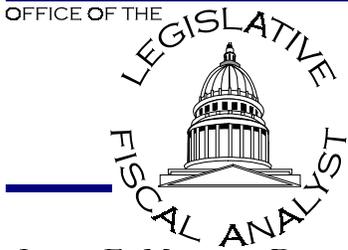
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FISCAL HIGHLIGHTS

JOHN E. MASSEY, DIRECTOR

LFA Honored with National Award

The Fiscal Analyst's office has been selected as one of two recipients of the National Association of Legislative Fiscal Offices (NALFO) Legislative Staff Achievement Award for 2003.

NALFO recognizes the LFA Meribah Development Team for outstanding team project excellence. Jeff Youtz, President NALFO stated: "Your innovative and collaborative fiscal management system exemplifies the type of individual and team project excellence that this NALFO Staff Achievement Award is intended to recognize." Meribah is a computer program designed to streamline the preparation of the state budget and various appropriations bills for the Legislature.

Mike Kjar will accept the award on behalf of the office next week at the annual NCSL conference in San Francisco.

EXECUTIVE APPROPRIATIONS COMMITTEE

CO-CHAIRS:

SENATOR LEONARD BLACKHAM - REPRESENTATIVE RON BIGELOW

Report: Information Technology Services Procurement Audit

Summary: Legislative Auditors John Schaff and Janice Coleman presented an audit of the Division of Information Technology Services' procurement practices. The Auditors found that ITS purchased "unjustified" software, unnecessarily costing the state \$1.7 million. They further found that an ITS deputy director may have benefited his son by directing state business toward his son's company.

Department of Administrative Services Director Camille Anthony responded with a litany of management changes she has made to address the reported problems. The changes include greater scrutiny of procurement, improved communication and training on procurement policy, and redefining the duties of the former State Technical Architect.

Auditors and Director Anthony agreed on a third audit finding. No evidence existed supporting a claim that ITS managers issued a "gag order" preventing employees from contacting legislators directly.

Staff Contact: Jon Ball

Report: Part-Time Worker Benefits

The Department of Human Resource Management, in conjunction with the Legislative Fiscal Analysts Office, conducted a survey of surrounding states, local governments, higher education, school districts, and local private employers. The purpose of this survey was to determine what benefits these employer groups offered to their part-time employees.

The State of Utah has approximately 5680 part-time employees within the Executive, Legislative and Judicial Branches. This includes employees whose regular hours are less than 40 hours per week and employees who are in time-limited positions. There are currently 1460 of these part-time employees who work 20 hours or more per week and qualify for retirement and insurance benefits.

Options for Legislature to Potentially Decrease Future Costs:

- Discontinue the availability of all benefits for future part-time employees.
- Increase the minimum part-time hours required to receive

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- benefits from 20 to 25 or 30 hours per week.
- Charge a higher percentage of the insurance premiums for part-time employees.
- Cover only part-time employees, not spouses and dependents or, adjust the amounts paid for dependents and spouses.
- Discontinue retirement benefits, but keep health and dental insurance available to part-time employees.
- Discontinue health benefits, but allow retirement benefits for part-time employees.
- Discontinue State support for retirement benefits but allow employee to contribute to the retirement system.

Any changes in benefits offered to part-time employees would not affect current part-time employees of the State.

Staff Contact: Andrea Wilko

Report: Growth of Carry Over Capital Outlay Authorization in Internal Service Funds

Summary: The Budgetary Procedures Act (UCA 63-38-3.5) requires Internal Service Funds (ISFs) to receive legislative approval of capital acquisitions. This approval is generally referred to as Authorized Capital Outlay (ACO) and is granted by the Legislature in appropriations acts. ACO itself is not money—only permission. The Legislature oversees capital acquisitions because the items acquired are depreciated and charged in the rates to customer agencies.

While the Budgetary Procedures Act requires legislative approval of capital outlays, it does not state what happens to that approval should an ISF fail to exercise it in a given fiscal year. By administrative practice, ISFs have accumulated the

unused approval from year to year—calling it Carry Over Capital Outlay Authorization. In general, ACO has in the past exceeded actual acquisition, resulting in large positive carry over balance. In FY 2004, ISFs have authorization to acquire \$27 million in capital assets, but they also have built up \$33 million in carry over authority from prior years.

The fact that carry over authority can span multiple years, and that FY 2004 carry over authority exceeds current year authority, are areas of concern to the Legislative Fiscal Analyst. As legislative committee make-up changes every two years, it may be prudent to have legislators review planned acquisitions using carry over authority on an annual basis. Also, given sufficient operating revenue or borrowing, an ISF may use this carry over authority without further legislative action, thus resulting in the need to raise rates or negate potential savings.

The report recommended amending the Budgetary Procedures Act to clarify that:

1. Unless explicitly granted by the Legislature, ISFs do not have authority to carry over Authorized Capital Outlay;
2. The ISF must have legislative approval in the appropriations act for items to be acquired using Carry Over Authorized Capital Outlay. This would be similar to the way the Legislature currently grants nonlapsing status for specific purposes in appropriated agencies.

Committee Action: The committee voted to prepare a bill to amend the Budgetary Procedures Act as recommended in the report.

Staff Contacts: Steve Allred, Jon Ball, Kevin Walthers

**APPROPRIATIONS SUBCOMMITTEES
UPCOMING INTERIM MEETINGS**

Capital Facilities and Administrative Services

Date: August 7-8, 2003
Place: Southern Utah (Overnight in St. George)
Time: 12:00 P.M. at SUU

Date: September 2-3, 2003
Place: Eastern Utah (Overnight in Vernal)
Time: 12:00 P.M. UVSC Wasatch Campus

Public Education

Date: August 11, 2003
Place: State Capitol Room 129
Time: 9:00 A.M.

Commerce and Revenue

Date: August 19, 2003
Place: Department of Alcoholic Beverage Control
Time: 9:00 A.M.

Natural Resources

Date: August 20, 2003
Place: Department of Natural Resources
Time: TBA

Economic Development and Human Resource Management

Date: August 20, 2003
Place: Tour (TBA)
Time: TBA

Higher Education

Date: August 22, 2003
Place: Utah Valley State College
Time: 9:00 A.M.

Executive Offices and Criminal Justice

Date: August 28, 2003
Place: Tour Central Utah Correctional Facility (Meet at State Capitol)
Time: 10:00 A.M.