

INTERIM HIGHLIGHTS

Office of Legislative Research and General Counsel
Michael E. Christensen, Director
M. Gay Taylor, General Counsel

2001 FIRST SPECIAL SESSION

June 20, 2001

Legislation Passed

HB1001	Notice by School to Custodial and Noncustodial Parent
HB1002	Criminal Law Amendments
HB1003	Applied Technology Education Governance
HB1004	Department of Commerce – Fee Approval
HB1005	Individual Income Tax and Corporate Franchise and Income Tax – Renewable Energy Systems Tax Credits
HB1006	Individual Income Tax – Addition of Interest to Federal Taxable Income
HB1007	Private Records Under Government Records Access and Management Act
HB1008	Individual Income Tax – 2001 Federal Rate Bracket Benefit
HB1009	Passenger Limitations for Young Drivers – Prospective Application
HCR101	Resolution Approving Waste Disposal
SB1001	Notification by School or Family Services to Noncustodial Parent of Child's Discipline or Removal
SB1003	Taxes on Rentals of Public Sleeping Accommodations
SB1004	Registration and Taxation of Vehicles for Sports Events
SB1005	Utah Revised Nonprofit Corporation Act Amendments
SB1006	Uniform Probate Code – Power of Attorney Amendments
SJR101	Resolution Approving Settlement for Private Prison
SJR102	Resolution Approving Tobacco Lawsuit Settlement

Legislation Not Passed

SB1002	Unauthorized Practice of Law Prohibited
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INTERIM COMMITTEE ACTIONS

Business and Labor

STUDIES:

- Discussed consumer credit reporting laws, including the process for disputing inaccurate credit information, and reviewed draft legislation "Utah Consumer Credit Reporting Act."
- Discussed the use of credit reports for insurance purposes.

REPORT: Received a statutorily required report from the Department of Financial Institutions on consumer credit education.

ACTION: Recommended Special Session draft legislation "Utah Revised Nonprofit Corporation Act Amendments."

*Chairs: Sen. Dan R. Eastman/Rep. Katherine M. Bryson
Staff: Mary Catherine Perry (analyst)/Patricia Owen (attorney)/Jennifer Markham (secretary)*

Education

STUDY: Discussed Special Session legislation H.B. 1003, "Applied Technology Education Governance."

*Chairs: Sen. Howard A. Stephenson/Rep. Marda Dillree
Staff: Connie Steffen (analyst)/Dee Larsen (attorney)/Wendy Bangarter (secretary)*

Government Operations

REPORT: Received a report regarding one-stop shopping for commercial vehicle registration in the state.

ACTIONS:

- Recommended Special Session legislation S.J.R. 101, "Resolution Approving Settlement for Private Prison."
- Recommended Special Session legislation H.B. 1004, "Department of Commerce – Fee Approval."

*Chairs: Sen. John W. Hickman/Rep. Craig W. Butters
Staff: John Cannon (analyst)/John Fellows (attorney)/Alicia Gambles (secretary)*

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Legislative Management Committee**

Health and Human Services

REPORT: Received a report from the Division of Aging and Adult Services within the Department of Human Services regarding its proposal to recodify the adult protective services statute. The division will report its recommendations to the committee later this year.

ACTIONS:

- Recommended Special Session legislation S.B. 1001, "Notification by School or Family Services to Noncustodial Parent of Child's Discipline or Removal," with amendments.
- Recommended Special Session legislation H.B. 1001, "Notice by School to Custodial and Noncustodial Parent," with amendments.
- Recommended 2002 General Session draft legislation "Appropriation for Sexual Violence Victim Assistance Programs" as amended.

Chairs: Sen. Terry R. Spencer/Rep. Carl R. Saunders

Staff: Mark Andrews (analyst)/Paul Hess, Catherine Dupont (attorneys)/Sandra Wissa (secretary)

Judiciary

STUDY: Discussed proposed amendments to the Code of Judicial Administration that would allow the Judicial Council to take a more active role when determining whether a judge should be certified to stand for retention election.

ACTIONS:

- Delayed further action for 90 days on H.B. 305, "Judgment Lien Amendments," (2001 General Session, Effective date of July 1, 2002) to determine whether court computers can be adequately searched by the public and by title companies for judgment lien information.
- Recommended Special Session draft legislation "Uniform Probate Code – Power of Attorney Amendments."
- Recommended Special Session legislation S.B.1002, "Unauthorized Practice of Law Prohibited."

Chairs: Sen. David L. Gladwell/Rep. Glenn L. Way

Staff: Jerry Howe (analyst)/Esther Chelsea-McCarty (attorney)/Glenda Whitney (secretary)

Law Enforcement and Criminal Justice

STUDIES:

- Discussed the efficacy of moving Youth Services from the Division of Child and Family Services to the Division of Youth Corrections. A workgroup has been established to create draft legislation for the committee's review at a future interim meeting.
- Discussed the due process provided for people accused and listed for substantiated child abuse. A workgroup has been established to create draft legislation for the committee's review at a future interim meeting.
- Discussed Special Session legislation H.B. 1002, "Criminal Law Amendments."

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

Staff: Chyleen Arbon (analyst)/Susan Creager Allred (attorney)/Alicia Gambles (secretary)

Natural Resources, Agriculture, and Environment

STUDY: Discussed Special Session legislation H.C.R. 101, "Resolution Approving Waste Disposal."

REPORTS:

- Received a report from the Division of Plant Industry on cricket and grasshopper infestation in the state.
- Received a report from the Division of Oil, Gas, and Mining on water replacement of state appropriated water affected by coal mining and reclamation operations.

Chairs: Sen. Parley G. Hellewell/Rep. Bradley T. Johnson

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

Political Subdivisions

STUDIES:

- Discussed concerns regarding exemptions from municipal and county land use regulation.
- Received a briefing on the history and purpose of the School and Institutional Trust Lands.

Chairs: Sen. Carlene M. Walker/Rep. David L. Hogue

Staff: Joseph Wade (analyst)/Keith Woodwell (attorney)/Joy Miller (secretary)

Public Utilities and Technology

STUDY: Discussed how net metering could be implemented in Utah, which would allow residential and small business customers to sell power to the regulated grid operator; and requested additional information regarding safety, fuel sources, cumulative generating capacity, and costs to be presented at its July 18 interim meeting

ACTION: Recommended Special Session legislation H.B. 1005, "Individual Income Tax And Corporate Franchise And Income Tax – Renewable Energy Systems Tax Credits," with amendments.

Chairs: Sen. Leonard M. Blackham/Rep. John E. Swallow

Staff: Richard North (analyst)/Robert Rees (attorney)/Junie Anderson (secretary)

Revenue and Taxation

STUDY: Reviewed Special Session legislation H.B. 1006, "Individual Income Tax – Addition of Interest to Federal Taxable Income."

ACTIONS:

- Recommended Special Session draft legislation "Individual Income Tax – 2001 Federal Rate Bracket Benefit."
- Recommended Special Session draft legislation "Registration and Taxation of Vehicles for Sports Events."
- Recommended Special Session legislation S.B. 1003, "Taxes on Rentals of Public Sleeping Accommodations."
- Recommended Special Session legislation H.B. 1005, "Individual Income Tax and Corporate Franchise and Income Tax – Renewable Energy Systems Tax Credits."

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

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

Transportation

REPORTS:

- Received an update on the construction of the light-rail University Extension, the operation of the North/South line, and other potential light-rail and commuter-rail projects.
- Received an update on major state highway construction projects that are being planned or are currently underway.
- Received an update on the implementation of the Digital Driver License Program, which is projected to be available statewide in November 2001.

Chairs: Sen. David H. Steele/Rep. Joseph G. Murray
Staff: Benjamin Christensen (analyst)/Cheryl Felt (attorney)/Junie Anderson (secretary)

Workforce Services and Community and Economic Development

REPORT: Received a report from the Utah Travel Council and the Tourism Industry Commission regarding the importance of expanding Utah's tourism promotion to capture a market share of destination travel. Presenters stressed the importance of cooperating with counties and travel regions in sending a unified message to out-of-state travelers and emphasized the need for a new funding policy to capitalize on the publicity from the Winter Olympics to expand travel promotion.

Chairs: Sen. Beverly Evans/Rep. Richard M. Siddoway
Staff: Wayne Lewis (analyst)/Jim Wilson (attorney)/Jennifer Markham (secretary)

SCHEDULE OF LEGISLATIVE AUDITS

Office of the Legislative Auditor General

The following eight audits are currently being conducted and are scheduled to be completed this year. The audit completion date is only tentative and is dependent upon the approval of the Legislative Audit Subcommittee.

Current Audits

Audits In Process	Estimated Completion Date
1. Performance Audit of Social Capital Formation	June 2001
2. Performance Audit of Year 2000 Expenditures	July 2001
3. Review of Costs Associated with the Lisa P. Lawsuit	July 2001
4. Review of the Transfer of the Veterans Nursing Home from the Department of Health to the National Guard	July 2001
5. Follow-up Audit of Utah's Juvenile Justice System	August 2001
6. Performance Audit of the Association of Governments Planning	August 2001
7. Performance Audit of the Office of Services Review	September 2001
8. Performance Audit of Utah's Unregistered Vehicles	October 2001

In its June 14, 2001 meeting, the Legislative Audit Subcommittee prioritized the following seven audits to be assigned as staff become available.

Future Audits

New Audits Approved
1. Foster Care Foundation
2. Division of Services for People with Disabilities
3. School District Funding of Association Representatives
4. University of Utah Medical School Admissions
5. Purchase of Textbooks in Public Education
6. Property Tax Exemptions
7. Decentralization of the State Office of Education

Questions regarding these audits can be directed to the Office of the Legislative Auditor General at 538-1033.

AMERICA'S LEGISLATORS BACK TO SCHOOL WEEK

When: Monday, September 17 through Friday, September 21, 2001

What: America's Legislators Back to School Week is a program sponsored by the National Conference of State Legislatures (NCSL) for state legislators to visit public school classrooms in their districts and teach students about public service. Last year 22 senators and 47 representatives participated in Utah. Legislators can bring civics to life by teaching students what it is like to serve as elected officials.

How:

1. Each legislator will receive a letter in July asking whether he or she would like to participate.
2. Participating legislators will receive materials, including pamphlets, talking points, teachers' guides, and evaluation forms.
3. Legislators will schedule classroom visits by contacting schools or school districts.
4. Legislators and teachers will complete and return evaluation forms.

For more information contact:

Benjamin N. Christensen
Office of Legislative Research and General Counsel
(801) 538-1032
benchristensen@utah.gov

or visit the NCSL website:

<http://www.ncsl.org/public/backsch.htm> (then click on "Public User")

LEGISLATIVE MANAGEMENT COMMITTEE

ACTIONS:

- Reassigned the sunset review for Section 53A-3-602 to the Education Interim Committee from the Law Enforcement and Criminal Justice Interim Committee.
- Assigned the Political Subdivisions Interim Committee to study the issue of cities having developments go into adjoining counties. This issue was brought about by a letter from the Salt Lake County District Attorney.
- Approved a request from the Law Enforcement and Criminal Justice Interim Committee to study items #117, Police and Fire Consolidation, and #121, Uniform Law Enforcement Data, from the Master Study Resolution, but denied permission to study "Incremental Sentencing."
- Approved a request from the Political Subdivisions Interim Committee to create a Special Districts Subcommittee to continue the work it has been doing over the past three years.
- Denied a request from the Natural Resources, Agriculture, and Environment Interim Committee to join with the Natural Resources Appropriations Subcommittee for travel and joint meetings.
- Assigned the Transportation Interim Committee to hear a report from West Valley City and Salt Lake City on their success in the decriminalization of traffic violations by using administrative law judges to deal with those traffic offenses.



Office of Legislative Research and General Counsel

436 State Capitol
Salt Lake City, UT 84114-0121

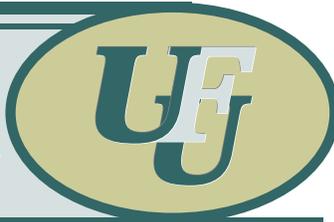
Phone: (801) 538-1032
Fax: (801) 538-1712
<http://www.le.state.ut.us>

For more information about legislative activities during the interim,
please contact our office.

Editors: Chyleen A. Arbon and Mary Catherine Perry



UTAH FISCAL UPDATE



Office of the Legislative Fiscal Analyst's Monthly Newsletter

Volume 1, Issue 2

June 2001

John E. Massey Director

R. Michael Kjar Deputy Director

Boyd A. Garriott Asst. Deputy Dir.
Mark C. Bleazard Asst. Deputy Dir.

Stanley R. Eckersley Sr. Fiscal Analyst
William J. Greer Sr. Fiscal Analyst
Spencer C. Pratt Sr. Fiscal Analyst

Fiscal Analysts

Steve Allred Jonathan Ball
Debbie Headden Thor O. Nilsen
Gary Ricks Kevin Walthers
Andrea Wilko

Andrea Wilko Chief Economist

Jonathan Ball Technology Analyst

Ben Leishman Leg. Analyst Assistant

Kirk Broadhead LAN Administrator

Administrative Staff

Leslie Clark Admin. Assistant.
Debbie Benson Legislative Secretary
Kathy Jackson Legislative Secretary

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Complete reports and staff e-mail addresses are available on the LFA website:

www.le.state.ut.us/lfa

Executive Appropriations

Utah Department of Corrections Issues

(Reported to Executive Appropriations June 19, 2001)

The Utah Department of Corrections (UDC) operates its own facilities and contracts with 20 counties to provide beds for inmates. County contracts provide a cost-effective option for the state and a base for economic development in rural counties. Jail Programs provide funds for county sheriffs that would not be available otherwise and allow the state to house inmates without incurring capital costs.

A key funding issue for jail programs involves the entangled relationship between facility needs, county contracts, and jail reimbursement. This leads to short term consideration for funding and construction – often leaving the Legislature with few options in the budget setting process. The Legislative Fiscal Analyst, working with UDC and the Utah Sheriffs Association, sought to provide Legislative options to manage corrections issues. The recommendations included a recommendation on capacity, contracting, inmate funding and jail reimbursement.

The Analyst found that between county jails and UDC facilities, there is enough capacity to house inmates for at least two years with no new construction. UDC officials testified that they plan to extend that capacity by implementing programs that will reduce the need for new cell construction. As capacity needs are evaluated, the Analyst believes that contracting will continue to provide the state with low-cost options for inmate housing.

As the Department of Corrections calculates costs of housing inmates at various levels, the Analyst believes that inmate funding could be standardized into a "weighted inmate unit." Such a plan would apply core costs to the UDC budget in an effort to streamline the budget setting process. The "weighted inmate unit" may also help the Department solve salary equity issues by incorporating existing salaries and administrative overhead. The state salary package would add additional money specifically for personal services, resulting in enhanced ability to meet critical salary needs within the Department. The terms "jail contracting and "jail reimbursement" are often used interchangeably even though the

(Continued on page 2)

Report Excerpts Presented to Executive Appropriations June 19, 2001

Revenue Update

Revenues for FY 2001 are expected to be lower than anticipated by \$30 to \$46 million. This shortfall will carry into FY 2002. The shortfall at this time is entirely in the Uniform School Fund. Individual income taxes and corporate franchise tax are down significantly. On a positive note sales tax, severance tax and interest earnings are all higher than originally anticipated leading to a potential surplus in General Fund.

Federal Advance Refund

The IRS will not list the advance payments on the 2001 Tax Form. Hence, there will be no significant windfall to the state from the Federal Advance Refund. Passage of HB 1008 ensured that the state will not collect a windfall from those who did not file taxes in a timely fashion.

Economic Development

In the 1st Special Session held on June 19th, 2001 the legislature passed SB 1003 and SB 1004 to clarify legislative intent on home rentals and motor vehicle donations. The first bill SB 1003 made sure that those individuals who rent their homes over the period of the Olympics would not have to collect taxes on those rentals. The second bill SB 1004 provided a tax benefit for those motor vehicle dealerships who donate vehicle for use during special sporting events.

The complete reports can be found on our website.

Executive Appropriations Continued

(Continued from page 1)

two programs are distinctly different.

The jail reimbursement program provides funds to offset costs associated with housing inmates sentenced to probation by state judges and assigned to county jails as a condition of that probation. This type of inmate is not counted by the Department of Corrections as part of its daily count, but the local sheriffs incur costs for housing these offenders. One of the great misconceptions with the Jail Reimbursement program is that it is related to UDC operations. The program is a pass-through program that cannot impact UDC operations – all funds go directly to counties (Davis, Salt Lake, Utah and Weber Counties receive approximately 73 percent of all funds in this program). Jail Reimbursement is funded “to the extent funds are available” – a policy that results in unpredictable funding patterns. Appropriations in the early 1990s eliminated the program. Today the program is funded at approximately 70 percent of its actual cost to the counties. The Executive Appropriation Committee asked that the Criminal Justice and Executive Offices Committee study this program further in an effort to create a policy that is less subject to annual budget needs. A copy of the report can be found on our website at <http://www.le.state.ut.us/lfa/reports/docfacil.pdf>.

Performance Funding In the Utah System of Higher Education

Reported to Executive Appropriations June 19, 2001.)

On June 19th, the Legislative Fiscal Analyst's Office reported on Accountability and Performance Measures for the Utah System of Higher Education. During the past decade, there has been a growing interest in making higher education more accountable to the public for the resources it uses and the results it achieves. The Regents identified seven performance indicators in their report that are intended to measure trends and progress toward achieving certain system wide goals and objectives. The performance measures include:

1. Pass rates on professional certification and licensure examinations
2. The number of graduates in high demand employment fields
3. Graduation efficiency
4. Transfer efficiency
5. Faculty teaching loads
6. Student participation rates
7. Minority participation rates

The following recommendations were presented to the Executive Appropriations Committee for consideration:

- It is the recommendation of the Legislative Fiscal Analyst that the Legislature review the performance indicators proposed by

(Continued on page 3)

Pilot Performance-Based Budget for the Division of Wildlife Resources

(Reported to Executive Appropriations June 19, 2001)

By motion of the Legislative Process Committee, the budget of the Division of Wildlife Resources was presented in the 2001 General Session in a Performance-Based Budget (PBB) format. This budget was selected as a pilot to gauge whether performance measures would provide committee members better information—thus improving budget hearings in the short amount of time available—and whether performance budgeting should be implemented statewide.

Performance-Based Budgeting links appropriations to achievement of outcomes through the use of performance measures in the budget process. It is a tool that adds valuable information to the budget debate and makes agencies more accountable to the Legislature and citizens. It is not meant to be a mechanistic system that replaces the art of politics with the science of numbers.

The pilot PBB for the Division of Wildlife Resources worked well because the division already had a strategic plan in place. The goals in the strategic plan served as a backbone for the performance measures in the budget. The Executive Branch participated in the process of developing performance measures. If PBB is to be successful, it must become an integral part of the Governor's budget process, not just the Legislature's. During budget hearings, the pilot budget focused the discussion of the appropriations subcommittee and improved program evaluation.

Certain improvements can be made as all participants gain more experience. Performance budgeting is still a work in progress. In the future it is hoped there will be stronger linkage of budget recommendations to outcome measures, more performance goals, and more time to focus on outcomes vs. outputs. Implementing a performance budgeting process takes time; most states take three to five years to bring all agencies “on board.”

It is the recommendation of the Office of the Legislative Fiscal Analyst that all state agencies, including the judiciary, develop a performance-based budgeting process to be initiated in the FY 2004 or FY 2005 budget cycle. As part of this process, key performance measures will be established through a cooperative effort by the agencies, the Governor's Office of Planning and Budget, and the Office of the Legislative Fiscal Analyst. If the program is successful, legislation could be drafted in the FY 2005 or FY 2006 budget cycle to make PBB statutory.

The Executive Appropriations Committee voted to request the appropriations subcommittees gather performance data from each state agency and that the Office of the Legislative Fiscal Analyst report on the progress early in the 2002 interim. A copy of the report can be found on our website.

Executive Appropriations Continued

(Continued from page 2)

the Board of Regents to determine their impact on the quality and effectiveness of undergraduate teaching and learning, faculty workload and performance, student retention and graduation efficiency.

- It is also recommended that the members of the Executive Appropriation Committee suggest additional performance measures that address issues of concern

It should be noted that during the interim, the Legislative Subcommittee on Higher Education will be engaged in developing a funding formula for the Utah System of Higher Education. An integral part of the meetings will include a discussion on how performance indicators and incentives in the proposed funding mechanism can be used to foster quality, productivity and efficiency on USHE campuses. The Legislative Fiscal Analyst also recommended that the members of the Executive Appropriation Committee forward any recommendations to this committee for consideration in their discussion on a new funding formula for higher education. The EAC adopted a motion requesting a September report after the Higher Education Appropriation Subcommittee reviewed the indicators during their August interim meeting. A copy of the complete report can be found on our website.

Tobacco Settlement

Tobacco Lawsuit Settlement

During the June Special Session, the Legislature passed SJR 102, "Resolution Approving Tobacco Lawsuit Settlement". With this resolution, the Legislature approved settling a lawsuit with the outside law firm which assisted the State with the tobacco litigation. The State has settled the suit, paying the firm \$9.95 million. This settlement will come from the escrow funds which have been withheld by the United States District Court. The balance in the escrow account, approximately \$6 million, will be distributed between the Permanent Trust Fund and the Restricted Account. Future payments from the tobacco companies will not be subject to the 25 percent holdback by the Court.

Executive Offices & Criminal Justice

Executive Offices and Criminal Justice Joint Appropriations Subcommittee

Investigative Responsibilities Study Reported

The Executive Offices and Criminal Justice Joint Appropriations Subcommittee met on May 29, 2001 and reviewed a study concerning the possible duplication of investigative services performed by the Department of Public Safety and the Attorney General's Office.

- During the 2001 General Session, the Attorney General's Office proposed to expand its investigative authority and activities. Some concern was raised that this would duplicate services provided by the Department of Public Safety. The Office of the Legislative Fiscal Analyst reviewed the statutory authority of these organizations, the management structure, the funding, and the activities performed by both offices.
- Both the Department of Public Safety and the Attorney General's Office have statutory investigative authority. Additionally, many other State agencies also have investigative authority. Some of these other agencies include the Department of Commerce, the Labor Commission, the Department of Financial Institutions, and the Insurance Department, among others. In many cases, the Attorney General's Office or the Department of Public Safety participate in these other investigative activities as well.
- The Attorney General's Office investigators are not lawyers,

but are POST certified. A recent transfer of investigative authority came during the 2000 General Session when the Legislature transferred the investigative responsibility for Medicaid Fraud from the Department of Public Safety to the Attorney General's Office.

- Although both agencies are authorized to conduct criminal investigations, and there may be some duplication of services provided, the Fiscal Analyst has not found any substantive evidence of duplication of investigative activities on specific cases by the Attorney General and the Department of Public Safety.
- Improved communication both within and between the two agencies has been identified as an ongoing need. The management of both offices are relatively new and committed to enhancing communications.

The Analyst made the following recommendations:

1. The Department of Public Safety and the Attorney General's Office should continue to improve communications between their offices at various levels of management and operations. A memorandum of understanding may be helpful.
2. The Office of the Legislative Fiscal Analyst should follow-up with both offices and schedule them to report the progress made to enhance communications within and between their offices to the Executive Offices and Criminal Justice Joint Appropriations Subcommittee at the next General Session.

Applied Technology Education

Applied Technology Governance

In the Special Legislative Session on June 20, 2001, the Legislature passed HB 1003, "Applied Technology Governance." With the passage of this bill, the Utah College of Applied Technology (UCAT) will be established September 1, 2001 and become the tenth higher education institution. UCAT will include ten regional technology colleges consisting of the five existing ATC's and the three ATCSR's. The ATC's and ATCSR's will be known as Applied Technology Colleges. The Wasatch Front ATC will undergo a name change to the Salt Lake-Tooele Applied Technology College. The Southwest ATCSR will be divided into two colleges, the Southwest and Dixie Applied Technology Colleges. The tenth technical college, the Central

<u>Subcommittee Interim Schedule</u>			
<u>Subcommittee</u>	<u>Interim Meetings</u>	<u>Site Visits</u>	<u>Site Visit Location</u>
Capital Facilities & Administrative Services		Aug 27-29	Tour SLC Area
Commerce & Revenue		Sep. 11	Daytime Wasatch Front
Economic Development & Human Resources		Aug. 29-31	Cedar City/Kanab
Executive Offices & Criminal Justice	Oct. 23	Sep. 4-5	Gunnison/Richfield
Health & Human Services	Aug. 2	July	Dev. Center American Fork
Higher Education		Aug. 22-24	USU, UU, UVSC
Natural Resources		Aug. 7-8 Sep. 12-13	Panquitch/Summit Co.
Public Education		Sep.	Wasatch Front/ Washington-San Juan Co.
Transportation & Environmental Quality		Aug. 21-23	East Carbon/Moab/ Blanding

Applied Technology College will be located in Richfield. All assets associated with each ATC and ATCSR will transfer to the respective colleges with the Southwest's being allocated appropriately between the Southwest and Dixie Technology Colleges. The Central Applied Technology College will receive their funding from the Snow College South-Secondary line item.

House Bill 1003, also transferred existing funds to the appropriate entities created by the bill. These transfers include new funding for FY 2002 of \$7,709,700 (includes \$3,100,000 of one-time) as provided by the Legislature in the 2001 General Session.

Office of the Legislative
Fiscal Analyst

425 State Capitol
Salt Lake City, Utah 84114

Phone: 801-538-1034
Fax: 801-538-1692
URL: <http://www.le.state.ut.us/lfa>

To: