



# INTENT LANGUAGE & NONLAPSING BALANCES FOLLOW-UP

SOCIAL SERVICES APPROPRIATIONS SUBCOMMITTEE  
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ISSUE BRIEF

## SUMMARY

The objective of this issue brief is to determine if the Department of Workforce Services complied with the ten intent language statements adopted by the Legislature during the 2013 General Session and eight intent language statements from the 2012 General Session that had impacts through June 30, 2013. This issue brief provides a follow up to each of the pieces of intent language passed. The Analyst has no concerns of non-compliance. This brief is for informational purposes only and requires no legislative action.

## DISCUSSION AND ANALYSIS

### ***Intent Language Overview***

The Analyst has no concerns of non-compliance with any intent language issued last year, neither does the Department of Finance. The following is a list of ten legislative intent statements from the 2013 General Session with the Department of Workforce Services' response or comments by the Analyst. Intent language may be adopted by the Legislature to explain or place conditions on the use of funds. Intent language is binding for one year and may not contradict or change statutory language. Follow up to intent language related to ARRA (federal stimulus) funding can be found in the Issue Brief entitled "ARRA Funds Approval." The Subcommittee may want to direct the agency to take further action on the information presented in the reports requested by the Legislature.

### ***Intent Language from the 2013 General Session***

There are ten intent language statements reviewed below. These ten statements can be grouped into the following three categories (two statements fall into two categories):

1. Providing nonlapsing authority (eight intent language statements)
2. Requiring a report (three intent language statements)
3. Providing specific direction (one intent language statement)

### **1. Nonlapsing Authority for Administration (H.B. 3, Item 79):**

*Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$200,000 of the appropriations provided for the Administration line item in Item 12 of Chapter 14 Laws of Utah 2012 not lapse at the close of Fiscal Year 2013. The use of any nonlapsing funds is limited to computer equipment/software and special projects/studies. (The agency nonlapsed \$0).*

**Agency Response: "No FY 2013 General Fund was non-lapsed in this line item."**

### **2. Nonlapsing Authority for Operations and Policy for General Fund (H.B. 3, Item 80):**

*Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$3,100,000 of the appropriations provided for the Operation and Policy line item in Item 13 of Chapter 14 and Item 92 of Chapter 416 Laws of Utah 2012 not lapse at the close of Fiscal Year 2013. The use of any nonlapsing funds is limited to computer equipment/software and one-time projects associated with addressing client services due to caseload growth or refugee services. (The agency nonlapsed \$0).*

**Agency Response: "No FY 2013 General Fund was non-lapsed in this line item with the exception of funds appropriated for implementation of the Affordable Care Act as listed and commented on in item 5 below."**

**3. Nonlapsing Authority for Operations and Policy for Special Administrative Expense Account (H.B. 3, Item 80):**

*Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$3,900,000 of the appropriations provided for the Operation and Policy line item for the Special Administrative Expense Account in Item 13 of Chapter 14 and Item 92 of Chapter 416 Laws of Utah 2012 not lapse at the close of Fiscal Year 2013. The use of any nonlapsing funds is limited to employment development projects and activities or one-time projects associated with client services. The Legislature further intends DWS provide a detailed status and progress report on the use of Special Administrative Expense Account funds for employment development projects and activities as well as one-time projects associated with client services to the Office of the Legislative Fiscal Analyst by September 1, 2013. (The agency nonlapsed \$3,900,000).*

**Agency Response: "DWS submitted a "detailed status and progress report" concerning the use of these funds to the Office of the Legislative Fiscal Analyst prior to September 1, 2013. This report showed the nonlapsing funds were only used for employment development projects. The details in the report show all of the programs that were funded during the 2013 Fiscal Year; these are the only possible programs that could have been carried into the new year. The department also created a dashboard for the 2014 Fiscal Year funded projects. The dashboard shows that all projects funded in the current fiscal year meet the criteria of being employment development projects."**

**4. Nonlapsing Authority for Operations and Policy for Reed Act Funding (H.B. 3, Item 80):**

*Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$3,300,000 of the appropriations provided for the Operation and Policy line item for Reed Act funding in Item 13 of Chapter 14 and Item 92 of Chapter 416 Laws of Utah 2012 not lapse at the close of Fiscal Year 2013. The use of any nonlapsing funds is limited to one-time projects associated with employment services. The Legislature further intends Reed Act funds appropriated for FY 2013 to the Department of Workforce Services be used for workforce development and labor exchange activities consistent with UCA 35A-4-501(3)(b). The Legislature further intends DWS provide a detailed status and progress report on the use of Reed Act funds for one-time projects associated with employment services to the Office of the Legislative Fiscal Analyst by September 1, 2013. (The agency nonlapsed \$0).*

**Agency Response: "No FY 2013 Reed Act funding was nonlapsed. Since no Reed Act funding nonlapsed from FY 2012 into FY 2013, there was no need to report on the use of the funds for one-time projects."**

**5. Nonlapsing Authority for Operations and Policy for Affordable Care Act (H.B. 3, Item 80):**

*Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$667,600 for Operations and Policy not lapse at the close of Fiscal Year 2013. The use of any non-lapsing*

*funds is limited to compliance with Affordable Care Act legislation. (The agency nonlapsed \$244,300).*

**Agency Response: "\$244,300 of the FY 2013 General Fund appropriation to develop and modify systems for the Affordable Care Act (ACA) non-lapsed. This money will be used to finish the system development and modifications of to ensure the department meets the requirements of ACA."**

#### **6. Nonlapsing Authority for General Assistance (H.B. 3, Item 81):**

*Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$600,000 of the appropriations provided for the General Assistance line item in Item 14 of Chapter 14 Laws of Utah 2012 not lapse at the close of Fiscal Year 2013. The use of any nonlapsing funds is limited to computer equipment/software and one-time projects associated with client services. (The agency nonlapsed \$172,200).*

**Agency Response: "\$172,200 of FY 2013 General Fund non-lapsed in this line item. DWS plans to use this for Computer Equipment/Software and one-time projects associated with client services."**

#### **7. Nonlapsing Authority for Unemployment Insurance (H.B. 3, Item 82):**

*Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$60,000 of the appropriations provided for the Unemployment Insurance line item in Item 15 of Chapter 14 Laws of Utah 2012 not lapse at the close of Fiscal Year 2013. The use of any nonlapsing funds is limited to computer equipment/software and one-time projects associated with addressing appeals or public assistance overpayment caseload growth. (The agency nonlapsed \$0).*

**Agency Response: "No FY 2013 General Fund was non-lapsed in this line item."**

#### **8. Nonlapsing Authority for Pamela Atkinson Homeless Trust Fund Special Projects (H.B. 3, Item 133):**

*Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$1,500,000 of Item 63 of Chapter 416, Laws of Utah 2012 of unused funds appropriated for the Pamela Atkinson Homeless Trust Fund Special Projects line item not lapse at the close of Fiscal Year 2013. The use of any nonlapsing funds is limited to building projects. (The agency nonlapsed \$1,000,000).*

**Agency Response: "\$1,000,000 FY 2013 non-lapsed. This will be for capital improvement projects at Lantern House and Volunteers of America."**

#### **9. Performance Measures for New State Funding (H.B. 3, Item 79 & S.B. 2, Item 83):**

*The Legislature intends that the Department of Workforce Services prepare proposed performance measures for all new state funding for building blocks and give this information to the Office of the Legislative Fiscal Analyst by June 30, 2013. The Department of Workforce Services shall provide its first report on its performance measures to the Office of the Legislative Fiscal Analyst by October 31, 2013. The Office of the Legislative Fiscal Analyst shall give this information to the legislative staff of the Health and Human Services Interim Committee.*

**Agency Response: "The performance for new state funding were reported July 2, 2013. Performance measures associated with the Compendium of Budget Information (COBI) were provided to the LFA on October 29, 2013, though some of these numbers were updated in subsequent weeks as the numbers became available."**

#### **10. Align Supplemental Nutrition Assistance Program Regulations and Medicaid Regulations (H.B. 3, Item 80 & S.B. 2, Item 84):**

*The Legislature intends that to the extent possible with existing appropriations, the Department of Workforce Services shall align Supplemental Nutrition Assistance Program regulations and Medicaid regulations.*

**Agency Response: "The Department applied for a waiver from USDA Food and Nutrition Service (FNS) to eliminate the requirement to interview customers who apply for SNAP benefits. This was done to align Supplemental Nutrition Assistance Program (SNAP) regulations with the Medicaid regulations which do not require Department personnel to interview customers who apply for Medicaid. To prove the concept, FNS approved the Department to participate in a pilot program to eliminate the interview requirement for 20% of SNAP cases. The pilot program concluded in November 2013. FNS is currently analyzing the accuracy of SNAP cases opened without an interview compared to the cases opened with an interview to assess whether they will allow the Department to eliminate the interview requirement for all SNAP customers."**

### ***Nonlapsing Balances***

Under the Budgetary Procedures Act (UCA 63J-1-602), no revenue collection, appropriation from a fund or account, or appropriation to a program may be treated as nonlapsing unless:

1. It is expressly referenced in UCA 63J-1-602
2. It is designated in a condition of appropriation in the appropriations bill, or
3. Nonlapsing authority is granted under UCA 63J-1-603.

UCA 63J-1-602 also states that "each legislative appropriations subcommittee shall review the accounts and funds that have been granted nonlapsing authority under this section of Section 63J-1-603."

### ***Intent Language from the 2012 General Session***

The following eight items of intent language were passed in the 2012 General Session. These items could not be fully reviewed until the close of FY 2013. These eight statements can be grouped into the following two categories:

1. Providing nonlapsing authority (4 intent language statements).
2. Providing specific direction (4 intent language statements)

#### **1. Nonlapsing Authority for Administration (S.B. 3, Item 87):**

*The Legislature intends that, Under Section 63J-1-603 of the Utah Code appropriations provided for the Department of Workforce Services Administration line item in Item 18 of Chapter 4 Laws of Utah 2011 not lapse at the close of Fiscal Year 2012. The amount of any nonlapsing funds is limited to \$201,000 from the General Fund. The use of any nonlapsing funds is for Administration line item expenses. (The agency nonlapsed \$201,000).*

**Agency Response: "DWS non-lapsed \$201,000 General Fund in the Administration line item. The department used this for one-time projects and studies."**

#### **2. Nonlapsing Authority for Operations and Policy (S.B. 3, Item 88):**

*The Legislature intends that, Under Section 63J-1-603 of the Utah Code appropriations provided for the Department of Workforce Services Operations and Policy line item in Item 19 of Chapter 4 Laws of Utah 2011 not lapse at the close of Fiscal Year 2012. The amount of any nonlapsing funds is limited to \$3,100,000 from the General Fund, \$3,900,000 from the Special Administrative Expense Account, and \$3,300,000 from Reed Act Funds. The use of any nonlapsing funds is for Operations and Policy line item expenses. (The agency nonlapsed \$6,555,600).*

**Agency Response: “DWS non-lapsed \$3,100,000 General Fund in the Operations and Policy line item. DWS used this for one-time projects and equipment to address caseload growth and increase community capacity for refugee services.**

**DWS non-lapsed \$3,455,600 Special Administrative Expense Account in the Operations and Policy line item. DWS used these funds for one-time employment development projects.**

**DWS non-lapsed \$0 Reed Act funds in the Operations and Policy line item.”**

**3. Nonlapsing Authority for General Assistance (S.B. 3, Item 89):**

*The Legislature intends that, Under Section 63J-1-603 of the Utah Code appropriations provided for the Department of Workforce Services General Assistance line item in Item 20 of Chapter 4 Laws of Utah 2011 not lapse at the close of Fiscal Year 2012. The use of any nonlapsing funds is limited to \$600,000 for General Assistance line item expenses. (The agency nonlapsed \$600,000).*

**Agency Response: “DWS non-lapsed \$600,000 General Fund in the General Assistance line item. DWS used these funds to pay for enrollment growth that has since been diminished by closing General Assistance enrollment temporarily into the new fiscal year.”**

**4. Nonlapsing Authority for Unemployment Insurance (S.B. 3, Item 90):**

*The Legislature intends that, Under Section 63J-1-603 of the Utah Code appropriations provided for the Department of Workforce Services Unemployment Insurance line item in Item 21 of Chapter 4 Laws of Utah 2011 not lapse at the close of Fiscal Year 2012. The amount of any nonlapsing funds is limited to \$55,000 from the General Fund. The use of any nonlapsing funds is for Unemployment Insurance line item expenses. (The agency nonlapsed \$55,000).*

**Agency Response: “DWS non-lapsed \$55,000 General Fund in the Unemployment Insurance line item. DWS used this for computer equipment and software.”**

**5. Pursue CHIPRA Performance Bonuses in FY 2012 & FY 2013 (S.B. 3, Item 88 & H.B. 2, Item 92):**

*The Legislature intends that the Department of Health, in conjunction with the Department of Workforce Services and the Department of Human Services, use part of their appropriations to pursue obtaining CHIPRA Performance Bonuses if the Department of Health determines that it would be in the best financial interest of the state.*

**Agency Response: “DWS assisted DOH as needed in this. The CHIPRA Bonus was a grant a State could pursue by simplifying and increasing access to CHIP for children. There were 8 identified items, and a State had to successfully implement 5 of them in order to apply for the CHIPRA bonus. The 5 completed were:**

**Medical No Interview (not requiring an interview at application)**

**Same Application and Review**

**Simplified Assets**

## Simplified Renewal

### Presumptive Eligibility

These were completed by both DWS and DOH. DOH then applied to be considered for the grant, and the State of Utah was awarded a little over \$10 Million (sent to DOH).

[Here] is the awarded grants by State -

<http://www.insurekidsnow.gov/professionals/eligibility/pb-2012-chart.pdf>."

### 6. Direction for Spending Reed Act Funds in FY 2013 (H.B. 2, Item 92):

*It is the intent of the Legislature that the Reed Act funds appropriated for FY 2013 to the Department of Workforce Services be used for workforce development and labor exchange activities.*

**Agency Response:** "The Reed Act funds will be used for Wagner Peyser activities to help customers search for employment. This was done by helping them search for employment, directing customers to the department's online job search resources, helping them write and improve cover letters and resumes, and providing other general guidance in seeking employment."

### 7. Direction for Spending Reed Act Funds in FY 2012 (S.B. 3, Item 88):

*It is the intent of the Legislature that the Reed Act funds appropriated for FY 2012 to the Department of Workforce Services be used for workforce development and labor exchange activities.*

**Agency Response:** "The Reed Act funds will be used for Wagner Peyser activities to help customers search for employment. This was done by helping them search for employment, directing customers to the department's online job search resources, helping them write and improve cover letters and resumes, and providing other general guidance in seeking employment."

### 8. Direction for General Assistance Reduction (H.B. 2, Item 93):

*The Legislature intends that the ongoing reduction of \$97,900 beginning FY 2013 to the Department of Workforce Services General Assistance program be taken from the administration costs of the program.*

**Agency Response:** "This was done. There was no decrease and no decreases are planned to services provided customers as a result of the appropriation reduction. The department improved the eligibility determination process which increased the productivity of eligibility workers. Through attrition, eligibility services costs were saved so the amount of these costs allocated to General Assistance has decreased."