



# COMMERCE FISCAL NOTE AND BUILDING BLOCK FOLLOW-UP

BUSINESS, ECONOMIC DEVELOPMENT AND LABOR APPROPRIATIONS SUBCOMMITTEE  
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BUDGET BRIEF

**SUMMARY**

This report follows-up on select fiscal notes and budget actions from past legislative sessions. For each item, the report includes a stop light (red, yellow, green) for implementation status, budget accuracy, and, where available, performance. It details original cost and/or revenue estimates, legislative appropriations, and actual experience. It is intended to create a feed-back loop that improves future estimates and initiatives.

Item:		Ortho-Bionomy Exemption Amendments HB 324 (Rep. B. Wilson)							
Cost Estimate	Revenue Estimate	Original	Changes	Subtotal	Experienced	Difference			
\$ 7,600	\$ (4,500)	\$ 7,600	\$ -	\$ 7,600	\$ 7,600	\$ -			
<b>Explanation</b>									
H.B. 324 exempted individuals from licensure as massage therapists if they are certified to practice ortho-bionomy. The bill also required that the scope of practice be limited to ortho-bionomy. The Department of Commerce estimated a decrease in license and citation revenue. Experience supported the initial estimates. Time to review these new applications for exemption was estimated to cost \$7,600.									
<b>Implementation</b>									
The \$7,600 was used to fund a portion of an FTE to be trained and review these applications for exemption.									
<b>Accuracy</b>									
This \$7,600 was used for its intended purpose in personnel expenses for increased application review time.									
<b>Performance</b>									
These applications were able to be processed within the same timely manner as regular applications.									

Item: Physical Therapy Scope of Practice Amendments H.B. 367 (Rep. G. Hughes)									
Cost Estimate	Revenue Estimate	Original	Changes	Subtotal	Experienced	Difference			
\$ 8,000	\$ 3,800	\$ 8,000	\$ -	\$ 8,000	\$ 8,000	\$ -			
Explanation									
H.B. 367 enacted an licensing protocol for Physical therapists to do dry needling, but required additional certification licensure from DOPL.									
Implementation									
DOPL used the funds to increase labor capacity of the section processing these applications.									
Accuracy									
The required funds were utilized to implement a procedure and rule process with or (without the estimated actual volume).									
Performance									
These applications were able to be processed within the same timely manner as regular applications.									

Item: Pharmaceutical Dispensing Amendments S.B. 55 (Sen. E. Vickers)

Cost Estimate	Revenue Estimate	Original	Changes	Subtotal	Experienced	Difference
\$ 78,600	\$ 76,800	\$ 78,600	\$ -	\$ 78,600	\$ 78,600	\$ -

Explanation

S.B. 55 tasked DOPL with processing and investigating an additional 435 pharmacists and 145 pharmacy facilities. Funding was allocated for an additional FTE. The additional investigator is to ensure regulatory compliance in these additional facilities.

Implementation

DOPL hired an FTE in the pharmacy section to regulate this newly licensed group of facilities and pharmacists.

Accuracy

The requirement of an FTE to administer the extension of this program is proving to be accurate.

Performance

Applications are being processed and investigated in a timely manner both metrics are considered at acceptable levels within the division relative to other professions.

Item: Pharmacy Practice Act Amendments S.B. 77 (Sen. E. Vickers)										
Cost Estimate	Revenue Estimate	Original	Changes	Subtotal	Experienced	Difference				
\$ 53,300	\$ 50,000	\$ 53,300	\$ -	\$ 53,300	\$ 53,300	\$ -				
Explanation										
S.B. 77 authorized DOPL to issue a pharmacy technician trainee license and allowed a pharmacy to sell a prescription drug to a practitioner for use in the practitioner's office or facility under certain circumstances. Increased licensing for pharmacy technicians were projected and experienced. FTE time to review and process these new applications required the hiring of an additional staff member which was implemented.										
Implementation										
The \$53,300 was used to fund an FTE to be trained and review these applications for licensure and compliance.										
Accuracy										
This \$53,300 was used for its intended purpose in personnel expenses for increased application review time.										
Performance										
These applications were able to be processed within the same timely manner as regular applications.										

Item: Contractor Employee Amendments S.B. 87 (Sen. K. Mayne)

Cost Estimate	Revenue Estimate	Original	Changes	Subtotal	Experienced	Difference
\$ 35,200	\$ 37,500	\$ 35,200	\$ -	\$ 35,200	\$ 35,200	\$ -

Explanation

S.B. 87 amended provisions related to hiring and compensation requirement for construction contractors. The \$35,200 was appropriated to pay for approximately 138 DOPL investigations into potential unlicensed contractor activity or ensure they qualify for licensure exemption.

Implementation

The \$35,200 was used to fund a portion of an FTE to investigate the incremental workload of individuals impacted.

Accuracy

These funds were used for its intended purpose in personnel expenses for increased investigations.

Performance

The increase in capacity to match the investigative workload ensures that these investigations will take place in a manner consistent with other investigations.

Item:		Controlled Substance Database						
Cost Estimate	Revenue Estimate	Original		Changes		Subtotal	Experienced	Difference
\$ 60,000	\$ -	\$ 60,000		\$ -		\$ 60,000	\$ -	\$ 60,000

Explanation

Utah's Controlled Substance Database Program (CSD) is a resource that assists prescribing practitioners and pharmacists in providing efficient care for their patients' and customers' usage of controlled substances. In the 2014 General Session the legislature provided \$60,000 to provide a physician notification system enhancement . This database enhancement is to notify the prescribing physicians in such circumstances when a patient is visiting and utilizing prescriptions from multiple providers.

Implementation

DTS quoted and built the database enhancements and is still tweaking the final end product to the specifications of DOPL and the bill sponsor.

Accuracy

DTS is performing the tasks within the allotted budget.

Performance

The system has yet to be tested, but has been developed.

Item: Land Use Training from 3rd party providers

Cost Estimate	Revenue Estimate	Original	Changes	Subtotal	Experienced	Difference
\$ 200,000	\$ -	\$ 200,000	\$ -	\$ 200,000	\$ 200,000	\$ -

**Explanation**

The Legislature allocated \$200,000 one-time for a land use planning program. There was no revenue expected from this program. Commerce was charged with distributing \$200,000 in land use education funds for year one and an additional \$30,000 ongoing. Commerce was tasked with distributing the funds to the pass-through entity.

**Implementation**

The League of Cities and Towns received grant funds from the Department of Commerce for land use education and implementation of a land use education program.

**Accuracy**

The allocated funds were applied for and distributed presumably as intended by the legislature.

**Performance**

The Land Use Education program is still in its infancy, performance cannot accurately be assessed yet.

## Appendix A - Guidelines for Scoring Follow-ups

### Fiscal Note Building Block Follow-Up Report

The Analyst follows up on bills and building blocks from two sessions ago.

- **Item Explanation**  
What the appropriation is supposed to do. For bills the explanation is the fiscal note
- **Implementation**  
Is the item being implemented in a timely manner?
- **Accuracy**  
Was the fiscal note accurate? Both the Analyst and the agency are rated.
- **Performance Measures**  
Shown and evaluated when appropriate.
- **Follow the Money**  
The report traces funding from the original request to the remaining balance.

### Red - Yellow - Green Guidelines

We point out problems, potential trouble, and things going as expected with traffic light colors.

### *One Size Does Not Fit All*

Early on, we found that what was reasonable for revenue estimates is unreasonable for ordinary bills and building blocks. Our guidelines are less stringent when an agency is asked to do something new and different than their usual fare.

### *\$10,000 Rule*

The temptation to manage a fiscal note is so great that we give an automatic Yellow to any bill with a fiscal note near \$10,000.

### *The Director's Exception*

The Director may draw your attention to any bill or building block with a yellow if the item needs your attention.

### Current Rules

#### *Accuracy of Familiar Programs / Processes*

-  Green - Within 5% of estimate or variances less than \$10,000.
-  Yellow - Greater than 5% but less than or equal to 10% of estimate and more than \$10,000.
-  Red - Greater than 10% of estimate and more than \$10,000.

#### *Accuracy of Unfamiliar Programs / Processes*

-  Green - Within 10% of estimate or variances less than \$10,000.
-  Yellow - Greater than 10% but less than or equal to 20% of estimate and more than \$10,000.
-  Red - Greater than 20% of estimate and more than \$10,000.

#### *Accuracy of Revenue Bills*

-  Green - Within the estimates margin of error.
-  Yellow - Greater than margin of error but less than two times margin of error.
-  Red - Greater than two times margin of error.

#### *Implementation*

-  Green - Implemented within the first month of the bill's effective date. The definition of implemented will vary according to the difficulty of the bill's task. Tasks that are too large to be implemented in the first month can be considered implemented if the agency has a reasonable plan and they are on schedule.
-  Yellow - Implemented after the first month but before the fourth month of the bill's effective date.
-  Red - Implemented after three months of the bill's effective date.

#### *Performance Measures*

The Analyst will decide if performance measures are appropriate and will use the "Implementation" guidelines. The Analyst will evaluate the agency's performance measures and recommend alternate measures when necessary.