

ARIZONA HOUSE OF REPRESENTATIVES  
Forty-fifth Legislature – First Regular Session

**COMMITTEE ON APPROPRIATIONS**

Minutes of Special Meeting  
Wednesday, October 17, 2001  
House Hearing Room 3 -- 10:00 a.m.

(Tape 1, Side A)

Chairman Knaperek called the meeting to order at 10:05 a.m. and roll call was taken by the secretary.

**Members Present**

Ms. Burton Cahill  
Mr. Cannell  
Ms. Gray  
Mr. Huppenthal  
Mrs. Johnson

Ms. Lopez  
Mr. Loredo  
Mr. Pearce  
Mrs. Pickens  
Mr. Poelstra

Mr. Robson  
Mrs. Somers  
Ms. Weason  
Mrs. Knaperek, Chairman

**Members Absent**

Mr. Farnsworth

Mr. Blendu, Vice-Chairman

**Speakers Present**

Christine Garcia, Director, Human Resources, Arizona Department of Administration (DOA)  
Don Jansen, Majority Counsel  
Richard Stavneak, Director, Joint Legislative Budget Committee (JLBC)  
Jim Drake, Majority Rules Attorney  
Steve Schimpp, Senior Fiscal Analyst, Joint Legislative Budget Committee (JLBC)  
David Goss, Minority Rules Attorney  
Brian Schmitz, Fiscal Analyst, Joint Legislative Budget Committee (JLBC)  
Chris Earnest, Senior Fiscal Analyst, Joint Legislative Budget Committee (JLBC)  
Leonard Martinez, Senior Fiscal Analyst, Joint Legislative Budget Committee (JLBC)  
Brad Regens, Senior Fiscal Analyst, Joint Legislative Budget Committee (JLBC)  
Representative Henry Camarot  
Randy Gray, representing Arizona Association of Providers for People With Disabilities (AAPPD); Chief Executive Officer, Marc Center  
Joe Galli, Executive Director, The Fiscal Accountability Reform Effort (FARE) Committee

## **Opening Remarks**

Chairman Knaperek remarked that the Members previously heard Joint Legislative Budget Committee (JLBC) staff suggestions/options for tackling the budget problems as well as the Governor's four-percent agency reductions and other options/ideas from various sources will be presented at this meeting. She noted that the Subcommittees reviewed programs beginning with 1999 budget numbers as a base to analyze duplication of services, waste in government, etc., and created three lists of recommendations:

- Short-term list of what can be done now to tackle the problem.
- Long-term list of issues that may have to be dealt with in the next session or the future.
- Strategic planning goals for preservation of future budgets and services in Arizona or budget reform.

Chairman Knaperek related that she and Senator Solomon agree that budget reform is needed. She asked that the Members determine which of the three categories apply as presentations are made. She indicated that she expects Subcommittee Chairmen to report to the Committee at the next meeting and asked Ms. Weason, as the ranking Democrat, to relate ideas as well. She acknowledged that this is not an easy task, but she still does not believe it is appropriate to take anything off of the table. She encouraged the Members to be open-minded, fair, and prioritize.

Mr. Huppenthal commented that as he listened to cuts considered in the Health Subcommittee, he believes it would be ludicrous if the State continues to build schools for wealthy school districts with general fund money and does not provide vaccines for children, which are fundamental to the common general health of the State. He indicated that Students FIRST legislation should be reviewed. Chairman Knaperek agreed, noting that it cannot be done during the next special session, but the issue needs to be on the list.

Ms. Weason stated that she is pleased to hear about strategic planning and budget reform, which could benefit Arizona in the long run. She noted that the Members learned in the Subcommittee meetings that many agencies have substantial discretionary spending through vacancy savings, etc., which is used to implement programs the Legislature is not aware of; therefore, stricter control of such funds would be an asset in understanding how taxpayer dollars are spent. She opined that if the Members truly support a biennial budget process, FY 2002 and FY 2003 should be reviewed; however, she recognizes the difficulties inherent in addressing FY 2003. She said she hopes that through this exercise the Legislature will revert to a hybrid annual budget process since only one year at a time is being dealt with in the budget crisis.

Chairman Knaperek stated that only looking at the FY 2002 budget is a mistake and suggested that whatever is done in FY 2002 should be done in FY 2003 at a minimum, or the FY 2003 budget should be repealed.

Mrs. Johnson referred to Mr. Huppenthal's comment and explained that the program the Subcommittee considered pulling back on was instituted last year for new vaccines for infants and newborns and has nothing to do with vaccines given in the past; therefore, it would not be unconstitutional because people can go to a doctor for vaccines.

Chairman Knaperek noted that in the Subcommittee meetings the Members will receive a handout about State agencies and why they exist, including constitutionality.

### **Employment Issues**

Christine Garcia, Director, Human Resources, Arizona Department of Administration (DOA), stated that there is a statute in place for a reduction in force (RIF) that has been used over the years, but very minimally. The statute requires agencies to identify why a RIF is needed, and primary concerns would be lack of funds/work and abolishment of a position or many positions. Two options can be offered to employees.

She explained that employees can be offered a voluntary separation plan, if the agency can afford it, in which the employee is given an opportunity to take a week's pay for every year of service to the State and some benefit opportunities for a period of six months. Agencies can also identify employees that may be impacted by a RIF if, for example, it is necessary to cut back on some programs as a result of budget cuts. Employees are looked at with regard to length of service. Performance consideration is usually limited to the three most recent evaluations in the last two years, and seniority is limited to time in current class series in the last five years. A point system is set up to maintain a fair and equitable practice to reduce those employees from the programs and agencies try diligently to find placement for those employees in other areas, which may mean a decrease in pay or grade level. She advised Chairman Knaperek that if an employee accepts a position, training is provided.

Ms. Garcia explained that redeployment was utilized in the past when privatization was considered, and the process is similar in that employees who may be affected are identified and offered an opportunity to move into another position, whereas RIF basically deals with retention points and performance points.

Chairman Knaperek stated that she thought it would be helpful to understand how the process works because there will be a reduction in force with the cuts in agencies.

Ms. Weason said she understands that DOA sent out a Request for Proposals (RFP) for the Human Resources Information System. As of November 1, 2001, the duties and responsibilities will be given to the entity that wins the contract and employees may be maintained by the contractor. Ms. Garcia responded that the contract allows for release of employees identified as technical experts to help out during implementation and design of the whole systems process, so it is not considered redeployment. Those individuals would be placed under the contracting vendors and would not be able to perform their day-to-day operations; therefore, their positions would be back filled with qualified people because implementation is expected to take two years. The individuals working under the contracting vendors would still be considered State employees.

Ms. Weason said she is concerned that State employees currently performing those duties and responsibilities may lose their jobs because the function is now being sent to a vendor. Ms. Garcia responded that the transition plan is to retrain employees who are currently performing most duties manually for career-based positions rather than data entry clerks and clerical-type positions.

## **Proposition 105 Presentation**

Don Jansen, Majority Counsel, conveyed that the Members were provided with a booklet published by Legislative Council with the full text of sections of law protected by Proposition 105, i.e. initiatives and referendums on the ballot in 1998 and 2000 (Attachment 1). He noted that House and Senate attorneys, probably Majority and Minority, agree that Proposition 301 falls under the protection of Proposition 105, but Legislative Council does not, which is why it is not included in the booklet. Legislative Council's rationale is that it was not a referendum, but merely a law passed upon the condition of voter approval.

Mr. Jansen recommended treating Proposition 301 as though it is protected by Proposition 105. He reviewed a handout regarding Revenue and Expenditure Laws Protected By Proposition 105 (1998) The "Voter Protection Act" (Attachment 2).

Chairman Knaperek asked for an explanation of Tobacco Tax, Proposition 200. Ms. Gray speculated that Proposition 204 cancelled Proposition 200. Mr. Jansen explained that Proposition 204 cancelled all but Section 42-3251 of Proposition 200. A restatement of the tobacco tax was put on the ballot for the sole purpose of obtaining voter protection for the tobacco tax already in law. He noted that Section 30 at the end of Proposition 200 states that if any other initiative passed (and Proposition 204 passed that year), the other initiative would control except Section 42-3251 (See Proposition 200, Attachment 1).

Mr. Jansen noted that the Members were also provided with the following handouts:

- Ballot proposition for Proposition 301 (Attachment 3).
- Proposition 301 as printed in the publicity pamphlet (Attachment 4).
- Language in the education Omnibus Reconciliation Bill (ORB) amending the law to provide the 2 percent inflation factor in the definition of base level as required by Proposition 301 in Section 15-901 (Attachment 5).
- Portion of the JLBC Fiscal Year 2002-2003 Appropriations Report about the 2 percent deflator indicating that it was added into the FY 2002-2003 budget by the education ORB (Attachment 6).

Mr. Huppenthal conveyed the fact that when Proposition 301 was debated in the Legislature, he pointed out that studies of states with education taxes indicated that an impact on education could not be seen by the taxed states. After that, the 2 percent deflator clause appeared, but he understands that because the word "or" and not "and" was used, the meaning is completely different than what appears on the surface, so people who wrote the clause may not have achieved the intent. The language provides the potential to increase the revenue control limit (RCL) 2 percent or the other elements 2 percent.

Richard Stavneak, Director, Joint Legislative Budget Committee (JLBC), submitted that he is under the impression the Governor's Office believes it should be read via the intent as opposed to the specific word "or," and therefore, action cannot be taken that would reduce the 2002 base level.

Chairman Knaperek commented that during the process of the special session when the Legislature was working on the referendum, she was told that "or" was used on purpose.

Mr. Jansen interjected that the Members also received a handout containing the session law provisions of S.B. 1007 that was sent to the ballot and ultimately became Proposition 301 (Attachment 7). He acknowledged that in Section 15-901.01, the word "or" is used and not "and," which is used in Subsection A, paragraph 2 of the handout. He reiterated the fact that Proposition 105 protects the text of the laws, not budget projections, revenue estimates, etc. He added that he is available for assistance or to meet with other attorneys to obtain collective advice on specific questions, legislative intent, etc., but he believes the question of whether or not Proposition 301 falls under the protection of Proposition 105 will ultimately be more of a political question than a legal question.

Chairman Knaperek noted that "or" is used in statute and "and" is used in session law and questioned if one takes precedence. Mr. Jansen replied that one would not take precedence over another within the same bill. The bill was about 85 pages and "or" was used in the front, which is now the law protected by Proposition 105 in Section 15-901.01, but when reference was made in the back of the bill that sent it to the ballot, the word "and" was used. He added that he cannot say that has legal significance, but it is puzzling why different language was used in referring to the same concept.

Mr. Jansen opined that there are two separate laws. One section of law went to the ballot and is now a permanent law in Section 15-901.01. The other is a section of law, which by its very nature, self-executed within about six months when it sent the other law to the ballot, but contained temporary and specialized language about yes and no arguments for the ballot, which is completely useless after the election. It could have been included in statute, but Legislative Council would have had to go back in a cleanup bill and repeal it to avoid cluttering the statute with obsolete laws.

Ms. Weason asked if the Rules Attorneys noticed the discrepancy during a review of the bill for proper form.

Jim Drake, Majority Rules Attorney, related that the inconsistent language was not noticed during the review for proper form, but soon afterward. He said he is currently engaged in weekly, if not daily, discussions about rationalizing the two provisions, but no concrete agreement has been reached.

Ms. Weason reported that Michael Mandell was the Minority Rules Attorney at the time of passage, but he is no longer with the Legislature.

Mrs. Johnson asked if the issue could be addressed during the regular session in January. Mr. Drake responded that the language now has Proposition 105 protection; therefore, any changes would have to further the purpose of the underlying Proposition 301 measure and a three-fourths vote would be required.

Mr. Huppenthal asked if session law is protected by Proposition 105. Mr. Drake replied that the session law is not protected by Proposition 105; however, in attempting to glean what the protected language was on the ballot, it is necessary to review all sources. The 85-page bill that passed evidences the entire intent of the package. The "or" language is protected, but the "and"

language cannot be disregarded because even though it is a different type of law, it was still passed by 90 Members of the Legislature.

Mr. Stavneak advised that the magnitude of the debate is that "or" relates to about \$600 million while "and," with both pieces, may be over \$2 billion.

Mrs. Pickens opined that the debate involves balancing the budget on the backs of children in the school system using a legal technicality of "and" or "or." Chairman Knaperek countered that the only purpose is to look at every option, not to balance the budget on the backs of schoolchildren. She clarified that with the word "and," the K-12 base level could not be adjusted at all, which is what the Governor's Office believes. With "or," a chunk of money is available.

Mr. Jansen opined that the situation would be ripe for litigation by parties who might be affected by the amounts of money under consideration, which may slow down the process of balancing the budget. Additionally, the Governor would be able to express displeasure by vetoing bills, and if agreement is reached that some of the language has Proposition 105 protection, a three-fourths vote is needed to do anything, so all those issues also need to be considered.

Mr. Stavneak clarified that with the word "and," if everything were inflated, it would cost about \$62 million. If only components were inflated, i.e., the "or" question, it could cost as little as \$2 million. He added that it is questionable whether or not all of basic state aid is voter protected while the "and/or" question applies to inflation. There is also an issue of whether everything in the basic state aid formula was voter protected before passage of Proposition 301.

Mr. Jansen opined that the attorneys lean toward the opinion that Proposition 301 only protects what was actually on the ballot.

(Tape 1, Side A)

Chairman Knaperek asked Mr. Stavneak to obtain an opinion from Legislative Council relating to the "and"/"or" language and basic state aid voter protection.

Steve Schimpp, Senior Fiscal Analyst, Joint Legislative Budget Committee (JLBC), commented that he believes Legislative Council's opinion is that "or" is appropriate, but irrelevant since the Legislature could change the statute because Proposition 301 is not protected by Proposition 105. Mr. Stavneak agreed to provide the opinion from Legislative Council on the "and/or" language.

Chairman Knaperek asked if the universities are protected by Proposition 105. Mr. Jansen replied that he did not focus on that issue so he is not prepared to offer an opinion, but agreed to provide a written explanation.

Ms. Gray voiced the fact that \$7.8 million was available for school resource officers; however, there is a shortage of officers and some positions were funded when officers were not available. This occurred prior to people being called up for the reserve, so there may now be even more of a shortage. She asked if the funds are protected if officers cannot be found. Mr. Jansen responded that he believes the funds are derived from the \$.06 sales tax, which he is not prepared to discuss. He indicated that he could prepare an analysis.

David Goss, Minority Rules Attorney, advised the Committee that he was not employed at the Legislature when Proposition 301 was voted on, and Proposition 105 has never been the subject of a lawsuit, and therefore, has not been interpreted by the courts as far as the extent of protection. He admitted that he began reviewing the issue about 20 minutes ago when it was brought to his attention, but since it is a difficult question, he will need more time to make a determination.

Chairman Knaperek indicated that all Members of the Committee would like a staff opinion on the "and/or" language and the basic state aid voter-protected issue.

### **Revenue Update**

Richard Stavneak, Director, Joint Legislative Budget Committee (JLBC), related that JLBC is still in the process of attempting to update revenue numbers. The shortfall is about \$550 million, but a leading economic firm suggested that capital gains losses in FY 2002 could be very substantial. He indicated that predicting the stock market is always a difficult proposition, but JLBC is checking other states to see how the issue is treated. A conclusion should be reached in the next several days, but those losses could increase the amount of the shortfall.

He explained that JLBC is attempting to find out what the Congressional Budget Office (CBO) plans to do with the federal budget and what other states are doing in order to give the Members a measure of comfort in JLBC's estimate of capital gains losses in relation to other states. He added that the full impact may not even be known next year. A broad estimate of the amount collected in income taxes from capital gains is about \$400 million based on extrapolating what happens at the federal level. He explained that enough data is not available from the State income tax system for a precise figure so the amount is sort of a best shot at reality.

### **Budget Stabilization Fund Presentation**

Brian Schmitz, Fiscal Analyst, Joint Legislative Budget Committee (JLBC), reviewed the projected year-end balance of the budget stabilization fund (BSF) (rainy day fund) (Attachment 8).

Mrs. Johnson stated that the alternative fuels program was projected to cost about \$800 million. Chairman Knaperek responded that \$800 million was projected before legislation passed to reduce the number. Mrs. Johnson recalled that about \$90 million was set aside in the clean air fund to cover the program. Mr. Schmidt clarified that the BSF was authorized to pay up to \$200 million for the alternative fuels program.

Mr. Stavneak explained that clean air funds available for the alternative fuels program were factored out of the equation during the special session in November 2000 when a decision was made that the cost would be paid out of the BSF. He acknowledged to Chairman Knaperek that money in the clean air fund could be used if it is diverted from other purposes. He advised Ms. Gray that the estimate of \$110 million does not include litigation that might occur. He indicated to Chairman Knaperek that the Risk Management fund could pay for a \$5 million settlement, but could not absorb more on its own. He stated that multiple lawsuits are still pending at this point.

Chris Earnest, Senior Fiscal Analyst, Joint Legislative Budget Committee (JLBC), clarified that the clean air fund contains \$6.5 million each year for diesel conversions and additional amounts for other discretionary grants and funding. Mr. Stavneak added that in 2002 the balance may be down to about \$1 million.

Mr. Schmitz clarified that the \$326.2 million balance in the BSF includes \$110 million for the alternative fuels program and the tobacco settlement deposit of \$20 million. It does not include the Arizona State Hospital (ASH) payment in FY 2003, therefore, the amount available for spending in 2002 would be \$306.2 million. He pointed out that \$20 million of the balance will not be deposited to the fund until the very end of the fiscal year. He explained the mechanics of the formula that governs the BSF fund (Attachment 8).

Chairman Knaperek asked if the personal income growth of 3.5 percent is expected to change. Mr. Stavneak responded that it is an estimate. The official calculation is in the hands of the Economic Estimates Commission (EEC) and will not be determined until June 1, 2002.

Chairman Knaperek indicated that the statute could be changed if the Legislature decides not to make the final ASH payment. Mr. Stavneak clarified that it is for construction of ASH. Chairman Knaperek asked if money could be saved since interest rates are low. Mr. Stavneak replied that payment for construction of ASH is to be made in four \$20 million payments for a total of \$80 million. The project could cost \$75 million, for example, but he does not believe the full \$20 million could be saved. It could be paid back with tobacco settlement dollars, depending on how much is used for Proposition 204, but he does not anticipate that it would be paid back.

Leonard Martinez, Senior Fiscal Analyst, Joint Legislative Budget Committee (JLBC), conveyed that \$80 million was supposed to cover the majority of deficiencies and build a new adult and adolescent civil hospital. Other issues could be addressed on the campus, but the \$80 million is all that was appropriated so any additional issues would have to be brought forward for funding. He specified that contracts were signed and construction is underway; therefore, there would probably be legal implications if the last payment is not made. He added that perhaps the scope of the project could be scaled back, but he would have to find out.

### **Capital Projects**

Mr. Martinez distributed a handout relating to general fund capital outlay appropriations for FY 2002 and FY 2003 (Attachment 9).

Chairman Knaperek noted that the majority of projects are new so prioritization will be necessary. She indicated that the Members should decide if it is not necessary to continue any of the projects or only some, or if safety issues should be considered such as the Arizona Department of Health Services (DHS) Health Lab, and perhaps the remainder need to wait for another time.

Ms. Weason asked if students are in danger since the transportation building for the Arizona State Schools for the Deaf and Blind (ASDB) is structurally deficit. Mr. Martinez replied that the building houses bus drivers and dispatchers, and the roof on the top story is caving in. The funding is for purchase of a modular building for a new transportation office. He acknowledged that the current facility would be demolished, which involves some asbestos abatement.

Mr. Martinez explained to Ms. Burton Cahill that after an agency receives an appropriation for a capital project, some of the money is spent on design to provide an idea of the components of the project and cost estimates of each component. At that point, the project goes before the Joint Committee for Capital Review (JCCR) for approval before a contract is signed for construction. Once a contract is signed, the agency is obligated to the contract, and if the monies are not available, there could be potential litigation. He pointed out that if the comment area on the handout indicates that construction is in progress, a contract has been signed; however, the majority of projects are still in the design phase and waiting for JCCR review.

Mr. Martinez clarified that the Arizona State University (ASU) Digital Television Conversion project is completed; however, the purpose of the funds is to reimburse money that was appropriated to begin the project. He explained that in FY 2000, \$650,000 was provided for the DEMA Clifton Flood Control project and construction began. No funding was provided in 2001, but in 2002, an additional \$650,000 was provided. He said plans are in place, but he would have to verify whether a contract has been signed obligating the monies.

Mr. Martinez related to Mrs. Johnson that he believes construction of the Archives Building was a \$20 million certificate of participation (COP) issuance and the DHS Health Lab was \$30 million. The appropriations on the handout are debt service payments on the issuances and represent principal and interest. He added that the payments would be made for 25 years. Mrs. Johnson commented that the State ended up paying about three times as much with COPs.

Mr. Loreda noted that DHS operating funds will be used for startup of the DHS Health Lab and questioned if operating funds are part of the potential budget reduction for DHS, and if so, how the Lab would be impacted. Mr. Martinez responded that there were a few budget reduction items in the DHS operating budget and the agency came up with 4 percent reduction options as well. The intent was to repay those funds once the COPs were issued, but he will find out. Mr. Loreda opined that the State Health Lab should have whatever resources are needed. Chairman Knaperek remarked that the Lab does anthrax testing so it would be incumbent upon the Legislature to make sure the project moves forward.

Mrs. Somers asked if the recreation portion of the DEMA Clifton Flood Control project could be delayed without leaving anyone in danger from floods. Mr. Martinez replied that he will check on phasing of the project and what has already been done.

Mrs. Pickens made a recommendation to find out if Project Challenge can statutorily be designated as a military institute. She related that State trust land money set aside for a military institute, which does not exist in Arizona, is currently going to universities for ROTC programs, etc., and could be a continuing source of funding. Chairman Knaperek responded that she has a good idea that will be researched.

Ms. Gray remarked that since 1996, the universities have been under a federal mandate to use digital cameras and will be receiving \$49 million in technology funds annually from Proposition 301, so she does not understand why the same source cannot be used to fund digital television conversions. She noted that testimony was given in JCCR that the U of A could actually defer the project due to the spotted owl mating on the mountain since construction cannot go on during that period of the year.

Ms. Weason recalled that in 1997, the Legislature appropriated approximately \$7 million to \$8 million to assist private industry in achieving the federal mandate mentioned by Ms. Gray. She expressed hope that if the project is deleted, private industry will help the universities.

Chairman Knaperek asked if a list of the State's assets is available. Mr. Martinez responded that he is still researching those since there are thousands of facilities in the building inventory.

### **Alternative Revenue Generators**

Brad Regens, Senior Fiscal Analyst, Joint Legislative Budget Committee (JLBC), reviewed a handout relating to agency fund balances (Attachment 10).

Chairman Knaperek pointed out that if the Members decide to utilize the funds, it would only be a one-time measure that would not decrease overspending, even in combination with the RDF, but the funds may provide extra money, if necessary.

Mr. Regens noted that while the appropriated number was set in the budget bill that was passed, there are many non-appropriated funds on the list that agencies can spend at their discretion.

(Tape 2, Side A)

Chris Earnest, Senior Fiscal Analyst, Joint Legislative Budget Committee (JLBC), reviewed a handout relating to bonding (Attachment 11). At Chairman Knaperek's request, he agreed to find out the percentage of interest on the outstanding lease-purchase agreements totaling \$364.8 million.

Mr. Earnest related to Mrs. Johnson that every bond issued has a rating that determines the capacity to bond, and prior to issuing a bond for capital needs, JCCR review is required so an ongoing tab is kept of how much is issued. He added that he is not aware of a limit.

Mrs. Somers asked if refinancing is considered when interest rates drop. Chairman Knaperek replied that it is on the list to save money.

Mr. Earnest advised Mrs. Johnson that the general fund cannot be used as a potential revenue stream because of the constitutional limit, but statute does allow use of the permanent state school fund, which is capped at about \$70 million, to pay for school debt service on bonds that were issued. That amount provides a bonding capacity of about \$550 million. Currently, money from the permanent state school fund is used for the basic state aid formula, so if it were shifted to revenue bonding, it would have to be replaced with general fund monies or otherwise for the life of the bond. He added that when Students FIRST was passed, there was also some legislation that stipulated if there is not enough money in the permanent state school fund to meet the debt service on any revenue bonds issued, the State Treasurer could transfer from tax revenues deposited into the general fund. Prior to deposit, some of those monies could be used to help pay for the debt service, but there are legal questions about whether or not that would constitute general obligation bonding because the monies are general fund monies that have not quite reached the general fund.

Mr. Stavneak related that the Senate Appropriations Committee is hearing a presentation on revenue bonding by the State's Financial Adviser for the School Facilities Board, whose position is that only the permanent trust fund can be used for debt service, but there are a variety of legal opinions about whether or not the money can somehow be diverted out of the general fund to create a dedicated stream.

Chairman Knaperek indicated that there has been some discussion about retirement windows and she is aware that research was conducted by JLBC. Mr. Stavneak related that there are a few options in a retirement window:

- Provide some enhanced benefit if a person retires during a limited amount of time.
- Reduce the Rule of 80 so a person can retire with 80 points using a combination of years of service and age.
- Reduce the Rule of 80 to the Rule of 77, for example, for a three-month period of time with full benefits on a one-time basis.

Mr. Stavneak indicated that there are a few issues related to retirement windows:

- There will always be some cost because higher retirement benefits would be paid out; however, the budget would not be impacted until 2004, which is the next time retirement rates will be raised, so obviously, there would be some short-term savings because people would be induced to retire.
- It is questionable whether or not the amount of savings can be budgeted because it is difficult to predict who will retire, and savings can only be accrued by taking a corresponding step to fully or partially reduce an agency's budget. Also, in a four-person agency, if two of the people retire, it could create a problem.
- A determination would need to be made if an early retirement window should apply to the Public Safety Personnel Retirement System (PSPRS) and the Corrections Officer Retirement Program (CORP) since those systems have retention issues. There is even a concern in applying it to the Arizona State Retirement System (ASRS) because some of the best people may leave, which is difficult to quantify.
- Only a small amount of savings would be generated in 2002 because if the window existed from January through March, for example, savings would only be realized from one-quarter to one-half of the year so the full savings would not show up until 2003.

Mr. Pearce related that a provision was passed in the PSPRS called the Deferred Retirement Option Plan (DROP) so if early retirement were offered, in many cases, people would take advantage of early retirement and go into DROP where they could receive retirement and continue as a State employee. That would complicate the issue even more. Mr. Stavneak agreed, but pointed out that the option does not currently exist in ASRS.

Chairman Knaperek commented that she does not believe there is much interest in a retirement window, but she thought the Members would like to have the information. She added that Mr. Camarot asked for a few minutes, and she thought it would be appropriate for him to bring up another issue.

Representative Henry Camarot stated that he became interested in the transaction privilege tax (TPT) also referred to frequently as sales tax exemptions. He noted that in the last few days, The

Arizona Republic and Morrison Institute suggested that reviewing sales tax exemptions has a great deal of merit. He indicated that a Committee of 12 people was established, and he thought some preliminary information from the Committee might be of interest in looking for potential revenue. He reviewed a report from a meeting held on October 4, 2001 (Attachment 12). He added that three more meetings will be held. He opined that it is time to begin looking at these exemptions because they are critical, and broadening of the tax base is something that has to be weighed.

Chairman Knaperek expressed appreciation for the work done by Mr. Camarot, but remarked that one rule of thumb to live by in an economic downturn is not to increase taxes, which is what a repeal of TPT exemptions would be. She indicated that Arizona has a progressive income tax that would have to be reviewed as well, but Mr. Camarot's recommendations should be considered as a long-term goal for the tax structure in Arizona.

Mr. Camarot referred to a list of items taxed in other states that are not taxed in Arizona and noted that there are some interesting exemptions (Attachment 13).

### **Public Comment**

Randy Gray, Arizona Association of Providers for People With Disabilities (AAPPD); Chief Executive Officer, Marc Center, Mesa, expressed sincere appreciation for support in the past for provider organizations that serve people with developmental disabilities. He related that in 1975 when the move to deinstitutionalize began, he started as a group home supervisor at \$6.00 per hour, and today, 25 years later, he earns \$7.50 per hour. He was just notified by the insurance carrier to expect a 50 percent increase in property and liability insurance for the next year and cannot conceptualize how he will begin covering costs. He stated that Marc Center currently has 30 percent openings in positions and reminded the Members that 95 percent of people with developmental disabilities are served in the private sector by organizations such as Marc Center statewide. He added that during a recent presentation, United Way agencies were told to prepare for incredible reductions because of the dollars diverted to New York. He submitted that provider agencies are still the "best bang for the dollar" in the State and encouraged the Members' consideration for FY 2002-2003.

Joe Galli, Executive Director, The Fiscal Accountability Reform Effort (FARE) Committee, brought up two points:

- 1) The FARE Committee was very influential in bringing about the BSF in the mid-90s and was not particularly superactive in November 2000 when a special session was held and the RDF was used to solve the alternative fuel crisis, and additionally, the issue of ASH. He encouraged the Members to take into consideration the law as it is written and not go around it like the Legislature did in those instances.
- 2) Regarding references to balancing the budget on the backs of children, FARE members believe children today are the government's revenue source for the future; therefore, the only true way the State can balance the budget on the backs of the children today is to use debt or revenue bonds, which will pass the cost of today's spending onto the backs of the future taxpayers.

Mr. Huppenthal opined that if there is true structural reform and long-term savings, it would be worth it to do some revenue bonding as a quid pro quo to achieving structural reform.

Chairman Knaperek related that Proposition 204 should be reviewed because in three to five years the State will have a huge debt because it is protected by Proposition 105 and there will not be enough money to pay for it. Tobacco tax dollars should also be reviewed.

Mr. Pearce agreed that passing the responsibility off to the next Legislature or toward children is absolutely inappropriate. He expressed hope for support of separation of powers because the courts have no business taxing, setting policy, or making legislative decisions since a judge's mandate is only to rule on unconstitutional statute.

Without objection, the meeting adjourned at 12:45 p.m.

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Linda Taylor, Committee Secretary  
October 30, 2001

(Original minutes, attachments, and tapes are on file in the Office of the Chief Clerk.)