

# ARIZONA STATE SENATE

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## 46TH LEGISLATURE FIRST REGULAR SESSION

### MINUTES OF COMMITTEE ON APPROPRIATIONS

**DATE:** April 2, 2003

**TIME:** 1:30 p.m.

**ROOM:** SHR 109

**CHAIRMAN:** Senator Burns

**VICE CHAIRMAN:** Senator Waring

**ANALYST:** Deborah Johnston  
Carolyn Atwater

**COMMITTEE  
SECRETARY:** Tracey Moulton

**INTERNS:** Benjamin Wing  
Christopher Kresge

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#### ATTENDANCE

#### BILLS

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<u>Committee Members</u>	<u>Pr</u>	<u>Ab</u>	<u>Ex</u>	<u>Bill Number</u>	<u>Disposition</u>
Senator Anderson	X			HB 2060	DP
Senator Arzberger	X			HB 2088	DPA
Senator Bee	X			HB 2106	WITHDRAWN
Senator Cannell	X			HB 2283	WITHDRAWN
Senator Giffords	X			HB 2287	DPA
Senator Harper	X			HB 2299	DP
Senator Martin	X			HB 2391	DPA/SE
Senator Mead	X			HB 2400	DPA
Senator Rios	X			HB 2520	DP
Senator Soltero	X			HJR 2001	DPA
Senator Verschoor	X				
Senator Waring, Vice Chairman	X				
Senator Burns, Chairman	X				

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#### GOVERNOR'S APPOINTMENTS

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Chairman Burns called the meeting to order at 1:35 p.m. and attendance was noted.

## **CONSIDERATION OF BILLS**

### **HB 2283 – taxis; limousines and sedans; regulations – WITHDRAWN**

### **HJR 2001 – Purple heart trail– DO PASS AMENDED**

**Benjamin Wing, Appropriations Committee Intern**, explained HJR 2001 designates the Arizona portion of Interstate 40 (I-40) as the “Purple Heart Trail.” The Military Order of the Purple Heart Foundation will provide funding for the signage and the maintenance of the signage identifying the Purple Heart Trail in Arizona.

Mr. Wing explained the 10-line Waring amendment dated 3/31/03, 9:22 a.m. requires the Military Order of the Purple Heart Foundation to reimburse the Arizona Department of Transportation (ADOT) for expenses relating to signage, materials, installation and maintenance within 90 days of the installation. Furthermore, the amendment states that no State funds shall be used for maintenance of the signage.

Senator Soltero asked why I-40 was chosen to be used. Mr. Wing explained that this is a national movement to get roads from I-40 that will connect through the states and end up at Mt. Vernon, the birth place of General George Washington, who established the medal.

**Patrick Chorpenning, Director, Arizona Department of Veteran Services (ADVS)**, testified in support of the bill and remarked that this legislation is important to the recipients of the Purple Heart. He stated that a significant amount of time was spent with ADOT to make sure that there was no cost to the State. He noted that he supports the Waring amendment with the understanding that a substitute floor amendment will be offered with stronger clarification relating to who ADOT will work with as the project moves forward.

Senator Mead asked how many Purple Heart recipients live in Arizona. Mr. Chorpenning explained the Purple Heart is awarded to people who have been wounded in combat against a foreign enemy. On a national basis, approximately .6 of 1% of all veterans are recipients of the Purple Heart. In Arizona, there are 33,780 veterans who have been awarded the Purple Heart Medal.

In response to Senator Giffords, **Kevin Biesty, Legislative Liaison, ADOT**, explained that the figure of \$4,000 per sign was arrived at by reviewing how much it costs to make a sign, the materials used and the cost of installation. He stated that there are regulations regarding where the signs can be located.

Senator Burns announced the following individuals had registered in support of the bill: **Waren F. Gilbertson, Barney Halstead and Dominic DiGiovanni.**

**Senator Waring moved HJR 2001 be returned with a DO PASS recommendation.**

**Senator Waring moved the 10-line Waring amendment dated 3/31/03, 9:22 a.m. be ADOPTED (Attachment B). The motion CARRIED by voice vote.**

Senator Burns announced the individuals who registered their position on the bill (Attachment A).

**Senator Waring moved HJR 2001 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED with a roll call vote of 13-0-0 (Attachment 1).**

**HB 2391 – ADOSH; duties – DO PASS AMENDED/STRIKE EVERYTHING**

**Julie Keane, Health Committee Analyst**, explained that there is a Mead strike everything amendment to HB 2391, which is a Proposition 108 measure that imposes a 2% premium tax on health plans that contract with the Arizona Health Care Cost Containment System (AHCCCS) beginning October 1, 2003. The net gain to the State general fund is expected to be \$47.3 million.

**Senator Mead moved HB 2391 be returned with a DO PASS recommendation.**

**Senator Mead moved the 4-page Mead strike everything amendment dated 3/31/03, 11:35 a.m. be ADOPTED (Attachment C). The motion CARRIED by voice vote.**

Senator Burns announced the individuals who registered their position on the bill (Attachment A).

In response to Senator Anderson, **Lynn Dunton, Assistant Director, AHCCCS**, replied that the agency cannot explicitly link a capitation rate increase with this premium tax. She remarked that the agency would be discussing capitation rate increases with the Legislature during the normal appropriations process for next year's budget. She stated that the agency would want to have these discussions in that forum, and if the health plans are paying \$70 million in new taxes, then the agency will be looking at their cost of doing business and whether a rate increase is warranted.

In response to Senator Rios, Ms. Dunton stated that this bill stands alone and it establishes a uniform premium tax on commercial carriers that is already in law and adds Medicaid.

**Senator Waring moved HB 2391 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED with a roll call vote of 10-2-1 (Attachment 2).**

**HB 2400 – developmental disabilities(now: developmental disabilities; service providers) – DO PASS AMENDED**

**Stephan Matcha, Family Services Committee Intern**, explained H.B. 2400 clarifies that a person from birth to age six, rather than “an infant,” may qualify for services if there is a strong potential that the person is or will become developmentally disabled. This conforms to federal regulations and Arizona administrative rules governing developmental disabilities programs and services. The bill also conforms financial eligibility for State funded developmental disabilities programs and services with Title XIX financial eligibility, at 300% of supplemental security income (SSI) and \$2,000 in assets, for adult clients. Additionally, H.B. 2400 stipulates that an adult client will be billed for the cost of care if the client's income and resources exceed SSI limits. According to the Joint Legislative Budget Committee (JLBC) staff, the SSI limit is approximately 73% of the federal poverty level. This provision imposes the same financial contribution requirement as Title XIX requirements. Assets held in a qualifying trust are exempt from being counted as resources or income. He commented that the bill appears to have a positive fiscal impact and noted that a fiscal note has been requested.

Mr. Matcha explained the 4-page Anderson amendment dated 4/1/03, 12:54 p.m. makes the bill's language more logical and internally consistent.

**Representative Hershberger, bill sponsor**, testified that HB 2400 is a Department of Economic Security (DES) bill and makes monitoring requirement changes, but the main portion of the bill affects State-only clients who are receiving services. He further explained that there are two types of clients receiving DD services from DES. One type is Title XIX eligible clients, who are people enrolled in the Arizona Long-Term Care System (ALTCS) and the second type is State only clients who receive 100% of State-only dollars. These clients are ineligible for ALTCS because their income exceeds limits required for that program. He stated that this bill requires that these clients demonstrate financial eligibility by putting their assets into a Medicaid qualified trust. He hypothesized that a DD client residing at the Coolidge facility, who has a large trust of assets, and has been receiving State-only services, would be required under this bill to pay 100% of their services, unless they put their assets in a Medicaid qualifying trust, which would allow State-only dollars to be used. The State would receive the interest earned on the trust.

**Representative Thompson, bill sponsor**, testified that the possible fiscal impact of the bill for FY 2004 and every year thereafter would be \$3.4 million for as long as the facility is open and the population at the facility is greater than 120 clients.

Senator Burns announced the individuals who registered their position on the bill (Attachment A).

**Senator Anderson moved HB 2400 be returned with a DO PASS recommendation.**

**Senator Anderson moved his 4-page amendment dated 4/1/03, 12:54 p.m. be ADOPTED (Attachment D). The motion CARRIED by voice vote.**

**Senator Anderson moved HB 2400 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED with a roll call vote of 11-0-2 (Attachment 3).**

### **HB 2060 – performance based incentives; amount – DO PASS**

**Matt D'Anna, Government Committee Intern**, explained HB 2060 increases the maximum compensation amount in the performance-based incentive program from \$200 to \$250 per employee per month.

Senator Burns announced the individuals who registered their position on the bill (Attachment A).

**Senator Waring moved HB 2060 be returned with a DO PASS recommendation. The motion CARRIED with a roll call vote of 12-0-1 (Attachment 4).**

### **HB 2088 – well administration and enforcement – DO PASS AMENDED**

**Kerri Morey, Natural Resources and Transportation Committee Analyst**, explained that a notice of intention to drill (NOI) must be filed with Arizona Department of Water Resources (ADWR) before drilling, deepening or replacing wells outside active management areas (AMAs) and for exempt wells inside AMAs. All other wells (non-exempt wells) inside AMAs must obtain a well

permit from ADWR. Currently, fees for NOIs and well permits for new or replacement wells are set by the Director of ADWR in rule and are deposited into the State general fund. HB 2088 is a Proposition 108 measure that establishes a \$50 filing fee for NOIs and for well permits. The fees are deposited in the newly non-appropriated well administration and enforcement fund for use by DWR in administering and enforcing well regulations. She stated the Joint Legislative Budget Committee (JLBC) estimates that HB 2088 diverts \$55,000 annually from the State general fund.

The Senate Natural Resources and Transportation Committee increased these fees from \$50 to \$150 except NOIs for small domestic wells outside of AMAs, which have the following fee schedule: \$50 until July 2004; \$75 from July 1, 2004 through July 2005 and \$100 after July 1, 2005.

Ms. Morey explained the 9-line Burns amendment dated 4/1/03, 4:15 p.m. clarifies that the fees established in the bill supercede the permit application fee and the NOI fee that are in the current ADWR rules.

Senator Burns announced the individuals who registered their position on the bill (Attachment A).

**Senator Waring moved HB 2088 be returned with a DO PASS recommendation.**

**Senator Waring moved the 9-line Burns amendment dated 4/1/03, 4:15 p.m. be ADOPTED (Attachment E). The motion CARRIED by voice vote.**

**Herb Guenther, Director, ADWR**, testified that the bill's purpose is to reinstate the well oversight program, which was discontinued last November due to budget cuts to staff. He stated the program would be reinstated using fee for service. Currently half of Arizona's water supply is groundwater and is now totally unprotected. There is no oversight over any of the drilling programs. He noted that the agency is very sincere in its efforts to put this program back in place and continue to evaluate the potential for cross contamination, as well as maintaining proper construction standards and proper licensure for well drilling.

**Senator Waring moved HB 2088 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED with a roll call vote of 12-1-0 (Attachment 5).**

### **HB 2106 – interstate compact for juveniles – WITHDRAWN\***

\* Note: Although the bill was heard in Committee, no formal action could be taken on the bill, as it was withdrawn prior to the Committee hearing.

### **HB 2287 – appropriations; border transportation – DO PASS AMENDED**

**Sean Laux, Natural Resources and Transportation Analyst**, explained that per statutory mandate, the Joint Legislative Review Committee on Transportation between Sonora, Mexico and Arizona met on December 2, 2002 to review the status of the safety enforcement and transportation infrastructure fund (SETIF) and make formal recommendations to the Legislature regarding the future use of the fund. As a result of the Committee's recommendation, HB 2287 appropriates \$1 million to the Arizona Department of Transportation (ADOT) from the SETIF in FY 2003-2004 for specified transportation projects.

Mr. Laux explained the 14-line Burns amendment dated 3/31/03, 10:12 a.m. modifies the \$250,000 appropriation for unforeseen contingencies at Nogales and the new Douglas strategic weigh inspection station, to specify that \$178,000 would be for transportation infrastructure improvement to support the installation of the new strategic weigh and inspection station at Douglas, \$54,000 for site and facility improvements at the new State inspection annex at Nogales and \$18,000 for electric cars for commercial vehicle escorts, security checks and traffic management and traffic control at Nogales.

In response to Senator Anderson, Mr. Laux stated that there is \$1 million in the SETIF, which the bill would appropriate.

Senator Arzberger expressed her appreciation of the work done by Representative Pierce, the bill sponsor, and noted that a significant amount of federal funds were used in the first phase of the design and study of the Nogales port of entry. She noted that a tremendous amount of commerce for the State travels through the Nogales and Douglas ports.

Senator Burns announced the individuals who registered their position on the bill (Attachment A).

**Senator Waring moved HB 2287 be returned with a DO PASS recommendation.**

**Senator Waring moved the 14-line Burns amendment dated 3/31/03, 10:12 a.m. be ADOPTED (Attachment F). The motion CARRIED by voice vote.**

**Senator Waring moved HB 2287 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED with a roll call vote of 11-1-1 (Attachment 6).**

### **HB 2299 – vehicle impoundment; storage charges – DO PASS**

**Sean Laux, Natural Resources and Transportation Analyst**, explained that current law allows a peace officer to have a vehicle towed and impounded for 30 days if the person is driving the vehicle on a revoked or suspended license and that suspension is due to a driving under the influence (DUI) conviction, a previous conviction for driving on a suspended license or the accumulation of too many points as a result of convictions for moving violations. The Motor Vehicle Division (MVD) is required to hold poststorage hearings for vehicles that are ordered impounded for any of these circumstances. HB 2299 transfers the requirement to conduct poststorage hearings regarding impounded vehicles from the MVD to the law enforcement agency ordering the impound; requires a justice court to conduct the hearing in the event the impounding agency fails to provide the poststorage hearing; and increases from \$5 to \$10 per day, the amount of storage charges for an impounded vehicle. The bill also requires that a poststorage hearing be held within five, rather than two days, and prescribes criteria by which an impounding agency can hold poststorage hearings and stipulates notice requirements.

**Representative Pierce, bill sponsor**, testified that the problem the bill addresses is the ability of getting a towing company to tow for the \$5 storage charge. He noted that these are not the typical tow, but rather for towing vehicles of drivers who are driving on suspended licenses, probably due to DUI. He noted that two to five days is a practical amount of time to have the vehicle off the road.

**Representative Gray, bill sponsor**, commented that a National Highway Traffic Safety Agency study reported that 75% of revoked or suspended licensees drive anyway. She commented that the attitude of the revoked driver is “who is there to stop me?” Typically, there is not anyone to stop them. She stated that California has been very successful in confiscating vehicles of repeat drunken drivers. Its MVD tracked 6,300 drivers whose licenses had been suspended or revoked. The study found that 40% of those whose cars were seized, were involved in vehicle crashes within a year. That figure rose for those repeat drivers whose cars had not been seized. This demonstrates a large reduction in accidents when a drunk driver’s vehicle is taken off the road for a period of time.

Representative Gray noted that California’s experience proves that taking away the privilege to drive has some positive effects. San Francisco began its traffic offender program in 1985 and saw an 85% reduction in fatal drunk driving crashes, a 20% reduction in crashes with injuries and a 44% reduction in hit and run accidents. She remarked that 21 states permit the confiscation of vehicles for repeat offenses involving alcohol. She noted that in Albuquerque, New Mexico, drunken drivers are only allowed to be passengers or pedestrians under their new city law authorizing the permanent seizure of their vehicles. Albuquerque’s Police Chief said that the city saw a 10% increase in DUI arrests last year and a 30% decrease in DUI fatalities because of the vehicular seizures. She stated that this legislation does not include seizing vehicles, but rather it addresses the problem of repeat drunken driving behavior. She stated that with this legislation, a person can get their vehicle back the next day, rather than in 30 days, if they have an interlock installed, if that is the reason they were pulled over. The whole purpose of the interlock device is to change behavior. She opined that this legislation might help reduce the number of fatalities in Arizona.

In response to Senator Bee, Representative Gray stated the reason for the transfer requirement to conduct poststorage hearings regarding impounded vehicles from the MVD to the law enforcement agency ordering the impound, was because local law enforcement will be able to move the process along quicker than MVD.

**Kevin Biesty, Legislative Liaison, ADOT**, explained that currently hearings are held in Tucson and Phoenix. He noted that there are only a couple of traveling hearing officers. Moving this process to the local jurisdictions would help MVD, the process and the local communities.

Senator Bee expressed his concern regarding due process and having the impounding agency determining whether impounding the vehicle was necessary and legitimate. Mr. Biesty remarked that if a person has had their license revoked or suspended, they have already had due process and have had the opportunity to appeal that decision.

In response to Senator Mead, **Jackie Allgood, Legislative Liaison, MVD**, stated that there have been five vehicles impounded this year.

Senator Burns announced the individuals who registered their position on the bill (Attachment A).

**Senator Waring moved HB 2299 be returned with a DO PASS recommendation.  
The motion CARRIED with a roll call vote of 12-0-1 (Attachment 7).**

**HB 2520 – jury service– DO PASS**

**Michelle Morales, Judiciary Committee Intern**, explained HB 2520 makes various changes to jury service statutes and establishes the Lengthy Trial Fund for the purposes of compensating jurors who serve more than ten days of jury service and receive less than full compensation. The fund will be comprised of monies collected from an assessment for all filings, appearances or clerk fees beginning January 1, 2004. The amount of the assessment shall be at the discretion of the State Supreme Court.

Ms. Morales explained the Judiciary Committee amendment provides that no more than 3% of the fund monies shall be used for the reasonable and necessary costs of administering the fund and provides procedural clarification as to how monies in the fund shall be transferred, invested and divested. The amendment also makes clarifying and technical changes.

**John Mangum, Attorney**, stated that this legislation is an effort to improve the pool of jurors that is available for service in complex cases, or long trials. He commented that there is a terribly adverse selection process that goes on for trials that last more than 2-3 days and that take up to 2-3 months. The only people that can afford to serve on these cases are retirees, or people who work for the government, whose agency agrees to pay them. Some very large businesses will pay their employees, but most businesses do not. This denies a portion of society the opportunity to serve, but more importantly, the people who utilize the jury system are denied the opportunity to have a jury of their peers. The bill assesses a small fee on the complaint and answers that are handled in superior court.

Senator Burns announced the individuals who registered their position on the bill (Attachment A).

**Senator Waring moved HB 2520 be returned with a DO PASS recommendation.  
The motion CARRIED with a roll call vote of 13-0-0 (Attachment 8).**

Without objection, the meeting adjourned at 2:47 p.m.

Respectfully submitted,

Tracey Moulton  
Committee Secretary

(Tapes and attachments on file in the Secretary of Senate's Office/Resource Center, Room 115.)