

ARIZONA HOUSE OF REPRESENTATIVES
Fiftieth Legislature – Second Regular Session

COMMITTEE ON APPROPRIATIONS

Minutes of Meeting
Wednesday, February 8, 2012
House Hearing Room 1 -- 2:00 p.m.

Chairman Kavanagh called the meeting to order at 2:03 p.m. and attendance was noted by the secretary.

Members Present

Ms. Alston	Mr. Jones	Mr. Williams
Mr. Campbell	Mrs. McLain	Mr. Olson, Vice-Chairman
Mr. Fillmore	Mrs. Tovar	Mr. Kavanagh, Chairman
Mr. Forese	Mrs. Ugenti	
Mr. Heinz	Mr. Urie	

Members Absent

None

Committee Action

HB2033 - DP (10-1-0-2)	HB2484 - DP (8-4-0-1)
HB2467 - DPA (7-4-0-2)	HB2736 - DISCUSSED AND HELD

PRESENTATIONS

Department of Corrections

Stefan Shepherd, Joint Legislative Budget Committee (JLBC), gave an overview of the JLBC baseline and Executive budget for the Department of Corrections (ADC) (Attachment 1). He responded to questions concerning prison capacity.

Charles Ryan, Director, Department of Corrections (ADC), provided a handout (Attachment 2). He discussed total operating capacity beds and special use beds. He responded to questions about the vacancy rate, renovation of units at the Yuma Prison, classification of beds after the renovation and community supervision offenders.

Stacy Crabtree, Classification Administrator, Department of Corrections (ADC), provided information about double bunking of inmates and the need to maintain a vacancy rate to continue movement out of detention units and place inmates from the county jails. She discussed the medium-custody private prisons in Florence and Kingman.

Phil Schroeder, Research Manager, Department of Corrections (ADC), stated that inmate population growth has been negative for the last few years; however, medium custody has created an issue because of the three different categories: protected segregation, sex offenders and general population. Protective segregation continues to increase and the populations cannot be mixed. There may be vacancies but they may not be for a specific population.

Mr. Ryan, in response to questions, stated that historically, the advantage to partnering with private sector partners is their ability to pay for the capital construction costs of the beds and, at the end of the contract term, ADC owns the unit free and clear. In October 2015, ADC will own the minimum-security private prison at Marana, which will be the end of the 20-year term, at which time ADC can issue another Request for Proposals (RFP) for management or assume oversight and operation of the facility. He discussed the protective segregation population housed in the Lewis Prison and maximum security beds in the Eyman Complex, noting that protective segregation is requested by inmates for various reasons.

Dr. Michael Dolny, Research Director, Department of Corrections (ADC), in response to a question, related that about three-fourths of the county inmates are housed in minimum custody. About 1,600 are expected to meet the county jail requirements at any given point in time over the course of a year. All of the inmates do not spend a year so about 6,000 will meet the requirement; they are currently housed in ADC.

Mr. Ryan stated that he met with county sheriffs last year and sent them a letter asking a series of questions about bed capacity, etc. The sheriffs were supposed to respond by February 1, 2012. He was asked what the charge will be to the counties if ADC keeps the inmates, which he indicated in a second letter will be \$55.59 per inmate per day. He conveyed to JLBC by December 31, 2011 that no response was received from the county sheriffs.

Mr. Campbell noted that a 2010 ADC report stated that after depreciation and other factors are taken into consideration, state-run prisons are less expensive than private prisons by about \$5 per bed. He questioned the justification for an RFP for private beds. Chairman Kavanagh pointed out that the RFP was mandated by the Legislature in a bill.

Jacob Gable, Department of Corrections (ADC), in response to a question, advised that ADC used the current cost of pensions for employees in the study referenced by Mr. Campbell.

In response to questions, Mr. Ryan indicated that the lawsuit last year regarding ADC not complying with reporting requirements before new RFPs were issued, was resolved. He discussed the separation and creation of specialized housing for inmates and privatization.

Arizona Health Care Cost Containment System

Amy Upston, Joint Legislative Budget Committee (JLBC), gave an overview of the JLBC baseline and Executive budget for the Arizona Health Care Cost Containment System (AHCCCS) (Attachment 3). She responded to questions concerning the restored Childless Adult Population and the Newly Eligible Population.

Tom Betlach, Director, Arizona Health Care Cost Containment System (AHCCCS), responded to questions relating to the Governor's three-percent provider rate increase and hospitals, the

drug prescription rebate, the freeze on KidsCare and efforts to alleviate the waiting list through the Centers for Medicare and Medicaid Services, uncompensated care and reductions to the AHCCCS budget last year.

Matt Jewett, Director of Health Policy, Children's Action Alliance, urged the Members to place KidsCare at the top of the list as the 2013 budget is considered. He said ending the KidsCare freeze is an affordable investment in Arizona's economy and the health of children (Attachment 4).

Chairman Kavanagh announced the names of those who signed up in opposition to the budget for AHCCCS:

Jim Dunn, Executive Director, National Alliance on Mental Illness Arizona

Chairman Kavanagh announced the names of those who signed up in support of the budget for AHCCCS:

Bonnie Danowski, Valley Interfaith Project; National Multiple Sclerosis Society
Janet Valder, representing self

Chairman Kavanagh announced the names of those who signed up as neutral on the budget for AHCCCS:

Thomas Donovan, Valley Interfaith Project

Chairman Kavanagh pointed out that the JLBC baseline is not a legislative budget proposal; it is what the budget would look like with population and formula growth using JLBC budget projections.

CONSIDERATION OF BILLS

HB2736 - federal grants; JLBC review - DISCUSSED AND HELD

Mike Huckins, Majority Research Analyst, explained that HB2736 requires Joint Legislative Budget Committee (JLBC) review of all applications for federal assistance or grants over \$500,000 by or on behalf of state agencies, boards and commissions (Attachment 5). The amendment clarifies that the bill only applies to grants submitted after the effective date of the act (Attachment 6).

Vice-Chairman Olson moved that HB2736 do pass.

Vice-Chairman Olson moved that the Kavanagh two-line amendment to HB2736 dated 2/7/12 (Attachment 6) be adopted.

Mrs. McLain asked how much extra work this will entail for JLBC staff, the number of applications and why this is a good idea.

Chairman Kavanagh, cosponsor, said it was discovered that an amount of money is being requested by government agencies about which nothing is known, sometimes involving a commitment to future spending; the intent is to review and see what is going on. It only applies to applications over \$500,000 so JLBC will not be inundated.

Representative Steve Court, sponsor, noted that about 136 grants are over the \$500,000 amount; the bill does not apply to ongoing grants, only new grants. The process will be similar to capital reviews.

Chairman Kavanagh stated that the bill requires a review and will not hold up the process; it is merely an outside oversight function.

In response to a question, Representative Court stated that if JLBC decides not to review an application, it will be held until JLBC decides to hear it.

Mr. Fillmore submitted that if any grant holds the state financially liable, it should be known up front and there should be an ability to stop it. Representative Court responded that there are circumstances in which a grant could begin a program, and when it expires, the state is obligated to continue the program.

Mr. Jones expressed concern that this is a way to control the Executive by JLBC potentially choosing not to review a grant application, which may be a constitutional issue relating to separation of powers.

Chairman Kavanagh commented that an amendment will be drafted so the bill is not vetoed because it is perceived as usurping the Governor's authority and to allow the application process to proceed before the JLBC review in cases where timing becomes difficult.

Question was called on the motion that the Kavanagh two-line amendment to HB2736 dated 2/7/12 (Attachment 6) be adopted. The motion carried.

John Blackburn, Jr, Legislative Liaison, Arizona Criminal Justice Commission (ACJC), opposed HB2736. He related that the ACJC is the designated state administering agency for several federal grants. The majority of funds the ACJC handles are pass-through funds to different state, local and county entities for criminal justice issues. While three to four weeks is allowed to apply for a grant, the local entities have three weeks to develop a project, plan, and budget, and return it to ACJC to submit to the federal entity for approval.

Chairman Kavanagh said it is alarming that large amounts of taxpayer dollars through grants are being subjected to "speed spending."

Mr. Blackburn responded that the grants are basically the same from year to year; the bill does not state that it does not apply to continuing grants. Also, the federal government does not develop a budget in October like it is supposed to, so often a grant is applied for in the amount of \$1 as a placeholder even though it will be \$4.5 million or \$5 million. The additional review by JLBC will make it nearly impossible for the limited staff at the ACJC to meet all of the requirements and distribute the money to state, local and county entities to use.

Chairman Kavanagh said those statements convince him of the need to allow flexibility and to review, even if it is after the fact, considering the "speed granting" and applications for \$1 grants that could ultimately be \$4 million to \$6 million.

Mr. Blackburn noted that a list of every grant submitted is provided to JLBC every year so the information is available. He clarified that ACJC grants do not subject the state to additional fiscal responsibility.

Vice-Chairman Olson announced the names of those who signed up in support of HB2736 but did not speak:

Linda Brown, attorney, representing self

Mrs. McLain suggested that it may be better to review the grants after approval is received so there would not be an issue of timeliness. Chairman Kavanagh said that would dilute the oversight aspect of the exercise.

Representative Court stated that he would like the bill to move forward. Stakeholder meetings will be held to work out the logistics and timing so the grants are not impeded.

Mr. Campbell asked the reason for reviewing money that is not under the Legislature's control. Chairman Kavanagh commented that state employees will be doing the activities, which the JLBC may not believe is appropriate.

Vice-Chairman Olson announced the names of those who signed up in opposition to HB2736 but did not speak:

Pat VanMaanen, representing self

Lyle Mann, Deputy Director, Arizona Peace Officer Standards and Training Board

Stephanie Vargas, representing self

Daniel Seiden, Special Assistant for Legislation and Policy, Maricopa County Attorney's Office

Vice-Chairman Olson announced the names of those who signed up as neutral on HB2736 but did not speak:

Seth Apfel, representing self

Chairman Kavanagh announced that since many issues arose about the bill, it will be held to be heard at a future date so a stakeholder meeting can be held.

Vice-Chairman Olson withdrew the motion that the Kavanagh two-line amendment to HB2736 dated 2/7/12 (Attachment 6) be adopted.

Vice-Chairman Olson withdrew the motion that HB2736 do pass.

HB2484 - supplemental appropriation; auditor general; research - DO PASS

Vice-Chairman Olson moved that HB2484 do pass.

Paul Benny, Majority Assistant Research Analyst, explained that HB2484 appropriates \$50,000 to the Auditor General in Fiscal Year (FY) 2011-2012 for Joint Legislative Audit Committee (JLAC) special research requests (Attachment 7).

Representative Carl Seel, sponsor, stated that under current law, JLAC has the capacity to request the Auditor General to conduct special research requests. In 2009, the Auditor General's Office checked 34,000 of the most recent death records over nine months against Arizona Health Care Cost Containment System (AHCCCS) participants and discovered that 582 dead people were receiving AHCCCS benefits. About 2 million death records have not been checked.

Mr. Williams asked if there is a lag period of 30 or 90 days in case the death certificate was not issued at the time. Representative Seel acknowledged that some death records are still in probate, so the Auditor General further found about 20 dead people on which there was not a proper record. There was a savings of \$76,000 for eight hours of staff time. He would like all of the death certificates checked going back several years. The optimum time to commit fraud is between nine months, at which time probate is likely completed, and one-and-a-half years after someone passes away because data systems are generally purged beyond two years.

Mr. Jones asked why this is not an agency budget request as opposed to a special appropriation for JLAC; it may set a precedent for granting appropriations to committees for whatever purpose the Chairman decides. He added that the bill does not explicitly state what the funds will be spent on. Representative Seel stated that JLAC has been a "sleeper" committee, but it should function as an oversight committee to rein in fraud, waste, abuse and inefficiencies, which is why when JLAC was established, the Legislature decided to allow the Members to ask the Auditor General to conduct special research requests. Also, he would like to check items such as county and state detention populations against people on unemployment and public benefits because individuals who commit specific felonies do not qualify for public assistance.

In response to questions, he said he was advised by Debra Davenport, Auditor General, that the agency does not have the staff time and would appreciate additional money to conduct the research. He is not certain if she supports the bill.

Representative Seel responded to further questions about providing funding to JLAC rather than the Auditor General's Office, AHCCCS fraud and the non-lapsing appropriation.

Mr. Williams suggested that any remaining money revert to the General Fund. Representative Seel indicated that he is willing to offer a Floor amendment to do so.

Representative Seel responded to further questions concerning Medicaid fraud and agency responses to the bill.

Mr. Heinz noted that AHCCCS already contracts with a third-party vendor to address fraud and questioned why that is not adequate. Representative Seel replied that the current vendor with AHCCCS, Healthcare Management Systems, Inc. (HMS), is not compensated. HMS does a preliminary front-end data match and reports the results to AHCCCS. He said he believes HMS reported that it cost-avoided about \$85 million per year, but he anticipates that with this bill, much more can be saved.

Question was called on the motion that HB2484 do pass. The motion carried by a roll call vote of 8-4-0-1 (Attachment 8).

HB2467 - state budget reports; financial condition - DO PASS AMENDED

Vice-Chairman Olson moved that HB2467 do pass.

Vice-Chairman Olson moved that the Kavanagh eight-line amendment to HB2467 dated 2/7/12 (Attachment 9) be adopted.

Stuart Luther, Majority Intern, explained that HB2467 requires the State Treasurer, the Executive Budget Recommendation and the Legislature to provide statements on expected revenues and expenditures and if they fall within certain conditions (Attachment 10). The amendment contains the following provisions (Attachment 9):

- Removes the requirement of the Treasurer's report to show the fund accounts that are credited during the subsequent two fiscal years.
- Changes when the Treasurer must submit supplemental statements to within ten days after the end of each fiscal quarter.
- Clarifies when the Treasurer must prepare a statement regarding the enacted budget.

Mr. Heinz questioned if the Executive can be required to do this.

Mike Huckins, Majority Research Analyst, advised that the statute already requires the Governor to submit certain items in that report; the bill requires the Governor to produce additional items in the budget recommendation.

Representative Rick Gray, sponsor, noted that this bill passed the House and Senate in 2007, but was vetoed by the Governor. The intent is to make the revenue projection an economic decision and not a "political football" by having the Treasurer as an elected official responsible to the voters of the state, to determine the projected revenue.

Vice-Chairman Olson noted that three adjustments will be made for what amounts to very similar one-time expenses in the budget. Representative Gray answered that much of the language was taken from the original bill.

Chairman Kavanagh said he shares Vice-Chairman Olson's concern about double counting increases and suggested that Representative Gray discuss the formula with the Arizona Tax Research Association. Representative Gray said he is open to amendments. He added that he talked with Treasurer Doug Ducey who is in favor of the amendment.

In response to questions, Representative Gray said he did speak with the Governor's Office; the response was not totally negative, but he has no guarantee that the bill will be signed.

Question was called on the motion that the Kavanagh eight-line amendment to HB2467 dated 2/7/12 (Attachment 9) be adopted. The motion carried.

Vice-Chairman Olson moved that HB2467 as amended do pass. The motion carried by a roll call vote of 7-4-0-2 (Attachment 11).

HB2033 - appropriation; secretary of state - DO PASS

Vice-Chairman Olson moved that HB2033 do pass.

Paul Benny, Majority Assistant Research Analyst, explained that HB2033 appropriates \$500,000 from the state General Fund to the Secretary of State in FY 2012-2013 (Attachment 12).

Representative Kimberly Yee, sponsor, commented that when policymakers work with special interest groups and lobbyists and there is a financial exchange, particularly in the form of gifts, it should be disclosed to the public. This bill provides funds for the Secretary of State's Office to expand its database to include this information and make it user-friendly for the public.

Mrs. McLain said this is an appropriation for FY 2012-2013 and asked why it is not part of budget discussions for the Secretary of State's Office.

Jim Drake, Assistant Secretary of State, Secretary of State's Office, remarked that he thought it would be good to have a debate about open government and transparency, which can be done through legislation. Developing these databases in-house is very complex because of the statutes and the need to provide flexibility to make adjustments as the statutes change over time.

Chairman Kavanagh stated that any large ticket item, regardless of its worth, will not be put into a bill and will be part of the budget, but this is less than \$1 million and it is about transparency, so it is being heard.

In response to questions, Mr. Drake noted that the Chief Information Officer calculated the cost and attempted to find products that can be purchased, but could not find any; the statutes are so unique to Arizona that it has to be done in-house. He acknowledged that the Members will be able to file financial disclosure forms online, similar to online voter registration, which has been very successful.

Vice-Chairman Olson announced the names of those who signed up in support of HB2033 but did not speak:

Diane Brown, Executive Director, Arizona Public Interest Research Group

Trey Williams, Legislative Liaison, Arizona Association of Counties

Vice-Chairman Olson announced the names of those who signed up as neutral on HB2033 but did not speak:

Elaine Haynik, representing self

Bill Maaske, Chief Information Officer, Arizona Secretary of State's Office

Question was called on the motion that HB2033 do pass. The motion carried by a roll call vote of 10-1-0-2 (Attachment 13).

Without objection, the meeting adjourned at 5:25 p.m.

Linda Taylor, Committee Secretary
February 27, 2012

(Original minutes, attachments and audio on file in the Chief Clerk's Office; video archives available at <http://www.azleg.gov>)