

STATE OF ARIZONA

Joint Legislative Budget Committee

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STEPHEN TULLY

MINUTES OF THE MEETING

JOINT LEGISLATIVE BUDGET COMMITTEE

June 28, 2005

The Chairman called the meeting to order at 9:40 a.m., Tuesday, June 28, 2005, in House Hearing Room 4. The following were present:

Members: Representative Pearce, Chairman Senator Burns, Vice-Chairman
Representative Boone Senator Bee
Representative Burton Cahill Senator Cannell
Representative Gorman Senator Martin
Representative Huffman Senator Waring
Representative Tully

Absent: Representative Biggs Senator Arzberger
Representative Lopez Senator Garcia
Senator Harper

APPROVAL OF MINUTES

Representative Pearce moved that the Committee approve the minutes of May 11, 2004. The motion carried.

EXECUTIVE SESSION

Senator Burns moved that the Committee go into Executive Session. The motion carried.

At 9:42 a.m., the Joint Legislative Budget Committee went into Executive Session.

Senator Burns moved that the Committee reconvene into open session. The motion carried.

At 9:50 a.m. the Committee reconvened into open session.

Senator Burns moved that the Committee approve the recommended settlement proposal by the Attorney General's Office in the case of Monje v. State of Arizona, et al. The motion carried.

Senator Burns moved that the Committee approve the 1.7% salary increase for the Director of the Joint Legislative Budget Committee as provided for other state employees. The motion carried.

DIRECTOR'S REPORT

Mr. Richard Stavneak, Director, JLBC Staff, gave an update on the status of the state budget.

ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS) – Review of KidsCare Behavioral Health Capitation Rate Changes.

Mr. Stefan Shepherd, JLBC Staff, said this item is a review of the KidsCare Behavioral Health capitation rate changes. This is one portion of the Behavioral Health system that is funded in the AHCCCS budget instead of the DHS budget. The requested capitation rate increases are about 5% and are within the budgeted amount for FY 2006.

Senator Burns moved that the Committee give a favorable review to the Arizona Health Care Cost Containment System's, KidsCare Behavioral Health capitation rate changes. The motion carried.

DEPARTMENT OF ECONOMIC SECURITY (DES)

A. Review of Transfer of Appropriations for TANF Cash Benefit Monies.

Mr. Eric Jorgensen, JLBC Staff, said this item is a request for a review of a transfer of Federal TANF Block Grant monies in the amount of \$12 million. Using a table in the JLBC Agenda Book Mr. Jorgensen explained the DES projected shortfall and possible funding sources to alleviate the shortfalls. He said that the transfer is possible because of the \$12 million surplus in the TANF Cash Benefits line item and this is due to declining TANF caseloads. In addition to an improving economy, the department has also identified a program that diverts would-be benefit recipients by providing a one-time payment to help them overcome immediate obstacles.

Representative Tully asked if the \$800,000 for electronic transfers was a bank fee.

Mr. Jorgensen said yes, that it was for contracted services for the costs of electronic transfers.

Representative Gorman asked about the Children's Services shortfall and what the Governor did concerning that program.

Mr. Jorgensen said there were some lump sum reductions that were put into the budget and those were vetoed, which essentially negated the lump sum reduction and increased the amount of funding.

Senator Burns asked how the department is going to resolve the shortfalls that do not require JLBC review.

Ms. Lynne Smith, Assistant Director for the Division of Business and Finance, DES, said for Permanent Guardianship they are doing a transfer from the TANF Jobs line item, in keeping with the recommendation of JLBC Staff to use savings and other available monies first before using the Cash Assistance transfer. For the Adoption Services they have identified \$300,000 in other surpluses; \$450,000 in federal non-appropriated monies, \$50,000 in client trust fund monies, and \$1.2 million identified from the Cash Assistance transfer. For Children Services they have identified Tobacco Tax Funds (\$1.5 million), the Governor's Drug Policy monies, Child Abuse Prevention monies, and transfers from other areas.

Senator Burns asked if they have shortfalls in the future, will they be able to use some of the same funds to alleviate the shortfall.

Ms. Smith said that they always look for flexibility from department savings and Federal Funds first.

Senator Burns asked for an explanation on why some monies were not being spent from the Healthy Families Fund.

Ms. Smith said that the Healthy Families appropriation for FY 2005 was \$13.8 million using both General Fund and TANF monies. Total expenditures from both the full appropriation and some of non-appropriated sources previously mentioned, is only \$11.2 million. This is because some of the Healthy Family increases were slower getting started, and expenditures were lower than originally expected for FY 2005.

Representative Pearce asked Mr. Stavneak if the JLBC Staff recommendation makes up some of the shortfall that was there because of the Governor's veto in Children Services.

Mr. Stavneak said that was correct. There was a lack of clarity of intent when the FY 2005 budget was enacted. There is the perspective that the Governor never recommended funding for the program and recommended that it be found from other efficiencies.

Senator Cannell said that another issue is that DES has attempted to get people working and off the rolls and get kids adopted. They are making progress and the Legislature should support those efforts.

Mr. Stavneak said that there is an ongoing issue of what this means for the FY 2006 budget. In this case, the transfer was not incorporated in any numbers that were done for the FY 2006 budget. There is still a potential surplus and potential transfer that we would also face during FY 2006 as well.

Senator Burns moved that the Committee give a favorable review to the Department of Economic Security's request to transfer \$12 million from the TANF Cash Benefit SLI with the provision that DES use non-appropriated fund sources and savings first to mitigate the projected shortfalls. The motion carried.

B. Review of Transfer of Appropriations between Child Care Subsidy Line Items.

Mr. Eric Jorgensen, JLBC Staff, said this item is a request for review of a transfer of \$4 million of Federal Child Care Development Fund monies from the Day Care Subsidy line item to the Transitional Child Care SLI. Both of these line items are used to provide essentially the same services. Recipients of the TANF Cash Assistance are eligible for the Day Care Subsidy. However, once a family leaves the program they continue to be eligible for Transitional Child Care for 2 years. The surplus in the Day Care Subsidy program is about \$7 million and the shortfall for the Transitional Child Care program will be between \$3 million and \$4 million.

Representative Gorman asked if this is related to the phantom day care waiting list or is it different.

Mr. Jorgensen said that it is the same program.

Mr. Stavneak said that we went from a waiting list to where we are now we have a \$7 million surplus. He also said that in the Child Care budget we added dollars sufficient to fund about a 12% caseload growth. However, we are now seeing about a 6% growth. It is possible that there may be some surplus dollars in the Day Care line item during the course of FY 2006, depending on how caseload projections work out, because it is a caseload driven program.

Representative Tully asked if historically it has been about a 6% growth.

Mr. Stavneak said that is correct.

Representative Boone noted that basically this surplus is one time only for this year.

Ms. Smith said that both these line items provide the same service, (day care services, transitional child care and one that has a mix of people). It is all going to child care and nothing is being transferred out.

Senator Martin asked how they could go from a waiting list to a surplus in a very short span of time. He said that if the department knew the numbers had changed before the budget was being finalized the Legislature should have been informed of that.

Ms. Smith said that while a \$4 million dollar transfer is a sizeable amount of money; it is only 3% of the program's budget. The reality is that it is very difficult for the department to anticipate what parents with children will choose to do. In terms of what steps are being taken to prevent this from happening next year, they would not be doing waiting lists so early in the year. They would be doing it later in the year when they have better information in order to estimate more accurately. DES believes the Legislature appropriated a sufficient amount for FY 2006. Ms. Smith said that in terms of FY 2006 they are not estimating that they will need any less money, there is caseload growth and they believe they need that dollar amount in FY 2006.

Representative Huffman noted that when the discussions on waiting lists were taking place, he thought part of the reason for the waiting lists was because of the nature of the families and children that the program serves. Because of family

situations the children would get pulled out of the program and then end up being put back on a waiting list trying to get back in the program.

Representative Boone said that a waiting list should be created after you believe you have no more money in the program, it is a net number and now we find out there is a surplus.

Senator Burns moved that the Committee give a favorable review to the Department of Economic Security's request for a \$4 million transfer of appropriations between Child Care Subsidy Special Line Item to the Transitional Child Care Special Line Item. The motion carried.

C. Review of Expenditure Plan for Discretionary Workforce Investment Act Monies.

Mr. Eric Jorgensen, JLBC Staff, said as a clarifying note the original request is written to be an addition to the FY 2005 expenditure plan that has just been revised to be the first piece in the FY 2006 expenditure plan, but all the rest of the information is pertinent and correct.

The Committee has favorably reviewed \$4.9 million for the FY 2005 expenditure plan. This FY 2006 plan would be \$184,900 in FY 2006 for the Jobs for Arizona Graduates (JAG program). The JAG program did receive funding from these Workforce Investment Act (WIA) monies in FY 2004 but was not included in the FY 2005 numbers. This program is to provide assistance to students who dropped out or are in danger of dropping out of high school.

Senator Waring asked how students are identified for the program since there is not enough money for every student that drops out to enter the program.

Mr. Jorgensen said that the JAG program is on a voluntary basis. JAG works with different school districts and students are identified through the counseling programs but it is voluntary to enroll in the program.

Senator Burns moved that the Committee give a favorable review to the Department of Economic Security's expenditure plan for discretionary Workforce Investment Act Monies in FY 2006 with the provision that the department provide performance measures related to the program by September 1, 2005. The motion carried.

DEPARTMENT OF HEALTH SERVICES – Review of Children's Rehabilitative Services Capitation Rate Changes.

Mr. John Malloy, JLBC Staff, said that this item is a review of the capitation rates for the Children's Rehabilitative Services program. He said that the adjustment falls within the FY 2006 appropriation.

Senator Burns moved that the Committee give a favorable review to the Department of Health Service's request for review of the Children's Rehabilitative Services Capitation Rate adjustments. The motion carried.

DEPARTMENT OF REVENUE (DOR) – Review of Ladewig Expenditure Plan

Mr. Bob Hull, JLBC Staff, said this item is a review of the Ladewig expenditure plan for FY 2006. The Ladewig Settlement Payments Budget Reconciliation Bill allocates \$58.3 million in FY 2006 to the department for payments and costs associated with the case, with any unused amount to be held in reserve for future payments. The department is required to present an expenditure plan for review by the JLBC that includes an estimate and scope of the entire administrative requirement associated with disbursing payments and costs for this case, before expending any of the \$58.3 million. The \$58.3 million includes up to \$1,758,900 for department administration costs and review of payments. The department has reduced the \$1,758,900 to \$1,424,700 by reducing their estimates for printing, postage and mailing costs. The \$1.4 million might be reduced further if the department was not encountering some additional costs for overpayments that were made in FY 2005 for refunds to taxpayers.

The FY 2005 refunds include overpayments of about \$6.3 million to 3,000 claimants due to clerical and calculation errors and computer matching errors. There is a court hearing scheduled for September 2005 to resolve issues involving that overpayment and whether the state will be able to collect that back from the taxpayers. The department is keeping separate track of administrative expenses related to costs associated with the overpayments.

Senator Cannell asked what the agency feels the chance is of getting these overpayments back.

Mr. Tom McGinnis, Project Administrator, DOR, said the purpose of the hearing is for the taxpayers to present their arguments on why they should not have to pay back the overpayments. He said he does not have a feeling for what the court will decide but it seems reasonable to believe the overpayments will have to be returned.

Representative Pearce said he has concerns with how this happened and if it has been corrected so it will not happen again in the future.

Mr. McGinnis said there were a number of pieces that affected the amount that taxpayers got. The major cause was the truncation issue. The data, that they spent millions of dollars capturing, was captured by the mainframe system in the 1980s. When they scanned the microfiche to create an electronic database, some fields in the microfiche had truncated numbers. DOR thought they had all the records identified and created manual work lists for people to go in and locate those records. Of all those records that had the truncated problem, there were 2 cases that went through. That is the bulk of the overpayment, \$750,000 a piece for the 2 individuals. Most of the overpayments were small.

Representative Pearce said in a checks and balance system you would know if more money went out than was actually paid.

Mr. McGinnis said there were cases where the overpayment was so large, that they were overpaid more than the taxpayer paid but the total overpayment in those cases was small.

Representative Huffman asked if any safeguards have been put in place either before or after the overpayments.

Mr. McGinnis said they have corrected the problem. He said they have implemented 2 program modifications in the computer system. The first is when the system calculates the warrant amounts to be refunded, it compares it to what the actual payment is and determines if the warrant is a reasonable amount. Secondly, they individually look at all checks going out that are over \$100,000. This system was not in place prior to the overpayments going out because of a court ordered deadline to mail out the refunds.

Senator Burns asked what the current total remaining Ladewig settlement cost is that DOR still owes.

Mr. McGinnis said the FY 2006 payout is about \$51 million, plus about \$5 million for attorney's fees. There will be another taxpayer payment in July 2006, which will include any unused set-asides for DOR's administrative costs and attorney's fees. The FY 2007 costs will be about \$99 million.

Senator Burns asked what the total overpayment is and how it affects the total settlement costs.

Mr. McGinnis said the overpayment was \$7.2 million.

Mr. Hull said that currently DOR has estimated the total Ladewig Settlement costs at \$308.5 million. However, they are taking a look at how much of the overpayments might be included in that amount. It will depend on the ruling by the courts.

Senator Burns moved that the Committee give a favorable review as recommended by the JLBC Staff to the Department of Revenue's FY 2006 administrative expenditure plan for the Ladewig settlement. The Committee further requests that DOR report back to the Committee after the taxpayer refund overpayment issue has been resolved. The motion carried.

ARIZONA STATE RETIREMENT SYSTEM (ASRS) – Review of FY 2006 Information Technology (IT) Expenditure Plan.

Mr. Eric Jorgensen, JLBC Staff, said the ASRS has received an appropriation of \$6,378,700 for FY 2006. This represents the fifth and final year of development funding under the approved project investment justification document.

The total development costs for this project is \$40.6 million. Mr. Jorgensen said due to the Government Information Technology Agency's (GITA) concern as to the progress of the IT plan regarding the Public Employees Retirement Information System (PERIS) and the Financial Management System (FMS), they have changed the project status from "green" to "red" indicating a serious risk to the project being completed by the planned date.

Representative Gorman asked if the software for this project was done in-house.

Mr. Jorgensen said it was done in-house by state employees, as well as through external contracts.

Representative Tully asked who the vendor is for the PERIS system.

Mr. Jorgensen said that most of it was done in-house. The Financial Management System was done by an outside vendor. Mr. Jorgensen explained that ASRS hired a consultant who evaluated the system and determined that it was behind. At the request of the Information Technology Authorization Committee (ITAC), ASRS got a second opinion and the report of the second consultant will be released at the next ITAC meeting.

Mr. Anthony Guarino, Deputy Director, ASRS, said that at the initial review they essentially red-flagged themselves. As part of the implementation plan they brought on an advisory consultant. ASRS had 1 consultant for a couple of years who was giving them positive results. He eventually left for a different position. In June they brought in a new independent advisory consultant, and that consultant raised some concerns about project management issues, some vendor choices and some technology choices. The Director, at that time, organized a review and brought on an outside firm to do an independent assessment to resolve the issue and it was determined that concerns raised were almost completely unfounded. That assessment has been written up and will be presented to ITAC at their July meeting.

Representative Tully asked if the independent consultant was hired by ASRS.

Mr. Guarino said that was correct.

Senator Burns asked when they anticipate the red light turning green.

Mr. Guarino said he was confident that it will turn green at the July ITAC meeting.

Representative Pearce asked what the cost is for the overall project.

Mr. Guarino said that it is \$40 million. In response to Representative Boone, Mr. Guarino said the start date of the project was when the funding became available on July 1, 2001, and the ending date is projected to be June 2006.

Representative Boone said it is a good idea to have in-house employees working on the project. Not being at the mercy outside vendors is a wise move.

Representative Gorman asked if the consultant that initiated the red flag was being paid a flat fee.

Mr. Guarino said that the consultant was paid an hourly wage.

Senator Burns moved that the Committee give a favorable review of the Arizona State Retirement System's Information Technology FY 2006 expenditure plan. The motion carried.

DEPARTMENT OF CORRECTIONS (ADC)

A. Report on Employee Overtime Pay and the On-Call Pay Settlements.

Mr. Kevin Bates, JLBC Staff, said this item was for information only and no Committee action was required. ADC received supplemental monies for compensatory time and on-call claims. ADC reports that \$7.8 million was expended for FY 2004 employee compensatory time payments. One unresolved issue is compensatory time for FY 2005. ADC estimates that to be about \$13 million. The Legislature has at least 2 options in this situation: they could increase

ADC's base appropriation or they could choose not to adjust their appropriation requiring the department to absorb the costs within its existing appropriation. The second issue is the on-call claims. ADC reports they have settled all but 3 claims regarding a lawsuit brought by current and former state employees who were not compensated for being "on-call."

Representative Pearce asked what the vacancy rate is at the different facilities.

Mr. Gary Phelps, Deputy Director, ADC, said the vacancy rate is getting worse every day, and at 2 facilities, Lewis and Winslow there is about 30% vacancy rate. ADC is mandating their officers to work in excess of 50 hours a week and they are losing 102 officers a month.

Representative Pearce asked what kind of savings the department has as a result of these vacancies.

Mr. Phelps said that they are working through that at this time. It will be mid July before they know what the savings are. He noted that until they get an adequate salary compensation plan this will continue to be an issue for them. He said that \$7.5 million will be spent on the liability from last year, and they are still in the stipend and bonus phase of trying to retain officers, in addition, they have to cut 595 FTE.

Representative Pearce wants the Committee to be kept informed on the vacancy rate and how the dollars will be expended from unpaid vacancy positions.

Representative Pearce said that in 2004 ADC was to privatize the inmate stores and award a contract by November 1, 2004 and to privatize the stores by January 15, 2005. He asked if that has taken place yet.

Mr. Phelps said that the store contract was awarded on June 16, 2005.

Representative Pearce said the other issue is the 1000 new permanent private beds. In Special Session we had a prison crisis of a bed shortage. During that time we negotiated to fix that deficit. The deal between leadership and the Governor was that they would be rolled out virtually at the same time. At this time there is not even a contract out for the 1000 beds today.

Mr. Phelps said that the contract would be awarded today or tomorrow, they are still in final negotiations with the vendor. There was a holdup because of some VOI/TIS money and environmental quality issues and studies.

Representative Pearce said that the requirement to go forward to privatize the female prison is in statute. People spent a lot of money to compete on that bid and then they were told we were not going to go forward on it. People will not compete in Arizona if we do not follow the law to move forward on these issues.

Senator Cannell said he was at a meeting where this issue was discussed and one of the concerns was with women prisoners. They need to be near their families and continue to interact with their children. He also said they need to increase the compensation for correction officers.

B. Report on Monthly Bed Plan Update.

Mr. Stavneak said this item was not presented because JLBC Staff did not receive the report from the agency in time for the meeting.

Chairman Burns adjourned the meeting at 11:40 p.m.

Respectfully submitted:

Cheryl Kestner, Secretary

Richard Stavneak, Director

Representative Russell Pearce, Chairman