

STATE OF ARIZONA

Joint Legislative Budget Committee

STATE
SENATE

ROBERT L. BURNS
CHAIRMAN 2008
PAULA ABOUD
AMANDA AGUIRRE
JORGE LUIS GARCIA
JACK W. HARPER
THAYER VERSCHOOR
JIM WARING

1716 WEST ADAMS
PHOENIX, ARIZONA 85007

PHONE (602) 926-5491

FAX (602) 926-5416

<http://www.azleg.gov/jlbc.htm>

HOUSE OF
REPRESENTATIVES

RUSSELL K. PEARCE
CHAIRMAN 2007
KIRK ADAMS
ANDY BIGGS
TOM BOONE
OLIVIA CAJERO BEDFORD
LINDA J. LOPEZ
PETE RIOS
STEVE YARBROUGH

MINUTES OF THE MEETING

JOINT LEGISLATIVE BUDGET COMMITTEE

August 12, 2008

The Chairman called the meeting to order at 9:40 a.m., Tuesday, August 12, 2008, in Senate Appropriations Room 109. The following were present:

Members:	Senator Burns, Chairman	Representative Pearce, Vice-Chairman
	Senator Harper	Representative Adams
	Senator Waring	Representative Biggs
		Representative Boone
		Representative Cajero Bedford
		Representative Lopez
		Representative Rios
		Representative Yarbrough

Absent: Senator Aboud
Senator Aguirre
Senator Garcia
Senator Verschoor

APPROVAL OF MINUTES

Hearing no objections from the members of the Committee to the minutes of June 18, 2008, Chairman Burns stated that the minutes would be approved.

DEPARTMENT OF EDUCATION

A. Review of Qwest Settlement.

Mr. Steve Schimpp, JLBC Staff, stated that this item is a request from the Department of Education (ADE) for a review of its plan to provide school districts with approximately \$12.5 million in corrected Basic State Aid for prior fiscal years pertaining to the recent Qwest settlement. The Committee has at least 2 options: a favorable review, as the department's plan conforms to statutory requirements, or an unfavorable review, given that the full Legislature did not include funding for this issue in the state budget for 2009.

Representative Pearce moved that the Committee give a favorable review to the ADE's plan to provide school districts statewide with \$12.5 million in corrected Basic State Aid funding for this issue. The motion carried.

(Continued)

B. Review of Expenditure Plan for Incentive Funding from the Workforce Investment Act.

Mr. Jay Chilton, JLBC Staff, indicated that this item is a review of Arizona Department of Education's (ADE's) FY 2009 expenditure plan for incentive funding for the Workforce Investment Act (WIA). In the past the Committee has requested that performance measures for the program be included in the statewide workforce development annual report. This is being done and FY 2008 results are expected in October. JLBC Staff recommended that those performance measures continue to be included in the report and recommended a favorable review of the request.

Representative Pearce moved that the Committee give a favorable review of the expenditure plan for incentive funding for the WIA. The motion carried.

C. Review Providing Funding to Displaced Pupils Choice Grants Program and Arizona Scholarship for Pupils with Disabilities Program under A.R.S. § 15-901.03.

Mr. Steve Schimpp, JLBC Staff, stated that this item was a request by the Chairman for consideration of a transfer up to \$5 million from Basic State Aid to the two voucher programs that were in ADE's budget for FY 2007 and FY 2008. These were commonly referred to as the Displaced Voucher and Disabled Voucher Programs. The Displaced Voucher Program serves students who have been in foster care and the Disabled Voucher Program serves students with disabilities, in both cases allowing them to get tuition funding to help pay for private school education. The FY 2009 budget did not include any funding for these programs, although the statutory authority for them remains in law. Both programs have been subject to legal challenge since their inception, with plaintiffs contending that the programs represent an illegal use of taxpayer monies for private education. In late June, as the budget was being wrapped up, however, the Supreme Court ruled that the programs could continue at least through 2009. In terms of process issues, the Department of Education has not requested a transfer for this issue; however, the Chairman wanted to help expedite a solution to the problem, given that the school year has already started and it would be another 6 weeks before the next JLBC meeting. The Committee has at least 2 options: a favorable or an unfavorable review.

The Chairman suggested that there be a third option to take no action.

Representative Biggs gave a memo to Committee members dated August 4, 2008 from Kenneth C. Behringer, General Counsel, regarding State Aid to Education; Transfers. (*Attachment 1*)

Mr. Tom Horne, State Superintendent of Schools, Arizona Department of Education, responded to member questions.

Mr. William Bell, Director, Arizona Department of Administration, responded to member questions.

Representative Biggs moved that the Committee give a favorable review to the proposed transfer. Senator Harper requested a roll call vote.

Representative Lopez made a substitute motion for an unfavorable review.

Senator Harper requested a roll call vote.

The substitute motion failed by a roll call vote of 3-8-0-4. (*Attachment 2*)

The original motion carried by a roll call vote of 8-3-0-4. (*Attachment 2*)

DEPARTMENT OF HEALTH SERVICES - Review of Behavioral Health Title XIX Capitation Rate Changes.

Mr. Art Smith, JLBC Staff, stated that this item is a review of Department of Health Services (DHS) capitation rate changes for the behavioral health population. There are at least 2 options for this item: 1) a favorable review as the excess amount primarily addresses litigation requirements and 2) an unfavorable review as the capitation rate exceeds the budgeted amount due to program expansions.

Dr. Laura Nelson, Acting Deputy Director, Department of Health Services, Behavioral Health responded to member questions.

Mr. David Reese, Chief Financial Officer, Department of Health Services responded to member questions.

Representative Pearce moved that the Committee give an unfavorable review to the Behavioral Health Title XIX capitation rate changes as the rate exceeds the budgeted amount by a net of \$2 million due to program expansions.

Representative Lopez moved a substitute motion for a favorable review. The substitute motion failed.

The original motion carried.

EXECUTIVE SESSION

Representative Pearce moved that the Committee go into Executive Session. The motion carried.

At 11:35 a.m. the Joint Legislative Budget Committee went into Executive Session.

Representative Pearce moved that the Committee reconvene into open session. The motion carried.

At 12:20 p.m. the Committee reconvened into open session.

A. ARIZONA DEPARTMENT OF ADMINISTRATION - Risk Management Services - Consideration of Proposed Settlements under Rule 14.

Representative Pearce moved that the Committee disapprove the recommended settlement proposal by the Attorney General's Office in the case of Caesar Otioti, et al. v. Roger Vanderpool, et al. The motion carried.

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

B. ARIZONA DEPARTMENT OF ADMINISTRATION - Review for Committee the Planned Contribution Strategy for State Employee and Retiree Health Plans as Required under A.R.S. § 38-658A.

Representative Pearce moved that Committee give an unfavorable review to the planned contribution strategy for state employee and retiree health plans.

Representative Lopez moved a substitute motion for a favorable review to the planned contribution strategy for state employee and retiree health plans. The substitute motion failed.

The original motion carried.

Mr. Richard Stavneak, Director, JLBC, briefly explained the following JLBC items and recommended a favorable review for all of these items:

DEPARTMENT OF REVENUE - Review of Business Reengineering/Integrated Tax System Contract Amendment.

ATTORNEY GENERAL -

A. Review of Allocation of Settlement Monies - State v. Bill Heard Chevrolet, Inc.

B. Review of Allocation of Settlement Monies - State v. Express Scripts, Inc.

ADMINISTRATIVE OFFICE OF THE COURTS - Review of Reimbursement of Appropriated Funds.

ARIZONA STATE RETIREMENT SYSTEM - Review of FY 2009 Information Technology Expenditure Plan.

Representative Pearce moved that the Committee give a favorable review for:

- *Department of Revenue - Review of Business Reengineering/Integrated Tax System Contract Amendment,*
- *Attorney General - Review of Allocation of Settlement Monies - State v. Bill Heard Chevrolet, Inc.*
- *Attorney General - Review of Allocation of Settlement Monies - State v. Express Scripts, Inc.,*
- *Administrative Office of the Courts - Review of Reimbursement of Appropriated Funds, and*
- *Arizona State Retirement System - Review of FY 2009 Information Technology Expenditure Plan.*

The motion carried.

Mr. Stavneak also briefly explained the following item:

ARIZONA DEPARTMENT OF TRANSPORTATION - Review of Third Party Progress Report.

Representative Pearce moved that the Committee give a favorable review for the Arizona Department of Transportation - Review of Third Party Progress Report. The motion carried.

Without objection, the meeting adjourned at 12:35 p.m.

Respectfully submitted:

Sandy Schumacher, Secretary

Richard Stavneak, Director

Senator Bob Burns, Chairman

LEGISLATIVE COUNCIL

MEMO

August 4, 2008

TO: Brian Lockery
Barrett Marson

FROM: Kenneth C. Behringer
General Counsel

RE: State Aid to Education; Transfers

BACKGROUND

The statutes allow for the transfer of appropriated monies from one program within an agency to another if certain requirements are met. One of these requirements is the approval of the director of the department of administration (DOA). Arizona Revised Statutes (A.R.S.) section 35-173, subsection C.

In 2005, the legislature enacted a specific provision for transfer of monies appropriated for state aid to education. These transfers may only be made after review by the joint legislative budget committee. A.R.S. section 15-901.03.

QUESTION

Do transfers of monies appropriated for state aid to education to other programs within the department of education require the approval of the DOA director?

ANSWER

No, transfers of monies appropriated for state aid to education to other programs within the department of education probably do not require the approval of the DOA director.

DISCUSSION

The provision for transfers of state aid monies specifically provides that it is "[n]otwithstanding section 35-173, subsection C". This provision states that it applies notwithstanding all of subsection C, not any portion of the subsection. It appears the legislature intended to provide separate requirements for transfers of state aid monies.

The only other interpretation of section 15-901.03 is that it is an additional requirement for transfers of state aid monies. However, had the legislature intended this interpretation, it would have provided that this section was in addition to subsection C, not notwithstanding this subsection.

Please let me know if you have any additional questions on this issue.

JOINT LEGISLATIVE BUDGET COMMITTEE

Meeting Date: 8/12/08

ITEM # 1C-Substitute motion
ADE Displaced Pupils

ITEM # 1C-original
ADE Displaced Pupils motion

	<u>PRESENT</u>	<u>ABSENT</u>	PASS	AYE	NAY	PRESENT	ABSENT
SEN. ABOUD	—	✓					✓
REP. ADAMS	✓	—			✓		
SEN. AGUIRRE	—	✓					✓
REP. BIGGS	✓	—			✓		
REP. BOONE	✓	—			✓		
REP. CAJERO BEDFORD	✓	—		✓			
SEN. GARCIA	—	✓					✓
SEN. HARPER	✓	—			✓		
REP. LOPEZ	✓	—		✓			
REP. RIOS	✓	—		✓			
SEN. VERSCHOOR	—	✓					✓
SEN. WARING	✓	—			✓		
REP. YARBROUGH	✓	—			✓		
REP. PEARCE	✓	—			✓		
SEN. BURNS	✓	—			✓		
TOTALS	<u>11</u>	<u>4</u>	—	<u>3</u>	<u>8</u>	<u>0</u>	<u>4</u>

	PASS	AYE	NAY	PRESENT	ABSENT
SEN. ABOUD					✓
REP. ADAMS		✓			
SEN. AGUIRRE					✓
REP. BIGGS		✓			
REP. BOONE		✓			
REP. CAJERO BEDFORD			✓		
SEN. GARCIA					✓
SEN. HARPER		✓			
REP. LOPEZ			✓		
REP. RIOS			✓		
SEN. VERSCHOOR					✓
SEN. WARING		✓			
REP. YARBROUGH		✓			
REP. PEARCE		✓			
SEN. BURNS		✓			
TOTALS	—	<u>8</u>	<u>3</u>	<u>0</u>	<u>4</u>