

STATE OF ARIZONA

## Joint Legislative Budget Committee

STATE  
SENATE

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CHAIRMAN 2004  
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MARSHA ARZBERGER  
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JACK W. HARPER  
DEAN MARTIN  
PETE RIOS

1716 WEST ADAMS  
PHOENIX, ARIZONA 85007

PHONE (602) 542-5491

FAX (602) 542-1616

<http://www.azleg.state.az.us/jlbc.htm>

HOUSE OF  
REPRESENTATIVES

RUSSELL K. PEARCE  
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ANDY BIGGS  
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EDDIE FARNSWORTH  
LINDA GRAY  
STEVE HUFFMAN  
JOHN HUPPENTHAL  
LINDA J. LOPEZ

### JOINT LEGISLATIVE BUDGET COMMITTEE

Wednesday, April 2, 2003 \*

8:00 a.m.

House Hearing Room 1

### AGENDA

- Call to Order
- [Approval of Minutes of December 19, 2002.](#)
- DIRECTOR'S REPORT (if necessary).
- EXECUTIVE SESSION - Arizona Department of Administration, Risk Management Services - Consideration of Proposed Settlements under Rule 14.
- 1. [ADOPTION OF COMMITTEE RULES.](#)
- 2. [DEPARTMENT OF ECONOMIC SECURITY - Response to Subpoena of March 19, 2003 Regarding FY 2003 Expenditures.](#)
- 3. [JLBC STAFF - Review of Classroom Site Fund Per Pupil Calculation.](#)
- 4. [ATTORNEY GENERAL - Review of Allocation of Settlement Monies.](#)

\* **Committee may recess until 8:00 a.m. Thursday, April 3, 2003 if it is unable to complete its business.**

The Chairman reserves the right to set the order of the agenda.

03/28/03

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VACANT

1716 WEST ADAMS  
PHOENIX, ARIZONA 85007

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**MINUTES OF THE MEETING**

**JOINT LEGISLATIVE BUDGET COMMITTEE**

December 19, 2002

The Chairman called the meeting to order at 9:40 a.m., Thursday, December 19, 2002, in Senate Appropriations Room 109.  
The following were present:

Members:	Senator Solomon, Chairman Senator Arzberger Senator Bee Senator Brown Senator Cirillo Senator Rios	Representative Knaperek, Vice-Chairman Representative Burton Cahill Representative Gray Representative Lopez Representative Pearce Representative Pickens
Absent:	Senator Bennett Senator Bundgaard	Representative Allen Representative May
Staff:	Richard Stavneak, Director Jake Corey Kim Hohman Brad Regens Tony Vidale	Cheryl Kestner, Secretary Steve Grunig Bob Hull Tim Sweeney Jill Young
Others:	Judy Bernas Dr. Gary Passer Lynn Dunton Jim Ryan Clark Partridge Richard Carlson Frank Hinds Charles Ryan Tara Roesler Don Smith	Director, Government Relations, Univ. of Arizona President, Navajo County Community College District Assistant Director, AHCCCS Deputy Director, GITA State Comptroller, ADOA Deputy Director of Administration, ADC State Risk Manager, ADOA Acting Director, ADC Department of Administration State Compensation Fund

**APPROVAL OF MINUTES**

Senator Solomon moved that the minutes of November 25, 2002 be approved. The motion carried.

**EXECUTIVE SESSION**

Senator Bee 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.

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

At 10:11 a.m. the Committee reconvened into open session.

**ARIZONA DEPARTMENT OF CORRECTIONS – Report on Schofield v. State of Arizona (On Call Duty Pay)**

Representative Knaperek moved that the Committee has reviewed and concurs with the settlement offer made by the Arizona Department of Corrections to claimants of the On-Call Litigation Settlement. Additionally, JLBC understands the settlement offer is to be paid over a three-year period, commencing in FY 2004. Risk Management will provide up to \$2 million each year, with the remainder being provided by the Arizona Department of Corrections from their general appropriation. The motion carried.

**ARIZONA DEPARTMENT OF ADMINISTRATION (ADOA) – Consider Approval of Mileage Reimbursement for State Travel by Motor Vehicle.**

Mr. Paul Shannon, JLBC Staff, said that this item concerns a proposal by ADOA for a maximum mileage reimbursement rate from 34.5 cents to 36.5 cents per mile. It is estimated that the fiscal impact of this proposal will be \$52,000 per year from the General Fund and \$226,000 from all Other Funds.

Representative Pearce asked why the department is requesting an increase. Mr. Shannon responded that the federal government raised the rates to 36.5 cents at the beginning of this calendar year. The department delayed the implementation of that increase because they did not believe that fuel costs had risen to that level. At the time they made the proposal in the summer, fuel costs had been higher than they had in the spring. Fuel costs are very volatile at this point.

Representative Knaperek asked if there is a war, and fuel prices go sky high, will the department be able to come back before JLBC for the approval then. Mr. Stavneak said they would be able to come back to the Committee for approval.

Mr. Clark Partridge, State Comptroller, ADOA, said to briefly outline this issue, the federal government increased their rate to 36.5 cents and the department felt that since gas prices had fallen for Arizona, at that time it was appropriate to table the increase until it became an issue for Arizona. In April the gas prices did go up and after some analysis it was determined that gas prices would remain at a higher price. It then became appropriate to match the federal rate.

Representative Knaperek asked why the department was requesting an increase in light of the current budget crisis. Mr. Partridge said they have encouraged state agencies to use the lowest cost for travel and also have encouraged them not to travel unless it is necessary. ADOA said they hear from employees that it is not appropriate when an employee has to travel a lot in their job and are not reimbursed at a fair rate.

Representative Knaperek asked what kinds of jobs would require extensive travel. Mr. Partridge said he did not have detailed information with him but could provide it.

Representative Pearce said there needs to be a review of vehicle usage in the state and justification for travel.

Senator Arzberger asked if Feed, Seed, and Imported Plant Inspectors use their own vehicles. She said there are a lot of rural areas outside the metro area with state workers who have to travel in their work and she did not believe they have state vehicle for their use. She questioned whether Child Protective Services personnel use their own vehicles and stated that if they do they should be reimbursed for the actual costs of operating that vehicle.

Mr. Partridge did not have details on who uses their own vehicles.

Senator Solomon said the Committee would hear the next item on the agenda before taking action on the mileage reimbursement rate item.

**ARIZONA DEPARTMENT OF ADMINISTRATION (ADOA) – Consider Approval of Lodging Reimbursement Rates.**

Mr. Shannon said this item concerns a request made by ADOA to make changes to the maximum lodging rate for state employees on state travel. The net General Fund impact of these changes is \$4,700 in FY 2003. There were changes to various cities, some being up and others being down.

Mr. Stavneak said that the \$4,700 only applies if you go through the state travel agency. The cost is higher than \$4,700 but the actual cost is unknown.

Senator Solomon said that by doing some research she has always been able to save the state some money by using an agency other than the state travel agency.

Mr. Partridge said that there is a lot of travel activity and they always encourage agencies to use the most cost effective means possible. Some travelers are very informed and know how to get the cheapest rate and others do not travel very often.

Representative Knaperek moved that the Committee not approve the rate for either mileage or lodging reimbursement rates.

Senator Rios made a substitute motion for the Committee to vote separately on both agenda items.

Representative Knaperek withdrew her motion.

Representative Gray stated that employees outside Maricopa County typically pay higher gas prices. She would like those outside Maricopa County to receive a higher reimbursement.

Representative Knaperek moved that the Committee approve the new gas mileage rate for rural areas.

Senator Brown thought that it would be very difficult to keep the books straight with different rates for employees.

Mr. Partridge said he believes it would be worthwhile, but it would be difficult and costly to try to separate reimbursement rates.

Representative Pearce said that by giving different rates it just makes things messy and if they are going to give a reimbursement rate it should be for everyone or not at all.

Representative Knaperek withdrew her motion.

Senator Rios moved that the Committee approve the mileage reimbursement rate. By a show of hands 4 ayes and 6 nays, the motion failed.

Representative Knaperek moved that the Committee not approve the new lodging rate. The motion carried.

**ARIZONA DEPARTMENT OF ADMINISTRATION – Consider Approval of Self-Insurance for State Employee Health Insurance and Bimonthly Report on the Implementation of Self-Insurance for State Employee Health Insurance.**

Mr. Shannon said that a provision in statute requires that the Committee approve or disapprove implementation of self-insurance. At this time the Committee has the option of approving self-insurance, not approving self-insurance or delaying action until a future date. The department has issued Request for Proposals (RFP) for the process of self-insurance. They did this because the provisions contained in the Omnibus Reconciliation Bill (ORB) in the 6<sup>th</sup> Special Session would have delayed the implementation of self-insurance, which did not pass. The department is facing a deadline for self-insurance of October 1, 2003.

Senators Cirillo and Solomon expressed concern that JLBC could not override statute.

Mr. Stavneak said that there is some ambiguity since the statute says subject to approval by JLBC the Department of Administration shall self-insure by October 1, 2003. There is a point where the Committee would need to take action. The

indications are from ADOA that a vote could not stop the process. Mr. Stavneak said the vote would be more advisory than it would be the final step of the process.

Representative Knaperek said there were great concerns that arose on this item in a hearing she chaired. After hearing those concerns and comments from the Arizona State Retirement System, she said she is uncomfortable going forward with this item.

*Representative Knaperek moved that the Committee not approve the Arizona Department of Administration's implementation of self-insurance by October 1, 2003.*

Mr. Stavneak said that this vote represents the Committee's advice as to whether self-insurance would start by October 1, 2003. This issue would need to be followed up in the regular session with regards to legislation.

Senator Cirillo asked what that would do to ADOA, as they have already issued an RFP.

Ms. Susan Strickler, Benefits Manager, ADOA, said that after looking into this issue, if the 1-year delay is enacted by the Legislature the State Procurement Office has indicated that the RFP would be suspended, it would still exist. Work has already been done on development. It would stay in abeyance and confidential until such time as they issue an amendment with a new date or cancellation. Without the 1-year delay, ADOA will continue with the process.

Senator Cirillo said essentially ADOA will continue full speed ahead with the October 1, 2003 timeframe until the Legislature does something, which he feels is the correct position to take.

*Senator Arzberger moved a substitute motion that the Committee not take any action on this item.* The motion failed.

*The original motion made by Representative Knaperek carried.*

#### **SCHOOL FACILITIES BOARD (SFB) – Consider Approval of Inflation Index.**

Mr. Jake Corey, JLBC Staff, said the SFB is requesting that the Committee approve an increase of 4.8% in the cost-per-square foot factors used in both building renewal and new school construction financing formulas. That increase is based upon the Marshall Valuation Service construction cost index for July 2002. The Committee has 4 options: 1) approve the 4.8% increase, 2) approve a 1% increase based upon the Gross Domestic Product price deflator for FY 2002, 3) approve a 0.6% increase, which was the same increase approved last year, or 4) not to approve an increase.

Senator Cirillo thought the Committee might have another option. He said Mr. Boot provided other options to reduce costs and thought it might be better to not move ahead with this until the Committee decides what they will do about the options provided by Mr. Boot. It may well be that there are more than enough savings to take care of the increase.

In response to Representative Gray, Mr. Stavneak said that statute says that action must be taken annually and it has been 16 months since the Committee last took action.

In response to Representative Knaperek's question, Mr. Stavneak said that any of the options other than option 1 will put us back in court according to the December 17, 2002 letter to the Committee from Mr. Tim Hogan, Executive Director of the Arizona Center for Law in the Public Interest.

Senator Cirillo asked if they could pass the first option and delay it taking effect until the Legislature has a chance to go through the reductions.

Mr. Stavneak said that the formulas would actually go into effect in FY 2004. The question would be whether the Legislature would take action during that period of time to enact something with regards to the building renewal formula that would effect 2004.

Mr. Ed Boot, Interim Executive Director, SFB, said the way the statute is written you would do an annual review based upon the previous 12-month inflation that has occurred. Since this is inflation that has already occurred, it would be retroactive to now. Even though Mr. Hogan writes that the SFB has not awarded any schools this fiscal year since July, therefore they would make it not retroactive to previous year but on new awarded schools beginning at December's board meeting.

Senator Solomon asked if the 4.8% increase is based on inflation that has already occurred would it have to be incorporated into estimates for any new schools. Mr. Boot said that was correct. The 4.8% is the Marshall and Swift Index number for the Phoenix market place of what they saw last year during that 12-month period. The SFB's analysis, as stated in a letter on December 16, indicates the number is 7.86% not 4.8%.

Representative Knaperek asked if we must use the Marshall and Swift Index. Mr. Boot said that statute did not indicate that, but in 2000 the Committee selected Marshall and Swift as the index they would utilize in this process.

Representative Knaperek asked whether the SFB would have trouble building new schools without this increase. Mr. Boot said that with the index in the vast majority of cases they could build a school for the formula amount. Also in statute is the authority for the Executive Director and the Board to go above the statutory amount if necessary due to specific reasons. Therefore, you would be putting more of the burden on the department to make those calls in a vastly larger number of circumstances than they have had to do in the past, (i.e., the formula would be inadequate in more of the schools that they will build in the future, causing the Director and the Board to use judgement rather than the formula.)

Representative Knaperek asked whether it has been a problem since the Legislature has not approved this in the last 16 months. Mr. Boot said they have averaged \$99.13 on every school they have built. They project spending \$106.92 on schools they are now starting. It will definitely be a problem in the future. The difference is the 7.86% increase that they have already seen.

Representative Gray asked if most schools are being built below or above standard when the request is submitted. Mr. Boot said that in 62% of the schools that have been built, they have used Students First money exclusively and in 38% the schools supplemented it with additional funds from their local district.

Representative Gray reported that at a recent board meeting her school district approved \$12.9 million for a middle school. The district was also putting in another \$17 million. That will be the most expensive middle school in the district. She questioned what they, as a Legislature, could do to prevent that kind of spending for a middle school.

Representative Knaperek said that she is uncomfortable voting on any of the options on this issue. Any increase is going to take money from somewhere else. Since the item has been put off for the past 16 months she feels they could put it off one more month and let the new Legislature look at the big picture.

Senator Solomon asked if the Committee were to approve the 4.8% and then some recommendations were brought forward and adopted by the next Legislature, would you then be obligated by this action or would statutory enactment provide the means to do what you would be doing under whatever statutory enactment would make.

Mr. Boot said that statute indicates that when you increase the formula for square feet for new construction that that would take affect and would be the amount the SFB uses, authorizes and provides to the district to build the school. Under current statute, any money that remains at the end of the project reverts to the school district. Therefore, you save money in other areas that would revert back to the state. In this particular case that money, if any was saved, would go back to the school district in the increased formula.

In response to Senator Solomon, Mr. Boot said if there were a change in the law and the Legislature elected to do something similar to that, then whatever that law change was would be the matter in which the SFB would administer the program.

Representative Knaperek asked Mr. Boot how many times money has stayed with the school district. Mr. Boot replied that of the 84 schools that have been built and opened in the last 3 years, 62% had no additional money from the school districts. In those cases any contingency at a minimum was reverted back to the school district. The SFB has adopted a policy where they require a school to reserve 3% if it is over 25,000 sq. ft. and 5% if it is under that for contingency. Those amounts, if unused for unknown conditions, always revert back to the district. In almost all cases, the contingency at a minimum was reverted to the school districts. In 38% of the schools that exceeded the SFB formula, the district put in money. Clearly they used all of the formula and did not receive any money back at the end of the project.

Mr. Boot said that without the formula adjustment the SFB will have fewer districts that can build schools, not only unable to retain any money but building the school within the formula amount. They will be asked at the board level to supplement

the monies that are required to build the school above the formula amount. SFB will be able to deal with that but it will require them to use judgement rather than what is statutorily approved in the formula.

Discussion continued on the school construction financing formulas.

Representative Pickens moved that the Committee approve option 1 of the JLBC memo, which is to approve the 4.8% increase.

Representative Pearce moved a substitute motion that the Committee not approve the increase in the cost-per-square-foot factors used in the building renewal and new school construction financing formulas. The motion carried.

#### **COMMISSION FOR POSTSECONDARY EDUCATION – Consider Approval of Requested Transfer of Appropriations.**

Ms. Jill Young, JLBC Staff, said the Commission for Postsecondary Education is requesting approval to transfer appropriations in FY 2003 in the amount of \$52,500. As a modified lump sum agency the Commission is required to come before the Committee for approval to transfer any monies in or out of Personal Services and Employee Related Expenditures (ERE). This transfer is necessary due to a \$100,000 reduction in General Fund monies for the general administration enacted during the last legislative session. This action is consistent with the intent of the legislation at that time. JLBC Staff recommends the Committee approve this transfer.

Senator Cirillo moved that the Committee approve the JLBC Staff recommendation to transfer \$52,500 as requested by the Commission for Postsecondary Education. The motion carried.

#### **OFFICE OF THE ATTORNEY GENERAL (AG) – Review of Allocation of Settlement Monies.**

Ms. Kim Hohman, JLBC Staff, said this item is a review of the allocation plans for 2 recent settlements. A footnote in the General Appropriation Act requires the AG to notify the Committee of settlements over \$100,000 that are not deposited in the General Fund. The settlements with Sears and Household Finance will both result in about \$200,000 and pursuant to statute these monies are deposited in the Consumer Fraud Revolving Fund. JLBC Staff recommends a favorable review of the allocation plan for these 2 settlements. In addition, there are 2 other settlements, 1 with the maker of the George Foreman grill and 1 with various music distributors. Since the distribution plan for these 2 settlements have not yet been determined, the JLBC Staff recommends that the Committee defer review of these 2 settlements until the distribution plans are made available.

Senator Bee moved that the Committee approve the JLBC Staff recommendation to approve the 2 allocation plans for Sears, Roebuck Company and Household Finance Corporation as requested by the Attorney General. The motion carried.

#### **OFFICE OF THE ATTORNEY GENERAL (AG) – Review of Expenditure Plan for Antitrust Enforcement Revolving Fund.**

Ms. Kim Hohman, JLBC Staff, said this is a review of the expenditure plan for the Antitrust Enforcement Revolving Fund. A footnote in the General Appropriation Act requires the Committee to review the expenditure plan for expenditures over \$138,800. The Fund has received additional revenue from a settlement with Stericycle, Inc. and combined with existing money in the fund the AG is requesting to spend an additional \$266,200. The JLBC Staff is recommending a favorable review of the settlement with Stericycle, Inc. as well as the expenditure plan for additional monies out of this fund.

Representative Knaperek moved the Committee give a favorable review of the allocation plan for the recent settlement with Stericycle, Inc., as well as the request to spend additional monies out of the Antitrust Enforcement Revolving Fund as requested by the Attorney General. The motion carried.

#### **ARIZONA LEARNING SYSTEMS/COMMUNITY COLLEGES - Determine Disbursement of Arizona Learning Systems (ALS) Equipment.**

Senator Solomon said this issue has been discussed by the Committee a number of times. The Committee has listened to information provided by the universities and community colleges. Recently they met with Dr. Passer and Judy Bernas and believe they have reached an agreement on the issue. The agreement that they have come to will provide an opportunity for

the expansion of Telemedicine throughout the state. It will also allow the community colleges to expand their learning system and have additional classroom sites.

Representative Knaperek asked if the state would be saving the \$210,000 remaining from the original ALS appropriations. Ms. Young said that is the amount that would be reverted to the General Fund.

Representative Gray asked if the equipment will all be utilized. Ms. Young said that the universities have stated that they will be able to utilize all of the hub components. There may be some smaller pieces that the community colleges cannot use.

Ms. Young said there will be a final report that shows the distribution of the ALS equipment.

Representative Knaperek moved that the Committee approve the following items:

- *The community college districts shall retain the 10 classroom video-conferencing units as proposed in their use plans.*
- *Maricopa County Community College District shall retain the Cisco 7206 router housed at Rio Salado Community College.*
- *The University of Arizona Health Sciences Center shall obtain the remaining components of the hub equipment including the Cisco 7206 router currently housed at Pima County Community College District, the Video Bridge, and the Cisco Lightstream Switch.*
- *Any equipment that cannot be utilized by the community college districts or the universities shall be sold and the proceeds shall be deposited into the General Fund.*
- *The Committee requests that the ALS Fiscal Agent and/or ALS Officers shall coordinate the transition process and submit a final report on the transition, expenditures, and remaining funds from ALS appropriations to be reverted to the General Fund by January 31, 2003.*
- *Any funds remaining from ALS appropriations shall be reverted to the General Fund on or before March 1, 2003.*

The motion carried.

#### **ARIZONA DEPARTMENT OF ADMINISTRATION/GOVERNMENT INFORMATION TECHNOLOGY AGENCY (GITA) – Report on HRMS Replacement Project.**

Mr. Paul Shannon, JLBC Staff, said this project is moving along fairly well. There was a snag that the department said has been cleared up. The delay may result in the implementation date of the system moving from April 14 to later in the year but that date has not been set.

Representative Gray asked if she would be able to see an organization chart as to what positions are filled and what are vacant with the new system. Mr. Shannon said that she would be able to get more detailed information that you could get in the past, but he is not sure if it will be in that particular format.

Representative Pickens asked if the old system will hold together until the new system is up and running. Mr. Shannon said the company that supports the old system has agreed to extend their support through FY 2003 and into FY 2004.

Senator Arzberger asked when they move into work flow analysis and those type of activities, are they moving into functions that are necessary or more elite functions that are in line with the private sector.

Mr. Jim Ryan, Deputy Director, GITA, said he cannot talk to exact cost but the technology will help the government streamline, it will help to build a model and forecast staffing issues, and payroll issues in a more accurate manner. Agencies will have to adopt a standard statewide to benefit and take advantage of the new system.

In response to Representative Knaperek's question regarding the project receiving a letter grade of a "B," Mr. Ryan said there were some scheduling issues that have all been addressed and the other concerns are being worked on that would push the letter grade up once they have been resolved.

#### **ARIZONA DEPARTMENT OF ADMINISTRATION (ADOA)/GOVERNMENT INFORMATION TECHNOLOGY AGENCY (GITA) – Review of Telecommunications Services Plan.**

Mr. Paul Shannon, JLBC Staff, said this item concerns a report that was submitted by ADOA and GITA as required by Laws 2002, Chapter 327. It concerns options including privatization and allowing agencies to procure their own telecommunications services that increase the fiscal efficiency of Arizona telecommunication services. JLBC Staff



recommends a favorable review to privatize state government's telecommunication system, pending private sector input into possible methods of conversion.

The report identifies 3 items that are policy issues for the Legislature: 1) whether or not to centralize governance of the telecommunications system, 2) whether or not to centralize funding for the system, and 3) whether or not the state should own the telecommunication assets. There was legislation in the ORB in the 6<sup>th</sup> Special Session that would have forwarded privatization of the system but the bill did not pass. The report identifies areas of fiscal savings, primarily associated with toll by-pass. Those savings over a 5-year period in the privatized model would be about \$41 million.

Representative Pickens asked what the advantages are of privatization.

Ms. Tara Roesler, Manager of Financial Planning for Information Services, ADOA, said with respect to that question what the data shows is there are 3 drivers that lead to privatization. One is the status of the industry in going to convergence where they have run voice and data over the same line. What they have found is that in government right now they do not have the ability to make that transition. It was going to be rather significant to obtain training for their staff in terms of competency, which would then make them marketable and they would leave. The second thing is the rapidly changing technology. There is not a universal standard at this time; there is no connectivity to interact with one another. Thirdly, there is a significant capital investment, and they do not want to add to the budget burden. Up until you actually have vendors come forward with specific numbers you do not know if privatization is going to be cheaper. The agency would like to move forward with the RFP and then notify the Committee as to whether it would be more cost effective to privatize or go with an alternate solution.

Senator Cirillo asked if the field were competitive enough to send out RFPs. Ms. Roesler replied that they feel there will be more than enough responses to the RFP to determine what is the best way to go.

Representative Knaperek moved that the Committee give a favorable review to ADOA/GITA's recommendation to privatize state government's telecommunication system, pending private sector input into possible methods of conversion. The motion carried.

#### **STATE DEPARTMENT OF CORRECTIONS (ADC) – Review of Pay Stipend and Hiring Bonus Program.**

Mr. Brad Regens, JLBC Staff, stated that the agency is requesting review of a plan for a pay stipend in the remaining unit at the Lewis Complex. In the last regular session, the Legislature provided the department with \$7.7 million to start operation of the unit in July 2002. Those beds remain unopened due to the inability to hire a sufficient number of correctional officers. The second pay issue is a hiring bonus that the department would like to implement at the entire Lewis Complex as well as Eyman and Florence prisons. The department is able to implement these 2 programs on their own and do not need to come before the Committee for approval. In the past, the department has done both of these programs at other facilities without coming before the Committee. However, they are here today because while they believe they can fund both programs in the current fiscal year, they do not believe they can fund them in the next fiscal year without additional monies from the Legislature. They are coming to the Committee to get approval and hope to receive the money during the FY 2004 Appropriations process.

The JLBC Staff believes the Committee has 3 options: 1) give a favorable review to the pay stipend. Essentially this is a pay increase in which a correctional officer would get an extra 10% pay based on the fact that they are located at a hard to fill location. This would have an annual cost of about \$353,000. Option 1B would be for the Committee to defer this issue since the department will need money in FY 2004 and allow the appropriation process to take its natural course during the next session, 2) approve the department's request to provide a hiring bonus of \$5,160 to a new hire and would require the officer to serve 2 years at the facility. Should they leave, the department would attempt to receive some of the money back on a pro-rated basis. The agency has had differing levels of success at getting the money back. This has an annual cost of \$7.7 million. Option 2B would be to defer to the Appropriations process, and 3) recommend that the department use the Lewis monies to add 350 private beds rather than attempt to hire officers to operate the Lewis beds. The department would not actually bring in a private operator to contract those specific beds, but rather the department would utilize the money the Legislature gave them and get a private contractor at a different location. This would help with the department's overcrowding and also would save the state money. The most recent contract that was executed for a private facility, which is the one in Texas, ended up with the state getting a contract of \$38.25 a day per inmate. Should the state get those rates there would be a savings of about \$2.8 million if the 350 beds are privatized, rather than continuing to have the department attempt to operate the Lewis beds, which would take more money.

Senator Cirillo said that if the state privatizes at an off-site facility, that does not actually give ADC the 350 beds. They still do not have the correctional officers at Lewis, so how does that help the problem of overcrowding. Mr. Regens said the facility at Lewis has 4,150 beds. They are currently operating 3,800. What the department would do is continue to operate those beds and the one remaining unit would remain unopened. They would then enter a contract with a private provider who would hire their own guards. It would be the providers responsibility to staff their location. Mr. Regens said the Lewis Complex would still have a part of their facility that they cannot run, but would have an additional 350 beds on a contract basis.

Senator Cirillo said he would support that option as he is not a supporter of special stipends. They tend to cause all sorts of problems with the rest of the population of employees.

*Representative Knaperek moved that the Committee recommend that the Arizona Department of Corrections privatize the 350 beds and to use vacancy savings in FY 2003 to continue to provide a hiring bonus to correctional officers whose pay already includes the bonus. The Committee also recommended that the department explore using the monies appropriated for operation of the Rast Unit at the Arizona State Prison Complex – Lewis to purchase 350 additional private beds rather than open the Rast Unit.*

Mr. Chuck Ryan, Acting Director, ADC, said that of the 3 options that were presented, 2 speak about partial solutions to the problem of the vacancy rate among the correctional officers. What the department is experiencing is about a 21% vacancy rate throughout the entire prison system among correctional officers. At the Lewis Complex the operational vacancy rate this week is 35%. Part of that is because they cannot open the 3<sup>rd</sup> unit. At Florence and Eyman it is about 25%. The 3<sup>rd</sup> option that is being suggested to privatize 350 beds, might address the bed problem but does not address the issue of the staffing problem and the department's ability to attract and retain staff. What occurred in December 2000, because they were almost at 50% vacancy at the Lewis Complex, the Department of Administration authorized the department to go ahead and implement the hiring bonus program for new hires and transfers and \$100 per pay for the incumbents. As of Saturday the 2 years for the \$100 pay expires. The department will have 412 correctional officers in a position where they will now cease receiving \$200 of pay per month and a very strong likelihood that those officers will look for a transfer or seek employment elsewhere. There are about 60% of officers that participated in the hiring bonus and the department has still been able to retain them. They have about 55% of the officers who are receiving the \$100 pay. At Florence and Eyman they have the 10% geographic stipend that has already been described, but we are gaining no ground. Privatization is working for the department both in-state and out-of-state. Mr. Ryan suggests the Committee approve the use of vacancy savings funding for the balance of the fiscal year to pay for the hiring bonus as well as the \$100 at the Lewis, Florence and Eyman facilities. Focusing on privatizing the 350 beds, it does nothing to address the problem at those 2 geographic locations and the problem will worsen.

Senator Rios said he would support the use of vacancy savings dollars.

Senator Brown said he feels it would be a mistake to include both private and public facilities in the same locale.

Mr. Regens responded that a private facility would not be located at the Lewis Complex. The 350 beds cannot be operated because ADC cannot hire staff. Instead of hiring staff ADC would utilize that money in their budget to contract at a private location to be determined by the RFP Process.

Representative Knaperek said she believes the whole issue is an Appropriations issue and should be dealt with in the budget process. She supports option 3 of the JLBC memo but the other issues should go through the usual budget process.

Representative Pearce said he supports the 3<sup>rd</sup> option but would like more information. He said he is sensitive to the public safety issue, however, he does not think that agencies should be giving bonuses. Long term commitments and salary benefits should go through the legislative process.

Senator Solomon asked if, based on the current ADC budget, could the stipends be sustained. Mr. Regens said that at this time they could utilize vacancy savings and some other monies. The Legislature provided the department with \$7.7 million to operate 350 beds beginning July 1. The department is essentially halfway through the fiscal year, as a result there is nearly \$4 million in available monies. There will be problems in 2004 since the department spends about \$14 million a year on stipends that they have not received an appropriation for.

Senator Solomon said there is a motion on the table recommending option 3.

Senator Rios made a substitute motion for the Committee to authorize the Department of Corrections to utilize vacancy savings to continue stipends at the Florence and Lewis facilities.

Representative Knaperek asked what the cost would be to the state to utilize the vacancy savings. Mr. Regens said it would be approximately \$7 million. He said there are 2 different programs, 1) the 10% stipend which is only for 120 officers and would be about \$150,000 for the remainder of the year, and 2) a hiring bonus for a larger number of officers, that would be about \$7 million.

Senator Solomon asked what the cost would be for the continuation of the stipends for the officers already receiving it through the use of vacancy savings at the Lewis facility. Mr. Regens said it would cost approximately \$2 million.

Senator Solomon asked Senator Rios if the Committee were to do the continuation of the stipends for those already receiving it and recommend to the next Legislature that they investigate the option of privatizing, would that be satisfactory.

Representative Pearce said that he could go with option 1 as he feels the pay stipend issue must be dealt with. He suggested that that piece could be added to option 3.

Mr. Ryan said the bed deficit today is a little over 3,400 and what is occurring right now is ADC is sending inmates to Texas. There are 264 inmates in Texas and the balance will be there by the end of January. Those are the only private beds that are under contract right now. In the last session the Committee authorized 250 beds in private prisons here in Arizona and those 250 emergency beds are occupied. The Committee also authorized 229 county jail beds, 68 are occupied in Coconino. The Attorney General's Office is reviewing a 1,400 bed RFP. One of the other items to talk about is the female population and the rationale was to privatize those female beds and reconvert those beds back to men. What the department has right now is not 1 state prison bed under design, construction, or in line for approval.

Senator Solomon asked if the Committee made a motion to approve funding stipends at the Lewis Complex and ask the department to explore the use of private beds would that prevent the department in anyway from taking action sometime in January.

Mr. Ryan said they would be able to do that.

Representative Pearce said "so moved."

Senator Solomon asked if that was being moved as a substitute motion. Representative Pearce responded yes.

Mr. Regens asked for clarification on the motion. Is the Committee's motion to allow the department to continue providing the current bonus to the current employees and not to provide the bonus to any new hires, which will mean that they will not open the 350 beds. Senator Solomon said that was correct.

Mr. Ryan asked if that would continue the \$100 for the incumbent employees. Senator Solomon said it would.

Mr. Regens asked for further clarification: this bonus is only for the Lewis Complex and we are not speaking to any of the other complexes because they have not utilized the bonuses yet, nor the pay stipends and they can continue their current practice. Senator Solomon said that was correct.

*Representative Pearce's substitute motion carried.*

#### **STATE DEPARTMENT OF CORRECTIONS – Review of Private Prison Request for Proposal.**

Mr. Regens said this is a review of a private prison RFP. The current Appropriation Act contains a footnote which directs the department to issue an RFP to privatize 2,200 female inmate beds beginning in FY 2005. The inmates would be Levels 2, 3, and 4 and would not include Level 5, Death Row or Reception and Diagnostic inmates. The department has released the RFP and the Committee's role is to review the RFP and direct them on any changes. The department then reviews the bids and works with the Attorney General to finalize a contract.

The department's RFP includes an expansion option, which is not included in the footnote. It is to add an additional 1,000 beds and include the Level 5 inmates in the privatization proposal. The JLBC Staff has outlined 3 options for the Committee: 1) is to provide the department with a favorable review. There is no money in the current fiscal year's budget, and no required monies in FY 2004. The funding for this project would begin in FY 2005. It would increase the

department's capacity and have a minimum cost of approximately \$35 million, 2) this option would be to give a favorable review to the RFP as it is stated in the footnote, which is limited to the 2,200 and levels 2, 3, and 4 inmates, and require the department to modify the RFP to state that the expansion option could only be utilized if the full Legislature authorizes it, and 3) defer action on this issue and allow the next Legislature to take privatization of the female population as a complete issue. As information for the Committee, it will take about 18 months from the time this Committee takes action to the time the beds would be open, any delay of more than a month or 2 will most likely impact the opening of the beds.

Senator Cirillo asked if the cost of beds in Texas that have been discussed would be the same for male and female inmates. Mr. Regens said typically the female beds cost more.

Representative Pickens asked if steps towards total privatization is a good fiscal move or just a desperate move. Mr. Regens said that financial data shows that privatization allows the state to avoid the up front costs. The most recent facility that the state built was the Lewis facility and it cost roughly \$160 million.

Mr. Regens said that a private provider is required to provide the same level of programming that the state is providing to inmates in state operated facilities at a cheaper rate or a superior level of programming at the same cost. Mr. Regens said that until recently the department kept the female population at a couple of locations throughout the state and consolidated all those inmates in the facility at Perryville. One of the rationales for doing that is programming issues. The female population is not as large as the male population. They were having to try to duplicate programs at different locations for a smaller number of inmates and in some cases were not able to provide the same level of programming for females as males, simply because of numbers issues.

Mr. Regens said if the Committee takes option 1 or 2, which is a favorable review, the JLBC Staff also recommends that the Committee direct the department to update the per diem rate that they are currently showing in their RFP. The per diem rates they are showing now do not correspond to the most recent cost comparison study. Mr. Regens said that in recent discussions with the department they are preparing to update the per diem rates.

Representative Pearce said this is a significant contract and we have only given them 6 weeks to respond. Is it possible to give them another 30-60 days. It would be best to give them enough time to make sure they get the best deal for the state. He also asked if this discussion were moved to January would it affect opening the beds.

Mr. Ryan said the current closing date is January 8 and looking at the additional requirements he felt the end of February would be a better closing date. In response to the bed issue, Mr. Ryan said that they would have to amend the RFP on their own in fairness to various competitors who would be submitting an offer right now who think the closing date is January 8. Because of the change in the inmate population forecast that was revised in November, it is not just a 2,200 bed RFP, it is now 3,200. The department is asking for Committee approval to include the level 5 female population. Right now the female population exceeds the bed capacity at the Perryville prison.

*Representative Knaperek moved the Committee recommend that the Department of Corrections include in the current RFP process Level 2, 3, 4 and 5 inmates and increase the number of beds from 2,200 to 3,200 beds.*

The motion carried.

#### **AHCCCS – Report on Cost Sharing Measures.**

Mr. Tim Sweeney, JLBC Staff, said this is an AHCCCS report on Cost Sharing Measures as required by a footnote in the General Appropriation Act. No Committee action is required on this item but the agency is seeking guidance as to whether to pursue any other options. Several options have been identified including increased co-payments, monthly premiums and enrollment fees and it is estimated that the savings could be between \$14 million and \$17.3 million.

Senator Cirillo said of the 3 options it appears option 1 is very questionable, because you have to get a waiver from the federal government to increase the co-payment. Is there any new information that shows the ability to get the waiver.

Ms. Lynn Dunton, Assistant Director for Policy, AHCCCS, said they believe what the Centers for Medicare and Medicaid Services (CMS) will do is be fairly strict on the lower income population. With the new expansion group to Proposition 204 are Kids Care parents, and the Health Insurance Flexibility and Accountability group they have much more flexibility. Other states have received waivers for those groups without months and months of wrangling. They are not very optimistic that we will be able to do much with the Temporary Assistance to Needy Families (TANF) population.

Senator Cirillo asked how that changes the amount shown on the co-payment which is the biggest savings item, \$7 million to \$10.3 million. What would that be reduced to if you take out the lower income people if that were not approved.

Ms. Dunton said that when they built the estimate they built it conservatively, this is the group that we can impose the regular Medicaid co-payment and TANF. Right now we cannot have a co-payment on prescription drugs, that is allowable under federal law, so we would add that.

Ms. Dunton said they could approve a waiver request pending legislative approval and make it very clear.

*Representative Knaperek moved that the Committee recommend AHCCCS move forward with a federal waiver and approval of the items listed in their report pending legislation. The motion carried.*

#### **STATE COMPENSATION FUND (SCF) – Consider Approval of Calendar Year (CY) 2003 and 2004 Budgets.**

Mr. Steve Grunig, JLBC Staff, said the SCF is requesting the Committee approve their budget for CY 2003 and CY 2004. The SCF budget is on a calendar year basis rather than a fiscal year basis. This Committee approves their budget instead of the full Legislature.

The State Compensation Fund is currently the largest provider of workers' compensation insurance in Arizona. They provide insurance to over 50,000 employers in the state. In considering the SCF budget it is helpful to separate their expenditures into 2 categories. The first is their operating budget which they use to carry out day-to-day operations and the other is Special Line Items, related to the level of business performed by the Fund, and they rise and fall with the level of activity. For CY 2003, the JLBC Staff recommends a total budget of \$67,478,300. They also recommend an increase of \$600,000 in Personal Services plus an extra 20 FTE Positions to enable the Fund to handle an expected increase in business. The JLBC Staff also recommends increases in ERE to pay for higher retirement and health care costs and also recommends an increase for management fees and administrative upgrades. The JLBC Staff recommends the full amount for below-the-line item expenditures. The SCF has requested a salary increase for CY 2003. Given the current circumstances of the state that cannot be recommended. Also in the current calendar year the SCF is spending \$609,000 more in Personal Services than the amount approved by the Committee, which is essentially an unapproved salary increase. The JLBC Staff recommends a reduction in Personal Services for this amount. These are policy issues for the Committee to consider.

The JLBC Staff is not recommending any budget for CY 2004. The SCF expenditures are non-appropriated and the extent to which the SCF is like or different from other state agencies is not always clear. As a non-appropriated fund the SCF has spent more on both its Operating Budget and Special Line Items than the approved amount in both 2001 and 2002. Both of these expenditures were largely for Special Line Items but this tendency to overspend its budget has raised concerns. The Committee may want to consider whether it feels the level of oversight and control that it currently has is adequate for the SCF. The Committee could strengthen its budget oversight by approving only the CY 2003 budget. It could require that any increases above the approved amount be submitted to the Committee for approval prior to expenditure, and the Committee could require quarterly expenditure reports.

Representative Pearce said this agency is unique in that it is not appropriated General Fund monies. He feels if the agency is okay with the overrides then maybe the Committee does not need to have authority over their budget. However, he is concerned that they have gone over the approved budget. He also thought out-of-state travel should be suspended unless there is a large benefit to the state.

Mr. Don Smith, President and CEO, State Compensation Fund, said specifically in regards to outside travel, one of the things he will ensure they do is spend a lot of time with other State Compensation Funds and organizations where they can learn things about operations of an insurance company, find out what other types of concepts are being used in terms of claims management, and handling litigation. He is planning a trip to Washington D.C. to find out exactly how the State Fund has to behave in order take full advantage of the terrorism backup coverage that was just passed by Congress. As part of the American Insurance Association, which they joined last year, they give a lot of training and advice about how to do that. This is an example of what the Fund does. Most of the outside travel has to do with an organization called ASKIF, which is an association of State Funds in North America and includes Canada, made up of about 20 State Funds across the country.

Senator Solomon said that it is her understanding that the recommendation is to approve the budget for one year. There are other budgets like this one and she hoped the Appropriations Chairs would treat this agency like it would any other agency.

Mr. Smith said there are a number of contradictions in the enabling statute of this organization. He said they have tried to make the SCF more like a neutral insurance company. The way they have done it is take it from a state agency and exempt it from many things.

In addressing Representative Pearce's comments about the budget, Mr. Smith said in some of the areas, particularly the personnel areas, we do have disagreements with the JLBC. However, JLBC Staff have done a lot of work and spent a lot of time with us and we thank them for that. The reason we disagree with them is we see this as a 2-year budget, the statute says we are to present a 2-year budget with each year individually given to the Committee for review and approval. He has concerns about whether or not they get approval for a single year rather than 2 years. He would like to work towards clarifying this so they are not doing things that causes concern for the JLBC and the Staff and yet deliver on a very dynamic business. Workers' Compensation in this state is in a crisis mode right now. One of their obligations, for instance, is to handle the defunct carriers' claims. They are handling 10 companies claims right now, the highest number of failures in the history of Arizona. What really concerns him is that in 1999 three of these defunct carriers that have gone out of business were in the top 10 writers of workers compensation in the state. We have to make quick decisions and if we are held to a strict reporting structure it will not fit the need for that dynamic activity. The end result will be worse, not better.

*Representative Knaperek moved that the Committee recommend a Calendar Year 2003 Operating Budget in the amount of \$67,478,300 for the State Compensation Fund. The motion carried.*

#### **REPORT ON RECENT AGENCY SUBMISSIONS**

These are the recent reports received in the last month and no Committee action was required:

- A. Arizona Department of Administration - Semi-Annual Report on Health Insurance Performance Standards.
- B. Attorney General - Report on Model Court.
- C. Arizona Criminal Justice Commission - Report on Criminal Justice Enhancement Fund.
- D. Department of Economic Security - Bimonthly Report on Children Services Program.
- E. Department of Economic Security - Report on Findings and Recommendations of the Developmental Disabilities Case Management Pilot Projects Committee.
- F. State Land Department - Report on Fire Suppression Revolving Fund.
- G. State Mine Inspector - Report on Abandoned Mines Safety Fund Expenditures and Contributions.
- H. Department of Revenue - Report on Ladewig Expenditures.
- I. Arizona Department of Transportation - Report on Vehicle Registration Enforcement.

Without objection, the meeting adjourned at 12:55 p.m.

Respectfully submitted:

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Cheryl Kestner, Secretary

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Richard Stavneak, Director

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Representative Russell Pearce, Chairman

NOTE: A full tape recording of this meeting is available at the JLBC Staff Office, 1716 West Adams.

STATE OF ARIZONA

## Joint Legislative Budget Committee

STATE  
SENATE

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TIMOTHY S. BEE  
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DEAN MARTIN  
PETE RIOS

1716 WEST ADAMS  
PHOENIX, ARIZONA 85007

PHONE (602) 542-5491

FAX (602) 542-1616

<http://www.azleg.state.az.us/jlbc.htm>

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LINDA GRAY  
STEVE HUFFMAN  
JOHN HUPPENTHAL  
LINDA J. LOPEZ

DATE: March 27, 2003

TO: Representative Russell Pearce, Chairman  
Members, Joint Legislative Budget Committee

FROM: Richard Stavneak, Director

SUBJECT: ADOPTION OF COMMITTEE RULES AND REGULATIONS

The Committee will consider the attached rules and regulations for adoption at its April 2 meeting. The rules and regulations are the same as the Committee used in the last biennium.

RS:lm

# JOINT LEGISLATIVE BUDGET COMMITTEE OF ARIZONA

## RULES AND REGULATIONS

### RULE 1

#### NAME OF COMMITTEE AND METHOD OF APPOINTMENT

The name of the Committee is the Joint Legislative Budget Committee, hereinafter referred to as the Committee, consisting of sixteen members designated or appointed as follows:

1. The majority leaders of the Senate and House of Representatives, the Chairmen of the Senate and House of Representatives Appropriations Committees, the Chairman of the Senate Finance Committee and the Chairman of the House of Representatives Ways and Means Committee.
2. Five members of the Senate and five members of the House of Representatives who are members of their Appropriations Committees shall be appointed to the Committee by the President of the Senate and the Speaker of the House of Representatives, respectively.

### RULE 2

#### STATUTORY POWERS AND DUTIES OF THE COMMITTEE

1. The Committee shall ascertain facts and make recommendations to the Legislature relating to the State budget, revenues and expenditures of the State, future fiscal needs, the organization and functions of State agencies or divisions thereof and such other matters incident to the above functions as may be provided for by rules and regulations of the Committee.
2. The Committee shall promulgate rules and regulations for the operation of the Committee.
3. The Committee shall have the powers conferred by law upon legislative committees.
4. The Committee shall make studies, conduct inquiries, investigations and hold hearings.
5. The Committee may meet and conduct its business any place within the State during the sessions of the Legislature or any recess thereof and in the period when the Legislature is not in session.
6. The Committee may establish subcommittees from the membership of the Legislature and assign to such subcommittees any study, inquiry, investigation or hearing, with the right to call witnesses, which the Committee has authority to undertake.

### RULE 3

#### CHAIRMAN OF THE COMMITTEE

The Chairman of the House of Representatives Appropriations Committee shall have a term as Chairman of the Committee from the first day of the First Regular Session to the first day of the Second Regular Session of each Legislature and the Chairman of the Senate Appropriations Committee shall have a term from the first day of the Second Regular Session to the first day of the next Legislature's First Regular Session.

### RULE 4

#### COMMITTEE PROCEEDINGS

The Committee proceedings shall be conducted in accordance with Mason's Manual of Legislative Procedure, except as otherwise provided by these rules.



# JOINT LEGISLATIVE BUDGET COMMITTEE OF ARIZONA

## RULES AND REGULATIONS

### RULE 5

#### SUBCOMMITTEES

The Committee may establish subcommittees from the membership of the Legislature and assign to such subcommittees any study, inquiry, investigation or hearing with the right to call witnesses which the Committee has authority to undertake. Each such subcommittee shall include in its membership an equal number of Senate and House of Representatives members.

### RULE 6

#### QUORUM

A majority of the members of the Committee shall constitute a quorum for the transaction of business.

### RULE 7

#### LEGISLATIVE BUDGET ANALYST

The Legislative Budget Analyst (hereinafter "Director") shall be the Staff Director and the Chief Executive Officer of the Committee. The Director shall be appointed by the Committee and shall serve on a full-time basis with compensation fixed by the Chairman and Vice-Chairman of the Committee within the limits prescribed by law. In addition to the responsibilities prescribed by A.R.S. § 41-1273, the duties of the Director shall include any duties which shall be assigned by the Committee, including the following:

1. Compilation of information for the Committee.
2. A continuous review of State expenditures, revenues and analysis of the budget to ascertain facts, compare costs, workload and other data and make recommendations concerning the State's budget and revenue of the departments, boards, commissions and agencies of the State.
3. Act as administrative head of the Committee Staff, with authority to hire and dismiss such personnel as may be necessary for the proper conduct of the office, and fix compensation of staff members within any limits set by the Committee.
4. Maintain the records and files of the Committee.
5. Shall make special reports for presentation to the Committee and to others as directed by the Committee.
6. Attend all meetings of the Committee and such other meetings and hearings as are necessary to facilitate the work of the Committee.
7. Examine as to correctness all vouchers for the expenditure of funds appropriated for the use of the Committee.

### RULE 8

#### AGENDA FOR MEETINGS

An agenda for each Committee Meeting shall be prepared by the Director and, whenever possible, mailed or delivered to members of the Committee, not less than one week prior to the meeting. The Director must have at least two weeks prior notice for any state agency-requested items that appear on the agenda, unless the Chairman of the Committee approves of a later submission.

# JOINT LEGISLATIVE BUDGET COMMITTEE OF ARIZONA

## RULES AND REGULATIONS

### RULE 9

#### ORDER OF BUSINESS

The Order of Business at a Committee meeting shall be determined by the Chairman of the Committee. It shall normally be as follows:

1. Call to order and roll call
2. Reading and approval of minutes
3. Executive Session (including Rule 14 items)
4. Director's Report [if any]
5. Items requiring Committee review and/or approval
6. Other Business - For Information Only
7. Adjournment

### RULE 10

#### DISBURSEMENTS

1. All expenditures of the Committee shall be by vouchers properly itemized and supported by receipts and shall be approved by the Director when authorized by the Chairman of the Committee.
2. All contracts and studies authorized by the Committee shall be approved by the Committee after examination.

### RULE 11

#### MEETINGS OF THE COMMITTEE

The Committee shall meet at such times and places as the Committee may determine, but in any event, no less than once in each calendar quarter. Additional special meetings may be called by the Chairman or by a majority of the members of the Committee.

### RULE 12

#### ADOPTION AND AMENDMENT OF THE RULES AND REGULATIONS

These rules and regulations shall be adopted and may be amended by a majority vote of the members of the Committee, provided that a quorum is present.

### RULE 13

#### FISCAL NOTES

1. The President of the Senate and the Speaker of the House of Representatives or their designees may each designate bills that shall have a fiscal note prepared regarding their impact.
2. The JLBC Staff shall prepare the fiscal notes utilizing an impact period of three years. The fiscal notes shall indicate any local fiscal impact, where appropriate.
3. Fiscal notes shall not contain comments or opinions on the merits of the bill.

JOINT LEGISLATIVE BUDGET COMMITTEE OF ARIZONA

RULES AND REGULATIONS

RULE 13 (CONTINUED)

4. Exceptions to the procedure set forth in this rule shall be permitted with the approval of the Chairman and Vice Chairman of the Committee.
5. The Committee may amend or suspend this rule or any subsection hereof by a majority vote of those present and eligible to vote.
6. Procedures to implement this rule shall be prepared by the Director and approved by the Chairman and Vice Chairman of the Committee.

RULE 14

STATE LIABILITY CLAIMS - PROCEDURE FOR SETTLEMENT WHEN COVERED BY RISK MANAGEMENT SELF-INSURANCE FUND

1. General provisions for presentation of settlement to the Committee:
  - A. Settlements of \$250,000 or less do not require approval of the Committee pursuant to A.R.S. § 41-621(M). All proposed liability settlements must be presented to the Committee in accordance with these provisions and accompanied by a report containing the information specified in Paragraph 3.
  - B. The report shall be filed with the Chairman of the Committee five days before the meeting scheduled to consider the settlement proposal.
  - C. A limited number of items may be excluded from the written report and presented orally at the Committee meeting, if the Attorney General and Risk Management Division find the exclusion to be absolutely necessary for the protection of the State's case.
  - D. All Committee settlement proceedings and material prepared for such proceedings shall be required to be kept confidential.
  - E. Any plaintiff's inquiries regarding Committee meeting dates, times and agendas should be directed to the Attorney General's Insurance Defense Section which shall consult with the JLBC Staff Director.
2. At a Committee meeting at which a settlement proposal is considered:
  - A. Material shall be presented by the Attorney General or retained defense counsel who had primary responsibility over negotiation of the settlement and/or handling of the case, together with the Manager of the Risk Management Division of the Department of Administration.
  - B. The Committee Chairman or a majority of the Committee, may request other witnesses to attend and testify at any settlement proposal meeting. When requested by a Committee member, the director of an agency named in a lawsuit for which a settlement is proposed shall be requested to appear at the meeting at which the settlement is proposed.
  - C. The presentation of the settlement proposal at the Committee meeting shall contain, at a minimum, the information required to be submitted pursuant to Paragraph 3.
  - D. In addition to the report, additional drafts, charts, pictures, documents or other items may be presented to the Committee by the Attorney General or Risk Management Division, if helpful in reviewing the merits of the settlement. Additional items shall be presented when requested by the Committee Chairman, or a majority of the Committee at a prior meeting, or a JLBC subcommittee to which the matter has been referred.

JOINT LEGISLATIVE BUDGET COMMITTEE OF ARIZONA

RULES AND REGULATIONS

RULE 14 CONTINUED

STATE LIABILITY CLAIMS (CONT'D)

- E. Upon a conclusion of the presentation, the Committee may accept the settlement as proposed, reject the settlement as proposed, recommend an alternative settlement with the advice of the Attorney General and Risk Management Division, request additional information, evaluations or appearances of witnesses, or the matter may be referred to a JLBC subcommittee for further study.
- 3. The written settlement proposal report submitted to the Committee for each settlement offer shall contain the following information:
  - A. A one to two page executive summary of pertinent information related to the case that, at a minimum, summarizes information contained in items B, D, G, H, I, K, L, N and P below.
  - B. The names of the plaintiffs or claimants.
  - C. Whether a lawsuit has been filed, the date on which it was filed and the current status of the lawsuit. If a lawsuit has not been filed, the last date upon which a lawsuit could be filed.
  - D. The basic facts of the case including, first, the undisputed facts and secondly, those facts in dispute.
  - E. A summary of the basis or bases of liability claimed by plaintiff or claimant and the State's defenses to such liability, including the key evidence relied upon by each party.
  - F. The amount originally claimed by the plaintiff or claimant.
  - G. The identifiable damages and/or costs incurred by plaintiff or claimant to date.
  - H. Costs incurred by the State in defending the claim or suit to date.
  - I. Estimated costs to the State of defending the claim or suit through trial.
  - J. Attorney for plaintiff, Attorney General assigned to the case, retained defense counsel, if any.
  - K. Estimate of plaintiff or claimant's chances of prevailing in suit against the State.
  - L. Range of recovery likely at trial for plaintiff's claims.
  - M. Complete terms of settlement including:
    - 1. To whom payment is to be made;
    - 2. The amount of payment;
    - 3. The conditions, if any, attached to the payment; and
    - 4. Deadline for settlement, if any.
  - N. Settlement recommendations of Attorney General and Risk Management and recommended response to settlement offer.
  - O. Whether the State has any claim or right of recovery against other parties, e.g., subrogation or indemnification.

JOINT LEGISLATIVE BUDGET COMMITTEE OF ARIZONA

RULES AND REGULATIONS

RULE 14 CONTINUED

STATE LIABILITY CLAIMS (CONT'D)

- P. An agency response that shall contain the following information:
  - 1. Actions taken to eliminate or limit the future risk of liability to the state.
  - 2. Statement as to any disciplinary action(s) taken against any employee(s) that were negligent in carrying out their duties.
- 4. In conjunction with the settlement procedures prescribed pursuant to this rule, the Risk Management Division shall:
  - A. Annually report to the Committee on the operations of the Division, the status of pending claims and lawsuits, information on actual judgements and settlements, and projected fund balances.
  - B. With the assistance of the Attorney General, propose to the Committee any changes in State insurance coverage, State statutes, State liability principles or claims procedures which may help to limit future State liability.

RULE 15

CONFIDENTIAL NATURE OF SERVICES

The Director, members of the JLBC Staff, and those charged with the duty of processing in any manner proposed budget estimates, recommendations or research, shall not, without consent of the recipient legislator(s), disclose to any other person whomsoever, the contents of any letter, memorandum, report, newsletter, or any other written communicate.

This provision does not apply to regular JLBC Staff reports nor information which the Staff prepares and disseminates under the general authority of the Director that was not specifically requested by a legislator(s).

The violation of any provision of this rule by the Director, a member of his staff, or any person charged in any manner with the duty of processing proposed analysis or research may be deemed sufficient cause for dismissal by the Director and in the case of the Director, by the Committee.

STATE OF ARIZONA

**Joint Legislative Budget Committee**

STATE  
SENATE

ROBERT "BOB" BURNS  
CHAIRMAN 2004  
MARK ANDERSON  
MARSHA ARZBERGER  
TIMOTHY S. BEE  
ROBERT CANNELL, M.D.  
JACK W. HARPER  
DEAN MARTIN  
PETE RIOS

1716 WEST ADAMS  
PHOENIX, ARIZONA 85007

PHONE (602) 542-5491

FAX (602) 542-1616

<http://www.azleg.state.az.us/jlbc.htm>

HOUSE OF  
REPRESENTATIVES

RUSSELL K. PEARCE  
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ANDY BIGGS  
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EDDIE FARNSWORTH  
LINDA GRAY  
STEVE HUFFMAN  
JOHN HUPPENTHAL  
LINDA J. LOPEZ

DATE: March 28, 2003

TO: Representative Russell Pearce, Chairman  
Members, Joint Legislative Budget Committee

THRU: Richard Stavneak, Director

FROM: Stefan Shepherd, Principal Fiscal Analyst

SUBJECT: DEPARTMENT OF ECONOMIC SECURITY – RESPONSE TO SUBPOENA  
OF MARCH 19, 2003 REGARDING FY 2003 EXPENDITURES

On March 19, 2003 the Chairman and Vice-Chairman of the Joint Legislative Budget Committee (JLBC) issued a subpoena to William Bell, Acting Director of the Department of Economic Security (DES). The subpoena requires that Mr. Bell appear, give testimony in, and bring certain documents to the April 2, 2003 JLBC meeting. (See attached)

The subpoena asks for all electronic, recorded, and written documents associated with FY 2003 fund transfers, manipulations, and expenditure authority in excess of appropriations for the following components of the DES budget:

- Adoption Services
- Permanent Guardianship
- Children's Services
- Division of Benefits and Medical Eligibility operating budget
- Division of Administration operating budget

A.R.S. § 41-1151 gives committee chairmen the authority to issue subpoenas to persons whose attendance before their committee is desired.

RS/SSH:jb  
Attachment



STATE OF ARIZONA

## Joint Legislative Budget Committee

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JOHN LOREDO

## ARIZONA LEGISLATURE

### Joint Legislative Budget Committee

### SUBPOENA

TO: William Bell, Acting Director, Department of Economic Security

YOU ARE COMMANDED to appear, give testimony in and bring all documents and records identified in the attached Exhibit 1 to a meeting of the Joint Legislative Budget Committee at the time and place specified below:

DATE: Wednesday, April 2, 2003

TIME: 8:00 a.m.

PLACE: Hearing Room #1  
Arizona House of Representatives Building  
1700 West Washington Street  
Phoenix, AZ 85007

YOU ARE HEREBY NOTIFIED THAT ANY FAILURE TO OBEY THIS  
SUBPOENA WITHOUT ADEQUATE EXCUSE MAY BE DEEMED A CONTEMPT OF  
THE LEGISLATURE.

SIGNED this 19 day of March, 2003.

Chairman

Joint Legislative Budget Committee

Vice-Chairman

Joint Legislative Budget Committee

## EXHIBIT 1

A. For fiscal year 2003, please produce all electronic, recorded and written records associated with:

1. Any communications, notes, requests or authorizations for fund transfers or fund manipulations from any source for the following items:
  - a. adoption services – DCYF line item
  - b. permanent guardianship – DCYF line item
  - c. children's services – DCYF line item and TANF to SSBG.
  - d. DBME operating lump sum appropriation
  - e. administration operating lump sum appropriation
2. Any communications, notes, requests or authorizations for expenditure authority in excess of appropriations for the following items:
  - a. adoption services – DCYF line item
  - b. permanent guardianship – DCYF line item
  - c. children's services – DCYF line item and TANF to SSBG.
  - d. DBME operating lump sum appropriation
  - e. administration operating lump sum appropriation

B. If you are claiming that any of the above mentioned documents are subject to privilege, please include a reasonably specific description of those documents which includes dates, parties to the distribution of the documents and a brief outline of the contents.

- C. Do not produce any documents or records that only concern the delivery of service aspect for the following items:
- a. adoption services – DCYF line item
  - b. permanent guardianship – DCYF line item
  - c. children's services – DCYF line item and TANF to SSBG.
  - d. DBME operating lump sum appropriation
  - e. administration operating lump sum appropriation



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JOHN HUPPENTHAL  
LINDA J. LOPEZ

DATE: March 28, 2003

TO: Representative Russell Pearce, Chairman  
Members, Joint Legislative Budget Committee

THRU: Richard Stavneak, Director

FROM: Steve Schimpp, Assistant Director

SUBJECT: JLBC STAFF – REVIEW OF CLASSROOM SITE FUND CALCULATION

**Request**

A.R.S. § 15-977 (B1) requires the JLBC Staff to determine a per pupil amount from the Proposition 301 Classroom Site Fund (CSF) by March 30 of each year.

**Recommendation**

The JLBC Staff recommends that the Committee give a favorable review to the proposed \$230 per pupil allocation from the Classroom Site Fund in FY 2004.

**Analysis**

Statutory Formula

A.R.S. § 15-977(B1) specifies that the estimated per pupil funding amount from the CSF for a given budget year is to be based on 1) the estimated "Group A Weighted" pupil count for the current year (FY 2003) and 2) estimated available resources in the CSF for the budget year (FY 2004). We currently estimate that the "Group A Weighted" student count for the current year will be 1,109,400 pupils and that the CSF will have about \$255 million in available funding for FY 2004 (see attached table). It is from these 2 figures that we derive the \$230 per pupil CSF estimate for FY 2004 (\$255 million / 1,109,400 = \$230 per "Group A weighted" pupil).

Estimated "Group A Weighted" Student Count

Our "Group A Weighted" (GAW) student count estimate of 1,109,400 pupils for FY 2004 includes pupils at the Arizona State Schools for the Deaf and the Blind (ASDB) and the Arizona Department of Juvenile Corrections (ADJC). It assumes that the GAW student count of 1,044,641 from the 2000-2001 school

(Continued)

year (which served as the basis for CSF allocations in FY 2002) grew by 2.9% during the 2001-2002 school year (an official GAW count for 2001-2002 is not yet available, but non-weighted Average Daily Membership grew by 2.9% last year). It also assumes that the statewide GAW count will grow by an additional 3.2% during the 2002-2003 school year, which is the same growth rate that we currently assume for Basic State Aid. These growth assumptions would result in a total GAW student count of 1,109,400 for FY 2003, which serves as the basis for computing per pupil allocations from the CSF for FY 2004 pursuant to A.R.S. § 15-977(B2).

#### Estimated CSF Revenues

The attached table shows that we currently estimate that the Proposition 301 sales tax will generate about \$449 million in FY 2004. This assumes that those revenues will grow by 1.5% in FY 2003 and by an additional 0.7% in FY 2004, which would match the current growth assumptions for sales tax revenues in the JLBC budget recommendation. Of the estimated \$449 million total, we estimate that about \$237 million would be allocated to the CSF. The CSF receives all 0.6 cent sales tax revenues that remain unallocated after all other statutory distributions are made, such as to the School Facilities Board for revenue bond debt service funding.

For FY 2004, we estimate that the CSF also will receive about \$17 million in carry-forward monies from FY 2003 plus \$873,800 in interest earnings, which would result in a total CSF revenues of about \$255 million. We anticipate that the CSF will carry \$16,547,500 into FY 2004 because of lower than expected School Facilities Board debt service costs, higher than expected Land Trust earnings, and other miscellaneous factors during FY 2003. Our \$873,800 estimate for interest earnings is based on reported CSF interest earnings from FY 2002. The Arizona Department of Education is not permitted to allocate out the anticipated \$16,547,500 “ending balance” monies during FY 2003 because this would provide more than the \$239.47 per pupil amount that is authorized for the year pursuant to A.R.S. § 15-977(B2).

As shown in the attached table, CSF funding would decrease by about \$10 per pupil (from \$240 in FY 2003 to \$230 in FY 2004) under our estimates. Two major contributing factors in this regard are 1) a \$17,197,600 increase in costs for additional school days (1 more day in FY 2004), and 2) an estimated \$21,130,500 decrease in State Trust Land revenues to the CSF. The \$17,197,600 additional school day increase will occur in FY 2004 because Proposition 301 allocates \$48,727,700 of 0.6 cent sales tax monies in FY 2004 for additional school days. This is an increase of \$17,197,600 above the FY 2003 total of \$31,530,100, which was for 2 additional days in FY 2003 versus 3 in FY 2004. The \$17,197,600 increase will reduce the amount of Proposition 301 sales tax monies available to the CSF in FY 2004, since the CSF is “last in line” for Proposition 301 monies.

The estimated \$21,130,500 decrease in State Trust Land revenues to the CSF is due to first-time implementation of a new formula for computing the “expendable” portion of trust land earnings under Proposition 102 from November 1998. Because of the new formula, we estimate that “expendable” land trust earnings will drop from an estimated \$93,393,500 in FY 2003 to \$61,761,100 in FY 2004. As a result, expendable land trust revenues will not even reach the \$72,263,000 “baseline” level above which all land trust earnings are allocated to the CSF pursuant to A.R.S. § 37-521(B4). State Land Trust earnings that are available for transfer to the CSF therefore will drop from an estimated \$21,130,500 (\$93,393,500 total minus \$72,263,000 “baseline” = \$21,130,500) in FY 2003 to zero in FY 2004.

#### Revised Estimates

Our March 30 estimates for each upcoming year cannot exactly predict the amount of per pupil funding that will be available that year because of uncertainties in estimating sales tax revenues and GAW pupil counts. If we underestimate revenues or overestimate the GAW student count, more funding will end up being available per pupil from the CSF than we anticipate, and vice versa.

(Continued)

If our March 30 per pupil estimate is too *high*, school districts will not receive as much funding from the CSF as anticipated. Under this circumstance, current law (A.R.S. § 15-977H) allows a school district, if necessary, to borrow money temporarily from the county treasurer by issuing “warrants” in order to make up the difference. The district then is required to pay back the warrant money with interest out of its CSF funding from the subsequent fiscal year.

If our March 30 per pupil estimate ends up being too *low*, the state level CSF will end up having a surplus for the year and will carry monies forward into the next fiscal year. Those carry-forward monies will then be factored into our March 30 estimate for the following year. Our \$230 per pupil estimate for FY 2004, for example, assumes that about \$17 million will be carried forward from FY 2003 and will be available for allocation in FY 2004.

RS/SSC:jb  
Attachment

## Classroom Site Fund Estimates (FY 2003 & FY 2004)

JLBC Staff

3/27/03

	(original) <b>2003</b>	(revised) <b>2003</b>	(estimated) <b>2004</b>
<b>Revenues</b>			
"Education 2000" Sales Tax	455,420,500	445,589,600	448,708,700
Assumed Growth Rates	(0.5)% in FY02 3.8% in FY03	0.6% in FY02 1.5% in FY03	1.5% in FY03 0.7% in FY04

### Expenditures

SFB Debt Service	70,000,000	63,034,000	63,034,000
Universities	46,250,500	45,906,700	46,281,000
Community Colleges	11,562,600	11,476,700	11,570,200
Tribal Assistance	383,600	486,800	486,500
Additional School Days	31,530,100	31,530,100	48,727,700
School Safety	7,800,000	7,800,000	7,800,000
Character Education Matching Grants	200,000	200,000	200,000
Accountability Measures / SAIS	4,586,800	6,675,200	6,842,300
Failing Schools Tutoring Fund	1,500,000	1,500,000	1,500,000
Income Tax Credit for Sales Tax Paid	25,000,000	25,000,000	25,000,000
Available for Site Fund: Sales Tax	256,606,900	251,980,100	237,267,000
Available for Site Fund: Land Trust	6,017,700	21,130,500	-
Available for Site Fund: Carryforward	-	-	16,547,300
Available for Site Fund: Interest & Misc	-	867,700	873,800
<b>Total Available for Classroom Site Fund</b>	<b>262,624,600</b>	<b>273,978,300</b>	<b>254,688,100</b>

### Per Pupil Funding

Total Available for Classroom Site Fund	262,624,600	273,978,300	254,688,100
Statewide Group A Weighted ADM	1,096,688	1,075,000	1,109,400
Assumed ADM Growth Rates	5.0% in 2002 school year	2.9% in 2002 school year	2.9% in 2002 3.2% in 2003
<b>Estimated \$ Per Group A Weighted ADM</b>	<b>\$239.47</b>	<b>\$254.86</b>	<b>\$229.57</b>

### FY 2003 Carryforward

Total Available for Classroom Site Fund	\$273,978,300
Estimated Allocation (1,075,000 pupils X \$239.47 per pupil)	257,431,000
<b>Carryforward</b>	<b>\$16,547,300</b>

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STEVE HUFFMAN  
JOHN HUPPENTHAL  
LINDA J. LOPEZ

DATE: March 28, 2003

TO: Representative Russell Pearce, Chairman  
Members, Joint Legislative Budget Committee

THRU: Richard Stavneak, Director

FROM: Kim Hohman, Fiscal Analyst

SUBJECT: ATTORNEY GENERAL – REVIEW ALLOCATION OF SETTLEMENT  
MONIES

**Request**

Pursuant to a footnote in the General Appropriation Act, the Office of the Attorney General (AG) has notified the Committee of the allocation of monies to be received from 2 settlement agreements.

**Recommendation**

The JLBC Staff recommends that the Committee give a favorable review of the allocation plan for both settlements.

**Analysis**

The FY 2002 and 2003 General Appropriation Act contains a footnote that requires JLBC review of the allocation or expenditure plan for settlement monies over \$100,000 received by the Attorney General or any other person on behalf of the state of Arizona, and specifies that the Attorney General shall not allocate or expend these monies until the JLBC reviews the allocations or expenditures. Settlements that are deposited in the General Fund pursuant to statute do not require JLBC review.

The Office of the Attorney General recently settled 2 cases that will result in the receipt of settlement monies over \$100,000. The first case involved violations of the Arizona Consumer Fraud Act (A.R.S. § 44-1521) by Ford Motor Company, related to the company's advertisements for its sport utility vehicles (SUV). The court ordered Ford to pay the participating states a total of \$51.5 million,

of which \$30 million is to be spent by the states on public service announcements related to SUV safety. The \$30 million will be distributed through a fund administered by the Florida Attorney General. The remaining \$21.5 million will be distributed to the states for attorney and court costs. Of this amount, Arizona will receive \$300,000. Pursuant to A.R.S. § 44-1531.01, any court costs, attorney fees, or civil penalties recovered by the state as a result of violations of consumer protection laws are deposited in the Consumer Fraud Revolving Fund. Monies in this fund are used for consumer fraud education, investigations and enforcement operations.

The second case also involved violations of the Arizona Consumer Fraud Act (A.R.S. § 44-1521) by Pfizer, Inc., related to the company's advertisements of Zithromax, which is used to treat ear infections also known as acute otitis media (AOM). Pursuant to the settlement agreement, Pfizer has agreed to spend \$2 million on public service announcements, between January 2003 and March 2005, on the proper use of antibiotics in the treatment of AOM. In addition, Pfizer has agreed to pay the 19 states involved in the settlement a total of \$4 million for court costs and attorney fees. Of this amount, Arizona will receive approximately \$127,300. Pursuant to statute, these monies will be deposited in the Consumer Fraud Revolving Fund.

RS/KH:ck



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

JANET NAPOLITANO  
ATTORNEY GENERAL

1275 WEST WASHINGTON, PHOENIX, AZ. 85007-2926

MAIN PHONE : (602) 542-5025  
FACSIMILE : (602) 542-4085

December 20, 2002

The Honorable Randall Gnant  
President of the Senate  
State Senate  
1700 West Washington  
Phoenix, Arizona 85007

The Honorable Jim Weiers  
Speaker of the House  
House of Representatives  
1700 West Washington  
Phoenix, Arizona 85007

The Honorable Ruth Solomon  
Chair, Joint Legislative Budget Committee  
1700 West Washington  
Phoenix, Arizona 85007

Re: Settlement with Ford Motors, Inc.

Dear Madam and Gentlemen:

This Office will be joining with 49 other states, the District of Columbia, Puerto Rico, and the Virgin Islands in filing today a Consent Judgment with Ford Motor Company. A copy of the Consent Judgment is attached. The states alleged that Ford violated the Arizona Consumer Fraud Act, A.R.S. § 44-1521 *et seq.*, in its advertisements for its sports utility vehicles (SUVs), by making misrepresentations and material omissions concerning their safety, including their safety when equipped with Firestone tires.

Ford will be subject to an injunction designed to correct its advertising practices, and it will pay \$51,500,000 to the states. \$30,000,000 will be used by the states for public service announcements on SUV safety, through a fund administered by the Florida Attorney General, upon approval of the majority of the states. The remainder will be distributed to the states for costs and attorneys fees. Arizona's share will be \$300,000, which will be deposited pursuant to A.R.S. § 44-1531.01 into the consumer fraud revolving fund for consumer fraud education, investigation and enforcement



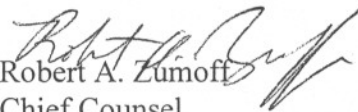
Settlement with Ford Motors, Inc.  
December 20, 2002  
Page 2

operations.

Our notification to you of this settlement is made without prejudice to our Office's longstanding position that it is not under any legal obligation to provide notices of settlements to the Joint Legislative Budget Committee. We are providing this notification to you as a courtesy so that you will be aware of this important settlement.

Please call me at (602) 542-7701 if you have any questions regarding this matter.

Sincerely,



Robert A. Zumoff  
Chief Counsel  
Consumer Protection & Advocacy Section  
(602) 542-7701  
Fax: (602) 542-4377

tmp/attachment

cc: The Honorable Jack Brown  
The Honorable Ken Cheuvront  
Mr. Richard Stavneak  
Ms. Kim Hohman  
Mr. Michael Haener  
Mr. John Stevens

770019





**Office of the Attorney General**  
State of Arizona

Terry Goddard  
Attorney General



January 7, 2003

The Honorable Ken Bennett  
President of the Senate  
State Senate  
1700 West Washington  
Phoenix, Arizona 85007

The Honorable Jake Flake  
Speaker of the House  
House of Representatives  
1700 West Washington  
Phoenix, Arizona 85007

The Honorable Russell Pearce  
Chair, Joint Legislative Budget Committee  
1700 West Washington  
Phoenix, Arizona 85007

Re: Settlement with Pfizer, Inc.

Dear Gentlemen:

On Friday, January 3, 2003, this Office joined with 18 other states in filing an Assurance of Discontinuance with Pfizer, Inc., a pharmaceutical company. A copy of the Assurance is enclosed. The states alleged that Pfizer violated the Arizona Consumer Fraud Act, A.R.S. §44-1521 *et seq.*, in its advertisements by misrepresenting the efficacy of Zithromax oral suspension in comparison to other antibiotics used to treat acute otitis media (AOM), a common children's ear infection, and by focusing on dosing convenience and frequency without disclosing various factor that should be considered prior to prescribing antibiotics to treat AOM.

In addition to taking corrective actions in its advertising, Pfizer will spend \$2,000,000 to disseminate public service announcements between January 2003 and March 2005 concerning the proper use of antibiotics in the treatment of AOM. Pfizer will also pay the states a total of \$4,000,000 in costs and attorneys fees. Arizona's share will be \$127,273, which will be deposited pursuant to A.R.S. §44-1531.01 into the consumer fraud revolving fund for consumer fraud education, investigation and enforcement operations.

Settlement with Pfizer, Inc.  
January 7, 2003  
Page 2

Our notification to you of this settlement is made without prejudice to our Office's longstanding position that it is not under any legal obligation to provide notices of settlements to the Joint Legislative Budget Committee. We are providing this notification to you as a courtesy so that you will be aware of this important settlement.

Please call me at (602) 542-7701 if you have any questions regarding this matter.

Sincerely,



Robert A. Zumoff  
Chief Counsel  
Consumer Protection & Advocacy Section  
(602) 542-7701  
Fax: (602) 542-4377

Enclosure

cc: The Honorable Jack Brown  
The Honorable John Loredó  
The Honorable Robert Burns  
Mr. Richard Stavneak  
Ms. Kim Hohman  
Mr. Richard Travis  
Mr. John Stevens

770018