

STATE OF ARIZONA

## Joint Legislative Budget Committee

STATE  
SENATE

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CHAIRMAN 2010  
PAULA ABOUD  
AMANDA AGUIRRE  
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HOUSE OF  
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### **\*\* C A N C E L L E D \*\***

#### JOINT LEGISLATIVE BUDGET COMMITTEE

Wednesday, June 16, 2010

CANCELLED - 9:30 A.M.

Senate Appropriations, Room 109

#### MEETING NOTICE

- Call to Order
- [Approval of Minutes of April 20, 2010.](#)
- DIRECTOR'S REPORT (if necessary).
- EXECUTIVE SESSION
  - A. Arizona Department of Administration, Risk Management Services - Consideration of Proposed Settlements under Rule 14.
  - B. Arizona Department of Administration - Review for Committee the Planned Contribution Strategy for State Employee and Retiree Health Plans as Required under A.R.S. § 38-658A.
- 1. [REVIEW OF REQUESTED EXCHANGE OF FUND TRANSFERS.](#)
- 2. [DEPARTMENT OF ECONOMIC SECURITY - Review of Requested Transfer of Appropriations and Adjustments in Expenditure Authority.](#)
- 3. [ARIZONA DEPARTMENT OF ADMINISTRATION - Review of Intended Use of Monies in the Automation Operations Fund.](#)
- 4. [ATTORNEY GENERAL - Review of Allocation of Settlement Monies.](#)

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

~~6/7/10~~

6/15/10

sls

People with disabilities may request accommodations such as interpreters, alternative formats, or assistance with physical accessibility. Requests for accommodations must be made with 72 hours prior notice. If you require accommodations, please contact the JLBC Office at (602) 926-5491.

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**MINUTES OF THE MEETING**

**JOINT LEGISLATIVE BUDGET COMMITTEE**

April 20, 2010

The Chairman called the meeting to order at 8:12 a.m., Tuesday, April 20, 2010, in Senate Appropriations Room 109. The following were present:

Members:	Senator Pearce, Chairman	Representative Kavanagh, Vice-Chairman
	Senator Aboud	Representative Biggs
	Senator Gray	Representative Cajero Bedford
	Senator Harper	Representative Campbell
	Senator Pierce	Representative Heinz
	Senator Rios	Representative McComish
		Representative Murphy
		Representative Williams

Absent: Senator Aguirre

**APPROVAL OF MINUTES**

Hearing no objections from the members of the Committee to the minutes of February 2, 2010, Chairman Russell Pearce stated that the minutes would stand approved.

**ARIZONA STATE PARKS BOARD, ARIZONA CRIMINAL JUSTICE COMMISSION, AND DEPARTMENT OF HOUSING - Review of Requested Exchange of Fund Transfers.**

Mr. Stefan Shepherd, JLBC Staff, stated that the FY 2011 General Appropriation Act (Laws 2010, 7<sup>th</sup> Special Session, Chapter 1, Section 114) and Laws 2009, 5<sup>th</sup> Special Session, Chapter 1, Section 3 requires that the Joint Legislative Budget Committee review agency requests to transfer monies between their own funds in order to comply with transfers required by these acts. The requested exchange of transfers consist of:

**Arizona State Parks Board** - A cash transfer of \$1,915,800 from the Heritage Fund to the State Lake Improvement Fund (SLIF), and a cash transfer of \$2,302,100 from the Heritage Fund to the State Parks Enhancement Fund (SPEF).

(Continued)

## **Arizona Criminal Justice Commission**

### Drug and Gang Enforcement Account

A cash transfer of \$187,300 from the Driving Under the Influence Abatement Fund and \$344,000 from the Drug and Gang Prevention Resource Center Fund to the Drug and Gang Enforcement Account.

### Victims Compensation and Assistance Fund

A cash transfer of \$378,000 from the Driving Under the Influence Abatement Fund to the Victims Compensation and Assistance Fund.

### State Aid to County Attorneys Fund

A cash transfer \$40,700 from the Driving Under the Influence Abatement Fund to the State Aid to County Attorneys Fund.

**Arizona Department of Housing** - A cash transfer of \$700,000 from the Housing Trust Fund to the Housing Program Fund.

The JLBC Staff presented options to the Committee.

*Representative Kavanagh moved that the Committee give a favorable review to the Arizona State Parks Board's, Arizona Criminal Justice Commission's, and the Arizona Department of Housing's proposed exchange of fund transfers. The motion carried.*

## **DEPARTMENT OF HEALTH SERVICES - Review of Children's Rehabilitative Services and Behavioral Health Title XIX Capitation Rate Changes.**

Mr. Art Smith, JLBC Staff, stated that this item is a review of the Department of Health Services' Children's Rehabilitative Service (CRS) and Behavioral Health Services (BHS) Title XIX Capitation Rate Changes. DHS states that the current budget, including the 7<sup>th</sup> Special Session supplemental, provides sufficient funding for the proposed capitation rate adjustments. The JLBC Staff presented options to the Committee.

*Representative Kavanagh moved that the Committee give a favorable review to the Department of Health Services' CRS and BHS Title XIX Capitation Rate Changes. The motion carried.*

## **GOVERNMENT INFORMATION TECHNOLOGY AGENCY - Quarterly Review of the Arizona Public Safety Communication Advisory Commission.**

Mr. Ted Nelson, JLBC Staff, stated this item is a review of the Government Information Technology Agency's Public Safety Communication Advisory Commission (PSCC). PSCC is responsible for developing a statewide, standard-based interoperability system that allows public safety personnel from one agency to communicate, via mobile radio, with personnel from other agencies. The JLBC Staff recommended a favorable review with the provision listed below.

*Representative Kavanagh moved that the Committee give a favorable review to GITA's FY 2010 second quarter report of expenditures and progress for the statewide interoperability design project with the provision that the next project review would occur after the fourth quarter, at which time GITA would provide its plan on the use of anti-racketeering monies. The motion carried.*

## EXECUTIVE SESSION

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

At 8:19 a.m. the Joint Legislative Budget Committee went into Executive Session.

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

At 9:11 a.m. the Committee reconvened into open session.

### **A. Arizona Department of Administration - Risk Management Services - Consideration of Proposed Settlements under Rule 14.**

Representative Kavanagh moved that the Committee approve the recommended settlement proposal by the Attorney General's Office in the case of Tilousi, et al. v. Arizona Board of Regents, et al. The motion carried.

Without objection, the meeting adjourned at 9:12 a.m.

Respectfully submitted:

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Sandy Schumacher, Secretary

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Richard Stavneak, Director

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Senator Russell Pearce, Chairman

NOTE: A full audio recording of this meeting is available at the JLBC Staff Office, 1716 W. Adams.  
A full video recording of this meeting is available at <http://www.azleg.gov/jlbc/meeting.htm>.

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DATE: June 9, 2010

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

THRU: Richard Stavneak, Director

FROM: Leatta McLaughlin, Principal Fiscal Analyst  
Eric Billings, Senior Fiscal Analyst  
Juan Beltran, Senior Fiscal Analyst

SUBJECT: Review of Requested Exchange of Fund Transfers

**Request**

The FY 2010 budget requires the Joint Legislative Budget Committee (JLBC) to review agency requests to transfer monies between their own funds in order to comply with transfers required by these acts. The Arizona Department of Administration (ADOA), Department of Commerce, Department of Economic Security (DES), Department of Insurance, Department of Public Safety (DPS), and the Arizona Department of Transportation (ADOT) have requested Committee review of fund transfers pursuant to the FY 2010 budget bills.

**Recommendation**

The Committee has at least the following 2 options:

1. A favorable review of the proposed exchange of fund transfers.
2. An unfavorable review.

**Analysis**

*Table 1* summarizes the requested fund transfer exchanges for each agency.

(Continued)

Table 1

Requested FY 2010 Fund Transfer Exchanges

<u>Original Fund</u> <sup>1/</sup>	<u>Original Transfer Amount</u> <sup>2/</sup>	<u>Transfer Type</u>	<u>Agency Proposed Fund</u> <sup>3/</sup>	<u>Revised Transfer Amount</u> <sup>4/</sup>
<b>AZ Department of Administration</b>				
Telecommunications Fund – Infrastructure Improvements Account	\$5,800,000	Fund Transfer <sup>5/</sup>	Telecommunications Fund – Infrastructure Improvements Account	\$5,300,000
			Risk Management Revolving Fund	<u>500,000</u>
<i>Subtotal</i>	<u>\$5,800,000</u>			<u>\$5,800,000</u>
<b>Department of Commerce</b>				
IGA/ISA Fund	\$ 50,700	FRAT <sup>6/</sup>	Military Installation Fund	\$ 50,700
Bond Fund	699,000	EBT <sup>7/</sup>	Bond Fund	467,700
			Military Installation Fund	22,100
			Nursing Education Fund	<u>209,200</u>
<i>Subtotal</i>	<u>\$ 749,700</u>			<u>\$ 749,700</u>
<b>Department of Economic Security</b>				
Domestic Violence Shelter Fund	\$ 180,000	FRAT <sup>6/</sup>	Domestic Violence Shelter Fund	\$ 133,000
			Community-Based Marriage and Communications Skills Program Fund	47,000
<i>Subtotal</i>	<u>\$ 180,000</u>			<u>\$ 180,000</u>
<b>Department of Insurance</b>				
Insurance Examiner's Revolving Fund	\$ 473,600	FRAT <sup>6/</sup>	Insurance Examiner's Revolving Fund	\$ 141,900
		EBT <sup>7/</sup>	Captive Insurance and Regulatory Fund	331,700
Financial Surveillance Fund	<u>31,600</u>	FRAT <sup>6/</sup>	Captive Insurance and Regulatory Fund	<u>31,600</u>
<i>Subtotal</i>	<u>\$ 505,200</u>			<u>\$ 505,200</u>
<b>Department of Public Safety</b>				
Criminal Justice Enhancement Fund	\$ 232,100	FRAT <sup>6/</sup>	Criminal Justice Enhancement Fund	\$ 37,300
			Photo Enforcement Fund	194,800
Anti-Racketeering Fund	2,567,400	EBT <sup>7/</sup>	Anti-Racketeering Fund	2,089,300
			Photo Enforcement Fund	100,000
			Public Safety Equipment Fund	378,100
Records Processing Fund	567,800	FRAT <sup>6/</sup>	Records Processing Fund	53,300
			Public Safety Equipment Fund	514,500
Parity Compensation Fund	245,100	FRAT <sup>6/</sup>	Parity Compensation Fund	121,200
			Public Safety Equipment Fund	123,900
AZ Automated Fingerprint Information System Fund	245,000	FRAT <sup>6/</sup>	AZ Automated Fingerprint Information System Fund	60,100
			Public Safety Equipment Fund	<u>184,900</u>
<i>Subtotal</i>	<u>\$3,857,400</u>			<u>\$3,857,400</u>
<b>Arizona Department of Transportation</b>				
Transportation Department Equipment Fund	\$4,549,200	FRAT <sup>6/</sup>	State Aviation Fund	\$3,549,200
			Transportation Department Equipment Fund	1,000,000
Transportation Department Equipment Fund	<u>1,989,200</u>	EBT <sup>7/</sup>	State Aviation Fund	<u>1,989,200</u>
<i>Subtotal</i>	<u>\$6,538,400</u>			<u>\$6,538,400</u>

1/ Fund source for reductions mandated in budget.

2/ Amount for reductions mandated in budget.

3/ Funds from which agencies are requesting transfers in order to accommodate the mandated reductions.

4/ Transfer amounts proposed by agency.

5/ Fund Transfers represent sweeps not generally complying with Excess Balance Transfer (EBT) or Fund Reduction and Transfer (FRAT) guidelines.

6/ FRATs reduce annual FY 2010 spending from the agency's Other Funds. An amount equal to these reductions would be swept into the General Fund.

7/ EBTs sweep money from anticipated FY 2010 ending balances into the General Fund.

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DATE: June 9, 2010

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

THRU: Richard Stavneak, Director

FROM: Aaron Galeener, Fiscal Analyst

SUBJECT: Department of Economic Security - Review of Requested Transfer of Appropriations and  
Adjustments in Expenditure Authority

**Request**

Pursuant to multiple FY 2010 General Appropriation Act footnotes, the Department of Economic Security (DES) requests Committee review of multiple transfers, as well as an adjustment in Expenditure Authority for the Workforce Investment Act Grant. The transfers are detailed in *Table 1*.

**Recommendation**

The JLBC Staff recommends that the Committee give a favorable review of the proposed transfers and adjustment in Expenditure Authority.

**Analysis**

Transfers

*Child Care*

Appropriations for the Child Care program are split between 2 line items: the Day Care Subsidy Special Line Item (SLI), which funds Temporary Assistance for Needy Families (TANF) recipients and working families under 165% of the Federal Poverty Level; and the Transitional Child Care SLI, which funds former TANF recipients for up to 2 years. DES proposes to transfer \$14 million of Federal Child Care Development Fund (CCDF) Block Grant monies from the Transitional Child Care SLI to the Day Care Subsidy SLI to align funding with actual caseloads. Similar transfers have been made in past years.

*Cash Benefits*

As part of the implementation of its FY 2010 budget reductions, DES is requesting a series of technical transfers. These transfers are not due to shortfalls or surpluses for services within any programs and are only intended to realign funding sources due to budget reductions. DES' proposed transfers are shown in *Table 1*.

(Continued)

<b>Table 1</b>			
<b>DES Proposed Transfers</b>			
<b><u>Proposed Funding Increases (Transfers To)</u></b>	<b><u>General Fund</u></b>	<b><u>Other Funds</u></b>	<b><u>Total</u></b>
TANF Cash Benefits		\$ 19,868,200	\$ 19,868,200
Day Care Subsidy	\$ 8,262,100		8,262,100
Benefits and Medical Eligibility Operating	<u>4,000,000</u>		<u>4,000,000</u>
<b>Subtotal</b>	<b>\$ 12,262,100</b>	<b>\$ 19,868,200</b>	<b>\$ 32,130,300</b>
<b><u>Proposed Funding Decreases (Transfers From)</u></b>			
TANF Cash Benefits	\$(12,262,100)		\$(12,262,100)
Jobs		\$(4,008,100)	(4,008,100)
Healthy Families		(5,034,200)	(5,034,200)
Family Builders		(5,200,000)	(5,200,000)
CPS Emergency Services		(875,900)	(875,900)
Finger Imaging		(150,000)	(150,000)
Homeless Youth Intervention		(400,000)	(400,000)
Adoption Services – Family Preservation		(200,000)	(200,000)
Benefits and Medical Eligibility Operating		<u>(4,000,000)</u>	<u>(4,000,000)</u>
<b>Subtotal</b>	<b>\$(12,262,100)</b>	<b>\$(19,868,200)</b>	<b>\$(32,130,300)</b>

#### Workforce Investment Act Grant Expenditure Authority

The American Recovery and Reinvestment Act of 2009 (ARRA) provided an increase of \$36,422,500 in Workforce Investment Act (WIA) funding available to Arizona. These monies are in addition to the ordinary WIA Grant received annually to operate the program. A footnote in the FY 2010 budget allows DES to expend WIA monies received in excess of the amount appropriated upon review by the JLBC. All of the additional WIA monies made available by ARRA are for the local workforce investment boards and are allocated by formula. The allocation is displayed in *Table 2*.

<b>Table 2</b>	
<b>Distribution of Additional WIA Funding</b>	
<b><u>Local Workforce Investment Board</u></b>	<b><u>Amount</u></b>
Cochise County	\$ 857,500
Coconino County	586,600
Gila and Pinal Counties	1,374,400
Graham County	193,500
Greenlee County	58,700
Maricopa County	7,874,600
Mohave and La Paz Counties	1,603,100
Navajo Nation	1,992,800
Navajo and Apache Counties	402,700
City of Phoenix	7,991,500
Pima County	5,648,300
Santa Cruz County	529,300
Yavapai County	1,092,700
Yuma County	4,536,200
Other Tribes	1,506,600
Other	<u>174,000</u>
<b>Total</b>	<b>\$36,422,500</b>





## DEPARTMENT OF ECONOMIC SECURITY

*Your Partner For A Stronger Arizona*

Janice K. Brewer  
Governor

Neal Young  
Director

MAY 28 2010



The Honorable Russell K. Pearce  
Chairman, Joint Legislative Budget Committee  
Arizona State Senate  
1700 West Washington  
Phoenix, Arizona 85007

Dear Senator Pearce:

The Department of Economic Security requests to be placed on the Joint Legislative Budget Committee's agenda for the following fiscal year 2010 fund appropriation adjustments, as well as a fund transfer.

### Workforce Investment Act

The American Recovery and Reinvestment Act of 2009 (ARRA) provided a significant increase in Workforce Investment Act (WIA) funding for Arizona. ARRA provided a one-time infusion of \$36.4 million that must be expended prior to June 30, 2011. This allocation is in addition to the approximately \$34.4 million received annually to operate the program. This increase has necessitated that the Department request a \$15.0 million increase in appropriation authority for fiscal year 2010 pursuant to Laws 2009, Chapter 12, Section 16, which includes the following footnote:

All federal workforce investment act monies for local governments that are received by this state in excess of \$48,040,600 are appropriated to workforce investment act-local governments line item. Excess monies may not be spent until a proposed expenditure plan for the excess monies has been reviewed by the joint legislative budget committee.

The ARRA funding was allocated to the local workforce investment boards by formula as follows, and, as noted previously, is available until June 30, 2011:

Cochise	\$ 857,546
Coconino	586,641
Gila/Pinal	1,374,386
Graham	193,510

Greenlee	58,712
Maricopa	7,874,563
Mohave/LaPaz	1,603,121
Navajo Nation	1,992,820
Navajo/Apache Co.	402,705
City of Phoenix	7,991,488
Pima	5,648,277
Santa Cruz	529,278
Yavapai	1,092,652
Yuma	4,536,215
Tribes	1,506,567
Statewide Holdback	<u>174,030</u>
<b>Total</b>	<b>\$ 36,422,511</b>

### **Child Care**

Laws 2009, Chapter 12, Section 16, includes the following footnote:

The amounts appropriated for day care subsidy and transitional child care shall be used exclusively for child care costs unless a transfer of monies is reviewed by the joint legislative budget committee. Monies shall not be used from these appropriated amounts for any other expenses of the department of economic security unless a transfer of monies is reviewed by the joint legislative budget committee.

The Department requests review of a transfer of up to \$14.0 million of Child Care and Development Fund dollars from the Transitional Child Care special line item to the Day Care Subsidy special line item, both of which provide child care services. Transfers between these line items have been required in recent years to align funding with actual caseloads.

In addition, there is a fund source realignment required within the Day Care Subsidy special line item. Please see the Cash Assistance section for further details.

### **Cash Assistance**

In order to mitigate to the extent possible the client service impacts from the lump sum general fund reductions taken by the Department in fiscal year 2010, it was necessary to allocate a portion of the reduction amounts to line items funded by Temporary Assistance for Needy Families (TANF). Implementing this required that the Department reduce funding in a line with general fund and then transfer TANF into the line item where the general fund was reduced. Most of the necessary transfers in the table below were communicated to the Governor's Office of Strategic Planning and Budgeting and the Joint Legislative Budget Committee staff in the

fiscal year 2010 expenditure plan as part of the Department's budget submittal on September 15, 2009 and are necessary due to fund source issues related to budget reductions. The transfers are not due to funding shortfalls or surpluses for services within the special line items.

Pursuant to Laws 2009, Chapter 12, Section 16, the Department requests review of TANF and general fund realignment appropriation transfers related to cash assistance as indicated in the table below.

Any transfer to or from the \$121,873,400 appropriated for temporary assistance for needy families cash benefits requires review by the joint legislative budget committee.

<b>Line Item</b>	<b>GF</b>	<b>TANF</b>	<b>Total</b>
TANF Cash Benefits	(12,262,100)	19,868,200	7,606,100
Jobs	-	(4,008,100)	(4,008,100)
Healthy Families	-	(5,034,200)	(5,034,200)
Family Builders	-	(5,200,000)	(5,200,000)
Emergency Services	-	(875,900)	(875,900)
Finger Imaging	-	(150,000)	(150,000)
Homeless Youth Intervention	-	(400,000)	(400,000)
Family Preservation	-	(200,000)	(200,000)
Day Care Subsidy	8,262,100	-	8,262,100
Benefits and Medical Eligibility Operating	<u>4,000,000</u>	<u>(4,000,000)</u>	-
<b>Total</b>	-	-	-

Additionally, pursuant to Laws 2009, Chapter 12, Section 16, the Department is also providing notification of its intent to use the \$500,000 in appropriation authority included in the Temporary Assistance for Needy Families Cash Benefits special line item to ensure sufficient cash flow for tribes operating their own TANF programs.

Of the amount appropriated for temporary assistance for needy families cash benefits, \$500,000 reflects appropriation authority only to ensure sufficient cash flow to administer cash benefits for tribes operating their own welfare programs. The department shall notify the joint legislative budget committee and the governor's office of strategic planning and budgeting staff before the use of any of the \$500,000 appropriation authority.

### **Fund Transfer**

Pursuant to Laws 2009, Fifth Special Session, Chapter 1, Section 3, the Department requests a fund transfer of \$46,960.86 from the Community-Based Marriage and Communication Skills Program Fund to the Domestic Violence Shelter Fund.

A. Notwithstanding any other law, in fiscal year 2009-2010 a budget unit may request a cash transfer between its own funds from the state comptroller to comply with a reduction or transfer required by this act.

D. Before transferring any monies pursuant to subsection A, the transfer must be reviewed by the joint legislative budget committee.

The authority to spend the moneys in the Community-Based Marriage and Communication Skills Program Fund has lapsed and transferring the remaining funding will close out the use of that fund.

If you have any questions, please contact Michael Wisehart, Chief Financial Officer, at (602) 542-3786.

Sincerely,

A handwritten signature in black ink, appearing to read "Neal Young", with a stylized flourish at the end.

Neal Young  
Director

cc: Members of the Joint Legislative Budget Committee  
Richard Stavneak, Director, Joint Legislative Budget Committee  
John Arnold, Director, Governor's Office of Strategic Planning and Budgeting

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DATE: June 9, 2010

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

THRU: Richard Stavneak, Director

FROM: Leatta McLaughlin, Principal Fiscal Analyst

SUBJECT: Arizona Department of Administration - Review of Intended Use of Monies in the  
Automation Operations Fund

**Request**

Pursuant to a FY 2010 General Appropriation Act footnote (Laws 2009, Chapter 12, Section 7), the Arizona Department of Administration (ADOA) requests Committee review of the intended uses of \$700,000 in Automation Operations Funds above the \$19,182,900 appropriation.

**Recommendation**

The JLBC Staff recommends that the Committee give a favorable review to the department's request to increase the Automation Operations Fund expenditures by \$700,000 in FY 2010 to \$19,882,900. This would allow the department to upgrade their Data Center's mainframe processor and back-up equipment, expand to local users, and reduce state agency rates.

This project was approved by the Information Technology Authorization Committee (ITAC) on May 6, 2010. Information technology projects with development costs over \$1,000,000 cannot proceed without being first approved by ITAC, which is staffed by the Government Information Technology Agency.

**Analysis**

The Automation Operations Fund receives its revenues from charges to agencies and other political entities for information technology products and services. Monies from the fund are

(Continued)

expended to provide agencies and other political entities data processing and information technology consulting services and to maintain the integrity and security of state information.

A footnote in the FY 2010 General Appropriation Act allows ADOA to spend all Automation Operations Fund revenues, but requires Committee review if the department plans to exceed the specifically appropriated amount. In FY 2010, this cap was set at \$19,182,900, as modified for statewide adjustments.

ADOA has expended \$14,226,600 from this fund through April 30, 2010. They have a total budget plan of \$19,882,900 for the entire fiscal year. Of the remaining \$5,656,300, ADOA plans on spending \$1,988,600 to upgrade their Data Center's mainframe processor and back-up equipment.

The \$700,000 would fund part of the \$1,988,600 upgrade of the Data Center's mainframe processor (see *Table 1* below for the cost break-out). The Data Center provides 24/7 centralized processing services and information technology consulting for over 120 state agencies and other political entities. Because of new customers the Data Center has taken on, ADOA wants to upgrade its mainframe processor and back-up equipment. According to ADOA, the upgrade will provide their current and future customers with the capacity needed to accomplish their day-to-day business processing requirements and will provide the ability to utilize IBM's Capacity-on-Demand offering for Disaster Recovery purposes.

If ADOA is not able to upgrade the server, they state they will start incurring periodic system slowdowns in the short term, they will not be able to bring in Pima County's and the City of Mesa's mainframe processing, and the current server will experience excess system degradation in the long run. If Pima County and the City of Mesa are brought into the system, the Data Center rate charged to all agencies would decrease by (10)%.

<b>Table 1</b>	
<b>Projected Costs for ADOA's Data Center Mainframe Upgrade</b>	
<u>Project Component</u>	<u>Projected Cost</u>
Mainframe Upgrade – New z10-409	\$1,035,000
4.1 GB Copper OSA Adapters	50,000
3 <sup>rd</sup> Party Software Upgrade	140,000
IBM Pre-Paid Discounted 3-Year Maintenance	561,200
Additional FICON, ESCON Cables	30,000
IBM Installation Charges	20,000
Tax	152,400
<b>TOTAL</b>	<b>\$1,988,600</b>

RS/LMc:sls

JANICE K. BREWER  
Governor



DAVID RABER  
Interim Director

ARIZONA DEPARTMENT OF ADMINISTRATION

OFFICE OF THE DIRECTOR

100 N 15<sup>TH</sup> AVE, SUITE 401  
PHOENIX, ARIZONA 85007  
(602) 542-1500



May 11, 2010

The Honorable Russell Pearce, Chairman  
Joint Legislative Budget Committee  
Arizona State Senate  
1700 West Washington  
Phoenix, Arizona 85007

Dear Senator Pearce:

As part of the Arizona Department of Administration (ADOA) FY 2010 budget, Laws 2009, Chapter 12, Section 7 provides that:

"The appropriation for the automation operations fund is an estimate representing all monies, including balance forward, revenue and transfers during fiscal year 2009-2010. These monies are appropriated to the Department of Administration for the purposes established in section 41-711, Arizona Revised Statutes. The appropriation shall be adjusted as necessary to reflect receipts credited to the automation operations fund for automation operation center projects. Expenditures for all additional automation operation center projects above the \$24,087,500 appropriation shall be subject to review by the joint legislative budget committee, following approval of the government information technology agency. Expenditures for each additional project shall not exceed the specific revenues of that project."

ADOA would like to exercise this provision and requests that the appropriation authority for the Automation Operations Fund be increased by \$700,000 in FY 2010. This authority will be used to fund the automation operation center project "ADOA Enterprise Server Upgrade." The server upgrade Project Investment Justification (PIJ) was approved by the Information Technology Authorization Committee of the Government Information Technology Agency (GITA) at their May 6, 2010, meeting.

The mainframe computing business model is very favorable to economies of scale. Consolidated operations result in lower operating costs for all participants, including

The Honorable Russell Pearce, Chairman  
Joint Legislative Budget Committee  
May 11, 2010  
Page 2 of 2

ADOA and its State of Arizona customer agencies. As a result, ADOA is pursuing the strategy of consolidation with municipalities and other political subdivisions of the State. Most recently, Pima County and the City of Mesa have committed to consolidate their mainframe operations within the ADOA mainframe. The server upgrade project will provide the additional processing capacity required by these consolidations.

The attached cash flow document for the Automation Operations Fund illustrates the appropriation deficit created by this project.

If you have any questions, please feel free to contact my staff or the staff of GITA.

Sincerely,



David Raber  
Interim Director

c: The Honorable John Kavanagh  
John Arnold, OSPB  
Richard Stavneak, JLBC  
Chad Kirkpatrick, GITA  
Jennifer Uharriet, OSPB  
Leatta McLaughlin, JLBC  
Patrick Quain, ADOA – ISD

Attachment



INFORMATION SERVICES DIVISION

Cash Expenditure Projections for FY 2010

For month ending: April 30, 2010



Fund:4230, for Index(es): All Active 2010 Indexes

APPROPRIATION (LESS SETASIDE)	APPROPRIATION	YTD APPROP	APPROP REM
	19,156,100	14,226,537	4,929,563

	ESTIMATED REVENUE	CURRENT MONTH CASH REVENUES	CURRENT MONTH CASH REVENUES	CURRENT MONTH CASH REVENUES	CURRENT MONTH CASH	YTD CASH REVENUES	PROJECTED REVENUE
REVENUES	22,676,786	2,923,815	1,889,732	2,164,732	2,128,251	14,364,154	6,182,715

OBJECT EXPENDITURES	BUDGET	APRIL	MAY	JUNE	13TH MONTH	YTD EXPENDITURES	PROJECTED EXPENDITURES	PROJECTION (OVER) OR UNDER BUDGET
6000 PERSONAL SERVICES	6,360,949	465,409	471,712	492,918	0	5,349,285	964,630	47,034
6100 ERE	2,317,411	171,877	164,950	172,373	-	1,947,086	337,323	33,002
6200 PROFESSIONAL & OUTSIDE	1,318,493	52,632	310,243	108,320	31,947	568,707	450,511	299,276
6500 TRAVEL - IN STATE	18,427	-	1,536	1,536	1,053	8,592	4,124	5,711
6600 TRAVEL - OUT OF STATE	9,500	-	792	792	167	1,070	1,750	6,680
7000 OTHER OPERATING EXPENSES	7,319,105	269,328	579,108	386,449	24,971	5,695,699	990,529	632,877
8400 CAPITAL EQUIPMENT	574,158	-	0	0	2,488,627	317,992	2,488,627	(2,232,460)
8500 OTHER EQUIPMENT	771,513	611	56,499	67,179	5,543	31,492	129,221	610,600
9000 COST ALLOCATIONS	466,544	29,347	31,000	31,000	(0)	306,614	61,999	97,931
9100 OPERATING TRANSFERS OUT	-	-	-	-	-	-	-	-
TOTALS	\$ 19,156,100	\$ 989,203	\$ 1,615,840	\$ 1,260,567	\$ 2,552,307	\$ 14,226,537	\$ 5,428,713	\$ (499,151)

CHECK 52 / 52B SCREEN FOR CURRENT MONTH AND YTD EXPENDITURES

CASH OR GF APPROP LESS SETASIDE	BEGINNING CASH	YTD CASH REVENUES AND EXPENDITURES	PROJECTED REMAINING	YEAR TOTAL
CASH COLLECTIONS	\$ 4,076,786	\$ 2,923,815	\$ 1,889,732	\$ 2,164,732
CASH COLLECTIONS FOR PRIOR AY	\$ -	\$ -	\$ -	\$ -
CASH EXPENDITURES	\$ -	\$ 989,203	\$ 1,615,840	\$ 1,260,567
CASH EXPENDITURES-PRIOR YEAR	\$ -	\$ -	\$ -	\$ -
SETASIDE	\$ -	\$ -	\$ -	\$ -
OTHER ADJUSTMENTS	\$ -	\$ 1,556,400	\$ -	\$ 803,000
ACCRUED EXPENDITURES	\$ -	\$ -	\$ -	\$ -
ENDING CASH	\$ -	\$ -	\$ -	\$ -
BEGINNING CASH 57 SCREEN: INQ TYPE = MC, INQ YR = 03, INQ MO = 13				
57 SCREEN YTD BALANCE		1,278,552	1,552,445	1,653,610

Notes:

1. ISD will have a large number of annual expenditures due early FY10 such as insurance, rent, software contracts, etc.

2. General Fund sweep for FY10 will equal \$ 4,957,900. Remaining sweeps are projected for Jan, Apr, May and Jun.

3. Federal Reversion amount of \$504,000 will not needed to be reverted and has been closed.

4. Federal Reversion for FY08 in amount of \$812,407 is projected in the 13th period FY10.

5. Computer Associates payment in amount of \$ 1,219,155.28 to be made in Jan 10.

\* Due to the accounting of revenue and expenditures in the 13th period, ISD will collect additional revenue as shown in this report during the 13th period, but not physically received until July 2010 (FY11). (transfers are accounted for, checks and other payment forms are not. Revenues occur through transfers and very few expenditures occur through transfers)

As a result of this the actual cash position is far less than the Fiscal Year amounts show in AFIS.

6. 812,047 possible pending FY08 Federal Sweep

STATE OF ARIZONA

**Joint Legislative Budget Committee**

STATE  
SENATE

RUSSELL K. PEARCE  
CHAIRMAN 2010  
PAULA ABOUD  
AMANDA AGUIRRE  
CHUCK GRAY  
JACK HARPER  
STEVE PIERCE  
REBECCA RIOS

1716 WEST ADAMS  
PHOENIX, ARIZONA 85007

PHONE (602) 926-5491

FAX (602) 926-5416

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

HOUSE OF  
REPRESENTATIVES

JOHN KAVANAGH  
CHAIRMAN 2009  
ANDY BIGGS  
OLIVIA CAJERO BEDFORD  
CLOVES C. CAMPBELL, JR.  
MATT HEINZ  
JOHN MCCOMISH  
RICK MURPHY  
VIC WILLIAMS

DATE: June 9, 2010

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

THRU: Richard Stavneak, Director

FROM: Marge Zylla, Fiscal Analyst

SUBJECT: Attorney General - Review of Allocation of Settlement Monies

**Request**

The FY 2010 General Appropriation Act (Laws 2009, Chapter 11) contains a footnote that requires Joint Legislative Budget Committee (JLBC) review of the expenditure plan for settlement monies over \$100,000 received by the Office of the Attorney General (AG) or any other person on behalf of the State of Arizona, prior to expenditure of the monies. Settlements that are deposited in the General Fund pursuant to statute do not require JLBC review.

This request is for review of the expenditure plan for a total of \$350,000 from 2 settlements: 1) a \$250,000 settlement resulting from mediation as part of ongoing Average Wholesale Price (AWP) litigation with pharmaceutical companies, of which \$227,500 will be deposited into the Consumer Protection-Consumer Fraud Revolving Fund and \$22,500 will go toward outside counsel compensation; and 2) a \$100,000 allocation to the Consumer Protection-Consumer Fraud Fund from a consent judgment with Avondale Automotive.

**Recommendation**

The JLBC Staff recommends that the Committee give a favorable review of the allocation plans from the \$250,000 AWP settlement agreement with Dey, Inc. and the \$100,000 consent judgment with Avondale Automotive. The allocation plans are consistent with A.R.S. § 44-1531.01, which relates to the distribution of monies recovered as a result of enforcing consumer protection or consumer fraud statutes.

**Analysis**

Average Wholesale Price (AWP) Litigation – Dey, Inc.

The AWP of prescription drugs was a widely used benchmark for pricing prescription drugs, determining reimbursement levels for healthcare providers under Medicare and Medicaid programs, and establishing

(Continued)

payment amounts due from insurers and consumers under Medicare and private insurance. In December 2005, the AG filed suit against several pharmaceutical manufacturers alleging that the companies reported inaccurate prices to trade publications, which led to inflated reimbursement rates.

In its February 2010 and September 2009 meetings, the Committee favorably reviewed allocations resulting from AWP litigation. Of the total \$1,830,000 in settlements from both past meetings, \$1,655,400 is to be deposited into the Consumer Fraud Revolving Fund.

As a result of court-ordered mediation, the State of Arizona and Dey, Inc. have reached an agreement that requires the defendants to pay \$250,000 to Arizona. Of the total, \$22,500 will go toward outside counsel attorney fees, as the case is being addressed in Massachusetts. The remaining \$227,500 will be deposited into the Consumer Protection-Consumer Fraud Revolving Fund to support consumer fraud investigations, consumer education, and enforcement of the Consumer Fraud Act. The settlement does not acknowledge any wrongdoing on the part of the pharmaceutical companies.

The lawsuit involving the remaining pharmaceutical companies is still ongoing, as are other AWP cases from different states and a nationwide class action suit that includes Arizona consumers. When the settlements receive final court approval, Arizona consumers will have the opportunity to submit claims for reimbursement.

#### Avondale Automotive

The Attorney General entered into a settlement with Avondale Automotive, an auto dealership, in April 2010. The settlement resolves a lawsuit alleging misrepresentations in auto sales and auto sales advertisements. The lawsuit included allegations that Avondale Automotive did not: 1) disclose that a vehicle sold as new had been previously owned; 2) did not sell vehicles at their advertised prices; and 3) used misleading language for comparison pricing and the urgency of auto sales.

The settlement does not acknowledge any wrongdoing on the part of Avondale Automotive. It requires Avondale Automotive Group to accurately advertise their promotional discounts, sell vehicles at the advertised price, and disclose if a vehicle has been previously owned. The settlement also requires Avondale Automotive to pay \$100,000 to the AG to be deposited into the Consumer Protection-Consumer Fraud Revolving Fund for attorneys' fees, investigation costs, and to support consumer fraud investigations, consumer education, and enforcement of the Consumer Fraud Act. If Avondale Automotive fails to comply with the terms of the judgment, the settlement amount could increase up to \$150,000, with any additional monies also to be deposited into the Consumer Protection-Consumer Fraud Revolving Fund.

RS/MZ:ss



Terry Goddard  
Attorney General

Office of the Attorney General  
State of Arizona

Dena Rosen Epstein  
Consumer Protection &  
Advocacy Section  
Direct: (602) 542-7717  
Dena.Epstein@azag.gov

May 14, 2010



The Honorable Robert L. Burns  
President of the Senate  
1700 West Washington Street  
Phoenix, AZ 85007

The Honorable Kirk Adams  
Speaker of the House  
1700 West Washington Street  
Phoenix, AZ 85007

The Honorable John Kavanagh  
Chairman, Joint Legislative Budget Committee  
1700 West Washington Street  
Phoenix, AZ 85007

Re: *State ex rel Goddard v. Abbot Laboratories, et al.*, CV 2005-018711 (Ariz. Sup. Ct.), removed and transferred to *In re Pharmaceutical Industry Average Wholesale Price Litigation*, MDL No. 1456

Gentlemen:

The State of Arizona recently settled a case against Defendants Dey, Inc., Dey Pharma, L.P. (formerly known as Dey, L.P.), and Dey Limited Partner, Inc. (collectively referred to as "Dey") resolving claims asserted in the Average Wholesale Price Litigation described below.

In December 2005, our Office, through outside counsel, filed suit in Maricopa County Superior Court against several pharmaceutical manufacturers for manipulating the Average Wholesale Price ("AWP") of prescription drugs in connection with the marketing and sale of certain prescription drugs sold in Arizona. AWP has been a widely utilized benchmark for pricing prescription drugs and for reimbursing physicians and other healthcare providers for the administration of certain drugs under the Medicare and Medicaid programs. It has also been used to determine amounts paid by insurers and co-pays by consumers under the Medicare program or through private insurance.

The State's Complaint alleges that the defendants violated the Arizona Consumer Fraud Act (A.R.S. § 44-1521 et seq.) by, among other things, providing false information

about their reported prices to trade publications, which in turn led to inflated reimbursement rates. The lawsuit seeks various forms of relief, including injunctive relief, civil penalties, restitution for Arizona consumers, costs, and attorneys' fees.<sup>1</sup>

After the lawsuit was filed, the defendant pharmaceutical manufacturers successfully removed the case to federal district court in Massachusetts. Several other AWP cases are also pending in Massachusetts district court, including a nationwide consumer class action that includes Arizona consumers. Settlements on behalf of the consumer class have been reached with many of the defendants. Arizona consumers will have the opportunity to submit claims for reimbursement once the settlements receive final court approval.

This case is the third recent settlement resulting from court ordered mediation in the Average Wholesale Price litigation. The Joint Legislative Budget Committee favorably reviewed the State's settlement with Abbot Laboratories and others at its September 22, 2009 meeting, and the settlement with Bristol Myers Squibb and others at its February 2, 2010 meeting. Litigation against the remaining defendants in the AWP case --Astra Zeneca, B. Braun, Johnson and Johnson and Schering-Plough Warrick Group -- continues in federal court.

This settlement agreement requires Dey to pay \$250,000 in exchange for a release of the claims asserted in the lawsuit. As provided in our agreement with outside counsel and as approved by the court, outside counsel received approximately \$22,500 of the settlement amount for their attorneys' fees. Pursuant to A.R.S. § 44-1531.01(B), ninety percent, or \$227,500, of the settlement funds were deposited into the Consumer Fraud Revolving Fund. In accordance with A.R.S. § 44-1531.01(C), these funds will be used for consumer fraud enforcement and education.

This settlement does not constitute an admission of liability.

Our notification of this settlement is made without prejudice to our Office's long-standing 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.

If you have any questions, please feel free to contact me at (602) 542-7717 or by e-mail at [dena.epstein@azag.gov](mailto:dena.epstein@azag.gov).

Sincerely,



Dena Rosen Epstein  
Section Chief Counsel  
Consumer Protection and Advocacy Section

cc: The Honorable Russell K. Pearce  
The Honorable Jorge Luis Garcia  
The Honorable David Lujan

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<sup>1</sup> The industry has moved away from its heavy reliance on AWP as a pricing benchmark in the years since Arizona filed this lawsuit.

May 14, 2010  
Page 3

Mr. Richard S. Stavneak  
Ms. Marge Zylla (Settlement Agreement enclosed)  
Mr. Joe Kanefield  
Mr. Greg Stanton  
Ms. Jennifer Boucek  
Mr. John T. Stevens, Jr.

#829842



Terry Goddard  
Attorney General

Office of the Attorney General  
State of Arizona

Dena Rosen Epstein  
Consumer Protection &  
Advocacy Section  
Direct: (602) 542-7717  
Dena.Epstein@azag.gov

May 18, 2010

The Honorable Robert L. Burns  
President of the Senate  
1700 West Washington Street  
Phoenix, AZ 85007

The Honorable Kirk Adams  
Speaker of the House  
1700 West Washington Street  
Phoenix, AZ 85007

The Honorable John Kavanagh  
Chairman, Joint Legislative Budget Committee  
1700 West Washington Street  
Phoenix, AZ 85007



Re: *State ex rel Goddard v. Avondale Automotive, Inc.*

Gentlemen:

The State of Arizona recently settled a case against Avondale Automotive, Inc. ("Avondale Automotive"), resolving allegations that the motor vehicle dealership engaged in deceptive advertising and business practices.

The settlement, in the form of a Consent Judgment, resolves the State's investigation of Avondale Automotives advertising and sales practices. According to the Complaint filed concurrently with the Consent Judgment, Avondale Automotive failed to sell motor vehicles at the advertised prices, failed to disclose the existence or price of dealer-installed options to consumers and did not disclose that a vehicle sold as "new" was previously sold to another person. Avondale Automotives advertisements also allegedly included vague offers of discounts, vouchers and special trade-in allowances to create the false impression that the consumer had an opportunity to take advantage of an exceptionally advantageous offer. The Complaint further alleged that Avondale Automotive misrepresented manufacturers' rebates as special discounts offered by the dealership and improperly used the Manufactured Suggested Retail Price (MSRP) as a reference to describe discounts offered on the price of used motor vehicles.

The Consent Judgment does not constitute an admission of wrongdoing by Avondale Automotive. Under this settlement, Avondale Automotive has agreed to comply with the Arizona Consumer Fraud Act and engage in truthful and non-misleading advertising. The Consent Judgment further prohibits Avondale Automotive from:

- selling specifically advertised vehicles for more than the advertised price;
- misrepresenting the availability of advertised vehicles;
- advertising vehicles that are not available for sale;
- failing to include the price of dealer installed options in an advertised price;
- falsely advertising that vehicles are available for sale at better than normal terms (e.g. price, interest rate, trade in value);
- using MSRP as a reference price for used vehicles;
- falsely representing that vehicles are part of a specially discounted allotment;
- advertising a false sense of urgency to purchase; and
- failing to provide statutorily required disclosures of prior sales of new vehicles.

Avondale Automotive must provide summaries of the injunctive terms to third party marketers and to provide training to sales staff and managers about the requirements of the settlement.

The Judgment also requires Avondale Automotive to pay a total of \$100,000 to the State, which could increase up to \$150,000 if Avondale Automotive fails to comply with either the payment or injunctive terms of the settlement. This recovery is to be deposited in the consumer fraud revolving fund in accordance with Arizona law, A.R.S. § 44-1531.01(B), as well as the Judgment, and will be used for consumer fraud enforcement and education pursuant to A.R.S. § 44-1531.01(C).

Our notification of this settlement is made without prejudice to our Office's long-standing 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.

If you have any questions, please feel free to contact me at (602) 542-7717 or by e-mail at [dena.epstein@azag.gov](mailto:dena.epstein@azag.gov).

Sincerely,



Dena Rosen Epstein  
Section Chief Counsel  
Consumer Protection and Advocacy Section



May 18, 2010  
Page 3

cc: The Honorable Russell K. Pearce  
The Honorable Jorge Luis Garcia  
The Honorable David Lujan  
Mr. Richard S. Stavneak  
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Mr. Joe Kanefield  
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Ms. Jennifer Boucek  
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#830367