

STATE OF ARIZONA

Joint Legislative Budget Committee

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MINUTES OF THE MEETING

JOINT LEGISLATIVE BUDGET COMMITTEE

July 21, 2005

The Chairman called the meeting to order at 9:45 a.m., Thursday, July 21, 2005, in House Hearing Room 4. The following were present:

Members:	Representative Pearce, Chairman	Senator Burns, Vice-Chairman
	Representative Biggs	Senator Arzberger
	Representative Boone	Senator Cannell
	Representative Gorman	Senator Garcia
	Representative Tully	Senator Harper
		Senator Martin
Absent:	Representative Burton Cahill	Senator Bee
	Representative Huffman	Senator Waring
	Representative Lopez	

APPROVAL OF MINUTES

Representative Pearce moved that the Committee approve the minutes of June 28, 2005. The motion carried.

EXECUTIVE SESSION

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

At 9:46 a.m., the Joint Legislative Budget Committee went into Executive Session to discuss the Arizona Department of Administration Risk Management report and the FY 2006 State Employee Health Insurance Contribution Strategy.

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

At 11:35 a.m. the Committee reconvened into open session.

DEPARTMENT OF ECONOMIC SECURITY - Review of FY 2006 Expenditure Plan for Workforce Investment Act Monies.

Mr. Russell Frandsen, JLBC Staff, said this item is a request for a review of appropriated funds for the federal Workforce Investment Act. DES has submitted their plan for the use of funds as noted in the table in the JLBC agenda.

Representative Boone asked how many staff salaries were included in the \$600,000 set-aside for staffing the Governor's Council on Workforce Policy.

Mr. Frandsen stated that the FTE figures are 6.94 and salary only figures are \$363,026 exclusive of Employee Related Expenses. Some of the other expenditure categories included travel conferences, and building lease costs.

Senator Burns moved that the Committee give a favorable review to the expenditure plan for \$2.3 million of the discretionary portion of federal Workforce Investment Act monies received by the state for FY 2006 as recommended by JLBC Staff. The motion carried.

DEPARTMENT OF HEALTH SERVICES (DHS) - Review of Behavioral Health Title XIX Capitation Rates.

Mr. Richard Stavneak, JLBC Director, said this item is a review of the capitation rate adjustments proposed in the DHS for the Title XIX behavioral health programs. He covered an excerpt from a budget presentation in February on DHS in regard to what are the capitation rates and the background of the Behavioral Health System. Mr. Stavneak stated about \$60 million for cap rates was budgeted, this proposal will cost about \$75 million, explained the 3 main reasons for the increase as outlined in the JLBC Staff recommendation memo.

Senator Garcia stated that since the department doesn't require approval, does that include the shifting of responsibility from the county to DHS for behavioral health services. Mr. Stavneak stated there is no statutory requirement in terms of who covers those services.

Senator Garcia asked if the the reverse is true, that costs could be shifted back to the counties. Mr. Stavneak stated that they could, assuming they would change the capitation rate in the future year.

Representative Boone asked whether shifting \$3.3 million for the DES portion and \$1.6 million for the county is a potential savings of \$4.9 million. Mr. Stavneak stated JLBC is suggesting that the involved entities report back, as we have asked DHS if they know how much the counties are currently spending on juvenile detention services and at that point they did not know the answer.

Representative Boone asked if they agreed to provide that report. Mr. Stavneak stated he did not specifically talk to them yet about providing the report. This is why this is in the recommendation memo.

Senator Cannell asked whether the policy of shifting the care for kids from the county and DES to DHS is going to be lost or are the same providers going to continue their care.

Mr. Chris Petkiewicz, Chief Financial Officer for Behavioral Health Services stated this has been a gradual process with the capitation rates. We have been working with the counties, the children in this case are Title XIX eligible and many are in assistance currently. When they went into the detention facilities, their benefit would automatically be suspended. An agreement with AHCCCS and the detention facility has been worked out so that if they are held under such things as status offenses, their benefit would not go away and they would continue to be eligible for Title XIX services, and therefore, continue to be eligible for services in the new budget.

Senator Garcia asked if this was only going to be for status offenses. Mr. Petkiewicz stated that it was just one example. AHCCCS holds the eligibility. As long as they remain eligible, services will be provided.

Senator Garcia stated that he wanted to make sure that if there is going to be a policy change, that we need to cover as many kids as possible.

Mr. Petkiewicz stated that as long as they maintained their eligibility into AHCCCS this decides that typically if they're over a period of time, chances are that they would lose their benefit. When the services would be provided through the county they are often through the same providers.

Senator Garcia asked if AHCCCS is available to tell us if they have a date or number of dates for the transition.

Mr. Petkiewicz said this was on a case by case basis.

Senator Burns asked that of the FY 2005 shortfall, budgeting \$60 million for inflation adjustments, why wasn't the agency was not able to stay within that amount?

Mr. Eddie Broadway, Deputy Director, Department of Health Services, Behavioral Health said we did an analysis of the needs of the Title XIX SMI population and found out that as a result of Arnold vs. Sarn, we needed approximately 525 case managers in Maricopa County, 70 rehabilitation specialists, 63 clinical subordinations, 23 housing specialists, 47 abuse subordinators, and we need to transition approximately 17 people out of the state hospital in order to meet the maximum 55 person census level as part of the Arnold vs. Sarn lawsuit, transition 50 people out of supervisory care. These are the key factors that drove up the costs to the program adjustment to the Title XIX capitation rate.

Senator Burns asked what the department's plan was as far as resolving the issue of the \$15 million shortfall. Mr. Broadway said we will have to wait until the end of the month to determine what the shortfall is.

Senator Burns asked if they are not in agreement that it's \$15 million. Mr. Broadway stated it might be that amount and they may need to seek a supplemental appropriation.

Senator Burns stated that once the agency determines that there is going to be a shortfall, there is a requirement in statute that says a letter should be sent in relative to that issue. He indicated that he does not know where the letter is at this point.

Mr. Broadway said they are currently working on the analysis and he is aware of the statutory requirement. A letter will be sent in less than 2 weeks. They are waiting for the next member months to show up for August so there is 2 months of numbers this fiscal year.

Senator Burns asked what the analysis is as to what the savings might be based on this transfer.

Mr. Broadway said they worked with DES last year and drafted and sent a letter to JLBC and last year the dollars saved were close to the adjustments that were made in last year's capitation rates. The analysis has not been done yet this year.

Representative Pearce stated he understood the \$15 million number came from DHS as a potential shortfall. Mr. Broadway stated he was not aware of that.

Representative Pearce said if we do not know where it is at now and we are anticipating a shortfall; he was concerned as to why that was not on the Governor's list of priorities at the end of the session.

Mr. Broadway stated he could not answer that, but when they finish their analysis they will inform him of the projections of the shortfall.

Representative Pearce said he is not sure how they came up with the \$15 million shortfall and when we put in a \$60 million inflation factor into the DHS, he is concerned why we could not do this within budget and why there could be a shortfall in the first place.

Representative Boone wanted to clarify if the \$15 million is projected to fall in the 2006 budget.

Mr. Broadway said that was his understanding.

Representative Boone asked there might not be a request for a supplemental because the department might be able to take care of that internally.

Mr. Broadway said he did not try to convey that message.

Senator Burns asked if the 2-week timeframe relative to the \$15 million also includes transfer information between DHS and DES.

Mr. Broadway said the JLBC analyst recommended that by October 31, a letter to JLBC showing the savings that DES had accrued and the expenses that DHS as incurred as a result of the taking on the care of the kids.

Mr. Stavneak stated the timeline for the letter is October 1.

Senator Burns said adjustments made to the Maricopa SMI capitation rate is up to \$317 million, what does that do as far as resolving the Arnold vs. Sarn.

Mr. Broadway said a court monitor is currently working on an audit of the progress that has been made to date. It is not fair to comment on whether the \$317 million will meet all the needs until we have a good idea of what findings the audit from the court monitor may have.

Ms. Susan Gerard, Director, Department of Health Services said her understanding was that the estimate was based on the Leff Report. The estimate was what it would cost to bring the system up to provide the services that were required by the lawsuit. That was the number that came from that report. That is also current dollars, not what dollar costs would be 3 or 4 years down the road because that report was a couple of years out of date. The agreement was that we would agree that would be the number. What the actual number will be will depend on things like how many people present times what the capitation rate is, which is dependent on utilization rates. This is an estimate.

Senator Burns said you had a number of components that had to be addressed in this agreement and this was an estimate of \$317 million, so if those components can be addressed for that money, then we ought to have an agreement.

Ms. Gerard said it was not just about dollars, it's also about passing these audits to show we are actually taking care of the needs of the SMI people in Maricopa County, so we could potentially spend more money. If the court finds that we still haven't satisfied the requirements we would still be considered out of compliance.

Senator Burns asked if the agreement involves additional funding, why was the Legislature not included in the loop. Ms. Gerard stated that the Legislature was not named in the lawsuit.

Representative Pearce said when the agency knows that the Legislature needs to be involved and has to deal with additional money, the Legislature needs to be notified and consulted before there is an agreement to pay more money.

Ms. Gerard agreed and will keep everyone involved.

Representative Boone asked if the financial issue of the capitation rates constitute the request as required by the settlement.

Mr. Robert Source, Assistant Attorney General Representing Department of Health Services stated that the request was for the department to ask the Governor to seek \$317 million so it was never a direct request for the Legislature to appropriate the money. We agreed to ask the Governor to put that in her budget and then that budget would be subject to negotiation with the Legislature. That was the requirement and that is what we did.

Representative Boone asked if the capitation change fulfills that formal request. Mr. Source said that is correct.

Representative Boone asked if the recommendation takes care of the financial requirement of the settlement. Mr. Source said that is correct.

Representative Biggs wanted clarification on the department's responsibility per the agreement with the court monitor.. Ms. Gerard said they have to request it in the Department of Health Services budget that goes to the Governor.

Representative Biggs asked if the mere fact that the request was made, then the department would be in compliance of the court order. Mr. Source said that was correct.

Representative Biggs asked if this would give us a legal release after this money.

Ms. Gerard stated this is just one requirement of the lawsuit; there are 19 stipulations in the exit criteria. The department is looking at June 2008 to exit the lawsuit, but everything we were told we have to have done, needs to be done prior to this. Part of this is the regular audits.

Representative Gorman asked if DES is going to show a \$3.3 million surplus in the budget or will we never see the money.

Ms. Gerard stated that she was unsure. Initially when changes were made we did a transfer from DES, but when you get into subsequent years and we work it into the capitation rate, it will be taken out of the DES budget. They are not transferring it to us.

Senator Burns moved that the Committee give an unfavorable review of DHS' capitation rate changes. The Committee requests DES, DHS, and Juvenile Detention Centers to report by October 1, 2005 as stated in the recommendation by the JLBC Staff. The motion carried.

JOINT LEGISLATIVE BUDGET COMMITTEE STAFF - Report on Phoenix Medical Campus.

Ms. Shelli Carol, JLBC Staff, said this item is a staff report on the Phoenix Medical Campus. The Higher Education Budget Reconciliation Bill directs the University of Arizona (UA) to establish the Phoenix Medical Campus at the site of the former Phoenix Union High School. The bill has limited the campus to one class of 24 students at an annual cost to the General Fund of \$7 million. That appropriation has divided \$6 million to UA Health Sciences Center and \$1 million to Arizona State University (ASU) Department of Biomedical Informatics.

Mr. Jaime Molera, Representing Arizona Board of Regents, said one of the things important in heading toward the September 1 deadline is to report to the Legislature and have a better idea as to the issues are important in order to make good decisions and possible policies. How much is this going to cost before build-out has been the question since this started. We have provided detailed information at the Level I funding. Level II which will be the full build-out of having the whole College of Medicine that would have 125-150 students per year graduating. The cost will be detailed in the report to the Legislature on September 1.

Representative Pearce said this was not part of the budget deal last session and was added at the last minute. He said we have ranking to compete in getting the best and the brightest, and with that comes federal money and grants. Instead of working to make the UA Medical School where we want it to be, how is this going to affect the overall ranking by opening a second medical campus that may detract from UA Medical School and maybe hurt the ranking.

Mr. Molera stated that expanding the College of Medicine would be a tremendous improvement in our ability to attract the best and brightest and to have that kind of economic engine that the Colleges of Medicine often are for communities and states. The Flinn Foundation did a national report that showed the state ranks 46th in being able to prepare new doctors for the future. The four states below us do not have a college of medicine. We are behind in our ability to attract doctors from other states. This gives us an opportunity to attract people to improve our economic stance and our health care policy for the state.

Senator Burns asked how they plan to fund the additional costs in addition to the General Fund. Mr. Molera said it would be listed in the report as not just state appropriated dollars, but all the resources that will go into this College of Medicine. The Legislature will have a full accounting.

Senator Burns asked how much private and federal funding is anticipated to be received and what is the status of the efforts to ensure open access to the clinical rotations issue.

Mr. Molera said the policy has been changed by the UA College of Medicine. We will not preclude hospitals with making rotation arrangements with two schools. This is why there was a request by the colleges to put a footnote in saying we will be barred from doing this in the future.

Senator Burns asked what the status is of the discussions with the hospital near the medical school and what efforts are being put forth. He asked if a new hospital were built, would there be a detrimental effect to the existing hospitals. What is the connection to the relationship between ASU's \$1 million for the new Bioinformational Department and TGEN. A concern is the medical schools have too much emphasis on research and not enough emphasis on producing doctors to go out and practice medicine on patients. There needs to be a comfort level provided in that area. We also understood that there would be classes starting in 2006 and now it is 2007. He asked how that would affect the funding put forth for 2006 classes.

Mr. Molera stated there were discussions with staff and members about the process prior to the funding being allocated. The report highlights that because of the accrediting process and the timeline. He stated that we would be able to use the facilities with clinical rotation starting in 2007.

Representative Pearce stated that was alluded to, but the actual funding was given for the 2006 class. He asked what is going to happen to the \$7 million that was funded for 2006.

Mr. Molera said the funding is going to be used for this initial year. Most of the funding is going to be used for equipment to staff the facility to build up the telemedicine capability.

Representative Pearce stated that the funding was for 24 students and that we were not funding capital.

Mr. Molera stated they were very clear and detailed with stating exactly how the money would be used over the first 2 years. In order to have accreditation all the resources are critical. The intent is to get classes starting quickly.

Senator Burns asked about the space issues. More space may be needed in addition to the current site. Mr. Molera stated that there will be detail on space, funding, and how it will be obtained, along with the relevant equipment needs.

Representative Biggs asked that of the incremental programs why we need \$1.4 million in new money for curriculum development.

Mr. Molera stated that it would be a major piece of an explanation as to what is happening. UA is going through an accreditation process; they are going through every facet.

Representative Biggs asked how much ASU is contributing toward the curriculum development. Mr. Molera said he will provide the information.

Representative Biggs said UA has plans to allocate \$35-40 million regarding capital and operating expenses over 5 years. He asked if there is an annual distribution breakout of those funds, a reallocation from other UA departments or from the medical school, and how are those funds are going to be made up if there is a reallocation.

Mr. Molera said right now UA has lease space that will be shut down. He indicated that they will show how much is being spent and how much is being shifted over.

Representative Tully wanted clarification as to who was doing the report. Mr. Molera stated that it will be a collaborative effort and ABOR is overseeing with UA and ASU.

Representative Tully asked that the report explain why the new medical school needs to be in Phoenix, how many doctors will be expected in the future, why money should be spent on a new medical school instead of spending the money elsewhere, and anything that can be added to explain the medical school.

Representative Gorman asked what percentage of doctors will be research doctors as opposed to actual healthcare providers; will there be any requirement to practice in Arizona; is there any contingency plan in case the Legislature provides no more funding, and will any private entities come in and partner with the university to build the new medical campus.

Senator Burns asked for feedback on efforts made to address the issue of retention of the doctors within the state as opposed to turning this into a university that provides a training field for other states.

Senator Cannell asked how this is going to interact with the residency programs in the Phoenix area. How is the reaction/interaction between the residents and students and the students and doctors in practice, to the residency programs? How is the residency training program going to change so that when residents training in Arizona come out, will there spots in Arizona for them to train and will these spots involve recommending the practice of medicine instead of research.

Representative Pearce asked if the city currently owns the land.

Kevin DeMenna, representing City of Phoenix, said the land has been accepted, with the exception of the 3 buildings as outlined. Phoenix Union will negotiate with Mr. Kaufman in a friendly manner on a final price. It is without question that we control the land.

Representative Pearce asked if some of this will be paid out of the bond election coming up in the City of Phoenix.

Mr. DeMenna said the renovation of the 3 buildings of the Phoenix Union has been used under the Historic Preservation Funds. All of the land referred to, 15 current plan acres and 28 future plan acres, is in control by the City of Phoenix.

Representative Pearce asked if the land is going to be acquired by eminent domain, what the plan is and how are we going to get to the expansion.

Mr. DeMenna said he cannot tell if categorically the answer is no. Within the footprint of what is under consideration, there are 3 buildings owned by Mr. Kaufman. The city has been in them and would now like to take ownership. They are currently in a friendly condemnation action with the owner for tax benefits. The closing should be within the next few months.

Mr. Stavneak said both Committees will be appointing members to serve on the Joint JLBC/JCCR Subcommittee designed to explore the University submission in a separate meeting in mid-September. By October 5, there will be a meeting with this committee to review the formal plan as submitted.

No action was required on this item.

DEPARTMENT OF CORRECTIONS - Report on Health Care Contracts.

Mr. Stavneak stated there is no information provided and this was just added to the agenda because of interest in this subject.

Ms. Kimberly Cordes-Sween, JLBC Staff, said this item relates to the Department of Corrections (DOC) health care contracts. The department provides routine and emergency medical services to inmates on site at prison facilities and also contracts with outside providers for major medical treatment. Currently 10 hospitals and medical care providers are contracted or are in the process of renewing their contracts with the department. Maricopa County contract for services to the Phoenix area detention facilities and that was scheduled to expire on June 30. The department issued a request for proposal (RFP) for this area and the Maricopa County was the only provider that submitted a bid. Within the past year AHCCCS has taken over the department's bidding processing and as a result has changed some of the requirements for the department health care contracts and necessary components of health care proposals. The department determined that Maricopa's submission could not be properly evaluated nor could they extend an offer due to the fact that information related to the new AHCCCS components was not provided. The department has rescinded and reissued the RFP which will allow Maricopa to re-bid. The Maricopa contract has been extended by 90 days to ensure no break in service. The Maricopa RFP has drawn concern and for this reason the Chairs requested that the department provide this update on the status of the health care contract.

Representative Pearce asked why the RFP was rescinded.

Gary Phelps, Deputy Director, Department of Corrections said that in 2003 the department became aware that some of the patients at non-contract hospitals could become AHCCCS eligible. In 2004 we asked for AHCCCS rates plus 55% to lower the cost to the department. In anticipation of the legislation passing, the Appropriations Committee took \$2.4 million out of the Health Services budget. We signed an IGA with AHCCCS for the metropolitan areas to use their tiered billing system, not their rate, as a third party to go through the billings from the vendors. RFP's were issued in Tucson and Phoenix. St. Mary's in Tucson was signed a year ago. In April an RFP was sent out for Maricopa County. Maricopa County was the only responder. The proposal was submitted on June 3, but provisions of the contract could not be evaluated because it was labeled N/A.

Representative Pearce said the purpose of the RFP was to lower the rates to be closer to the AHCCCS rates. He asked why there would be a solicitation of additional bids versus clarifying the issues through an addendum.

Mr. Phelps said this was a normal process and there are clarification periods prior to the submitting of the proposal. We are not soliciting additional bidders. It's based on using AHCCCS as a third party billing to better bill and use their tiered system.

Representative Pearce asked what the efficiency standard is they are hoping to address.

Mr. Gary Pinkstaff, Health Services, Department of Corrections said one of the major changes that was addressed when the RFP went out was that they were going to use the tiered per diem program that AHCCCS had.

Representative Pearce said that can go in the communication of the clarification put in the response to the RFP addendum.

Mr. Pinkstaff said it was in the cover that went out with the RFP. The question was not asked by anyone from Maricopa County regarding clarification or was it necessary that they bid as we requested.

Representative Boone asked if the RFP was for medical care for the DOC. Mr. Pinkstaff said yes, inpatient care and outpatient services.

Representative Boone asked how many RFP's did we have in the past.

Mr. Pinkstaff said the RFP that the contract has expiring on June 30 was awarded in 2000. The first RFP where we were addressing the tiered per diem and using AHCCCS as the third party administrator was done a year ago and also for the Pima County was also awarded to St. Mary's. This is the first time we have done this specific kind of RFP in the Maricopa County area with the same services in specialty and inpatient care.

Representative Boone asked how long Maricopa County has been the provider. Mr. Pinkstaff said the last contract was awarded for in 2000 5 years.

Representative Boone asked if there was a contract awarded to them prior to the 2000 contract. How long has the contracting with them been going on with the Maricopa County Hospital?

Mr. John McDonald, Maricopa Integrated Health Care System, said 10 years.

Representative Boone asked if they were the only RFP respondent at that point. Mr. McDonald stated that was correct.

Representative Boone said if they were the only responders in the past and they have been under contract, isn't it a sole source? If they are going to be the only one responding again and there is no other information about any other providers to this area, why isn't it just deemed a sole source and negotiate directly with them.

Representative Pearce asked when the RFP was rescinded.

Mr. Phelps answered on June 16. When the RFP was rescinded, they went back and added clarification that they were looking for the AHCCCS tier idea, but not necessarily the rate. Also there was an amendment to the contract which was put in the appropriate place in the new RFP.

Mr. Phelps said their effort as a department is to try to get the best value and use AHCCCS as the third party to get a better deal. The department's total hospital bill is \$30 million and the county part of it is \$4-5 million.

Representative Boone said you do not have to do an RFP on a sole source; you can just sit and negotiate with your sole source vendor.

Senator Cannell said it seems we are asking Maricopa County to take a smaller payment for taking care of the patients. They should not be forced to accept a fee that is less than what it costs to provide care.

Mr. McDonald said when the district chose to respond to the RFP in the manner in which it did, it was anticipated by the health care district that the N/A response would lead to further negotiations and discussion to clarify points regarding the AHCCCS reimbursement rates they felt were troubling to the district. We would be accepting less money for providing the same services. Parts of the RFP which were responded in a way to accept, for example, a 60% reimbursement as opposed to 70% in previous years. There were certain portions we felt we could not respond to. We were surprised to have the entire RFP rescinded. In regard to sole source, there could be a difference of opinion as to whether or not this could be a sole source. At the current time, the health care district is the only entity set up in Maricopa County to provide the services. There are many other hospitals in the valley that can set themselves up to provide the services.

Representative Boone asked if the specific basis on which the RFP was rescinded was evaluated by an attorney in terms of the Procurement Code. If so, what are the specific parts of the Procurement Code.

Ms. Charlie Gail Hendrix, Director, Valley of the Special Health Care District Board, said when an RFP is submitted a decrease of 10% is factored into the charges. In addition, 90 days is given to extend the current contract. The board is working to negotiate in good faith and trying not to duplicate services in the community.

Chairman Pearce adjourned the meeting at 1:47 p.m.

Respectfully submitted:

Yvette Medina, Secretary

Richard Stavneak, Director

Representative Russell Pearce, Chairman

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