



Arizona House of Representatives House Majority Research MEMORANDUM

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TO: JOINT LEGISLATIVE AUDIT COMMITTEE
Senator Blendu, Chairman
Representative Knaperek, Vice Chairman

CC: Representative Konopnicki, Senator Waring

DATE: December 19, 2005

SUBJECT: Sunset Review of the Arizona State Personnel Board

Attached is the final report of the sunset review of the Arizona State Personnel Board, which was conducted by the Senate Government and House of Representatives Government Reform & Government Finance Accountability Committee of Reference.

This report has been distributed to the following individuals and agencies:

Governor of the State of Arizona
The Honorable Janet Napolitano

President of the Senate
Senator Ken Bennett

Speaker of the House of Representatives
Representative Jim Weiers

Senate Members
Senator Jim Waring, Vice Chairman
Senator Bill Brotherton
Senator Jake Flake
Senator Linda Gray
Senator Harry E. Mitchell

House Members
Representative Bill Konopnicki, Chairman
Representative Ted Downing
Representative Phil Lopes
Representative John McComish
Representative John Nelson

Arizona State Personnel Board
Arizona State Library, Archives & Public Records
Office of the Auditor General

Senate Majority Staff
Senate Research Staff
Senate Minority Staff
Senate Resource Center

House Majority Staff
House Research Staff
House Minority Staff
Chief Clerk

Attachment

**Senate Government and House of Representatives Government Reform & Finance
Accountability Committee of Reference
Committee of Reference Report**

Arizona State Personnel Board

Background

Pursuant to Arizona Revised Statutes section (A.R.S. § 41-2953), the Joint Legislative Audit Committee (JLAC) assigned the sunset review of the Arizona State Personnel Board (Board) to the Senate Government and House of Representatives Government Reform & Government Finance Accountability Committee of Reference for review.

In 1968, the Legislature enacted laws establishing a merit system for state employees and a Personnel Commission comprised of five appointees to manage that system. This merit system consists of laws and rules developed to uphold principles of fairness, equality, and open competition in all areas of public sector employment. The 1968 legislation also allocated staff to administer the Commission's day-to-day activities under a personnel director. In 1973, legislation moved the Personnel Commission to the Personnel Division within the Department of Administration (DOA) and was then renamed the Personnel Board. In 1978, the Board was officially separated from DOA to ensure Board neutrality.

The Personnel Board, which consists of five Governor-appointed members, is responsible for hearing and reviewing, via an administrative hearing process, (a) appeals filed under A.R.S. §41-782 by state employees who have been dismissed from state service, suspended for more than 40 working hours, or demoted resulting from disciplinary action; and (b) complaints filed under the whistleblower statute, A.R.S. §38-531. The Board's mission statement is "to provide an efficient and impartial hearing process while carrying out the board's statutory mandate to hear and review disciplinary appeals and whistleblower complaints filed by state employees, former state employees, and other individuals referenced in the statute."

Committee of Reference Sunset Review Procedures

The Committee of Reference held one public meeting on November 1, 2005 to review the Department's response to the 12 sunset factors, as well as four additional questions, as required by A.R.S. § 41-2954, subsections D and F, and to accept public testimony. The Committee of Reference received testimony from Judy Henkel, Executive Director of the Arizona State Personnel Board.

Committee of Reference Recommendations

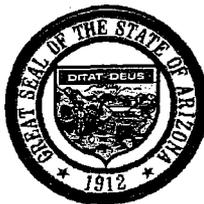
The Committee of Reference recommended that the Arizona State Personnel Board be continued for ten years.

Attachments

1. Agency Response
2. Meeting Notice
3. Minutes of the Committee of Reference Meeting

BOARD MEMBERS:

Wanda F. Moore, Chair
Jeff Grant, Vice Chair
Gwendolyn J. Hatcher
Simon J. Beltran
Manny Tarango



JANET A. NAPOLITANO, Governor
JUDITH L. HENKEL, Executive Director

PERSONNEL BOARD

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Phone: (602) 542-3888 Fax: (602) 542-3588

September 1, 2005

Mr. Steven Moortel
Assistant Research Analyst
Arizona House of Representatives
1700 West Washington Street, Suite H
Phoenix, Arizona 85007

Dear Mr. Moortel:

Enclosed is the Personnel Board's response to the sunset factors as requested in Representative Konopnicki's letter dated July 15, 2005.

As a matter of information, it was not until 1995 during a performance audit of the Personnel Division of the Department of Administration, that the Auditor General's Office discovered the Personnel Board, a separate and distinct entity from DOA's Personnel Division, had never been scheduled for sunset review. During the 1996 Legislative Session the Personnel Board was added to the sunset cycle. Since this is the first time the board and I have been involved in the process, I look forward to hearing from you and the Committee of Reference regarding the enclosed submission.

If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Judy Henkel".

Judy Henkel
Executive Director

Enclosures

ARIZONA STATE PERSONNEL BOARD

SUNSET FACTORS 2005

HISTORY

In 1968, the Legislature enacted laws establishing a merit system for state employees and a Personnel Commission comprised of five appointees to manage that system. This merit system consists of laws and rules developed to uphold principles of fairness, equality, and open competition in all areas of public sector employment. The 1968 legislation also allocated staff to administer the Commission's day-to-day activities under a personnel director. In 1973, legislation moved the Personnel Commission to the Personnel Division within the Department of Administration (DOA), and the Personnel Commission was renamed the Personnel Board. The Personnel Board existed statutorily but was included budgetarily in the Personnel Division under the Department of Administration until November 1978. In November of 1978, the board acquired its own staff of two (executive director and secretary) and to carry out its function to remain impartial and autonomous moved into its own office space. In 1979 the board requested from the legislature its own budget and thereafter became an independent state board/agency separate from the Department of Administration.

In 1983 the Legislature transferred rule violation authority and promulgation of rules to the Department of Administration and the Personnel Board retained hearing appeals from demotions, suspensions and terminations. The Legislature in 1989 expanded the board's jurisdiction to include hearing complaints of prohibited personnel practices (commonly referred to as whistleblower complaints).

The Board consists of five governor-appointed members who serve three year terms. These members are responsible for providing an impartial hearing process to the State and its permanent status employees with respect to three types of agency disciplinary actions: dismissals, suspensions for more than 40 working hours, and demotions. The board also hears complaints filed under the whistleblower statute. The Personnel Board is funded through the state general fund and is currently staffed by a full-time executive director and administrative assistant.

1. OBJECTIVE AND PURPOSE IN ESTABLISHING THE PERSONNEL BOARD.

The Personnel Board provides the following mission statement for its activities:

"To provide an efficient and impartial hearing process while carrying out its statutory mandate to hear and review disciplinary appeals and whistleblower complaints filed by state employees, former state employees, and other individuals referenced in the statute."

Under A.R.S. 41-782 the Personnel Board is responsible for the following:

- ◆ Hearing and reviewing appeals as provided in this article relating to dismissal from state service, suspension for more than forty working hours or demotion resulting from disciplinary action as defined in the personnel rules.
- ◆ Hearing and reviewing complaints as provided in title 38, chapter 3, article 9, relating to any personnel action taken against an employee or former employee of this state, except an employee or former employee of a state university or the board of regents, which the employee or former employee believes was taken in reprisal for the employee's or former employee's disclosure of information to a public body. The State Personnel Board shall recommend the dismissal of a supervisor or other responsible person, other than an elected official, who it determines committed a prohibited personnel practice.
- ◆ Adopting rules it deems necessary for the administration of hearings and the review of appeals and complaints as prescribed in the board's statute.

2. THE EFFECTIVENESS WITH WHICH THE PERSONNEL BOARD HAS MET ITS OBJECTIVE AND PURPOSE AND THE EFFICIENCY WITH WHICH IT HAS OPERATED.

The Personnel Board has met and continues to meet its objectives and purpose. In keeping with its mission, the Personnel Board hears and reviews appeals and complaints filed and has done so in an efficient and impartial manner.

- ◆ Satisfaction surveys are randomly mailed to parties after a proceeding and the results of those surveys in FY2005 reflect the following:

<u>Rating</u>	<u>Hearings conducted are fair and impartial</u>	<u>Timely Responses to inquires</u>	<u>Overall Hearing Process</u>
Excellent	88%	94%	88%
Good	6%	6%	12%
Average	6%	0%	0%
Fair	0%	0%	0%
Poor	0%	0%	0%

The following statistics are provided to support the effectiveness of the board in meeting its objective and purpose and the efficiency in operation:

- ◆ Arizona Revised Statute §41-785.E mandates the Board enter its decision within 45 days after the conclusion of the hearing. Conclusion of the hearing is defined in the board's rules at R2-5.1-103.F. and states the hearing is concluded when the board receives the Hearing Officer's Proposed Findings of Facts, Conclusions of Law, and Recommendation or, if objections are filed, on the date the objections are filed. In FY2005, the Personnel Board averaged 31 days to issue its final order following the conclusion of the hearing. In comparison, the board averaged 41 days in FY2004.
- ◆ Hearing Officer reports are due 30 days following the last day of hearing. In FY2005, hearing officers took an average of 17 days to issue their reports following the last day of testimony. In comparison, the board averaged 11 days in FY2004.
- ◆ In FY2005, average time from receipt of an appeal to the final order of the board was 108 days. In comparison, the average in FY2004 was 113 days. (In August of 1999 the Personnel Board ceased providing verbatim transcripts of hearings to parties and thus substantially reduced its length of time to process appeals and complaints.)
- ◆ The Personnel Board received 101 appeals and complaints in FY2005 compared to 62 in FY2004. Further, 66.5 hearing days were held in FY2005 and 60.5 days were held in F2004.
- ◆ The Personnel Board rendered final orders on 52 appeals/complaints in FY2005 compared to 42 in FY2004.

- ◆ The Personnel Board schedules the first hearing date on all appeals and complaints within the statutory mandate of 30 days, providing at least 20 days notice to the parties of the scheduled hearing date. In FY2005, approximately 35% of the time the hearing actually went on the first day scheduled. The majority of the time one or both of the parties requested the first day be rescheduled to a later date.
- ◆ Of the 52 appeals and complaints heard by the board in FY2005, five cases were appealed by either the agency or employee to Superior Court. In comparison, seven cases were appealed to Superior Court in FY2004. The court did not remand any cases to the Personnel Board in FY2004 or FY2005.

3. THE EXTENT TO WHICH THE PERSONNEL BOARD HAS OPERATED WITHIN THE PUBLIC INTEREST.

Operating within the public interest is a benefit to the public, stakeholders, the board and staff.

- ◆ Any member of the public may call the board offices during regular working hours and receive public information regarding appeals and complaints.
- ◆ The public is welcome to attend all open public meetings and upon request is provided with meeting minutes, case information (which has not been sealed from public inspection by the board), copies of hearing tapes, and meeting notices.
- ◆ Meeting notices and meeting minutes are mailed out monthly to those interested individuals included on a mailing list.
- ◆ Open meeting laws are strictly followed and public record requests are timely provided. All board meeting notices include a call to the public.
- ◆ The board maintains a web site that has general and statistical information about the board, its monthly meeting notice, monthly meeting minutes, and a synopsis of the outcome of the cases listed on the meeting notice. The web site also provides links to the board's statutes and rules.
- ◆ A pamphlet regarding the board, its authority, and procedures has been developed and is provided to interested individuals, as well as included in the initial packet mailed to employees who have appealed a disciplinary action.

- ◆ A.R.S. §41-785.H. provides for an employee who has filed an appeal or complaint to represent himself or designate a representative, not necessarily an attorney, before any board hearing or any quasi-judicial hearing held by the board, provided that no fee is charged for any services rendered in connection with such hearing by any designated representative who is not an attorney.
- ◆ Board members and hearing officers recuse themselves from cases if potential bias exists.
- ◆ Since its inception the board has heard and reviewed hundreds of appeals filed as a result of discipline and has also heard complaints from state employees, county employees, and employees of school districts who believe they have received a prohibited personnel practice as a result of disclosing information of a public concern.
- ◆ The appeal process provides due process for state employees who have obtained permanent status with the state to appeal their discipline. They are provided an opportunity to be heard and present their side of any allegations listed in their disciplinary letter.
- ◆ The public has been encouraged to participate in the rulemaking process in the past. Open meetings are held on rulemaking upon request by individuals and any input by the public and stakeholders are considered.

4. THE EXTENT TO WHICH RULES ADOPTED BY THE PERSONNEL BOARD ARE CONSISTENT WITH THE LEGISLATIVE MANDATE.

- ◆ *2002 Rulemaking:* A rulemaking was undertaken in 2002 and completed in early 2003. Rulemaking was initiated to create a new section addressing the procedure for filing a prohibited personnel practice complaint, to update board rules for clarity and understanding, and to amend language to conform with rulewriting standards.

The Governor's Regulatory Review Council's analysis of the rule package submitted by the Personnel Board indicated the rules were legal, consistent with legislative intent, and within the agency's statutory authority. The board has general rulemaking authority under A.R.S. §41-782.C. and has specific authority over dismissal, suspension, and demotion appeals under A.R.S. §41-785 and over whistleblower complaints at A.R.S. §38-532.

- ◆ *2000 Rulemaking:* Rulemaking was initiated to eliminate redundant language, update rules for clarity and understanding, change language to conform with law and current rulewriting standards, create a separate definitions section, and add language addressing exhibits and prehearing conferences.
- ◆ *1998 5-Year Rules Review:* The review was timely and changes were identified. A rulemaking was not performed at that time as the changes were minor in scope; however, rulemaking was initiated in 2000 and included the changes identified in the review.
- ◆ Current rules set out appeal and complaint procedures as well as definitions and board procedures. The rules are consistent with the intent of the Personnel Board's mandate and mission.

5. THE EXTENT TO WHICH THE PERSONNEL BOARD HAS ENCOURAGED INPUT FROM THE PUBLIC BEFORE ADOPTING ITS RULES AND THE EXTENT TO WHICH IT HAS INFORMED THE PUBLIC AS TO ITS ACTIONS AND THEIR EXPECTED IMPACT ON THE PUBLIC.

- ◆ The Personnel Board follows the rule adoption procedure set out in the Arizona Administrative Procedures Act. The board encourages input from the public in drafting rules, follows all requirements for noticing, and allows for public comments during its rulemaking. This includes filing the formal notice of rulemaking with the Office of the Secretary of State and providing for a period of public review and comment. The board also solicits comments regarding rulemaking from individuals that regularly appear before the board, i.e., agencies, union representatives, attorneys, etc.
- ◆ The board posts public meeting notices at least ten days prior to the meeting (per mandate) at the required location, makes agendas available to the public via internet or mail, maintains meeting minutes and has the required statement of where meeting notices will be posted on file with the Office of the Secretary of State. The board also provides the public, via web site, in person, or in writing, with the outcome of cases heard at board meetings.
- ◆ All meetings comply with the Open Meeting Laws and notices are sent to any interested party. Public comment is welcome and it is agendized appropriately at board meetings. The board's intent is to include all stakeholders in the process prior to adopting rule changes.
- ◆ The board's web site includes links to all board rules and statutes.

6. THE EXTENT TO WHICH THE PERSONNEL BOARD HAS BEEN ABLE TO INVESTIGATE AND RESOLVE COMPLAINTS THAT ARE WITHIN ITS JURISDICTION.

- ◆ Since the Personnel Board is not a regulatory agency, it does not "investigate" complaints. The posture of the board is different from that of a licensing or regulatory board in which the board acts only to approve, revoke, or deny a license from that board. Unlike that situation, the Personnel Board acts as an impartial body making a decision in favor of or against one of two adverse parties. It is the responsibility of both parties appearing before the Personnel Board to submit evidence and testimony in support of their position.

The board does, however, issue final orders on appeals and complaints within its jurisdiction. After a hearing is held, the hearing officer issues a recommendation on the appeal/complaint. The Personnel Board reviews each case and makes a final order.

7. THE EXTENT TO WHICH THE ATTORNEY GENERAL OR ANY OTHER APPLICABLE AGENCY OF STATE GOVERNMENT HAS THE AUTHORITY TO PROSECUTE ACTIONS UNDER THE ENABLING LEGISLATION.

- ◆ The Personnel Board is not a regulatory or enforcement agency. The board renders orders on appeals brought before it. Any order of the board is appealable through Superior Court by either party to the proceeding.
- ◆ The Personnel Board contracts with outside legal counsel to represent it at the court level. Counsel has the authority to defend the board in judicial reviews taken by an agency or an employee. Through a letter dated June 10, 1980 from then Attorney General Robert K. Corbin, the Attorney General's Office is unable to provide the Personnel Board any legal assistance or advice on employee hearings because the Attorney General's Office is representing another state agency at the hearings (see attached). Representation by the Attorney General's Office would constitute a conflict of interest and violate the State Bar Association's Canons of Ethics (see Arizona State Bar Ethics Opinion Number 79-2 issued on December 31, 1979, attached). The board must sit as a neutral body at all times.
- ◆ The board has no enforcement authority. If an agency does not comply with the board's order, the employee may file an action in Superior Court to force compliance.

8. **THE EXTENT TO WHICH THE PERSONNEL BOARD HAS ADDRESSED DEFICIENCIES IN ITS ENABLING STATUTES THAT PREVENT IT FROM FULFILLING ITS STATUTORY MANDATE.**

Changes have been made to the board's statutes over the years, some of which have enhanced the board's ability to fulfill its statutory mandate. Specific changes include:

- ◆ During the 2004 Legislative Session, there was a change made to A.R.S. 41-785 which allowed the board to modify a state agency's disciplinary penalty against an employee when the board found the penalty to be disproportionate to the proven offense in light of mitigating circumstances rather than requiring the penalty to be excessive (the word "excessive" was removed).
- ◆ During the 2002 Legislative Session, the board initiated a statutory change to change time requirements for meeting notices from 20 to 10 days and the time requirement for the board to render a final order on appeals from 30 to 45 days. The change also provided that tapes of hearings be transcribed by an entity other than the Personnel Board and for the requesting party to pay for such transcription. These changes reduced the average processing time for appeals and complaints, saved expenditures for transcription services, and enabled the board to meet mandated time frame requirements.
- ◆ In the 1996 Legislative Session, language was added to the board statute that authorized the board to adopt rules for the administration of hearings and appeals (rulemaking authority). This change allowed the board to add new rules regarding the process to follow when filing a complaint under the whistleblower statute.

9. **THE EXTENT TO WHICH CHANGES ARE NECESSARY IN THE LAWS OF THE PERSONNEL BOARD TO ADEQUATELY COMPLY WITH THE FACTORS LISTED IN THE SUNSET REVIEW STATUTE.**

- ◆ When a party to a proceeding disagrees with a board order/decision, they have the right to appeal that order in Superior Court. Current law requires the board members be named individually on the complaint filed in Superior Court. The law should be changed to allow the board to have the authority to sue and be sued. In other words, an appeal in court would name the Personnel Board as an entity, and not each member individually, as defendants in the matter.

10. THE EXTENT TO WHICH THE TERMINATION OF THE PERSONNEL BOARD WOULD SIGNIFICANTLY HARM THE PUBLIC HEALTH, SAFETY, OR WELFARE.

- ◆ Terminating the Personnel Board would harm the public's health, safety, or welfare. If the Personnel Board did not exist, employees would not have an administrative process to hear their disciplinary appeals for cause. Also, there would not exist a forum to hear complaints filed under the whistleblower law. The board provides an independent review of disciplinary appeals and whistleblower complaints. There is no other recourse for a third party unbiased review other than court.
- ◆ If the Personnel Board was terminated, there would be no administrative entity to perform the check and balance necessary for due process.
- ◆ The administrative review by the Personnel Board is less costly, employees can represent themselves, and the process is much more expedient than at the judicial level.
- ◆ In April 1997, the Governor approved law that established a Personnel Rules Review Committee to study the existing personnel rules and to review all aspects of the state personnel system, including the operation of the Personnel Board. The Committee established several work teams, one of which specifically reviewed the operation of the Personnel Board. This team concluded that the state must retain an appeals process that is independent of state agencies and provides due process (see committee report attached).
- ◆ It is assumed state employees want an independent appeals process that is outside the agency. It is also assumed that agencies and employees prefer an administrative review process to hear disciplinary appeals and whistleblower complaints rather than having to defend such cases within the judicial process that is much more costly and time consuming for all involved. Theoretically, the courts could hear the cases; however, they do not want these types of cases first hand. Out of the 52 orders rendered by the board in FY2005, five cases were appealed to Superior Court. Superior Court would much rather review the five cases than all 52.
- ◆ The whistleblower complaints process administered by the Personnel Board provides an avenue in which state employees and former state employees may be protected for disclosing information of a matter of public concern to a public body which the employee believes evidences a violation of any law, mismanagement, a gross waste of monies, or an abuse of authority. The

board hears complaints from employees of community college districts, counties, and school districts if an independent board to consider such complaints has not been established. If no board existed, these employees who now are protected under the law would have no administrative recourse.

- ◆ Termination of the Personnel Board would also affect citizen/employees financially should they have their administrative recourse eliminated and be required to go directly to court, which is much more costly.

11. THE EXTENT TO WHICH THE LEVEL OF REGULATION EXERCISED BY THE PERSONNEL BOARD IS APPROPRIATE AND WHETHER LESS OR MORE STRINGENT LEVELS OF REGULATION WOULD BE APPROPRIATE.

This factor does not apply because the Personnel Board is not a regulatory agency.

12. THE EXTENT TO WHICH THE PERSONNEL BOARD HAS USED PRIVATE CONTRACTORS IN THE PERFORMANCE OF ITS DUTIES AND HOW EFFECTIVE USE OF PRIVATE CONTRACTORS COULD BE ACCOMPLISHED.

- ◆ ***Hearing Officer Contracts***

The Personnel Board contracts with seven attorneys in private practice to serve as hearing officers. These attorneys must have extensive experience in conducting administrative, quasi-judicial, public and/or merit system hearings. They must possess a thorough knowledge of Arizona State Personnel Board statutes and rules, be able to rule on motions, conduct any legal and/or factual research necessary, rule on the admissibility of evidence and testimony, administer oaths, issue subpoenas, and supervise the conduct of the hearing.

Contracting with the attorneys is handled through the Enterprise Procurement Services office and state procurement requirements are followed.

- ◆ ***Special Counsel Contract***

The board also contracts with an attorney to provide legal services and advise board members, represent the board, and litigate cases in court. A contract exists with outside counsel in lieu of using the Attorney General's Office for legal services because of the conflict of interest issue discussed previously.

- ◆ Special counsel and hearing officers are used on an as-needed basis which is cost effective. Due to the nature of the board's functions, use of private contractors is appropriate.
- ◆ The use of private contracts for web site enhancement is also being considered. Consideration will also be given to contracting with an individual for rulewriting services if necessary.

ADDITIONAL QUESTIONS

1. IDENTIFICATION OF THE PROBLEM OR THE NEEDS THAT THE AGENCY IS INTENDED TO ADDRESS.

- ◆ To better serve the public, web site enhancement to provide greater public access to past minutes, statistics, and other pertinent information.
- ◆ Replace outdated, obsolete tape recording equipment with a new digital recording system. Address funding for purchase.

2. A STATEMENT, TO THE EXTENT PRACTICABLE, IN QUANTITATIVE AND QUALITATIVE TERMS, OF THE OBJECTIVES OF THE PERSONNEL BOARD AND ITS ANTICIPATED ACCOMPLISHMENTS.

- ◆ The board fully intends to continue to provide an impartial and expedient hearing process, meeting or exceeding statutory requirements in hearing appeals and complaints.
- ◆ Maintain a stakeholder satisfaction rate of no less than 98 percent.
- ◆ Identify organizational training needs and provide training to appropriate staff in areas such as improving customer service and process improvement.
- ◆ Periodically solicit input from key stakeholders and customers on improving the operation of the appeals process.
- ◆ Enhance current web site by contracting with qualified entity to make enhancements.
- ◆ Make rule changes as necessary through public hearing process with input from interested stakeholders.

3. AN IDENTIFICATION OF ANY OTHER AGENCIES HAVING SIMILAR, CONFLICTING, OR DUPLICATING OBJECTIVES, AND AN EXPLANATION OF THE MANNER IN WHICH THE PERSONNEL BOARD AVOIDS DUPLICATION OR CONFLICT WITH OTHER SUCH AGENCIES.

- ◆ No other state entity hears appeals filed by state employees who have been dismissed, suspended for more than 40 hours, or demoted for cause; nor does another entity hear complaints filed under the whistleblower statute, with the exception of any judicial review in the courts should the administrative process be bypassed.

4. AN ASSESSMENT OF THE CONSEQUENCES OF ELIMINATING THE AGENCY OR OF CONSOLIDATING IT WITH ANOTHER AGENCY.

In addition to the reasons set forth under #10, the following consequences would exist if the board was eliminated:

- ◆ Eliminating the Personnel Board would place employees on the street with no administrative recourse. The only recourse would be through the judicial system, which is much more costly and time consuming. Courts do not want these types of cases first hand; but prefer to review administrative records. Courts place a lower priority to these types of cases.
- ◆ The lack of a Personnel Board would create a cost prohibitive burden on employees.
- ◆ Should a Personnel Board not exist, there would be no administrative recourse for individuals filing a "whistleblower" complaint. This could have a chilling affect. The board not only serves state employees but on many occasions county and school district employees when those entities do not have a forum or process in place to hear complaints filed under the whistleblower statute.
- ◆ By eliminating the board, board members with extensive experience in personnel management issues would be lost as well as the lay perspective they bring to the board.
- ◆ By eliminating the board, hearing officers with extensive experience in personnel related administrative hearings would be lost as well as the historical knowledge retained by the hearing officers.
- ◆ Due process is present for an employee only and initially at the Personnel Board level where the employee has the first chance to have a full hearing to refute the agency action by cross examination and presentation of evidence and testimony from the employee's own witnesses. When an agency imposes a disciplinary action, it most likely considers facts and circumstances of the agency without either the employee input or the employee having the right to

cross examine or receive testimony under oath. This opportunity would not be available should the board be eliminated.

- ◆ If the board, which is neutral and non-partisan, was abolished, there would be no check and balance or monitoring of agency disciplinary actions which is the heart of a democratic society.

Consequences of consolidating the board with another agency:

- ◆ ***Office of Administrative Hearings:*** In 1998 the legislature passed a bill that would bring a number of agency hearing officers under the Office of Administrative Hearings. At that time legislative hearings were held to determine who would remain exempt and who would transfer its hearing officers to OAH. It was determined by the Legislature that the Personnel Board should remain exempt from the Office of Administrative Hearings (OAH) and the Uniform Administrative Appeals Process (UAAP). Justification for the exemption included the following:

Experience and Expertise: Board hearing officers have experience and expertise in the personnel field. Current hearing officers have been under consecutive contract with the board for a number of years, some since 1978. Among the hearing officers presently there is nearly 100 years of Arizona State Personnel Board hearing experience. The relevant specific experience of OAH in Personnel Board matters is not available.

Economic Benefit: In FY 2005 the board expended approximately \$92,000 for expenditures related to hearing officer services for seven hearing officers. These fees included the time spent for hearings and travel. The board spent no money for the following items for hearing officers: secretarial staff, paper, copier or supplies, office space, computers, retirement, deferred compensation, medical or dental benefits, disability benefits, life insurance benefits, shift differential/overtime or compensation time, vacation pay benefits or sick leave benefits, workman's compensation. Thus, the \$92,000 spent would be less than the salary for two Attorney IV's in the state system. This would, of course, be two Attorney IV's serving as hearing officers with no experience, in contrast to seven attorneys with substantial experience.

Flexibility: The board has seven experienced hearing officers and can call on any of those for a hearing. One of the hearing officers resides in Tucson and covers hearings held in southern Arizona, again saving travel costs and expense.

Due process: The board has contract hearing officers, not state employees, which retains the appearance of complete neutrality. There is no control by an agency as an "employer" over these hearing officers. They are independent hearing officers who report to an independent board. This satisfies the requirement of fairness under the due process standard. The courts have also approved this concept (see *Evans vs. State of Arizona Corporation Commission*, attached).

Conflict of Interest: A definite conflict arises concerning disciplinary action by OAH management against one of its own employees. Board appeals under the wing of OAH would create conflict of interest situations which are unnecessary and now non-existent. Those conflicts could create costs for outside counsel and/or outside hearing officers which result in an economic impact not positive in nature.

Statutory Differences: Appeal time frames differ between OAH and the Personnel Board. The Personnel Board provides for a quicker hearing date than OAH provides. OAH provides for settlement conference and the board has no such language in its statute as it and its hearing officer must remain neutral at all times. OAH's time frames to render a decision also differs from that of the Personnel Board.

- ◆ ***Department of Administration or Another State Agency:*** Some of the same arguments stated above would apply should the Personnel Board be consolidated with the DOA or any other state agency. Most importantly, however, is the provision that the employee have access to an impartial hearing process. The Director of the Department of Administration promulgates the rules which state employees must follow. When the chief executive of the Department of Administration has the authority to interpret the statutes, make the rules according to its own interpretation, and then implement the rules as it sees fit without any other agency having oversight, then in effect there would no longer be a merit system in Arizona. Because the Personnel Board is impartial, it is the taxpayer's protection against the bureaucracy.

ARIZONA STATE LEGISLATURE

Senate Government and House of Representatives Government Reform
and Government Finance Accountability Committee of Reference for the
Sunset Review of: Prescott Historical Society, Arizona State Personnel
Board, Government Information and Technology Agency, and Arizona
Department of Administration

Minutes of the Meeting
Tuesday, November 1, 2005
9:30 a.m., House Hearing Room 1

Members Present:

Representative Bill Konopnicki, CoChair	Senator Jim Waring, CoChair
Representative Ted Downing	Senator Bill Brotherton
Representative Phil Lopes	Senator Linda Gray
Representative John McComish	Senator Harry Mitchell
Representative John Nelson	

Members Absent:

Senator Jake Flake

Staff:

Steve Moortel, House Assistant Legislative Analyst
Nadine Sapien, Senate Government Analyst

Chairman Konopnicki called the meeting to order at 9:30 A.M. and the attendance was taken.

Presentations

Richard Sims, Director, Prescott Historical Society, presented a brief overview of the Prescott Historical Society, also known as the Sharlot Hall Museum, its work both in and around Prescott, and some of the museum's accomplishments.

Senator Waring asked if the Prescott Historical Society is charging an admission fee to the museum. Mr. Sims stated through House Bill 2490 (2004), the Historical Society is allowed to charge an admission fee to the museum. The fee is \$5 for adults and children 18 and under are free.

Senator Waring asked Mr. Sims if it is true that the Historical Society wants to raise membership dues. Mr. Sims stated the membership program is run through the non-profit society which can charge more market rate dues instead of the low and outdated numbers in the State statute.

Representative McComish asked if the Historical Society's \$4 million capital campaign is being run through the non-profit society. Mr. Sims stated the campaign is being run through the non-profit.

Representative McComish asked how much of the Society's operating budget comes from the State and the non-profit. Mr. Sims stated the Society is matching the State funds of over \$600,000 with the non-profit activities.

Senator Lopes requested that the Historical Society report back as to what the impact is on the utilization of the museum as a result of the admission fee. Mr. Sims stated he would be happy to report that information back to the Committee.

Senator Brotherton asked what is the Historical Society's current budget. Mr. Sims stated the current budget is \$640,000 and has been in place for the last three years. Mr. Sims stated the budget had been reduced from \$800,000 due to budget cuts and as a result the museum had to cut five State positions.

Senator Brotherton asked if the loss of employees is an ongoing issue for the museum. Mr. Sims stated the loss of State personnel is an ongoing problem as a result of prior budget cuts.

Senator Brotherton asked Mr. Sims where he would want the budget to be on an annual basis. Mr. Sims stated he would like to see the budget fully recovered back to 18 full time employees.

Senator Gray asked how much money has come in from the \$5 admission fee. Mr. Sims stated that tracking back to last October the museum has budgeted for a little over \$50,000 based on daily attendance. Mr. Sims did not have the figures for the current quarter but he stated that he would report back to Senator Gray with those numbers.

Mr. Sims stated all of the money from State allocations goes towards personnel and risk management costs and everything else needed to run the museum comes from the non-profit revenue stream.

Representative Lucy Mason stated her appreciation for Mr. Sims' ability to run the museum with the resources that have been allocated and urged the committee to continue with the funding of the Historical Society.

Representative Konopnicki stated the Committee will do what it can to try to restore the museum's funding but he is not sure how soon, or if ever, funding can be re-established to agencies that have been cut.

Representative McComish stated the Historical Society has done a great job of working with the private sector and non-profits. Representative McComish added that this does bring up the question of how much responsibility the State

takes for buying certain items, such as mop heads, and how much do non-profits take.

Senator Waring moved to recommend the continuation of the Prescott Historical Society for ten years and the motion was seconded by Representative Lopes.

Roll call vote was taken on the recommendation and passed 9-0-1 (Attachment 1).

Senator Brotherton stated he supports the continuation and that he would like to see more of the non-profit monies that are raised being used for the extras that cannot be achieved through State funds instead of so much of it going towards the operational budget of the museum. Senator Brotherton also stated he does not believe it is fair to cut taxes and not to give money back to State agencies that have been cut and stretched thin for a long time.

Senator Gray commended Mr. Sims on the job that he is doing.

Representative Konopnicki commended the Prescott Historical Society on the job that it is doing and stated that while there has been talk of a tax cut, the Legislature has to be careful in the next few years with how they try to re-establish State agencies.

Judy Henkel, Executive Director, Arizona State Personnel Board, presented a brief history and overview of the Arizona State Personnel Board.

Representative Downing asked what the frequency is of whistleblower complaints and what savings the State may have incurred because of these complaints. Ms. Henkel stated the Board received approximately seven to ten whistleblower complaints last fiscal year and each hearing process costs approximately \$1,100.

Representative Downing asked how many of the whistleblowers' allegations were upheld. Ms. Henkel responded that in a majority of the cases the employee does not win because the whistleblower statute is very specific as to what has to be proven and in a majority of the cases those specifics were not met.

Representative Downing commented whistleblowers play an important role in government reform and fiscal responsibility and these people need to be protected in order for them to come forward with information.

Senator Waring asked how many responses the Board had received from the satisfaction surveys which are mailed to all parties involved in hearings. Ms. Henkel stated the Board hears about 48 cases or more each year and approximately half respond to the surveys.

Representative Lopes pointed out that appeals and complaints rose from 62 in 2004 to 101 in 2005 and asked Ms. Henkel if this increase in one year is normal and if this statistic concerns her.

Ms. Henkel stated the fluctuation varies and in some years the numbers have been much lower. Ms. Henkel added settlements have increased to 30% and as a result even though the Board has received 101 complaints most likely some of those have settled.

Ms. Henkel stated the only concern she has is if there were an increase in the number of appeals filed it would increase the Board's budget.

Representative Lopes asked what the difference in cost is between a case that settles and one that goes through the entire process. Ms. Henkel stated the average cost for a hearing is \$1,100 and the savings for a case that is settled is approximately half of that.

Representative McComish asked if the Board has a procedure to give feedback to an agency in order to learn from a complaint that has been filed. Ms. Henkel stated in the past agencies have contacted the Board and in some cases the Board has met with agency directors.

Senator Waring moved to recommend a continuation of the Arizona State Personnel Board for ten years and the motion was seconded by Representative Lopes.

Roll call vote was taken and the motion passed 9-0-1 (Attachment 2).

Jay Dunkleberger, Senior Performance Auditor, Arizona Office of the Auditor General, presented a PowerPoint presentation of the Office's Performance Audit and Sunset Review of the Government Information Technology Agency (GITA) and Sunset Review of the Information Technology Authorization Committee (ITAC) (Attachment A).

Senator Waring asked if it is a fair assessment that GITA is not performing the functions in the security and privacy areas that it should. Mr. Dunkleberger stated that he would not characterize it that way but GITA does need improvement in enforcing policies and standards.

Senator Mitchell commented that an Auditor General's report titled "Department of Administration Information Services Division Telecommunications Program Office," seems to be asking this office the same thing that the Auditor General is asking GITA to do. Senator Mitchell asked if there are two different agencies involved with security.

Mr. Dunkleberger responded GITA's role is to set the statewide standard and the Department of Administration (DOA) enforces security within its agency and has a role in the privatized telecommunications network. Mr. Dunkleberger added there is some overlap and in the recommendation, the Auditor General is looking for GITA to provide guidance for all agencies, including DOA's administration of the telecommunications project.

Senator Brotherton asked what mechanisms are available for enforcing policies that are already in place. Mr. Dunkleberger stated GITA asks agencies to self report their compliance with security standards each year and GITA will then meet with those agencies to attempt to improve problems that have been identified. GITA has also formed a statewide security committee that examines how to address security issues.

Senator Brotherton asked how GITA enforces policies if agencies do not comply. Mr. Dunkleberger stated unless there have been changes made to GITA's statutory requirement since the Auditor General's report, there is little in statute that allows them to make physical changes to State agencies.

Senator Brotherton commented if there is an enforcement issue, it will be something that the Committee needs to look at.

Mr. Dunkleberger commented the Auditor General did recommend the formation of a Chief Security Officer position and for GITA to look at the statutory need of this position and how it can be established in statute.

Senator Waring asked how many of GITA's projects fall between \$25,000 and \$200,000. Mr. Dunkleberger stated in 2004 there were 87 projects and half fell under \$200,000.

Chris Cummiskey, Director, GITA, and State Chief Information Officer, provided GITA's response to the Auditor General. Mr. Cummiskey stated GITA concurs with the overall findings and recommendations of the Auditor General and is working to track and implement strategies for each one.

Mr. Cummiskey stated GITA's role is to sit as an independent agency to review the work product of the other 114 agencies, boards, and commissions as it relates to Information Technology (IT) planning and projects and make sure they are working within a set of standards and protocols that have been agreed upon by industry and other state governments across the country as best products.

Mr. Cummiskey stated since its inception, GITA has done a good job of making sure that projects stay on budget, on time, and within the parameters set forth by the Legislature.

In regards to Senator Brotherton's previous questions regarding enforcement mechanisms, Mr. Cummiskey stated GITA's options for enforcing compliance is limited. The Project Investment Justification process (PIJ), by statute, requires agencies to report to GITA with a plan and seek approval before they can move forward with a project and the budget offices of both the Office of Strategic Planning and Budgeting (OSPB) and the Joint Legislative Budget Committee (JLBC) have been good about not authorizing the release of funds until this step has been satisfied.

Mr. Cummiskey added GITA has few options when it comes to telling agencies to change what they are doing. Mr. Cummiskey stated there are standards to which GITA points to and they also try to work with them to comply but their only option is to shut down the project funding.

Senator Waring asked Mr. Cummiskey if GITA has a plan to work with DOA regarding security and privacy issues. Mr. Cummiskey stated GITA has been working closely with DOA because it does have operational responsibility for the common relays for communications across the agencies. GITA is also working with an IT Security Advisory Committee, which consists of the three mainframe agencies, the Department of Economic Security (DES), the Department of Public Safety (DPS), and DOA, as well as other entities such as the Federal Bureau of Investigation (FBI) and the universities to work on what the State needs to do to protect the network in the best ways possible.

Mr. Cummiskey added GITA will appoint the Chief Security Officer position that the Auditor General recommended to serve as a strategic link with DOA, the Governor's Office for Homeland Security, and the Arizona Department of Emergency and Military Affairs (DEMA), who all have pieces of the puzzle for security.

Representative Konopnicki commented that security is the most important issue and GITA should be given more power to enforce security policies other than shutting down project funding.

Mr. Commiskey stated GITA has received good compliance from the agencies but because of the situation that GITA is in statutorily, the best way to get compliance is to work with agency directors and their teams and educate them as to why the IT standards are important as they relate to security and why they need to be invoked. However, with 114 agencies it is taking time to educate these agencies, especially those without large IT staffs.

Representative Konopnicki asked how important is it to firm up security issues with the smaller agencies. Mr. Cummiskey stated it is very important not to leave any agency or board behind. Mr. Cummiskey added GITA, in conjunction with DOA, is in the process of shutting down access points to the internet.

Representative Nelson commented that information in a response from GITA to JLAC in October 2005 shows that a great deal of money was expended for a number of projects that were not approved. Representative Nelson asked how GITA got to a point where money is being spent on projects that do not move forward.

Mr. Cummiskey stated that he could not answer what happened prior to January 2003 but since then he does not know of any projects that fall into this category. Mr. Cummiskey added that he will have his staff research this issue in order to find a resolution so this will not happen again in the future.

Senator Brotherton asked Mr. Cummiskey if he believed there is a need for additional enforcement tools or if the current mechanisms are adequate if used effectively. Mr. Cummiskey stated GITA is cautious with the Auditor General's recommendation of auditing an agency and going beyond simply requiring an agency to report on their progress as it relates to the standards. Mr. Cummiskey added GITA can go in and find out why an agency is not complying with the IT standards from a strategic standpoint as it relates to the standards, but they feel they do not have the expertise in-house to take over an agency's operation if they do not comply.

Senator Brotherton commented that information regarding agencies that do not comply with security standards should be more readily available to the Legislature.

Senator Brotherton asked Mr. Cummiskey to comment on the difference of opinion between the Auditor General and GITA in regards to consulting on the actual creation and implementation of projects.

Mr. Cummiskey stated GITA has adopted an Interagency Service Agreement with Enterprise Procurement Services to set out rules and responsibilities and sit in on committees that are established to look at large scale IT projects as technical advisors. Mr. Cummiskey added the point that GITA did not want to cross over was becoming voting members of those committees because they felt that it would compromise their ability to be independent and communicative with both the Governor's office as well as the Legislature.

Representative Downing asked if the Legislature receives a scorecard illustrating agencies' compliance with security standards and if such a scorecard would be useful. Mr. Cummiskey stated currently members of the Legislature are not being provided that information, however, it would be a useful tool and GITA is in the position to provide the members that information.

Representative Downing commented that having that information available to the members of the Legislature would be useful.

Representative Downing asked if GITA provides technical support to the Secretary of State. Mr. Cummiskey stated GITA has not provided technical assistance to the Secretary of State. Mr. Cummiskey added typically with the Secretary of State and other constitutionally elected officers, GITA will not provide assistance unless requested by a particular office.

Representative Downing asked if GITA should be assigned a statutory role to protect the security of the State's voting systems. Mr. Cummiskey stated there is value in having an agency that tracks and manages best practices involved in large scale technological acquisitions with the State.

Representative Downing recommended that the Legislature consider GITA having an active technical advisory role with the State's voting systems.

Senator Brotherton asked if there is a potential security risk with those offices that GITA does not provide technical support to. Mr. Cummiskey stated GITA does have a partnership with most of the State entities in State government. Mr. Cummiskey added there are some entities that decided they have enough in-house IT council and they do not need additional information from GITA. However, if these entities do connect to the State network they must comply with GITA standards and DOA has been vigilant about this.

Representative Konopnicki commented that he agreed with Senator Brotherton and it is important to make sure that all entities must comply with GITA standards if they connect to the State network.

Senator Waring moved to recommend a continuation of the Government Information Technology Agency for ten years and the motion was seconded

Roll call vote was taken and the motion passed 6-0-4 (Attachment 3).

Dale Chapman, Performance Audit Manager, Arizona Office of the Auditor General, presented a PowerPoint presentation of the Office's Performance Audit and Sunset Review of the Arizona Department of Administration (Attachment B).

Representative Lopes asked if the audit was able to determine if DOA was able to achieve its goals of limiting growth of health care costs and increase provider choice through the implementation of self-funded health benefits. Mr. Chapman stated it was too early to determine if the program has achieved any savings or reduction of costs. Mr. Chapman added the program has increased choice for employees.

Representative Lopes asked if there are any mechanisms in place to assure the consistency of workers' compensation claims awarded. Mr. Chapman stated DOA's processes, policies, and procedures were reviewed to determine if they did conform with statute and if the policies and procedures were followed. Mr.

Chapman added with a few exceptions it was found by and large that the policies and procedures are being followed.

Representative Lopes asked if the issue of timeliness was looked at in the review of DOA's plans for the oversight of procurement in the State. Mr. Chapman stated at the time of the audit DOA was implementing this program and the Department might be better able to answer that question.

Bill Bell, Director, Arizona Department of Administration, provided the Department's response to the Auditor General's recommendations. Mr. Bell stated the Auditor General's report provides an excellent diagram for how to begin to approach some of the problems that were identified and DOA plans to follow many of the recommendations.

Kathy Peckardt, Director of Human Resources, Arizona Department of Administration, provided the response to the Auditor General's recommendations for Human Resources Information System (HRIS) (Attachment B) which were to develop a plan for the completion for HRIS and enhance user participation.

Ms. Peckardt stated DOA has met with the large State agencies and developed a systematic methodology to develop a process to find what is important to the agencies as phase two of HRIS begins. This information will be used in developing a five year plan that will be completed approximately by January. Ms. Peckardt added DOA is also working on a data warehouse that will contain employee information such as turnover.

Senator Brotherton asked what the turnover rate is for DOA and if there is a target percentage for where they would like the turnover rate to be. Ms. Peckardt stated DOA's turnover rate is approximately on average with the State's overall turnover rate of 17.6% and would like to be more in line with rates of other states and local cities which is between 11% and 12%.

Senator Brotherton asked what issues need to be addressed in order to reduce the turnover rate. Ms. Peckardt stated if the issue of pay is addressed it will reduce the turnover rate significantly.

Representative Konopnicki asked where DOA is in the development of the comprehensive plan for HRIS. Ms. Peckardt stated DOA is currently in the process of obtaining agency involvement and asking for their input of priorities for the next five years. This information is expected to be received by the end of November and will then be prioritized in December. It is anticipated that a completed plan will be finalized in January.

Tim Boncoskey, Assistant Director of Enterprise Procurement Services, Arizona Department of Administration, responded to the Auditor General's five recommendations for improving oversight of procurement in the State (Attachment B). Mr. Boncoskey stated all five recommendations are in the process of being completed.

Senator Gray asked what areas of House Bill 2582 (2001), which allowed reverse bidding, have been implemented. Mr. Boncoskey stated DOA is currently working with vendors but there has not been any reverse bidding. Mr. Boncoskey added DOA is looking to have reverse bidding up and operating by the end of this fiscal year.

Ray Di Ciccio, State Risk Manager, Arizona Department of Administration, responded to the Auditor General's two recommendations for workers' compensation (Attachment B).

Mr. DiCiccio stated the first recommendation was to improve employee communication by providing more information through the phone system and website. Mr. DiCiccio stated both the phone system and website have been updated. Mr. DiCiccio added other items have been implemented to help with communication. These include an agency liaison that goes to the agencies and provides employees with information, semi-annual meetings with all of the agencies in order to discuss workers' compensation benefits, and a representative who is sent to employee orientations to explain reporting requirements and benefits.

In response to the second issue of the backlog of workers' compensation claims, DOA has already put a special emphasis on that and there is no longer a backlog.

Representative Konopnicki commented that in the audit it is mentioned that the employee makes the workers' compensation claim but in some cases the DOA was already acting on cases before they were reported and in others DOA waited until after the claim was reported. Representative Konopnicki stated this is an issue that needs to be looked at because all employees should be treated the same way.

Mr. DiCiccio stated it is important to act on the claims in a timely manner but he is not aware of any differences in how DOA is processing the claims because there is a manual that states the procedures to follow on each claim.

Kathy Peckardt, in response to health benefit complaints, stated DOA does have a help desk for the sole purpose of addressing complaints from employees regarding their health benefits.

Representative Downing commented a help desk is useful for an employee that has the capacity to complain but some employees are incapacitated and cannot call a help desk.

Mr. Bell stated DOA will be reviewing its procedures and auditing its vendors and if there is a structural problem, it will be fixed.

Representative Konopnicki commented that there was an immediate increase of 14% in the insurance premium, an upcoming increase of 17%, and consultant fees were \$6 or \$7 million and he wanted to know when this increase in spending will stop. Mr. Bell stated it is DOA's objective to reduce costs and make this a cost effective project while providing the kind of service that is expected to employees.

Michael Totherow, Assistant Director of the Information Services Division (ISD) Chief Information Officer, Arizona Department of Administration, provided DOA's response to the Auditor General's recommendations for ISD and the Telecommunications Program Office (Attachment B).

Mr. Totherow stated in regards to the Auditor General's findings, ISD embraces as many best practices as possible to provide security for the systems housed within DOA's data center and the services provided for other agencies. Mr. Totherow added ISD is a cost recovery operation not directly funded for security services and when money is limited, many agencies will focus on serving the constituency and security is often put to the side.

In regards to the recommendation of a state-wide security officer, Mr. Totherow stated there is an overlap with this recommendation and the recommendation for a chief security officer for GITA and DOA has been working with GITA to define what the best scenario would look like.

In regards to the recommendation for the need for the Telecommunications Office to oversee the inventory process, Mr. Totherow stated through next March agencies will continue to transition on to AZNET. During this time agencies will be taking what they are providing for their own telecommunications and data wide area network (WAN) and then turning it over to the program control of Accenture to run in an outsource fashion. This turn over of control is where agencies are looking at what their inventory is, signing off on what is in scope and out of scope, and concur that requirements are met.

Representative McComish asked what can be done when agencies do not want to pay for independent security assessments of their information systems at least once every three years as recommended by national standards. Mr. Totherow stated GITA adopts many of these national standards into their standards and policies that have been enforced upon agencies and the costs have become part of their budgetary process.

Mr. Bell stated there is a gap in security and a plan needs to be developed that encompass all of the agencies in regards to this gap and also develop a comprehensive program that can be administered consistently to help agencies with security issues.

Representative Konopnicki agreed with Mr. Bell and stated the State cannot afford to treat security like it has in the past.

Senator Brotherton asked if DOA can prevent an agency from connecting to the State network if they do not have the proper security standards. Mr. Totherow stated DOA does not have the authority to enforce security in other agencies, constitutional offices, the Legislature, or the courts and this is the gap that DOA would be working with GITA to address from a state wide perspective.

Senator Brotherton asked how talking to GITA will give DOA the authority to enforce security. Mr. Bell stated there are gaps and confusion as to DOA's responsibilities in regards to security and it is important for DOA to sit down with GITA and other agencies to find an answer to this problem.

Representative Konopnicki commented that the issue of security enforcement and responsibility needs to be solved as soon as possible and in order for that to happen GITA needs to play a large role and DOA's responsibilities need to be defined.

Mr. Bell stated whether it is GITA, DOA, or another agency that is responsible for security, it is important to find a solution and provide the security that everyone is seeking.

Representative Konopnicki stated the responsibility for security needs to go to a cabinet level agency where security polices can be set and enforced.

Senator Brotherton commented if the Legislature needs to do something, it needs to be done this legislative session.

Representative Konopnicki stated this is a non-political issue and an issue that is paramount to the security of Arizona. Representative Konopnicki added that DOA should take the lead and come back to the Committee with recommendations.

Mr. Bell stated DOA takes the Auditor General's report seriously and will be working diligently to implement their recommendations.

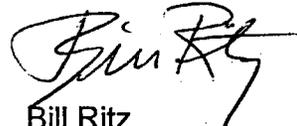
Senator Waring moved to recommend the continuation of the Arizona Department of Administration for ten years and was seconded by Representative McComish.

Roll call vote was taken and the motion passed 7-0-3 (Attachment 4).

Representative Konopnicki commented that the security issue jumped off the page in everything that was looked at and the Committee would not be doing its due diligence if they did not follow up on that issue and make something happen.

There being no further business, Representative Konopnicki adjourned the meeting at 12:35 p.m.

Respectfully submitted,



Bill Ritz
Committee Secretary

(Tapes and attachments on file in the Secretary of the Senate's Office/Resource Center, Room 115.)

SENATE GOVERNMENT AND HOUSE OF REPRESENTATIVES GOVERNMENT REFORM AND GOVERNMENT FINANCE ACCOUNTABILITY COMMITTEE OF REFERENCE FOR THE SUNSET REVIEW OF: PRESCOTT HISTORICAL SOCIETY, ARIZONA STATE PERSONNEL BOARD, GOVERNMENT INFORMATION AND TECHNOLOGY AGENCY, AND ARIZONA DEPARTMENT OF ADMINISTRATION

ARIZONA STATE LEGISLATURE FORTY-SEVENTH LEGISLATURE – ROLL CALL VOTE

Recommendation: Continuation of the Prescott Historical Society for ten years.

MEMBER	AYE	NO	NOT VOTING
Rep. Downing	x		
Rep. Lopes	x		
Rep. McComish	x		
Rep. Nelson	x		
Senator Brotherton	x		
Senator Flake			x
Senator Gray	x		
Senator Mitchell	x		
Senator Waring, CoChair	x		
Rep. Konopnicki, CoChair	x		
	9	0	1

Committee Secretary *Bill Bly*

Date November 1, 2005

SENATE GOVERNMENT AND HOUSE OF REPRESENTATIVES GOVERNMENT REFORM AND GOVERNMENT FINANCE ACCOUNTABILITY COMMITTEE OF REFERENCE FOR THE SUNSET REVIEW OF: PRESCOTT HISTORICAL SOCIETY, ARIZONA STATE PERSONNEL BOARD, GOVERNMENT INFORMATION AND TECHNOLOGY AGENCY, AND ARIZONA DEPARTMENT OF ADMINISTRATION

ARIZONA STATE LEGISLATURE FORTY-SEVENTH LEGISLATURE – ROLL CALL VOTE

Recommendation: Continuation of the Arizona State Personnel Board for ten years.

MEMBER	AYE	NO	NOT VOTING
Rep. Downing	X		
Rep. Lopes	X		
Rep. McComish	X		
Rep. Nelson	X		
Senator Brotherton	X		
Senator Flake			X
Senator Gray	X		
Senator Mitchell	X		
Senator Waring, CoChair	X		
Rep. Konopnicki, CoChair	X		
	9	0	1

Committee Secretary  Date November 1, 2005

**SENATE GOVERNMENT AND HOUSE OF
 REPRESENTATIVES GOVERNMENT REFORM AND
 GOVERNMENT FINANCE ACCOUNTABILITY COMMITTEE OF
 REFERENCE FOR THE SUNSET REVIEW OF: PRESCOTT
 HISTORICAL SOCIETY, ARIZONA STATE PERSONNEL
 BOARD, GOVERNMENT INFORMATION AND TECHNOLOGY
 AGENCY, AND ARIZONA DEPARTMENT OF
 ADMINISTRATION**

**ARIZONA STATE LEGISLATURE
 FORTY-SEVENTH LEGISLATURE – ROLL CALL VOTE**

Recommendation: Continuation of Government Information Technology Agency for ten years.

MEMBER	AYE	NO	NOT VOTING
Rep. Downing			X
Rep. Lopes	X		
Rep. McComish	X		
Rep. Nelson			X
Senator Brotherton			X
Senator Flake			X
Senator Gray	X		
Senator Mitchell	X		
Senator Waring, CoChair	X		
Rep. Konopnicki, CoChair	X		
	6	0	4

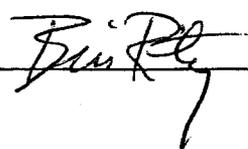
Committee Secretary  Date November 1, 2005

**SENATE GOVERNMENT AND HOUSE OF
 REPRESENTATIVES GOVERNMENT REFORM AND
 GOVERNMENT FINANCE ACCOUNTABILITY COMMITTEE OF
 REFERENCE FOR THE SUNSET REVIEW OF: PRESCOTT
 HISTORICAL SOCIETY, ARIZONA STATE PERSONNEL
 BOARD, GOVERNMENT INFORMATION AND TECHNOLOGY
 AGENCY, AND ARIZONA DEPARTMENT OF
 ADMINISTRATION**

ARIZONA STATE LEGISLATURE
 FORTY-SEVENTH LEGISLATURE – ROLL CALL VOTE

Recommendation: Continuation of the Arizona Department of Administration for ten years.

MEMBER	AYE	NO	NOT VOTING
Rep. Downing	x		
Rep. Lopes			x
Rep. McComish	x		
Rep. Nelson			x
Senator Brotherton	x		
Senator Flake			x
Senator Gray	x		
Senator Mitchell	x		
Senator Waring, CoChair	x		
Rep. Konopnicki, CoChair	x		
	7	0	3

Committee Secretary  Date November 1, 2005