Public Policy Agenda Number 2.

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MEETING DATE: April 2, 2015

AGENDA ITEM: Report on 2015 State Legislative Session and Possible Consideration of a Recommendation that the Board take Action on State Legislation and Policy Issues that Could Affect CAP, including but not limited to SB 1330 and HB 2417.

RECOMMENDATION: See attached document and proposed staff recommendations.

FINANCIAL IMPLICATIONS: None

LINKAGE TO STRATEGIC PLAN, POLICY, STATUTE OR GUIDING PRINCIPLE:
CAWCD Board of Directors 2010 Strategic Plan:
- Leadership & Public Trust: Relationships - Customers, Relationships - Other Stakeholders
- Water Supply: Reliability of the CAP Water Supply

PREVIOUS BOARD ACTION/ACTIVITY:
September 4, 2014   Public Policy Committee previewed and discussed the draft proposed 2015 State Legislative Agenda
October 2, 2014  Board adopted 2015 State Legislative Agenda

ISSUE SUMMARY/DESCRIPTION:
This report describes CAP's state legislative agenda and provides an update on those issues. In addition, this update reports on and requests guidance on bills being considered by the State Legislature.

See attached documents and issue descriptions.

SUGGESTED MOTION:
I move that the Public Policy Committee recommend that the Board adopt a position on the following pending state legislation of interest to CAP: (staff recommendations in parentheses)
SB 1330 Prohibited Activities; Second Amendment Violations (AMEND AND MONITOR)
HB 2417 Annual Pesticide Report; Submission Date STRIKER: Health Care Providers; Payments; Deductibles (AMEND AND MONITOR)
State of Arizona
Senate
Fifty-second Legislature
First Regular Session
2015

SENATE BILL 1330

AN ACT

AMENDING TITLE 13, CHAPTER 31, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-3122; RELATING TO FIREARMS.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 13, chapter 31, Arizona Revised Statutes, is amended by adding section 13-3122, to read:

13-3122. Second amendment violations; prohibited activities; state treasurer; prohibited money transfers; civil penalties; classification

A. NOTWITHSTANDING ANY OTHER LAW AND EXCEPT AS REQUIRED BY A COURT ORDER, AN AGENCY OF THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE OR AN EMPLOYEE OF AN AGENCY OR POLITICAL SUBDIVISION OF THIS STATE ACTING IN THE EMPLOYEE’S OFFICIAL CAPACITY SHALL NOT DO ANY OF THE FOLLOWING:

1. KNOWINGLY AND WILLINGLY PARTICIPATE IN ANY WAY IN THE ENFORCEMENT OF ANY FEDERAL ACT, LAW, ORDER, RULE OR REGULATION ISSUED, ENACTED OR PROMULGATED ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION REGARDING A PERSONAL FIREARM, FIREARM ACCESSORY OR AMMUNITION.

2. USE ANY ASSETS, STATE MONIES OR MONIES ALLOCATED BY THIS STATE TO POLITICAL SUBDIVISIONS OF THIS STATE ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION, IN WHOLE OR IN PART, TO ENGAGE IN ANY ACTIVITY THAT AIDS A FEDERAL AGENCY, FEDERAL AGENT OR CORPORATION PROVIDING SERVICES TO THE FEDERAL GOVERNMENT IN THE ENFORCEMENT OR ANY INVESTIGATION PURSUANT TO THE ENFORCEMENT OF ANY FEDERAL ACT, LAW, ORDER, RULE OR REGULATION ISSUED, ENACTED OR PROMULGATED ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION REGARDING A PERSONAL FIREARM, FIREARM ACCESSORY OR AMMUNITION.

B. NOTWITHSTANDING ANY OTHER LAW, THE STATE TREASURER SHALL NOT TRANSFER ANY MONIES TO A POLITICAL SUBDIVISION OF THIS STATE IN THE FISCAL YEAR AFTER A FINAL JUDICIAL DETERMINATION IS MADE THAT THE POLITICAL SUBDIVISION OF THIS STATE ADOPTED A RULE, ORDER, ORDINANCE OR POLICY THAT INTENTIONALLY VIOLATED THIS SECTION.

C. ANY AGENT OR EMPLOYEE OF THIS STATE OR ANY POLITICAL SUBDIVISION OF THIS STATE WHO KNOWINGLY VIOLATES THIS SECTION IS SUBJECT TO THE FOLLOWING:

1. A CIVIL PENALTY OF NOT MORE THAN THREE THOUSAND DOLLARS FOR THE FIRST VIOLATION OF THIS SECTION.

2. A CLASS 1 MISDEMEANOR FOR A SECOND OR SUBSEQUENT VIOLATION OF THIS SECTION.

Sec. 2. Legislative findings

A. The Legislature finds:

1. The right to keep and bear arms is a fundamental individual right that shall not be infringed.

2. That it is the intent of the Legislature in enacting this act to protect Arizona employees, including law enforcement officers, from being directed, through federal executive orders, agency orders, statutes, laws, rules or regulations enacted or promulgated on or after the effective date of this act to violate their oath of office and individual rights affirmed under the second amendment to the Constitution of the United States and article II, section 26, Constitution of Arizona.
3. That pursuant to and in furtherance of the principles of federalism enshrined in the Constitution of the United States, the federal government may not commandeer this state’s officers, agents or employees to participate in the enforcement or facilitation of any federal program not expressly required by the Constitution of the United States.

4. That this right to be free from the commandeering hand of the federal government has been most notably recognized by the United States Supreme Court in Printz v. United States when the Court held, “The Federal Government may neither issue directives requiring the States to address particular problems, nor command the States’ officers, or those of their political subdivisions, to administer or enforce a federal regulatory program”.

5. That the anticommandeering principles recognized by the United States Supreme Court in Printz v. United States are predicated on the advice of James Madison, who in Federalist Number 46 advised “a refusal to cooperate with officers of the Union” in response to either unconstitutional federal measures or constitutional but unpopular federal measures.
Fifty-second Legislature
First Regular Session
H.B. 2417

COMMITTEE ON HEALTH AND HUMAN SERVICES
SENATE AMENDMENTS TO H.B. 2417
(Reference to House engrossed bill)

1 Strike everything after the enacting clause and insert:
   "Section 1. Section 32-3216, Arizona Revised Statutes, is amended to read:
   
   32-3216. Health care providers; charges; public availability; direct payment; notice; definitions
   
   A. A health care provider must make available on request or online the direct pay price for at least the twenty-five most commonly provided services, if applicable, for the health care provider. The services may be identified by a common procedural terminology code or by a plain-English description. The direct pay prices must be updated at least annually and must be based on the services from a twelve-month period that occurred within the eighteen-month period preceding the annual update. The direct pay price must be for the standard treatment provided for the service and may include the cost of treatment for complications or exceptional treatment. Health care providers who are owners or employees of a legal entity with fewer than three licensed health care providers are exempt from the requirements of this subsection.
   
   B. Subsection A of this section does not apply to emergency services.
   
   C. The health care services provided by health care providers in veterans administration facilities, health facilities on military bases, Indian health services hospitals and other Indian health service facilities, tribal owned clinics, the Arizona state hospital and any health care facility determined to be exempt pursuant to section 36-437, subsection D, are exempt from the requirements and provisions of this section."
D. Subsection A of this section does not prevent a health care provider from offering either additional discounts or additional lawful health care services for an additional cost to a person or an employer paying directly.

E. A health care provider is not required to report the direct pay prices to a government agency or department or to a government-authorized or government-created entity for review or filing. A government agency or department or government-authorized or government-created entity may not approve, disapprove or limit a health care provider’s direct pay price for services. A government agency or department or government-authorized or government-created entity may not approve, disapprove or limit a health care provider’s ability to change the published or posted direct pay price for services.

F. A health care system may not punish a person or employer for paying directly for lawful health care services or a health care provider for accepting direct payment from a person or employer for lawful health care services.

G. Except as provided in subsection J K of this section, a health care provider who receives direct payment from a person or employer for a lawful health care service is deemed paid in full if the entire fee for the service is paid and shall not submit a claim for payment or reimbursement for the service to any health care system. This subsection does not prevent a health care provider from pursuing a health care lien for customary charges pursuant to title 33. This subsection does not affect the ability of a health care provider to submit claims for the same service provided on other occasions to the same or a different person if no direct payment occurs. This subsection does not require a health care provider to refund or adjust any capitated payment, bundled payment or other form of prepayment or global payment made by a health care system to the health care provider for lawful health care services to be provided by the health care provider for the person who makes, or on whose behalf an employer makes, direct payment to the health care provider.
H. Before a health care provider who is contracted as a network provider for a health care system accepts direct payment from a person or an employer, and the person is an enrollee of the same health care system, the health care provider shall obtain the person's or employer's signature on a notice in a form that is substantially similar to the following:

**Important notice about direct payment for your health care services**

The Arizona Constitution permits you to pay a health care provider directly for health care services. Before you make any agreement to do so, please read the following important information:

If you are an enrollee of a health care system (more commonly referred to as a health insurance plan) and your health care provider is contracted with the health insurance plan, the following apply:

1. You may not be required to pay the health care provider directly for the services covered by your plan, except for cost share amounts that you are obligated to pay under your plan, such as copayments, coinsurance and deductible amounts.

2. Your provider's agreement with the health insurance plan may prevent the health care provider from billing you for the difference between the provider's billed charges and the amount allowed by your health insurance plan for covered services.

3. If you pay directly for a health care service, your health care provider will not be responsible for submitting claim documentation to your health insurance plan for that claim. Before paying your claim, your health insurance plan may require you to provide information and submit documentation necessary to determine whether the services are covered under your plan.

4. If you do not pay directly for a health care service, your health care provider may be responsible for submitting claim
documentation to your health insurance plan for the health care service.

Your signature below acknowledges that you received this notice before paying directly for a health care service.

I. A health care provider who receives direct payment for a lawful health care service and who complies with subsection H of this section is not responsible for submitting documentation of any kind for purposes of reimbursement to any health care system for that claim if the failure to submit such documentation does not conflict with the terms of any federal or state contracts to which the health care system is a party and the health care provider has agreed to serve patients under or with applicable state or federal programs in which a health care provider and health care system participate.

J. IF AN ENROLLEE PAYS TO A HEALTH CARE PROVIDER WHO IS AN OUT-OF-NETWORK PROVIDER THE DIRECT PAY PRICE FOR A LAWFUL HEALTH CARE SERVICE THAT IS COVERED UNDER THE ENROLLEE'S HEALTH CARE PLAN, PURSUANT TO THE REQUIREMENTS OF THIS SECTION, THE AMOUNT PAID BY THE ENROLLEE SHALL BE APPLIED FIRST TO THE ENROLLEE'S IN-NETWORK DEDUCTIBLE WITH ANY REMAINING MONIES BEING APPLIED TO THE ENROLLEE'S OUT-OF-NETWORK DEDUCTIBLE, IF APPLICABLE. THE AMOUNT APPLIED TO THE IN-NETWORK DEDUCTIBLE SHALL BE THE AMOUNT PAID DIRECTLY OR THE INSURER'S HIGHEST IN-NETWORK CONTRACTED RATE IN ARIZONA FOR THE SERVICE OR SERVICES, WHICHEVER IS LOWER.

K. This section does not impair the provisions of a health care system's private health care network provider contract, except that a health care provider may accept direct payment from a person or employer or may decline to bill the health care system directly for services paid directly by a person or employer if the health care provider has complied with subsection H of this section and the health care provider's receipt of direct payment and the declination to bill the health care system do not conflict with the terms of any federal or state contract to which the health care system is a party and the health care provider has agreed to serve patients under or with applicable state or federal programs in which both a health care provider and health care system participate.
K. L. A health care provider who does not comply with the requirements of this section commits unprofessional conduct. Any disciplinary action taken by the health professional's licensing board may not include revocation of the health care provider's license.

M. For the purposes of this section:

1. "Direct pay price" means the price that will be charged by a health care provider for a lawful health care service, regardless of the health insurance status of the person, if the entire fee for the service is paid in full directly to a health care provider by the person, including the person's health savings account, or by the person's employer and that does not prohibit a provider from establishing a payment plan with the person paying directly for services.

2. "Emergency services" means lawful health care services needed to evaluate and stabilize an emergency medical condition as defined in 42 United States Code section 1396u-2(b)(2)(C).

3. "Enrollee" means a person who is enrolled in a health care plan provided by a health insurer.

4. "Health care plan" means a policy, contract or evidence of coverage issued to an enrollee. Health care plan does not include limited benefit coverage as defined in section 20-1137.

5. "Health care provider" means a person who is licensed pursuant to chapter 7, 8, 13, 16, 17, 19 or 34 of this title.

6. "Health care system" means a public or private entity whose function or purpose is the management, processing or enrollment of individuals or the payment, in full or in part, of health care services.

7. "Health insurer" means a disability insurer, group disability insurer, blanket disability insurer, health care services organization, hospital service corporation, medical service corporation or hospital and medical service corporation as defined in title 20.

8. "Lawful health care services" means any health-related service or treatment, to the extent that the service or treatment is permitted or not prohibited by law or regulation, that may be provided by persons or businesses otherwise permitted to offer the services or treatments.
9. "Punish" means to impose any penalty, surcharge or named fee with a similar effect that is used to discourage the exercise of rights under this section.

Sec. 2. Section 36-437, Arizona Revised Statutes, is amended to read:

36-437. Health care facilities; charges; public availability; direct payment; notice; definitions

A. A health care facility with more than fifty inpatient beds must make available on request or online the direct pay price for at least the fifty most used diagnosis-related group codes, if applicable, for the facility and at least the fifty most used outpatient service codes, if applicable, for the facility. The services may be identified by a common procedural terminology code or by a plain-English description. The health care facility must update the direct pay prices at least annually based on the services from a twelve-month period that occurred within the eighteen-month period preceding the annual update. The direct pay price must be for the standard treatment provided for the service and may include the cost of treatment for complications or exceptional treatment.

B. A health care facility with fifty or fewer inpatient beds must make available on request or online the direct pay price for at least the thirty-five most used diagnosis-related group codes, if applicable, for the facility and at least the thirty-five most used outpatient service codes if applicable, for the facility. The services may be identified by a common procedural terminology code or by a plain-English description. The health care facility must update the direct pay prices at least annually based on the services from a twelve-month period that occurred within the eighteen-month period preceding the annual update. The direct pay price must be for the standard treatment provided for the service and may include the cost of treatment for complications or exceptional treatment.

C. Subsections A and B of this section do not apply if a discussion of the direct pay price would be a violation of the federal emergency medical treatment and labor act.

D. Veterans administration facilities, health facilities on military bases, Indian health services hospitals and other Indian health services
facilities, tribal owned clinics and the Arizona state hospital are exempt from the requirements and provisions of this section. If the director of the Arizona department of health services determines that a health care facility does not serve the general public, the health care facility shall be exempt from the requirements and provisions of this section if the facility does not serve the general public.

E. Subsections A and B of this section do not prevent a health care facility from offering either additional discounts or additional lawful health care services for an additional cost to a person or an employer paying directly.

F. A health care facility is not required to report the direct pay prices to a government agency or department or to a government-authorized or government-created entity for review. A government agency or department or government-authorized or government-created entity may not approve, disapprove or limit a health care facility’s direct pay price for services. A government agency or department or government-authorized or government-created entity may not approve, disapprove or limit a health care facility’s ability to change the published or posted direct pay price for services.

G. A health care system may not punish a person or employer for paying directly for lawful health care services or a health care facility for accepting direct payment from a person or employer for lawful health care services.

H. Except as provided in subsection K–L of this section, a health care facility that receives direct payment from a person or employer for a lawful health care service is deemed paid in full if the entire fee for the service is paid and shall not submit a claim for payment or reimbursement for the service to any health care system. This subsection does not prevent a health care facility from pursuing a health care lien for customary charges pursuant to title 33. This subsection does not affect the ability of a health care facility to submit claims for the same service provided on other occasions to the same or a different person if no direct payment occurs. This subsection does not require a health care facility to refund or adjust
any capitated payment, bundled payment or any other form of prepayment or global payment made by a health care system to the health care facility for lawful health care services to be provided by the health care facility for the person who makes, or on whose behalf an employer makes, direct payment to the health care facility.

I. Before a health care facility that is contracted as a network provider for a health care system accepts direct payment from a person or an employer, and the person is an enrollee of the same health care system, the health care facility shall obtain the person's or employer's signature on a notice in a form that is substantially similar to the following:

**Important notice about direct payment for your health care services**

The Arizona Constitution permits you to pay a health care facility directly for health care services. Before you make any agreement to do so, please read the following important information:

If you are an enrollee of a health care system (more commonly referred to as a health insurance plan) and your health care facility is contracted with the health insurance plan, the following apply:

1. You may not be required to pay the health care facility directly for the services covered by your plan, except for cost share amounts that you are obligated to pay under your plan, such as copayments, coinsurance and deductible amounts.

2. Your provider's agreement with the health insurance plan may prevent the health care facility from billing you for the difference between the facility's billed charges and the amount allowed by your health insurance plan for covered services.

3. If you pay directly for a health care service, your health care facility will not be responsible for submitting claim documentation to your health insurance plan for that claim. Before paying your claim, your health insurance plan may require
Senate Amendments to H.B. 2417

you to provide information and submit documentation necessary to determine whether the services are covered under your plan.

4. If you do not pay directly for a health care service, your health care facility may be responsible for submitting claim documentation to your health insurance plan for the health care service.

Your signature below acknowledges that you received this notice before paying directly for a health care service.

J. A health care facility that receives direct payment for a lawful health care service and that complies with subsection I of this section is not responsible for submitting documentation of any kind for purposes of reimbursement to any health care system for that claim if the failure to submit such documentation does not conflict with the terms of any federal or state contracts to which the health care system is a party and the health care facility has agreed to serve patients under or with applicable state or federal programs in which a health care facility and health care system participate.

K. IF AN ENROLLEE PAYS TO A HEALTH CARE FACILITY THAT IS AN OUT-OF-NETWORK PROVIDER THE DIRECT PAY PRICE FOR A LAWFUL HEALTH CARE SERVICE THAT IS COVERED UNDER THE ENROLLEE'S HEALTH CARE PLAN, PURSUANT TO THE REQUIREMENTS OF THIS SECTION, THE AMOUNT PAID BY THE ENROLLEE SHALL BE APPLIED FIRST TO THE ENROLLEE'S IN-NETWORK DEDUCTIBLE WITH ANY REMAINING MONIES BEING APPLIED TO THE ENROLLEE'S OUT-OF-NETWORK DEDUCTIBLE, IF APPLICABLE. THE AMOUNT APPLIED TO THE IN-NETWORK DEDUCTIBLE SHALL BE THE AMOUNT PAID DIRECTLY OR THE INSURER'S HIGHEST IN-NETWORK CONTRACTED RATE IN ARIZONA FOR THE SERVICE OR SERVICES, WHICHEVER IS LOWER.

L. This section does not impair the provisions of a health care system's private health care network provider contract, except that a health care facility may accept direct payment from a person or employer or may decline to bill the health care system directly for services paid directly by a person or employer if the health care facility has complied with subsection I of this section and the health care facility's receipt of direct payment and the declination to bill the health care system do not conflict with the
terms of any federal or state contract to which the health care system is a party and the health care facility has agreed to serve patients under or with applicable state or federal programs in which a health care facility and health care system participate.

M. This section may not prevent the Arizona department of health services from performing an investigation of a health care facility under the department's powers and duties as defined in THIS title. If a health care facility fails to comply with this section, the penalty shall not include the revocation of the license to deliver health care services.

N. For the purposes of this section:

1. "Direct pay price" means the entire price that will be charged by a health care facility for a lawful health care service, regardless of the health insurance status of the person, if the entire fee for the service is paid in full directly to a health care facility by the person, including the person's health savings account, or by the person's employer and that does not prohibit a facility from establishing a payment plan with the person paying directly for services.

2. "Enrollee" means a person who is enrolled in a health care plan provided by a health insurer.

3. "Health care facility" means a hospital, outpatient surgical center, health care laboratory, diagnostic imaging center or urgent care center.

4. "Health care plan" means a policy, contract or evidence of coverage issued to an enrollee. Health care plan does not include limited benefit coverage as defined in section 20-1137.

5. "Health care provider" means a person who is licensed pursuant to TITLE 32, chapter 7, 8, 13, 16, 17, 19 or 34 of title 32.

6. "Health care system" means a public or private entity whose function or purpose is the management, processing or enrollment of individuals or the payment, in full or in part, of health care services.

7. "Health insurer" means a disability insurer, group disability insurer, blanket disability insurer, health care services organization,
hospital service corporation, medical service corporation or hospital and medical service corporation as defined in title 20.

8. "Lawful health care services" means any health-related service or treatment, to the extent that the service or treatment is permitted or not prohibited by law or regulation, that may be provided by persons or businesses otherwise permitted to offer the services or treatments.

9. "Punish" means to impose any penalty, surcharge or named fee with a similar effect that is used to discourage the exercise of rights under this section.

Sec. 3. **Applicability**

This act applies to policies, contracts or plans that are issued or renewed from and after December 31, 2015."

Amend title to conform
The 52nd State Legislature's First Regular Session began on Monday, January 12, 2015. March 25 is the 73rd day of the session. 1,163 bills, including memorials and resolutions, have been introduced this session. Of which, 175 bills have been passed and 60 have been signed by the Governor.

The following State Legislative Issues Update outlines the status of the Board-approved 2015 Legislative Agenda as well as other relevant state legislation and issues.

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**Extension of CAP 4-Cent Tax**

*Seek legislation to extend the expiration date of the Central Arizona Project 4-cent ad valorem tax levied by the CAWCD from 2017 to 2045.*

**Status as of March 25, 2015:**

H.B. 2661 **multi-county water districts; storage tax**, sponsored by Representative Brenda Barton, would extend CAWCD's authority to levy the four-cent tax until 2030, a key milestone year for CAP by which costly emissions control technology must be installed at the Navajo Generating Station. The bill authorizes the tax to be assessed for up to 4-cents through 2024 and then drops to 3-cents for the remaining 5 years.

*Update:*

Having passed unanimously out of both the Senate Water & Energy Committee, 7-0, and the Finance Committee, 4-0, H.B. 2661 also passed the Rules Committee on March 16 and Caucus on March 17. The bill awaits a final vote by the full Senate.

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**Central Arizona Groundwater Replenishment District (CAGRD) De-Enrollment**

*Seek legislation to create a mechanism for properties to de-enroll from the CAGRD under certain conditions.*

**Status as of March 25, 2015:**

Throughout last year, CAP staff met with the Arizona Department of Water Resources (ADWR) and Arizona Department of Real Estate to discuss and draft CAGRD Member Land de-enrollment legislation. The draft proposal was shared with members of the RUMP Group and other stakeholders prior to the legislative session commencing. The legislation would allow CAGRD Member Lands to de-enroll voluntarily, subject to all of the following conditions: 1) the land cannot have been sold or leased to a retail purchaser or lessee; 2) no public report for the property has been issued; 3) if the lot or parcel boundaries have been recorded, the planning agency (e.g. county) has vacated them; 4) a declaration with the county has been recorded specifying that the property's CC&Rs have been revoked;
5) the agreement between CAGRD and the municipal provider has been revoked; and 6) if a Certificate of Assured Water Supply has been issued for the property, ADWR has revoked the Certificate.

Update:
At the January 22 Public Policy Committee, Board Members generally agreed that this year may not be the optimal year to pursue CAGRD de-enrollment. However, CAP identified an opportunity to amend H.B. 2325 with the de-enrollment language and sought and gained the permission of the CAP Board President and Public Policy Chairwoman to proceed.

On March 18, the Senate Finance Committee adopted a strike-everything amendment to H.B. 2325 that contains the consensus CAGRD de-enrollment language. The bill has passed Committee of the Whole and awaits a vote by the full Senate.

Arizona Department of Water Resources (ADWR) Funding

Monitor the Legislature’s budgeting processes and agency rulemaking to ensure an adequate level of funding for the Arizona Department of Water Resources is maintained.

Status as of March 25, 2015:

The Legislature passed a FY2016 state budget on March 6, and the Governor subsequently signed that budget on March 12. The budget authorizes $14,946,900 in spending for ADWR, a 5-percent increase over this year, and maintains similar funding for several line items. ADWR's full-time equivalent (FTE) positions increased to 100, up 4 FTEs from this year.

ADWR is funded by state General Fund monies and the fees it charges for services. For FY2016, the budget also calls for the transfer of $1,209,700 from the Arizona Water Banking Fund (Water Banking Fund) to fund some of ADWR expenses. The breakdown of that figure consists of:

- $709,700
  - $488,300 for ADWR staffing to address shortage, and
  - $221,400 to pay for ADWR rent.
- $500,000
  - to backfill a portion of ADWR's General Fund appropriation.

In addition to the $1,209,700 fund transfer from the Water Banking Fund, the Arizona Water Banking Authority (AWBA) is required to assist the Arizona Navigable Stream Adjudication Commission (ANSAC) in paying for legal fees and hearing expenses. For FY2015 and
FY2016, the budget requests a transfer of $359,300 to ANSAC and another $200,000 for FY2016 alone. This brings the total in AWBA transfers to $1,769,000.

**Multi-Species Conservation Program (MSCP) Funding**

Support the Arizona Game and Fish Department's efforts to collect and maintain revenues sufficient to continue its annual contribution toward the costs of the MSCP.

**Status as of March 25, 2015:**

Arizona law authorizes the Arizona Game and Fish Commission to collect surcharges on Colorado River special use permits for Nevada and California licensees (A.R.S. 17-345) and to charge additional boater registration fees (A.R.S. 5-321) in order to generate enough revenues to make its annual contribution to the MSCP.

In prior years, the Arizona Game and Fish Department's (AZGFD) annual payment of $350,000 to MSCP has been included as a special line item under AZGFD's section of the state budget. In the FY2016 budget, however, that line item was incorporated into the department's overall operating budget, which was a change recommended by the Executive.

Understandably, this caused some concern regarding whether AZGFD would continue making its MSCP payment. After some discussion with AZGFD representatives, CAP has been assured that the department intends to make its annual contribution despite the change in the budget. Staff is seeking to follow up with AZGFD to document this commitment.

**Arizona Water Protection Fund**

Monitor the status of the Arizona Water Protection Fund and efforts to maintain sufficient levels of funding.

**Status as of March 25, 2015:**

**Update:**

The FY2016 budget does not contain an appropriation for Arizona Water Protection Fund (AWPF). In addition, Sen. Griffin's S.B. 1147, which had proposed to appropriate $500,000 to the AWPF, no longer contains provisions related to the AWPF.
On March 18, the Senate Appropriations Committee adopted a strike-everything amendment to S.B. 1147 and the bill now contains legislative authorization for the AWBA to use stranded, unencumbered monies located in a Nevada interstate banking subaccount for Indian firming purposes. According to the AWBA, a total of $237,386.13 is available that could be used to store 1,324 AF of water at current CAP prices.

As background, the settlement agreement with the Gila River Indian Community (GRIC) in 2004 requires the AWBA to establish the Southside Replenishment Bank to protect the GRIC from nearby, off-reservation pumping. AWBA is required to firm 15,000 AF for this purpose and, to date, has stored 10,000 AF of that obligation.

The House passed the bill, 59-0, on March 25, and awaits further action by the Senate.

**CAP Position: SUPPORT**

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**Hualapai Water Rights Settlement**

*Monitor legislation necessary and appropriate to implement the Hualapai settlement.*

**Status as of March 25, 2015:**

No update to report at this time.

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**Central Arizona Groundwater Replenishment District (CAGRD)**

*Monitor any proposed legislation to the Central Arizona Groundwater Replenishment District to ensure CAGRD operations are not negatively impacted.*

**Status as of March 25, 2015:**

**H.B. 2361 assured water supply; alternative certificate**, sponsored by Rep. T.J. Shope, provides a market alternative to CAGRD membership for purposes of demonstrating an assured water supply.

H.B. 2361 did not receive a hearing in the House Agriculture, Water & Lands Committee, and is dead.

**CAP Position: MONITOR**
Arizona Water Resources

Monitor any new efforts to address in-state and interstate water resources. Support legislation as needed to implement multistate agreements relating to the Colorado River.

Status as of March 25, 2015:

No update to report at this time.

OTHER LEGISLATION OF INTEREST

S.B. 1330 prohibited activities; second amendment violations – Sponsored by Sen. Kelli Ward, S.B. 1330 prohibits state agencies and political subdivisions from aiding the federal government in enforcing any federal act, law, order, rule, or regulation regarding a personal firearm, firearm accessory or ammunition. The bill also establishes penalties for noncompliance and includes a provision that would stop the State Treasurer from transferring monies to a political subdivision that violated the above prohibition.

CAP is required to follow federal requirements regarding firearms, which includes disallowing a person to carry a gun onto CAP property. CAWCD is required by federal law and its contracts with the U.S. to manage all CAP property in compliance with federal law. CAP compliance with the bill’s provisions would breach its federal contracts, and the requirement in the bill to withhold monies at the Treasurer's Office for noncompliance is particularly problematic for CAP.

S.B. 1330 passed the House Military Affairs and Public Safety Committee, 5-3, on March 19, and awaits action in the Rules Committee.

Recommended Position: AMEND AND MONITOR

H.B. 2161 central Arizona project; board membership, sponsored by Representative Albert Hale would add a nonvoting tribal representative to the CAWCD Board.

The bill did not receive a hearing and is dead.

CAP Position: MONITOR

H.B. 2297 state agency rulemaking; restrictions, sponsored by Representative Eddie Farnsworth, prohibits an agency from adopting any rule that would increase regulatory restraints or burdens on the free exercise of property rights or the freedom to engage in lawful business, unless the rule is part of an overall effort to reduce regulatory burdens or it

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is strictly ministerial. CAP may be adversely impacted by this bill from the standpoint of ADWR's restriction on rulemaking. CAP, like other water interests, relies on ADWR's regulation of several water functions, including—but not limited to—the administration of Assured Water Supply and underground storage facilities. This bill could impair ADWR's ability and flexibility to regulate these necessary water functions in the state.

Update:
H.B. 2297 passed the Senate Government Committee, 4-3, on March 11, as well as the Rules Committee on March 16. The bill awaits a vote by the full Senate.

CAP Position: OPPOSE

H.B. 2393 water settlement act; replenishment formula – Representative Frank Pratt introduced legislation that makes technical changes to A.R.S. 45-2622, which provides the calculation that determines whether the Arizona Water Banking Authority must replenish groundwater as required by the Gila River Indian Community Water Settlement Program. ADWR is proposing to make these technical corrections to the statutory formulas so that groundwater replenishment occurs in a manner required by the settlement agreement.

Update:
H.B. 2393 passed the Senate, 28-0, on March 24, and awaits signature of the Governor.

CAP Position: SUPPORT

H.B. 2417 annual pesticide report; submission date STRIKER: health care providers; payments; deductibles – H.B. 2417 was subject to a strike-everything amendment in the Senate Health and Human Services Committee on March 18 relating to health care direct payments. The amendment specifies that, if a health insurance enrollee pays the direct pay price to a health care provider or facility for a lawful health care service, the amount paid by the enrollee must be applied to their in-network deductible regardless of whether the provider or facility is a contracted network provider for the enrollee’s health care plan. As CAP has a self-insured health care plan and no longer pays for out-of-network care, CAP would be negatively impacted by the amendment. It is estimated that the financial impact would be approximately $200,000 annually.

With permission of the Board President and Public Policy Committee Chairwoman, CAP staff drafted amendment language for the bill to exempt CAP from its provisions, and scheduled a meeting with the Chairman of the committee, Sen. Nancy Barto, to ascertain her willingness to include the amendment.
H.B. 2417 is awaiting Floor action.

**Recommended Position:** AMEND AND MONITOR

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**H.B. 2445 desalination; study committee** – Representative Steve Montenegro introduced legislation that would establish a 9-member study committee on desalination. The committee is comprised of two members of the House of Representatives, two Senators; a person who has experience with the Yuma Desalting Plant; a person who has experience with other desalination projects; and a faculty member from each of the state’s universities (University of Arizona, ASU, and NAU) who have expertise in hydrology, desalination or a related field. Findings and recommendations are due to the Governor, House Speaker, and Senate President by December 31, 2015.

*Update:*

H.B. 2445 did not receive a hearing in the Senate Water & Energy Committee, and is dead.

**CAP Position:** SUPPORT + Seek Amendment to include CAP on the committee.

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If you have any questions or would like more information regarding any of the issues contained in this report, please contact CAP Strategic Initiatives & Public Policy, 623-869-2150.
State Legislative Update

Public Policy Committee
April 2, 2015

Bridget Schwartz-Manock
Legislative Affairs Manager
Strategic Initiatives & Public Policy

Legislative Update

• State budget has been adopted.

• The deadline to hear bills in committee has passed.

• As of March 25, 175 bills have passed, and 60 were signed by the Governor.

• Legislature is winding down, but there are still more than 300 bills alive.

• Best estimate for adjournment sine die is the second week of April.
Extension of CAP 4-Cent Tax Authority

• H.B. 2661 has made it through Senate Rules and Caucus.

• Last remaining steps:
  - calendaring for a final vote by the full Senate.
  - passage by the Senate.
  - a pro forma transferal back to the House and then to the Governor.
  - signature by the Governor.
CAGRD Member Land De-Enrollment

- CAP staff identified an opportunity to have CAGRD Member Land de-enrollment language added onto H.B. 2325.

- On March 18, the Senate Finance Committee adopted the CAGRD amendment to the bill.

- H.B. 2523 awaits a vote by the full Senate.

Arizona Department of Water Resources Funding

Monitor the Legislature’s budgeting processes and agency rulemaking to ensure an adequate level of funding for the Arizona Department of Water Resources’ is maintained.

- The adopted state FY2016 budget authorizes $14,946,900 in spending for ADWR, a 5% increase over this year. There is also an increase of 4 FTEs.

- The budget requires $1,209,700 in ADWR funding to come from the Arizona Water Banking Fund.

- AWBA is also required to transfer a total of $559,300 to the Arizona Navigable Stream Adjudication Commission to help pay for legal fees and hearing expenses.
Multi-Species Conservation Program (MSCP) Funding

Support the Arizona Game and Fish Department's efforts to collect and maintain revenues sufficient to continue its annual contribution toward the costs of the MSCP.

- The FY2016 budget does not include a line item appropriation for MSCP under G&F’s section of the budget as in prior years.

- CAP staff has since reached out to G&F officials and they have indicated their intent to make the $350,000 annual contribution to MSCP despite the change in the budget.

- The surcharges and additional fees the G&F Commission charges are dedicated to the MSCP by statute.

Arizona Water Protection Fund

Monitor the status of the Arizona Water Protection Fund and efforts to maintain sufficient levels of State funding.

- The FY2016 budget does not contain an appropriation for the Arizona Water Protection Fund (AWPF).

- Sen. Griffin's S.B. 1147, which had proposed to appropriate $500,000 to the AWPF, no longer contains that provision.

- S.B. 1147 was amended to include legislative authorization for the AWBA to use certain stranded funds for Indian firming purposes.

- The bill passed the House, 59-0, and awaits further action by the Senate.

- **CAP Position: SUPPORT**
Legislation of Interest – Update

H.B. 2297 state agency rulemaking; restrictions

- H.B. 2297, sponsored by Rep. Eddie Farnsworth, prohibits state agencies such as ADWR from adopting new rules that increase regulatory restraints or burdens on property rights or business.
- CAP’s concern is with the bill’s effect on ADWR’s ability to effectively regulate and administer water programs (e.g. Assured Water Supply rules) in the state.
- H.B. 2297 passed the Senate Government Committee, 4-3, on March 11, and awaits a vote by the full Senate.

- CAP Position: OPPOSE

Legislation of Interest - Update

H.B. 2393 water settlement act; replenishment formula

- Rep. Pratt’s bill makes technical corrections to the statutory calculation for AWBA’s firming obligation to the Gila River Indian Community.
- H.B. 2393 passed the Senate Water & Energy Committee, 7-0, on March 2, and Caucus on March 17.
- The bill passed the Senate, 28-0, awaits signature of the Governor.

- CAP Position: SUPPORT
Legislation of Interest - Update

H.B. 2445 desalinization; study committee

• Rep. Montenegro’s bill establishes a 9-member study committee on desalinization.

• H.B. 2445 did not receive a hearing in the Senate Water & Energy Committee, and is dead.

• **CAP Position:** SUPPORT and AMEND to include CAP on the study committee

Legislation of Interest – New Bill

S.B. 1330 prohibited activities; second amendment violations

• S.B. 1330, sponsored by Sen. Kelli Ward, prohibits political subdivisions from enforcing any federal act, law, order, rule, or regulation regarding firearms.

• The bill also includes a provision to stop the State Treasurer from transferring monies to a political subdivision that violated the prohibition.

• CAWCD is required to manage all CAP property in compliance with federal law.

• The bill’s requirement to withhold monies at the Treasurer’s Office for noncompliance is particularly problematic for CAP.

• S.B. 1330 has passed committee and awaits action in Rules.

• **Recommended Position:** AMEND AND MONITOR
Legislation of Interest – New Bill

**H.B. 2417 annual pesticide report; submission date**
**STRIKER: health care providers; payments; deductibles**

- H.B. 2417 was subject to a strike-everything amendment relating to health care direct payments.
- The amendment specifies that the direct pay price paid to a health care provider must be applied to their in-network deductible regardless if the services were provided out-of-network.
- CAP’s self-insured health care plan no longer pays for out-of-network care, so the negative fiscal impact to CAP would be approximately $200,000 annually.
- Staff has drafted amendment language to exempt CAP from its provisions. H.B. 2417 is awaiting Floor action.
- **Recommended Position: AMEND AND MONITOR**

Questions?