

STATE OF ARIZONA

Joint Committee on Capital Review

STATE
SENATE

RUTH SOLOMON
CHAIRMAN 2001
RUSSELL W. "RUSTY" BOWERS
JACK A. BROWN
EDWARD J. CIRILLO
HERB GUENTHER
DARDEN C. HAMILTON
HARRY E. MITCHELL

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HOUSE OF
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CHRISTINE WEASON

JOINT COMMITTEE ON CAPITAL REVIEW

Friday, February 09, 2001

8:00 a.m.

Senate Appropriations Room 109

AGENDA

- Call to Order
- Approval of Minutes of [December 19, 2000](#) and [January 9, 2001](#).
- DIRECTOR'S REPORT (if necessary)
- 1. [ADOPTION OF COMMITTEE RULES.](#)
- 2. [JOINT LEGISLATIVE BUDGET COMMITTEE - Consider Adoption of FY 2002 and FY 2003 Capital Outlay Recommendations.](#)
- 3. [ARIZONA DEPARTMENT OF ADMINISTRATION - Consider Approval of FY 2002 and FY 2003 Rental Rates for State-Owned Space.](#)
- 4. [ARIZONA DEPARTMENT OF VETERANS' SERVICES/ARIZONA DEPARTMENT OF ADMINISTRATION - Review of Scope, Purpose, and Estimated Cost of Veterans' Cemetery Project.](#)
- 5. [SCHOOL FACILITIES BOARD - Report on Attorney General Opinion on Building Renewal Requests to the Treasurer.](#)

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

2/01/01

People with disabilities may request accommodations such as interpreters, alternative formats, or assistance with physical accessibility. Requests for accommodations must be made with 72 hours prior notice. If you require accommodations, please contact the JLBC Office at (602) 542-5491.

STATE OF ARIZONA

Joint Committee on Capital Review

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JOHN WETTAW

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CHAIRMAN 2000
DEAN COOLEY
LORI S. DANIELS
KAREN S. JOHNSON
BOB MCLENDON
ANDY NICHOLS
CHRISTINE WEASON

MINUTES OF THE MEETING JOINT COMMITTEE ON CAPITAL REVIEW

Tuesday, December 19, 2000

The Chairman called the meeting to order at 10:10 a.m. Tuesday, December 19, 2000 in House Hearing Room 4 and attendance was noted.

| | | |
|----------|---|--|
| Members: | Representative Burns, Chairman Representative Cooley Representative Daniels Representative Johnson Representative McLendon Representative Nichols Representative Weason | Senator Gnant, Vice-Chairman Senator Arzberger Senator Bowers Senator Brown Senator Smith Senator Solomon Senator Wettaw |
| Staff: | Richard Stavneak Lorenzo Martinez Chris Earnest | Jan Belisle, Secretary Gina Guarascio Patrick Fearon |
| Others: | Debbie Johnston, Senate Kitty Decker, House Representative Knaperek Representative Flake Dave Harris, ABOR Dr. Jack Silver, ASH John Arnold, SFB | John Sempert, ADOA Bruce Ringwald, ADOA Tim Brand, ADOA Mernoy Harris on, ASU Steve Miller, ASU Christine Sato, OSPB |

APPROVAL OF MINUTES

Representative Burns asked for corrections or additions to the minutes of November 28, 2000. The JLBC Staff noted that the fifth paragraph from the top on page 3 should read ". . .has been appropriated to build ~~2~~ **3** dormitories for the Sexually Violet Persons (SVP) Program to increase capacity to 300 beds". The last paragraph on page 3 should read ". . . Mr. Earnest stated approximately ~~\$12,700,000~~ **\$2,700,000** has been generated by the park over the 12 months it has been open".

Representative Cooley moved the minutes stand approved as amended. The motion carried.

EXECUTIVE SESSION - Review Bid Proposals for Arizona State Hospital Construction Project.

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

At 10:12 a.m. the Joint Committee on Capital Review went into Executive Session.

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

(Continued)

At 10:55 a.m. the Committee reconvened into open session.

Representative Cooley moved that the Committee give a favorable review to the bid proposals for the Arizona State Hospital Construction Project and that the Arizona Department of Administration submit a report as to what components of the two unsuccessful bids will be incorporated into the final plan for the project. The report should also include the added value of these components. The motion carried.

SCHOOL FACILITIES BOARD - Report Attorney General's Opinion on School Facilities Board Building Renewal Fund.

As to date, a response from the Attorney General has not been received.

There was no discussion on this item and no Committee action was required.

Report on FY 2002 Instructions to the Treasurer.

Patrick Fearon, JLBC Staff presented the estimated amounts necessary in FY 2002 for the Deficiencies Correction Fund, Building Renewal Fund, and New School Facilities (SFB) Fund. The School Facilities Board (SFB) also reported the projected needs for these funds for FY 2003. Mr. Fearon referenced Table 1 showing the estimated General Fund Requirements for SFB Funds for FY 2002 and FY 2003. The FY 2003 amounts are subject to change, and would serve only as placeholders.

Representative Nichols asked if the purpose of the bonds is to enhance the facilities that are being built with the School Facilities Board. Can the quality of the buildings be upgraded.

In response, Senator Smith mentioned they are going to build facilities and also repair the present facilities which is part of the School Facilities Board. The buildings can be upgraded.

Representative Cooley mentioned in Mesa they had received bids for a new school for which the School Facilities Board does not provide gymnasiums and several other structures that are common to that type of a school. The bid came in very low and there was money left over to fund those other structures so there would be no additional costs.

No Committee action was required.

ARIZONA BOARD OF REGENTS/ARIZONA STATE UNIVERSITY - Consider Approval of Bond Projects.

Lorenzo Martinez, JLBC Staff presented the Board of Regents and Arizona State University (ASU) request for the Committee to approve two ASU bonding projects. ASU is requesting approval to issue \$35,500,000 in academic revenue bonds for a Mediated Classroom/Social Sciences Building. The JLBC Staff recommends the Committee approve an issuance of \$32,335,000 in academic revenue bonds for the Mediated Classroom/Social Sciences Building. The lesser amount is recommended because the request included approximately \$3,200,000 to purchase computers. It is recommended that computers be financed through shorter-term financing or as a request in the operating budget. ASU also requests approval to issue \$3,500,000 in auxiliary revenue bonds to partially finance a use fee for the right to use 700 parking spaces in perpetuity on the west side of the Main Campus. ASU has an agreement with a private developer to develop ASU-owned land near the campus. Part of the agreement would have the developer construct a parking structure. ASU would be allocated 700 spaces of the 1,150 space parking structure.

Representative Cooley asked if it was a one-time payment. Mr. Martinez stated that it is a one-time fee that ASU would pay the developer and ASU will own the garage although spaces will be allocated between the private developer and ASU. The developer and ASU will have a revenue sharing agreement for monies generated by the garage.

(Continued)

Representative Nichols asked if there was a limit on what universities can or do charge students and faculty to park. Mr. Mernoy Harrison, ASU, said there is no legal limit as to what universities can charge. The charge is based on the cost of the operation of the overall parking activities. At ASU, the charge today is \$129 per year for open structure parking. Fees depend on the cost of the parking structure, operation costs, and fees that may be generated from special events.

In response to Representative Cooley, Mr. Harrison stated there is no “free parking” at ASU. Depending on the location, non-structured parking is \$50 per space/per year, if you are closer it is \$85 per space/per year.

In answer to Representative Nichols, Mr. Harrison said that a reserved space is \$429/per year and reserved spaces are limited.

Senator Bowers moved the Joint Committee on Capital Review approve the issuance of \$32,335,000 in academic revenue bonds for a Mediated Classroom/Social Sciences Building and \$3,500,000 in auxiliary revenue bonds to partially finance a use fee for the right to use 700 parking spaces in perpetuity on the west side of the Main Campus. The motion carried.

Without objection, the meeting adjourned at 11:15 a.m.

Respectfully submitted:

Jan Belisle, Secretary

Lorenzo Martinez, Senior Fiscal Analyst

Representative Robert “Bob” Burns, Chairman

NOTE: A full tape recording of this meeting is on file in the JLBC Staff office at 1716 W. Adams.

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MINUTES OF THE MEETING JOINT COMMITTEE ON CAPITAL REVIEW

Tuesday, January 9, 2001

The Chairman called the meeting to order at 2:05 p.m. Tuesday, January 9, 2001 in Senate Appropriations Room 109 and attendance was noted.

| | | |
|----------|--|--|
| Members: | Senator Solomon, Chairman Senator Bowers Senator Brown Senator Cirillo Senator Guenther Senator Rios Senator Verkamp | Representative Knaperek, Vice Chairman Representative Allen Representative Cheuvront Representative Gray Representative Lopez Representative Weason |
| Absent: | | Representative Pearce |
| Staff: | Richard Stavneak Lorenzo Martinez | Jan Belisle, Secretary Chris Earnest |
| Others: | Debbie Johnston, Senate Greg Gemson, House Maria Baier, Governor's Office Richard Hubbard, Governor's Office | Ken Travous, State Parks Renee Bahl, State Parks Jay Ziemann, State Parks |

Chairman Solomon mentioned that the members present were appointed as an emergency measure and did not know if all the members would be continued on the Joint Committee on Capital Review. Senator Solomon did mention that Speaker Weiers has confirmed the House members to serve for two years on the Committee.

ARIZONA STATE PARKS - Review of Expenditure of Appropriated Monies for the Acquisition of Spur Cross Ranch.

Chris Earnest, JLBC Staff mentioned that the information from the State Parks was not received until late on January 8th and deferred to the Parks Department for a review of the issue.

Jay Ziemann, Assistant Director and Legislative Liaison with Arizona State Parks referenced the fact sheet in the submitted handout. This meeting facilitates the sale and the execution of bonds that the City of Cave Creek is acting on. The transaction needs to be settled by January 10th.

Richard Stavneak, Director, JLBC Staff said that the JCCR Committee is responsible for reviewing any land acquisition. That is the primary purpose of this meeting.

(Continued)

Jay Ziemann said that 50% (\$7.5 million) of the monies is to come from Maricopa County, 25% (\$3.75 million) from the General Fund and 25% (\$3.75 million) from the State Parks Heritage Fund. The funding is being used to purchase 70% of Spur Cross Ranch, which is owned by Great American Life Insurance Company. The Town of Cave Creek passed a bond election in September to acquire the remaining 30% which is owned by the Dreiseszun Family Trust. As the transactions go forward there are intergovernmental agreements which will require Maricopa County to operate the entire parcel as a park and preserve. There will be conservation easements, which will be held by the State Parks Board.

In response to Senator Guenther, Mr. Ziemann stated that \$21,000,000 is the purchase price for the entire property.

In answer to Representative Gray, Mr. Ziemann mentioned that the County Board of Supervisors has approved the transaction.

Mr. Richard Hubbard, Governor's Office stated that whatever buildings are on the property would become part of the state property.

In reply to Representative Gray, Mr. Ziemann said that all surveys have been completed.

Mr. Hubbard said that any remaining monies would be distributed proportionately to the General Fund, the Parks Heritage Fund and the County.

Representative Knaperek mentioned that she would like to have any extra money revert to the General Fund and asked if the recommendation was approved would the money that is left over be returned based on contributions towards the purchase. Mr. Stavneak mentioned that the Committee could give the Parks Board and the Governor's Office the guidance that the General Fund be considered the payer of last resort.

Representative Knaperek moved that the Committee give a favorable review to the expenditure of appropriated monies for the acquisition of Spur Cross Ranch with the caveat that the General Fund be the payer of last resort. The motion carried.

The meeting adjourned at 2:20 p.m.

Jan Belisle, Secretary

Lorenzo Martinez, Senior Fiscal Analyst

Senator Ruth Solomon, Chairman

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DATE: February 1, 2001

TO: Senator Ruth Solomon, Chairman
Members, Joint Committee on Capital Review

FROM: Richard Stavneak, Director

SUBJECT: ADOPTION OF COMMITTEE RULES AND REGULATIONS

The Committee will consider the attached rules and regulations for adoption at its February 9th meeting. The rules and regulations are the same as the Committee used in the last biennium except for clarifying language inserted into Rule 6, Item 11. This new language states that the Committee's responsibilities include any granted by law. The current Rule 6 delineates several existing statutory responsibilities, but we wanted to clarify that this list was not exhaustive.

RS:jb

JOINT COMMITTEE ON CAPITAL REVIEW
RULES AND REGULATIONS

RULE 1*

NAME OF COMMITTEE AND METHOD OF APPOINTMENT

The name of the Committee is the Joint Committee on Capital Review, hereinafter referred to as the Committee, consisting of fourteen members designated or appointed as follows:

1. The Chairman of the Senate and House of Representatives Appropriations Committees.
2. The Majority and Minority Leaders of the Senate and House of Representatives.
3. Four members of the Senate and four members of the House of Representatives who are members of their Appropriations Committees and who are appointed to the Committee by the President of the Senate and the Speaker of the House of Representatives, respectively.

RULE 2*

CHAIRMAN OF THE COMMITTEE

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

RULE 3

QUORUM

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

RULE 4

MEETINGS OF THE COMMITTEE

The Committee shall meet as often as the members deem necessary.

RULE 5

COMMITTEE PROCEEDINGS

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

* Revised September 21, 1989

RULE 6

STATUTORY POWER AND DUTIES OF THE COMMITTEE

The Committee shall:

1. Develop and approve a uniform formula for computing annual building renewal funding needs and a uniform format for the collection of data for the formula.
2. Approve building systems for the purposes of computing and funding building renewal and for preparing capital improvement plans.
3. Review the state capital improvement plan and make recommendations to the Legislature concerning funding for land acquisition, capital projects and building renewal. The recommendations should give priority to funding fire and life safety projects.
4. Review the expenditure of all monies appropriated for land acquisition, capital projects and building renewal.
5. Review the scope, purpose and estimated cost of the project prior to the release of monies for construction of new capital projects.
6. Approve transfers within a budget unit of monies appropriated for land acquisition, capital projects or building renewal.
7. Review and approve the acquisition by the Director of the Department of Administration of real property or buildings.
8. Determine the rental fee charged to state agencies for using space in a building leased to the state.
9. Approve expenditures from the Corrections Fund by the Director of the Department of Administration for major maintenance, construction, lease, purchase, renovation or conversion of Corrections facilities.
10. Approve the issuance of bonds authorized to be issued by the Arizona Board of Regents.
11. The Committee shall have other duties and responsibilities as OUTLINED IN STATUTE OR determined by the Chairman, consistent with law.

RULE 7*

STAFF

The Joint Legislative Budget Committee Staff shall provide staff assistance to the Committee as directed by the Committee.

* Previously this was Rule 9. All following rules were renumbered to conform September 21, 1989.

RULE 8* ***

AGENDA FOR MEETINGS

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

RULE 9** ***

ORDER OF BUSINESS

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

- Call to order and roll call
- Approval of minutes
- Director's Remarks (if any)
- Review of capital projects
- Other Business - For information only
- Adjournment

RULE 10

ADOPTION AND AMENDMENT OF THE RULES AND REGULATIONS

These rules and regulations shall be adopted and may be amended by a majority vote of the Committee members.

- * Revised February 4, 1987
- ** Revised March 24, 1995
- *** Revised February 17, 1997

E:\CCRVCCRRULE.R5

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DATE: February 6, 2001

TO: Senator Ruth Solomon, Chairman
Members, Joint Committee on Capital Review

THRU: Richard Stavneak, Director

FROM: Lorenzo Martinez, Senior Fiscal Analyst

SUBJECT: ADOPTION OF FY 2002 AND FY 2003 CAPITAL OUTLAY
RECOMMENDATIONS

The Committee is being asked to consider the adoption of the Capital Outlay Budget for FY 2002 and FY 2003. The attached materials include a comparison of the JLBC and Executive Capital Outlay recommendations and draft language for the Capital Outlay Bill (reflects JLBC recommendations). Detail on the Capital recommendations can be found under the Capital Outlay tab of the Proposed Budget Book for FY 2002 and FY 2003 (Pages CB1-16).

RS/LM:jb

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CHRISTINE WEASON

DATE: February 5, 2001

TO: Senator Ruth Solomon, Chairman
Members, Joint Committee on Capital Review

THRU: Richard Stavneak, Director

FROM: Lorenzo Martinez, Senior Fiscal Analyst

SUBJECT: ARIZONA DEPARTMENT OF ADMINISTRATION - CONSIDER APPROVAL OF
FY 2002 AND FY 2003 RENTAL RATES FOR STATE-OWNED SPACE

Request

The Arizona Department of Administration (ADOA) requests the Committee determine the FY 2002 and FY 2003 rental rates for state-owned office and storage space. Based on actions of the Lease Cost Review Board (LCRB), the Director of ADOA recommends the following FY 2002 and FY 2003 rental rates (per square foot):

| <u>FY 2001</u> | | <u>FY 2002</u> | | <u>FY 2003</u> | |
|----------------|----------------|----------------|----------------|----------------|----------------|
| <u>Office</u> | <u>Storage</u> | <u>Office</u> | <u>Storage</u> | <u>Office</u> | <u>Storage</u> |
| \$13.50 | \$4.50 | \$15.00 | \$5.50 | \$15.50 | \$6.00 |

The LCRB also estimates that the state's average cost for leasing privately-owned office space will be \$17.50 per square foot in FY 2002 and \$18.25 per square foot in FY 2003.

Recommendation

The JLBC Staff recommends the Committee approve the recommendations of ADOA. In comparison to the FY 2001 budget, the ADOA proposal will require an additional \$912,800 from the General Fund in FY 2002 and \$1,224,400 in FY 2003. In total, the new rates will generate approximately \$3,053,100 in additional revenue to the Capital Outlay Stabilization Fund (COSF) over the FY 2002-FY 2003 biennium and will partially fund the cost of building renewal requirements. These additional amounts have been accounted for in the JLBC recommended budget.

Analysis

Pursuant to A.R.S. § 41-792.01(D), the Committee determines the rental rate for state-owned office and storage space after considering the recommendation of the Director of ADOA. Rent paid for state-owned space is deposited in COSF. The monies in COSF are available for appropriation for utility payments on ADOA office buildings, Building Renewal, operating costs of the Building and Planning Services and Construction Services sections of the ADOA General Services Division, and specific capital projects. Agencies pay their rent from a variety of sources, including federal and other non-appropriated funds.

(Continued)

The state began charging agencies for occupying state-owned space in an attempt to hold agencies accountable for their space usage, to encourage the efficient use of space, and to generate monies to maintain state buildings. Rent is paid on buildings located on the Capitol Mall and Tucson Mall.

The recommended rates reflect the LCRB belief that the state rental rate should be 85% to 95% of private sector rates in order to encourage state building use and to allow the state to manage state-owned buildings effectively. In addition, keeping pace with private sector rates lessens the funding requirement if an agency must relocate from state space to private space (given that state space is effectively 100% occupied). The recommended office rates are approximately 85% of the estimated rates for private space in both FY 2002 and FY 2003. The \$1.50 per square foot increase from FY 2001 to FY 2003 for office space reflects an 11% increase. The \$0.50 per square foot increase from FY 2002 to FY 2003 for office space reflects a 3% increase.

The budgets for individual agencies in state-owned space have not been adjusted to reflect the new rental rates. The JLBC budget recommendation would appropriate the additional requirements as a lump sum in the General Appropriation Act with allocations to individual agencies and from individual funds to be determined by JLBC Staff at a later time. The following table lists the estimated impact of the increases associated with the new rates.

| | <u>General Fund</u> | <u>Other Appropriated Funds</u> | <u>Non-Appropriated Funds</u> | <u>Total</u> |
|-----------------------------------|---------------------|-------------------------------------|-----------------------------------|--------------------|
| FY 2002 Increase (from FY 2001) | \$ 912,800 | \$260,800 | \$130,400 | \$1,304,000 |
| FY 2003 Increase (from FY 2001) | <u>\$1,224,400</u> | <u>\$349,800</u> | <u>\$174,900</u> | <u>\$1,749,100</u> |
| Total Biennial Requirement | \$ 2,137,200 | \$ 610,600 | \$305,300 | \$3,053,100 |

The increased rates will generate approximately \$915,900 from non-General Fund sources over the FY 2002-FY 2003 biennium, and require an additional \$2,137,200 from the General Fund over the same time period. The additional requirements are based on FY 2001 rent-eligible space projections of 827,604 square feet of office space and 62,584 square feet of storage space.

RS/LM:jb

JANE DEE HULL
Governor



J. ELLIOTT HIBBS
Director

ARIZONA DEPARTMENT OF ADMINISTRATION

OFFICE OF THE DIRECTOR

1700 WEST WASHINGTON • ROOM 601
PHOENIX, ARIZONA 85007

(602) 542-1500

July 27, 2000

JUL 27 2000

The Honorable Robert Burns, Chairman
Joint Committee on Capital Review
Arizona House of Representatives
1700 West Washington Street
Phoenix, Arizona 85007

Dear Representative Burns:

A.R.S. § 41-792 requires the Lease Cost Review Board in even numbered years to estimate the average square foot dollar cost of private lease space for the following two fiscal years. The statute also requires the Board to recommend the rental rate for State agencies using space in buildings owned by or leased to the State for the same timeframe.

The Lease Cost Review Board met on June 29, 2000 and unanimously agreed upon the following actions.

1. Establishing the estimated average square footage cost for privately leased office space at:
 - \$17.50 per square foot in Fiscal Year 2002
 - \$18.25 per square foot in Fiscal Year 2003
2. Recommending the rental rate charged to State agencies for office space within State owned buildings at:
 - \$15.00 per square foot in Fiscal Year 2002
 - \$15.50 per square foot in Fiscal Year 2003
3. Recommending the rental rate charged to State agencies for storage space within State owned buildings at:
 - \$5.50 per square foot in Fiscal Year 2002
 - \$6.00 per square foot in Fiscal Year 2003

I am in agreement with the Board's recommendations and request consideration of these rates by the Joint Committee on Capital Review. Should you have any questions regarding this matter do not hesitate to contact me at (602) 542-1500.

Sincerely,

J. Elliott Hibbs
Director

JEH:sas

cc: The Honorable Randall Gnant, Arizona State Senate
Tom Betlach, Director, Office of Strategic Planning & Budgeting
Richard Stavneak, Director, Joint Legislative Budget Committee
✓ Lorenzo Martinez, Senior Fiscal Analyst, Joint Legislative Budget Committee

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DATE: February 6, 2001

TO: Senator Ruth Solomon, Chairman
Members, Joint Committee on Capital Review

THRU: Richard Stavneak, Director

FROM: Indya Kincannon, Fiscal Analyst

SUBJECT: ARIZONA DEPARTMENT OF VETERANS' SERVICES/ARIZONA DEPARTMENT
OF ADMINISTRATION – REVIEW OF SCOPE, PURPOSE AND ESTIMATED
COST OF VETERANS' CEMETERY PROJECT

Request

The Arizona Department of Veterans' Services requests Committee review of the scope, purpose and estimated cost of the Southern Arizona Veterans' Cemetery project.

Recommendation

The JLBC Staff recommends that the Committee give a favorable review of the request.

Analysis

The U.S. Department of Veterans Affairs has a program that provides grants to states for the establishment of state veteran cemeteries. The grant will pay up to 100% of the construction costs associated with building such a cemetery. However, in order to qualify for a grant, an applicant must incur certain preconstruction costs. Once the grant is awarded, these preconstruction costs are reimbursable via the grant program. The only preconstruction costs that are not 100% reimbursable by the federal grant program are the costs of acquiring and clearing title to the land, which are estimated to be less than \$50,000 for this project.

Laws 1999, Chapter 133 appropriated \$500,000 from the General Fund to pay for the initial costs of architect engineering, title work and land transfer involved with the establishment of a veterans' cemetery in Southern Arizona. The appropriated amount was based on an estimate of the preconstruction costs. Later the department revised its estimated preconstruction costs to \$752,300. Laws 2000, Chapter 180 appropriated an additional \$252,300 from the Veterans' Home Contingency Special Line Item to cover the increased costs.

(Continued)

The department has completed the bulk of the work required for submitting the grant application and has spent most of the \$752,300 appropriated for the project. Construction may commence as soon as April 2001, although there have been some delays in clearing title to the land. The following table lists the estimated costs of the various project components by funding source.

| | <u>State</u> | <u>Federal</u> | <u>All Funds</u> |
|--|------------------|--------------------|--------------------|
| Land Acquisition Costs | \$ 10,000 | \$ 0 | \$ 10,000 |
| A/E Fees, Schematics, Construction Documents, etc. | 687,000 | 202,000 | 889,000 |
| Construction Services | 0 | 5,019,100 | 5,019,100 |
| Environmental Assessments, Property Surveys, etc. | 40,500 | 0 | 40,500 |
| Project Support | 4,300 | 291,200 | 295,500 |
| Contingency Allowance | <u>10,500</u> | <u>668,100</u> | <u>678,600</u> |
| TOTAL | \$752,300 | \$6,180,400 | \$6,932,700 |

Upon award of the federal grant, approximately \$450,000 will be reimbursed to the General Fund and \$252,300 will be reimbursed to the Veterans' Home Contingency Special Line Item. Upon completion of cemetery construction the state will assume full responsibility for operating the cemetery. The JLBC estimates that operating the cemetery will cost \$342,000 per year. These costs have been recommended in the JLBC budget for FY 2002 and FY 2003.

RS/IK:jb



JANE DEE HULL
GOVERNOR

STATE OF ARIZONA
DEPARTMENT OF VETERANS' SERVICES
OFFICE OF THE DIRECTOR

3225 NORTH CENTRAL AVENUE, SUITE 910
PHOENIX, ARIZONA 85012-2410
(602) 255-3373 FAX (602) 255-1038

PATRICK F. CHORPENNING
DIRECTOR

January 24, 2001

Honorable Ruth Solomon
Chairman for the Joint Committee on Capital Review
Arizona House of Representatives
1700 W. Washington
Phoenix, AZ 85007



Dear Chairman Solomon,

The Joint Committee on Capital Review (JCCR) should be informed of a construction project that is scheduled for construction as soon as April 2001. The Arizona Department of Veterans' Services requests that the southern Arizona state veterans' cemetery be placed on the next JCCR agenda.

The state veterans' cemetery will have an estimated construction budget of \$6.9 million and annual operating expenses of approximately \$340,000 the first full year of operation. The US Department of Veteran Affairs – State Cemetery Grant Service will fund the project. A \$500,000 general fund appropriation was authorized in 1999 in Chapter 133 (HB2555). Last year, HB2626 authorized the agency to borrow \$252,300 from the Arizona State Veteran Home *Contingency Fund*.

The US Department of Veteran Affairs – State Cemetery Grant Service will fund up to 100% of the construction costs associated with building a state veterans' cemetery. The State Cemetery Grant Service will reimburse all expenses incurred to date, except for costs incurred by the State to acquire 130 acres of Ft. Huachuca land.

The Department of Veterans Affairs (VA) will award a grant to the Department of Veterans' Services after (1) the State has title to the land and (2) the VA State Cemetery Grant Services has favorably reviewed and approved the cemetery project's bid tabulations.

Upon completion of the cemetery, Arizona assumes sole responsibility to maintain and operate the facility. Annual operating expenses were submitted with the biennial budget for fiscal years 2002 and 2003.

A brief background is attached, highlighting the legal authority for the project. ADVS has been working in earnest on this project since September 1999. Questions or concerns regarding the project may be directed to Gabe Forsberg, Strategic Planner/Special Projects at (602) 255-3373.

Sincerely,

A handwritten signature in cursive script, reading "Patrick F. Chorprenning".

Patrick F. Chorprenning
Director

cc: Laura Knaperek, Vice Chair – JCCR
Lorenzo Martinez, Staff - Joint Legislative Budget Committee
Robert Chapko, Office of Strategic Planning and Budget
Anne Longo, Office of the Attorney General
Henry Halikowski, ADOA Construction Services

Arizona Department of Veterans' Services State Cemetery in Southern Arizona

State Cemetery Grants Program - Background:

The U.S. Department of Veterans Affairs (VA) State Cemetery Grants Program was established in 1978 to complement VA's National Cemetery Administration. The program assists states in providing gravesites for veterans in those areas where VA's national cemeteries cannot fully satisfy their burial needs. The National Cemetery Administration records indicate veterans living within a 75-mile radius of the facility will utilize the facility.

Arizona currently possesses one fully functioning veterans' cemetery in north Phoenix available to Arizona veterans. The National Memorial Cemetery of Arizona provides a final resting space for veterans and their eligible dependents, providing both in-ground burials and columbaria niches. Prescott has a partially closed national cemetery, providing interment of cremated remains only.

Records dating back to 1995 indicate that the Arizona veteran community had expressed concerns over burial arrangements for veterans living outside the metropolitan Phoenix area. After site selection endeavors in Tucson, Casa Grande and Sierra Vista; a site on Ft. Huachuca property was selected by the Commission. In November 1998, Ft. Huachuca documented its intention to transfer property to ADVS for use as a veterans' cemetery.

Under the original State Cemetery Grants law, the VA provided up to 50 percent of the total cost of establishing, improving or expanding a state veterans' cemetery, but could not provide for the cost of equipment needed to operate the cemetery. On November 11, 1998, the Veterans' Benefits Enhancement Act authorized the federal government to pay up to 100 percent of the costs described above. The VA State Cemetery Grant Service was additionally authorized to provide funding for equipment needed for new cemeteries. Arizona committed to be solely responsible for the administration, operation and maintenance of a VA-supported state cemetery after construction of the facility.

Legislation/Legal Authority:

According to the Governor's Corrective Action Team (GCAT), ADVS needed start-up monies to cover the costs of architect engineering, title work, land transfer, environmental cleaning, as well as initial construction administration. The GCAT estimated that \$500,000 would be sufficient "seed money" for construction of the southern Arizona state veterans' cemetery.

An appropriation of \$500,000 was made by Laws 1999, First Regular Session, Chapter 133 to establish a veterans' cemetery in Southern Arizona (HB 2555) did not include costs for the architect and engineering firm to develop construction documents. Federal reimbursement cannot occur until the land has been conveyed to ADVS and the initial "seed money" was not fund the project through the construction phase.

In 2000, Arizona lawmakers were asked to appropriate an additional \$252,300. The Southern Arizona State Veterans' Cemetery Project was allowed to use funds from the Veterans' Home contingency line item in FY 1999-2000 (HB 2626). The Veterans' Home contingency fund will be reimbursed upon grant approval by the State Cemetery Grant Service (anticipated by June 2001).

On the federal side, H.R. 1401, the National Defense Authorization Act for fiscal year 2000 was signed into law. Rep. Bob Stump included a provision authorizing the Army to transfer of 130 acres from Ft. Huachuca to the State of Arizona to establish a new state veterans' cemetery. The proposal passed in June of 1999 and the agency began working in earnest on an agreement with Fort Huachuca to convey title.

Ft. Huachuca required the submission of the following documents be compiled into a land conveyance package: site delineation provided by the architect and engineering firm designing the facility; legal description; ordnance sweep documentation; survey; aerial photography; water use analysis; environmental assessment; and interim geotechnical report. Since that time, the land conveyance package was sent to the Department of the Army's Training and Doctrine Command (TRADOC).

TRADOC forwarded the package to the Corps of Engineers on October 31, 2000. The Corps continues to process the package in the Phoenix field office, in close coordination with the Attorney General, ADVS and the Arizona Department of Administration. Each State agency is currently reviewing the quitclaim deed to speed processing when the final document is finalized by the Corps of Engineers. This final step in the land conveyance process was originally estimated to take between 5 and 7 months. Every effort to expedite the process has been made, including the involvement of Arizona's Congressional Delegates.

The southern Arizona state veterans' cemetery is slated to open in late spring 2002.

--- DRAFT ---

| ARIZONA DEPARTMENT of ADMINISTRATION | | CONSTRUCTION SERVICES | |
|---|--|--|---------------------------------|
| PROJECT: AZ State Veterans Cemetery PROJECT NUMBER: 3600 PROJECT MANAGER: Henry Holikowski SENIOR PROJECT MANAGER: Bruce Ringwald G.M. | | DATE PREPARED: July 15, 1999 REVISED : January 24, 2001 | |
| DESCRIPTION | | AMOUNT | |
| FUNDING SOURCES: | | INDEX: | |
| HB2555 44th Legislature 1st Session | | ADVS-31010 | |
| HB2626 48th Legislature 2nd Session | | ADVS-31010 | |
| TOTAL FUNDING | | \$752,300 | |
| PROJECT COST: | | ESTIMATE Revised 10/27/99 | PROJECTED COST AT COMPLETION |
| Land Acquisition Costs: | | | |
| 1. | | | |
| 2. | | | |
| Title Transfer Fees | | 10,000 | 10,000 |
| Subtotal | | \$10,000 | \$10,000 |
| Professional Services: | | | |
| 1. Site Delineation | | | 52,990 |
| 2. A/E Fees Master Plan | | | 113,073 |
| 3. Schematics | | | 52,590 |
| 4. Reimbursables (Est.) | | | 41,225 |
| 5. Construction Documents | | | 356,670 |
| 6. Construction Docs. Reimburs. | | | 35,667 |
| 9. DCN #1 Redesign Admin & Maint Bldg. | | | 34,740 |
| 7. Construction Administration (Est.) | | 192,000 | 192,000 |
| 8. Construction Administration Reimburs. (Est.) | | 10,000 | 10,000 |
| Subtotal | | \$202,000 | \$888,955 |
| Construction Services (GC): | | | |
| 1. Base Construction Contract (Est.) | | 4,409,450 | 5,019,122 |
| Subtotal | | \$4,409,450 | \$5,019,122 |
| Separate Contracts: | | | |
| 1. Environmental Assessment | | 16,768 | 16,768 |
| 2. Reimbursables | | 530 | 530 |
| 3. Change Order #1 | | | 5,131 |
| 4. Change Order #2 extra Bio Assesment | | | 507 |
| 5. Change Order #3 extra Printing/ Publishing FONSI | | | 756 |
| 6. Property Survey | | 10,227 | 10,227 |
| 7. Reimbursables | | 1,500 | 1,500 |
| 8. Change Order #1 Survey new Property Line | | | 4,582 |
| 9. Change Order #1 Reimbursables | | | 500 |
| 10. Mitigation Fund | | | |
| Subtotal | | \$29,025 | \$40,501 |
| Project Support: | | | |
| 1. ADOA Salaries (Est.) 3 years | | 50,000 | 205,000 |
| 2. ADOA Expenses ("Est.) 3 year: | | 10,000 | 35,000 |
| 3. ADVS Expenses (EST.) | | | 20,000 |
| 4. Risk Management Insurance (Proj. Cost x .006) | | 32,675 | 35,448 |
| Subtotal | | \$92,675 | \$295,448 |
| Contingency Allowance: | | \$670,200 | \$678,661 |
| TOTAL PROJECT COST | | \$ 5,413,350 | \$ 6,932,688 |
| Funds Remaining/ (Additional Funds Required) | | (4,661,050) | (6,180,388) |

NOTES:

1.

STATE OF ARIZONA

Joint Committee on Capital Review

STATE
SENATE

RUTH SOLOMON
CHAIRMAN 2001
RUSSELL W. "RUSTY" BOWERS
JACK A. BROWN
EDWARD J. CIRILLO
HERB GUENTHER
DARDEN C. HAMILTON
HARRY E. MITCHELL

1716 WEST ADAMS
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CHRISTINE WEASON

DATE: February 5, 2001

TO: Senator Ruth Solomon, Chairman
Members, Joint Committee on Capital Review

THRU: Richard Stavneak, Director

FROM: Patrick Fearon, Senior Fiscal Analyst

SUBJECT: SCHOOL FACILITIES BOARD - REPORT ON ATTORNEY GENERAL OPINION
ON BUILDING RENEWAL REQUESTS TO THE TREASURER

Request

In response to the Committee's request, the Attorney General has provided the attached opinion regarding the board's instructions to the State Treasurer to transfer sales tax revenues to the Building Renewal Fund.

Recommendation

This item is for information only and no Committee action is required. The opinion says the board is neither required nor permitted to instruct the Treasurer to transfer additional revenues to the fund to make up the difference between the board's initial instruction and any subsequent increase in the estimated formula cost for building renewal.

Analysis

The Building Renewal Fund is established by A.R.S. § 15-2031 in order to provide funding for school districts to maintain the adequacy of existing school facilities. Building renewal monies are for major renovations and repairs, systems upgrades to extend the life of a building, and infrastructure costs on academic buildings owned by a district. The amount allocated to each school district is determined by a statutory formula. The primary components of the formula are building age (which is adjusted for significant renovations and upgrades) and building capacity value (which takes into account the building's student capacity, square footage, and square footage costs prescribed by statute).

A.R.S. § 15-2002 requires the board to instruct the State Treasurer by January 1 of each year as to the amount of Transaction Privilege Tax (TPT) revenues to be credited in the following fiscal year to the New School Facilities Fund, the Deficiencies Correction Fund, and the Building Renewal Fund. These transferred revenues are not subject to legislative appropriation.

(Continued)

Prior Year Shortfalls. During the past two fiscal years, the board's distributions to school districts for building renewal were cumulatively \$55.3 million less than the building renewal formula would have required for "full funding." In FY 1999, the board distributed \$75,000,000 for building renewal, equaling the amount appropriated for building renewal for that year in Students FIRSTC but that amount was \$28,700,000 less than required by the formula. Accordingly, the board reduced each school district's allocation to approximately 72% of its full formula amount. In FY 2000, the board distributed all \$82,500,000 available in the Building Renewal Fund, but that amount was \$26,600,000 less than required by the formula (for a total cumulative 2-year shortfall of \$55,300,000). The board therefore reduced each district's FY 2000 allocation under the formula to approximately 76% of its full formula amount.

In response to a lawsuit that would require payment of these shortfalls, a Maricopa County Superior Court ruled in October that the board could legally reduce the FY 1999 allocations because the amount available for distribution in that year was governed by a specific appropriation to the Building Renewal Fund. Regarding FY 2000 and subsequent years, the Court ruled that allocations under the Building Renewal Fund should be governed by the statutory formula, rather than by the amount in the fund. However, the court said that this does not necessarily mean that the FY 2000 shortfall was a violation of the state constitution's guarantee of a general and uniform school financing system. The Court ruled that evidence would have to be presented about the impact of the shortfall before such a finding could be made. The final outcome of the lawsuit regarding this issue is still pending.

Shortfall in FY 2001. For FY 2001, the board originally estimated the building renewal formula amount to be \$116.8 million but instructed the Treasurer in January 2000 to credit \$120,000,000 to the Building Renewal Fund to have a cushion for unexpected changes. Since then, the formula amount has been recalculated to require \$122,700,000 in FY 2001. Although the October court decision said that funding for the Building Renewal Fund should cover the entire formula cost, it did not address how to make up the shortfall when the initial transfer instruction to the Treasurer falls short of the formula cost. The Committee therefore asked the Attorney General for a formal opinion on the following questions:

- Is the board required to instruct the Treasurer to make a \$2.7 million supplemental transfer from TPT revenues to the Building Renewal Fund in FY 2001 to fully fund the formula cost?
- If the board is not required to instruct the Treasurer to make a supplemental transfer, is it permitted to do so?

The Attorney General says the board is **not required** to make a supplemental transfer instruction to the Treasurer. Relying on a strict construction of A.R.S. § 15-2002(A)(10), the opinion says there is nothing in the statute that requires the board to make a transfer instruction after January 1 of each year. Once the transfer instruction has been made, the funding for the Building Renewal Fund is permanently set. Otherwise, according to the opinion, the appropriate amount of funding for the Building Renewal Fund would constantly change as the board received updated information.

The Attorney General also says the board is **not permitted** to make a supplemental transfer instruction to the Treasurer. According to the opinion, A.R.S. § 15-2002(A)(10) is plain and unambiguous in saying that the board shall make its transfer instruction to the Treasurer "No later than January 1 of each year" There is therefore no authority for the board to make a supplemental instruction. The opinion says that revising the funding for the Building Renewal Fund for FY 2001 would require legislative action to either give the board authority to make supplemental instructions or to simply provide the required supplemental amount through a direct legislative appropriation.

Consistent with the January 2001 opinion, the board has requested a supplemental appropriation for FY 2001 amounting to \$2,725,300 to cover the shortfall in building renewal funding. This supplemental amount has been included in the JLBC recommended budget.



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

ATTORNEY GENERAL OPINION

by

JANET NAPOLITANO
ATTORNEY GENERAL

January 3, 2001

No. I01-002
(R00-075)

Re: Building Renewal Fund

TO: The Honorable Robert Burns
Chairman, Joint Committee on Capital Review

Questions Presented

You have asked the following questions regarding the statutory authority of the Arizona School Facilities Board ("SFB") in connection with the Building Renewal Fund:

1. Is the SFB required to instruct the State Treasurer to credit a \$2.7 million supplemental distribution from the State's transaction privilege tax revenues for the Building Renewal Fund for fiscal year ("FY") 2000-01 based on the most recent data received by the SFB from school districts?

2. If the SFB is not *required* to instruct the Treasurer to credit a supplemental distribution for FY2000-01, is the SFB *permitted* to do so?

Summary Answers

1. No. The statutes do not require the SFB to amend or supplement its instructions to the State Treasurer regarding funding for the Building Renewal Fund after January 1 of each year

based on new data the SFB receives from school districts.

2. No. The SFB does not have statutory authority to change the total amount of funding required for the Building Renewal Fund after it has instructed the State Treasurer on January 1 of each year.

Background

The Students FIRST legislation fundamentally restructured the State's system of school financing for school facilities. It created the SFB to establish minimum adequacy standards for school facilities, to monitor district compliance with the standards, and to distribute funds from different sources to (1) bring existing facilities up to standards (the "Deficiencies Corrections Fund"); (2) construct new facilities for growing districts (the "New School Facilities Fund"); and (3) maintain all facilities at the adequacy level (the "Building Renewal Fund"). *See generally, Hull v. Albrecht*, 192 Ariz. 34, 37, 960 P.2d 634, 637 (1998).

Pursuant to Students FIRST, funding for the Building Renewal Fund is determined by a formula based on the square footage, age, and renovation history for certain school buildings in each school district. A.R.S. § 15-2031(D). By September 1 of each year, school districts must report to the SFB the information necessary for the SFB to create a database for purposes of calculating the Building Renewal Fund amounts according to the statutory formula. *Id.* The SFB is required to update the data in its Building Renewal Fund database at least annually to "reflect changes in the ages and value of school buildings." *Id.* Based on the statutory formula and the database, the SFB then advises the Joint Committee on Capital Review by December 1 of each year and the State Treasurer no later than January 1 of each year as to the amounts to be funded from the State's transaction privilege tax revenues for the upcoming fiscal year. *See* A.R.S. § 15-2002(A)(10).

Based on data submitted to the SFB by school districts by September 1, 1999, the SFB estimated that it would need \$120 million to fund the Building Renewal Fund for FY2000-01. Accordingly, on January 1, 2000, the SFB instructed the State Treasurer to credit \$120 million from the State's Transaction Privilege Tax revenues to the Building Renewal Fund for FY2000-01.

When the SFB updated its database on September 1, 2000, with information from the school districts to determine the Building Renewal Fund funding necessary for FY2001-02, the SFB concluded that the updated figures indicated \$122.7 million would have been an appropriate funding level for the Building Renewal Fund for part of FY2000-01. The difference between the \$120 million that the SFB had on January 1, 2000 instructed the State Treasurer to transfer and the \$122.7 million updated figure is primarily attributable to two increases in a construction index that is used to calculate the building renewal formula.

Analysis

A. The School Facilities Board Is Not Required to Amend or Supplement Its Instructions to the State Treasurer After January 1 of Each Year.

Where legislative language is plain and unambiguous, the statutory text is applied as written. *See Mid Kansas Fed. Sav. & Loan Ass'n v. Dynamic Dev. Corp.*, 167 Ariz. 122, 128, 804 P.2d 1310, 1316 (1991).

Section 15-2002(A)(10), A.R.S., provides, in relevant part:

No later than January 1 of each year, the board shall instruct the State treasurer as to the amounts under the transaction privilege tax to be credited in equal quarterly installments for the following State fiscal year.

(Emphasis added.) Nothing in statute requires the SFB to amend or supplement its instructions to the State Treasurer after January 1 of each year. Under the statutory timetable set forth in Students

FIRST, the amount needed to fund the Building Renewal Fund is established before the fiscal year begins. The statutes do not envision, let alone require, the SFB to recalculate the funding amount based on new data that the SFB receives during the fiscal year. Thus, once the SFB has properly calculated the amount of funding that is required under the statutory formula and has advised the State Treasurer to transfer that amount to the Building Renewal Fund, the amount of funding required for the Building Renewal Fund for the upcoming fiscal year is permanently set. Were this not the case, the appropriate amount of funding would constantly change during the year as school districts added to or subtracted from their total square footage and as buildings were renovated or built.

The October 13, 2000 decision in *Roosevelt Elementary Sch. Dist. v. Hull*, No. CV99-19062 (Ariz. Super. Ct.) does not require a different conclusion. That case challenged the level of funding for the Building Renewal Fund only for the first two fiscal years Students FIRST was in effect. For those fiscal years, the Legislature and the SFB estimated the amount of funding required because the SFB did not have the data from school districts necessary to calculate the funding according to the statutory formula by the statutory deadline. The court's decision did not address the issue presented in this Opinion, which is whether the statutes would require or permit the SFB to amend or supplement its instructions to the State Treasurer after January 1 of a year in which the SFB used the school district data reported to it by September 1 to calculate the amount of funding necessary for the Building Renewal Fund. October 13, 2000 Minute Entry at 3-4, *Roosevelt Elementary Sch. Dist. v. Hull*, No CV99-19062 (Ariz. Super. Ct.).¹

¹ As for the funding level established by the SFB for FY1999-2000, the court noted that the State, in arguing that the statutory timeline for calculating building renewal for FY1999-2000 did not apply, did not explain why the SFB could not have reported late to the State Treasurer or why a supplemental report could not have been made *for that fiscal*


B. The School Facilities Board Does Not Have the Authority to Change the Amount of Building Renewal Fund Funding After January 1 of Each Year.

The jurisdiction and powers of any State agency are limited by the terms of the statute that creates the agency. *See, e.g., Schwartz v. Superior Court*, 186 Ariz. 617, 619, 925 P.2d 1068, 1070 (App. 1996). The statutory scheme provides that the SFB will instruct the State Treasurer on the amount of necessary funding "[n]o later than January 1" of the proceeding fiscal year. This statutory language does not allow the SFB to subsequently amend the Building Renewal Fund funding level based on changing data submitted by school districts during the fiscal year.²

If the SFB desires to revise the funding level for the Building Renewal Fund during the fiscal year, the Legislature must first grant the SFB statutory authority to do so. Alternatively, the Legislature could, without amending the statutes, specifically appropriate amounts to the Building Renewal Fund if supplemental funding is desirable.

Conclusion

The SFB is not required or permitted to substantively amend or revise its instructions to the State Treasurer after January 1 of each year based on new data later submitted by school districts.



Janet Napolitano
Attorney General

year only. *See* October 13, 2000 Minute Entry at 3, *Roosevelt Elementary Sch. Dist. v. Hull*, No. CV99-19062 (Ariz. Super. Ct.).

²This Opinion does not address whether the SFB could amend or revise its instructions after January 1 to advise the State Treasurer to transfer a *lesser* amount to any of the three Students FIRST funds because it received the necessary funds from other sources. In that situation, the total amount of State funding for the Building Renewal Fund is not recalculated but rather remains the amount calculated by the SFB pursuant to statute by September 1.