STATE OF ARIZONA

Joint Committee on Capital Review

STATE
SENATE

ROBERT L. BURNS
CHAIRMAN 2007
PAULA ABOUD
AMANDA AGUIRRE
MARSHA ARZBERGER
KAREN S. JOHNSON
THAYER VERSCHOOR
JIM WARING

1716 WEST ADAMS
PHOENIX, ARIZONA 85007

PHONE (602) 926-5491

FAX (602) 926-5416

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

HOUSE OF
REPRESENTATIVES

RUSSELL K. PEARCE
CHAIRMAN 2008
TOM BOONE
TRISH L. GROE
JOHN KAVANAGH
PHIL LOPES
DAVID LUJAN
DAVID SCHAPIRA

MINUTES OF THE MEETING
JOINT COMMITTEE ON CAPITAL REVIEW

Tuesday, January 23, 2007

The Chairman called the meeting to order at 8:10 a.m., Tuesday, January 23, 2007 in Senate Appropriations Room 109 and attendance was as follows:

Members:	Senator Burns, Chairman	Representative Pearce, Vice-Chairman
	Senator Aboud	Representative Groe
	Senator Aguirre	Representative Kavanagh
	Senator Arzberger	Representative Lujan
	Senator Johnson	Representative Schapira
	Senator Verschoor	
	Senator Waring	
Absent:		Representative Boone
		Representative Lopes

Hearing no objections from the members of the Committee, Chairman Robert Burns stated the minutes of November 15, 2006 would stand approved.

ADOPTION OF COMMITTEE RULES AND REGULATIONS

Chairman Burns stated that the rules are the same as in the past with a couple of exceptions. Rule 12 and Rule 14 are new rules put in place based on statute passed in the last session.

<u>*Representative Russell Pearce moved*</u> *that the Committee adopt the rules with the changes*. The motion carried.

ARIZONA STATE UNIVERSITY

A. Review of Indirect Financing for Downtown Campus Student Housing Project.

Mr. Lorenzo Martinez, JLBC Staff, stated that Item 2A is a review of a university indirect debt financing project. Arizona State University (ASU) plans to enter into an agreement with a private developer to provide student housing at the Downtown Campus. The project would provide 1,200 to 1,300 beds in 2 phases. The first 700 to 750 beds will be available in August 2008, the remaining beds will be available August 2009. The total project cost including financing would be approximately $116 million that the private developer would finance and use for construction. The developer would enter into an agreement with the City of Phoenix, who is providing a portion of the land for this project. ASU, as the third party, would not solicit any other entities to develop student housing provided the private developer operates the facility to the standards that are developed. ASU would also provide the land for future project phases. In addition, ASU is guaranteeing an occupancy level for the developer to make sure enough revenue is generated in case there are not enough students. ASU is limited to $1.2 million should that occur. Rent revenues would be used to make the debt payments and operational costs. The agreement includes a 30-year land lease and it is estimated that the financing would be repaid over 23 years. After the payoff, the land and facilities would become ASU property.

Chairman Burns asked if ASU had any liability relative to the safety of students.

Mr. Martinez replied that the agreements are between the students living at the facility and the developer. ASU has structured the agreement so they do not have any liability relative to any incidents that might occur. ASU has stated that if something should occur, there is no guarantee that they would not be brought into potential legal actions. The intent with the structure is there would be no liability.

Chairman Burns asked, in the event of a liability, if it would fall under the state's self-insurance pool.

Mr. Martinez said that ASU does participate in the state's self-insured pool. Agencies are charged an insurance premium which is deposited in the Risk Management Fund. The fund is used to pay any state liabilities.

Chairman Burns said that this question probably cannot be answered until there is a lawsuit. There is a possible liability to the state, since there is a financial and occupancy guarantee. He asked what types of options will be available if ASU becomes dissatisfied with the developer's operation.

Mr. Richard Stanley, Senior Vice President and University Planner, ASU, replied that there is an option of stopping the endorsement of Capstone as a student housing provider if ASU finds that they do not live up to the performance standards defined in the contract.

Chairman Burns asked what happens if Capstone were to go out of business.

Mr. Stanley replied that there will be a not-for-profit entity established which will issue the debt associated with the project. When the project has been completed and is operating, Capstone will be the hired operator and manager of the facility for that not-for-profit entity. If Capstone were to go out of business at that time, the not-for-profit would look for and hire another manager for the property.

Chairman Burns said this project is outside of the university debt limit established in statute. He asked what the debt limit would be if this project were included in the debt limit.

Mr. Stanley replied that JLBC Staff made a calculation of the debt limit and calculated an increased debt ratio of 5.4% to 6%. The debt limit is 8%.

Representative Pearce said there are other third party financing arrangements. He asked what the overall debt ratio would be if all the third party or other financing were included.

Mr. Stanley replied that he does not have the calculation, however, he could provide the information once it is available.

Chairman Burns requested that the Committee give an unfavorable review with the understanding that the project would not stop. He explained that the project establishes a new campus which is typically established by the full Legislature. The project has few people involved in the transaction and can become an opportunity for mischief, so this project should have broader involvement.

Representative Trish Groe referred to one of the highlights of the agreement that Capstone may raise the rent above the maximum rental price for student accommodations. She asked, since the occupancy rate is built into the contract, if the state would have to absorb the vacancies that were unfilled if Capstone were to raise the rates to an uncompetitive rate.

Mr. Stanley replied that the contract will state that the project has to open at no more than the maximum rate. If it cannot open at the maximum rate, then the university's commitment to occupancy levels in the first 4 years would not be valid. The increase in rates will be limited to no more than 4% per year. If it increases by more than 4%, the university's commitment to the project will not be required to be maintained. This is an attempt to keep the rent affordable. The management of the project will have incentives to keep the rates competitive because there is more gained by occupancy than by percentage points in the rental rate. The structure will allow the university to open and maintain a project that is affordable for the students.

Representative Groe noted that the rate can increase to 4% or higher based on the rates of Tempe housing. She asked if there is an area in the contract that prohibits Capstone from charging non-competitive rates in later years if additional housing is needed.

Mr. Stanley replied that the university will enter into additional contracts with Capstone for further phases beyond the first two phases at the time that the housing is necessary. The contracts will be negotiated at that time. The only guarantee is that Capstone would have the first right of negotiation in future housing developments. If there are no satisfactory arrangements reached for phase 3 or 4 as they become necessary on the Downtown Campus, the university would not proceed. There would be no fixed terms in place for the future contracts. The level of affordability would be determined by the circumstances in the market at the time of negotiating the next phase.

Representative Groe asked if the contract language is available to read, since JLBC Staff stated that Capstone is the sole provider for future housing. She would like to make sure that the correct language is in the contract because it seems like there is no flexibility.

Mr. Stanley read an excerpt from the Arizona Board of Regents (ABOR) Executive Summary saying, "…Approval is not being sought for any subsequent phases and ASU will review later phases with ABOR before proceeding." He noted that this is the intent to outline that the contractual terms were not being set.

Representative John Kavanagh asked how the fees of the shared room at $695 per month compare to the Tempe campus.

Mr. Stanley replied that when the project opens in 2008 it would effectively be at the same rates as Tempe housing. The rate assumes modest levels of inflation on the existing rates at the Tempe campus and the all inclusiveness of the rate that Capstone will charge. Included in the $695 rate is telephone, internet, cable and other services charged separately.

Representative Kavanagh asked if the students at the Downtown Campus will only take courses in their major then travel to Tempe for general studies courses, or if this is a self-contained campus where there will be no reason to opt for the Tempe campus housing.

Mr. Stanley said that the programs offered at the Downtown Campus will be self-contained programs. Some of the programs such as Nursing and Journalism are self-contained. The general courses that are required in those programs are being offered by the University College at the Downtown Campus. There may be some students who will choose to take courses outside of the traditional structure of their curriculum and will travel to other campuses, however, the student who is following the general curriculum in those programs will be able to take all of their courses at that campus.

Representative David Schapira said that the Downtown Campus is a work in progress and this project is to provide residences for the students attending the Downtown Campus. He asked how vital the project is to the continuing progress of the campus.

Mr. Stanley said that the university believes that housing, particularly for freshmen and sophomores, is critical on all campuses to increase the rates of retention and graduation. Data shows that students who live in university housing are more successful in staying beyond their freshman year. Housing is pushed on all of the campuses.

Senator Karen Johnson asked if there was a request for proposal (RFP) on this project.

Mr. Stanley replied that there was a request for qualifications (RFQ) process that selected the team on this project. There was a competitor process that announced the universities intent to build downtown housing and asked for qualified firms or groups of firms to respond and propose how they would develop the campus. The university asked for proposal to include the nature of the housing, the nature of their experience, and their ability to bring property where housing could be built. There were 3 groups that responded. Capstone was a member of one of the groups that the university felt had the best combination of experience, property, and a team with the ability to move the project.

Senator Johnson said she had concerns relative to a November 2006 Tempe housing project that had a square foot price of $217 and a cost per bed of $64,800. This project has a cost of $294 per square foot and a cost per bed of $85,000. This is an increase in cost that seems excessive.

Mr. Stanley replied that the comparable price shown for the Tempe housing involved land that was on a lease with the university as opposed to land that was purchased by the developer. In this case, half of the land was purchased by the developer at market rates. This is included in the cost whereas it was not included in the Tempe project. The other major factor is because this is downtown housing on limited land, this is considered to be high-rise construction with the buildings being 13-15 stories high. The construction in Tempe is 6-story construction. There is a premium involved in high-rise construction because of different building codes and safety issues.

Senator Amanda Aguirre asked what the requirement for liability insurance coverage is in the sublease.

Mr. Stanley said that full insurance coverage and protection will be required to be documented.

Senator Thayer Verschoor asked for clarification on the outcome of a favorable or unfavorable review.

Chairman Burns said that the unfavorable review does not stop the project. The unfavorable review is an opportunity for the Committee to express concern about the project.

There was continued discussion on the differences between a favorable and unfavorable review.

Senator Verschoor asked if the state is responsible for the remaining vacancies if 99% occupancy is not reached.

Mr. Stanley replied that yes, for the first 4 years at the limits stated in the meeting material.

Senator Verschoor asked what the maximum cost to the state would be if there was 0% occupancy.

Mr. Stanley replied that the commitment lasts for 4 years and is limited to the last 15% of the occupancy, up to 99%. It drops to 10% in the first year, then 5% in the subsequent years. If all of the guarantees needed to be applied over the entire 4-year period, the total would be $3.2 million which would be the responsibility of the university's auxiliary budget.

Senator Verschoor asked if the total would be funded with non-appropriated money.

Mr. Stanley said that it would be covered through the auxiliary budget which is a fund that is used for all non-educational support services. The Legislature would not have to appropriate funds.

Senator Verschoor asked if the auxiliary fund supplants other funds that the Legislature would need to appropriate money to if the $3.2 million were to be used.

Mr. Stanley said that no, the funds are run separately.

Senator Johnson said that past projects were brought before the Legislature for approval. She asked why this project was not done in the same manner.

Mr. Stavneak replied that the past projects used state dollars to purchase the land or build buildings. This project incorporates the City of Phoenix bond election. The bonds created the capacity to purchase the land or build the buildings. There is not something that specifically says that they have to come to the Legislature to build a campus. In this circumstance, where the financing source is the City of Phoenix, it did not require ASU to come before the Legislature to authorize the campus. There is a provision in statute passed a year ago that says if indirect debt financing is used, which this project is using, it is required that ASU come before the Committee for review. Before the passing of this statute, it would not have been required to come to the Committee for review because of the type of financing arrangement.

Senator Johnson said that this type of project should come under the purview of the Legislature.

Representative Pearce moved that the Committee give an unfavorable review as outlined in the comments by the Chairman.

Chairman Burns requested a roll call vote on the motion.

The motion carried by a roll call vote of 7-5-0-2 *(Attachment 1)*.

ARIZONA STATE UNIVERSITY

B. Review of FY 2007 Building Renewal Allocation Plan.

Mr. Martinez stated that Item 2B is a review of the ASU Building Renewal allocation plan for FY 2007. In FY 2007, ABOR was appropriated $20 million for building renewal. Of that amount, ASU has received $6.5 million. ASU has submitted for review the 10 projects listed on page 2 of the JLBC recommendation memo. The projects listed are university-wide related to building renewal projects such as roof replacements and infrastructure repair.

There was no discussion on this item.

Representative Pearce moved the JLBC Staff recommendation that the Committee give a favorable review of the FY 2007 Building Renewal Allocation Plan with the provision that ASU report on any reallocation above $500,000 between the individual projects. The motion carried.

ARIZONA STATE UNIVERSITY

C. Review of Academic Renovations and Deferred Maintenance Phase IIB Bond Projects and Revised Scope and Cost for Instructional/Research Laboratory Renovations Phase II.

Mr. Martinez said this item has 2 components with the first being a review of a $10 million bond issuance for academic renovations and deferred maintenance. The second is a review of revisions to bond projects that were previously reviewed. Page 2 of the JLBC recommendation memo has the first bond issuance of $10 million. ASU has identified 3 projects which total under $6 million. JLBC Staff recommends that the university provide an expenditure plan for the remaining $4 million. Page 3 shows the revisions of the previously reviewed $20 million bond issuance where the dollar amounts have been revised and projects have been added or removed from the expenditure plan.

There was no discussion on this item.

<u>Representative Pearce</u> *moved the JLBC Staff recommendation that the Committee give a favorable review of the Academic Renovations and Deferred Maintenance Phase IIB and the Scope and Cost Revisions for Instructional/Research Laboratory Renovations Phase II bond projects with the provision that ASU submit to the Committee an expenditure plan for the $4,030,000 unallocated to specific projects in Academic Renovations and Deferred Maintenance Phase IIB and the following standard university financing provisions:*

- *ASU shall report to the Committee before expenditure of any allocations that exceed the greater of $500,000 or 10% of the reported contingency amount total for add alternates that do not expand the scope of the project.*
- *ASU shall submit for Committee review any allocations that exceed the greater of $500,000 or 10% of the reported contingency amount total for add alternates that expand the scope of the project. In case of an emergency, ASU may immediately report on the scope and estimated cost of the emergency rather than submit the item for review. The JLBC Staff will inform the university if they do not agree with the change of scope as an emergency.*
- *A favorable review by the Committee does not constitute endorsement of General Fund appropriations to offset any auxiliary revenues that may be required for debt service, or any operations and maintenance costs when the project is complete. Auxiliary funds derive from substantially self-supporting university activities, including student housing.*
- *ASU shall not use bonding to finance any repairs whose typical life span is less than the bond repayment period. Such repairs include, but are not limited to new flooring and painting. The exceptions to this stipulation are circumstances where such repairs are required to complete a major renovation.*

The motion carried.

MARICOPA COMMUNITY COLLEGE DISTRICT – Review of General Obligation Bond Issuance.

Ms. Amy Strauss, JLBC Staff, presented the review of the Maricopa Community College Districts (MCCD) proposed $240 million General Obligation (GO) Bond Issuance. In November 2004, voters approved a total bonding authority package of $951 million that would be paid for by an increase in property taxes. At its June 2004 meeting, the Committee gave a favorable review to the entire bond proposal with the stipulation that the district return for Committee review prior to each issuance. This request by MCCD will reflect the second issuance. All issuances will fund capital projects as well as district-wide initiatives.

Attachment 1 in the agenda book provides a summary of the projects the district anticipates covering under the issuance. Attachment 3 in the agenda book provides a complete list of projects funded from the first issuance. Due to inflation, project costs were revised upward from original projections which resulted in district-wide reductions of project scopes as well as delays on lower priority projects. Approximately 1.4 million square feet are associated with these projects. This includes 338,000 square feet in remodeled projects and 1 million in new square feet. The estimated average cost per square foot is $300, including $346 for new space and $160 for renovated space. The detail for these projects is provided in the district's project description and construction method worksheet on Attachment 2 in the agenda book.

Senator Johnson asked what entity reviews the projects.

Ms. Strauss replied that both the MCCD business office and the governing board review the projects covered under each bond issuance.

Senator Johnson expressed her concern with the problems that the Maricopa Community College District is having and that the oversight is not there. The issuance of the $240 million with a debt service of $72 million is difficult to approve.

Chairman Burns replied that the voters approve the bonding and the Committee approves the use of the bonds.

Representative Pearce moved that the Committee give a favorable review with the provision that MCCD report to the Committee on actual project costs of the second bond issuance when the district returns for review of its third issuance. The motion carried.

DEPARTMENT OF ECONOMIC SECURITY – Review of Prescott Property Conveyance.

Mr. Eric Jorgenson, JLBC Staff, presented the review of the Department of Economic Security (DES) request for a property conveyance with the City of Prescott. The property is located in Prescott and is adjacent to the Prescott College. The conveyance would occur by sale of the land to the City of Prescott for the appraised value of $530,000. The property, through an economic development agreement, would be used to expand the Prescott College campus.

There was no discussion on this item.

Representative Pearce moved the JLBC Staff recommendation of a favorable review to the property conveyance with the City of Prescott with the provision that prior to expenditure, DES report on the use of the proceeds of the sale. The motion carried.

Without objection the Committee meeting adjourned at 8:50 a.m.

Respectfully submitted:

____
Yvette Medina, Secretary

____
Lorenzo Martinez, Assistant Director

____
Senator Robert Burns, Chairman

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

JOINT COMMITTEE ON CAPITAL REVIEW

Meeting Date: January 23, 2007

ITEM # 2A - unfavorable review

	PRESENT	ABSENT	PASS	AYE	NAY	PRESENT	ABSENT
SEN. ABOUD	X		X		X	X	
SEN. AGUIRRE	X				X	X	
SEN. ARZBERGER	X			X		X	
REP. BOONE		X					X
REP. GROE	X			X		X	
SEN. JOHNSON	X			X		X	
REP. KAVANAGH	X			X		X	
REP. LOPES		X					X
REP. LUJAN	X				X	X	
REP. SCHAPIRA	X				X	X	
SEN. VERSCHOOR	X			X		X	
SEN. WARING	X				X	X	
REP. PEARCE	X			X		X	
SEN. BURNS	X			X		X	
TOTALS	12	2		7	5	12	2

ITEM # ____

	PASS	AYE	NAY	PRESENT	ABSENT
SEN. ABOUD					
SEN. AGUIRRE					
SEN. ARZBERGER					
REP. BOONE					
REP. GROE					
SEN. JOHNSON					
REP. KAVANAGH					
REP. LOPES					
REP. LUJAN					
REP. SCHAPIRA					
SEN. VERSCHOOR					
SEN. WARING					
REP. PEARCE					
SEN. BURNS					
TOTALS					

E:\JCCR\VOTE-2.DOC
1/22/07