

STATE OF ARIZONA

Joint Legislative Budget Committee

STATE
SENATE

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HOUSE OF
REPRESENTATIVES

RUSSELL K. PEARCE
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TOM BOONE
MEG BURTON CAHILL
PAMELA GORMAN
STEVE HUFFMAN
LINDA J. LOPEZ
STEPHEN TULLY

MINUTES OF THE MEETING

JOINT LEGISLATIVE BUDGET COMMITTEE

September 28, 2005

The Chairman called the meeting to order at 9:43 a.m., Wednesday, September 28, 2005, in House Hearing Room 4. The following were present:

Members:

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

Absent: Senator Arzberger

APPROVAL OF MINUTES

Representative Pearce moved that the Committee approve the minutes of September 1, 2005. The motion carried.

ARIZONA BOARD OF REGENTS (ABOR)

A. Review of Operational and Capital Plans for the Phoenix Medical Campus (PMC).

Ms. Shelli Carol, JLBC Staff, said this item is a request by ABOR for a review of the operational and capital plans for the Phoenix Medical Campus. Laws 2005, Chapter 330 directs the University of Arizona to establish a medical campus of its Health Sciences Center (AHSC) at the former site of Phoenix Union High School. To support the PMC, Chapter 330 appropriates \$6 million from the General Fund to AHSC, as well as \$1 million from the General Fund to create the ASU Department of Biomedical Informatics. Of the \$7 million appropriation for the new campus, Chapter 330 provided only \$3.5 million on July 1, 2005. The remaining \$3.5 million will become available upon Committee review of the PMC plans, but no later than October 5, 2005. Ms. Carol used a handout (Attachment 1) for discussion on this item.

Senator Cannell commented on how important it is to bolster the practice of medicine in rural areas.

In response to Senator Garcia, Senator Cannell said he has quite a few ideas on how to attract physicians to rural areas. He has been working with the university in one form or another over the last 35 years on

this. It is important to coordinate the medical school training with graduate training. In talking with leaders at the University of Arizona (UofA), there needs to be a combined residency and there has to be rural rotations for those residents. It is also important to back up the doctors once they go out into rural areas. That can be done through telemedicine and rotations back into Phoenix. Most of the doctors in Arizona are trained in other states. Even though the numbers show that most of the doctors are coming from outside Arizona, the medical schools using residency can have a huge influence on getting our doctors from our medical school and residencies to practice in those rural areas. There needs to be a lot of discussion and he believes there is willingness for that to take place. He said, you have to be more aggressive going forward in supporting doctors. A strong bond can be formed by having residents and students working together.

Senator Waring asked if the state has residency slots that are not filled. He also asked if per capita physician statistics count residents as physicians.

Ms. Carol said that she thought there were 10 to 15 slots open.

Mr. Jamie Molera, The Molera Alvarez Group, Representing the Arizona Board of Regents (ABOR), said that in 2004 there were 1,076 resident positions in Arizona and 425 medical students. If you look at that as a national average, we had the lowest student to residency ratio. By increasing the number of medical school students, there are ample amounts of residency slots that could be filled. In order to do this he said they would have to work with hospitals, and have all the partners involved. It is not just something that they can do unilaterally. The other thing that they are working on is making sure that the number of resident positions, which are federally funded, start to shift to Arizona.

Senator Waring asked how many slots are filled.

Mr. Molera said that he would follow up with that information. He said he appreciated being able to work with Staff on this and would like to be sure that the Legislature has access to all the information that they need.

Representative Pearce said that one of the rationales for the medical school is that the state has a doctor shortage. The issues they have addressed is getting medical students into residency programs and work being done to fill the areas that have a shortage. He stated that he has not seen the strategy relevant to doing that.

Mr. Molera said that has to be done in tandem with the Legislature, other individuals in positions dealing with it, as well as the hospitals and players in the health care industry. He said they have to increase the number of residency programs in Arizona and then determine how to get those residents to areas of critical need. Also, there is the issue of specialty areas and how you get specialists into rural areas. A lot of these issues are being worked on now and they have shown in great detail what the University of Arizona and ABOR are doing to try to address these issues.

Representative Pearce said there has to be a business plan in terms of how to move these students into resident positions. He said if they are going to invest millions of dollars they have to know what the return is on that investment.

Mr. Molera said they are in process of trying to train these students and a lot of these issues are out of their control. For instance, the number of resident slots are controlled by Congress. He also noted that telemedicine has to be the cornerstone of how to deal with the rural health care problems.

Representative Biggs said it appeared that the campus that is planned does not have adequate space for offices in Level I.

Mr. Molera said that the office space as planned for Level I is ample for the number of faculty and researchers. He noted that the Biomedical Building will come on-line during Level I.

Representative Biggs asked how much higher Level II is in 2010, and why it is higher than previous estimates.

Ms. Carol said there was a preliminary plan that ABOR provided and the Committee heard last summer. In that plan, Level I was supposed to last 5 years, instead of 3, so the 2010 budget is \$15 million rather than the \$23.5 million it is now.

Representative Biggs said that in 2010 the university will have responsibility for \$60 million. Of that, \$32 million will be from grants. He asked where they are getting the grants from, and if the grant money does not come through who is liable for the \$32 million.

Mr. Molera said this was an aggressive approach for local sources or special sources. However, realistically they believe that it is actually a conservative estimate. He based that on what the College of Medicine is generating in Tucson and in looking at other medical colleges across the country, particularly ones that are ranked at the UofA level. One of the things that is very clear is that there has to be a strong focus on going after federal research dollars. In the Telemedicine Program they are already finding ways to secure those dollars. The Department of Defense, for example, wants to use them as a major source for telemedicine and the hub for all the Department of Defense hospitals around the world. All of those things are actually in motion now. When the subcommittee asked that question it was acknowledged that they would have to live within the budget that is set. Certainly, every program that is in place right now at the College of Medicine is capped by their ability to get either state funding or federal funding. If they are not going to be able to get federal dollars, then certainly within that budget they will have to pare down. He said they will not be coming to the Committee for more funds.

Senator Waring said professors and doctors doing research apply for these grants for specific purposes. If the grants did not come through then it would be the responsibility of the professor or doctor to pick up the slack somewhere else.

Senator Burns gave an example of a project gone wrong to emphasize the concern of the Committee. He said they had a program that came in with an initial estimate of \$9 million to do a computer program. The \$9 million turned into \$30 million and then the project failed. He believes the Committee has a legitimate reason for concern about a project they would be supporting. In Tucson there is a hospital on site and that will not be the case in Phoenix. He said they will have to work with some of the hospitals in the area of the school and as far as he knows, that plan is not very solid. The project team has talked about it but the Committee needs a better comfort level of how that interface is going to work between the medical school and the hospitals in the area.

Mr. Molera said they are trying not to do this in isolation. One of the strengths of moving to Phoenix is the number of partners that can participate in this. Right now they have 9 hospitals that are a part of the provider network and make up a portion of the 400 faculty. They have a significant program in Phoenix for 3rd and 4th year students in which to build on. They are trying to show the Committee in great detail exactly what they believe it will cost, not just show the first 5 years, but also in moving to Level II and making sure they have all the pieces in place. However, one goal for Level I is to solidify all the details and partnerships for Level II.

Representative Pearce asked what guarantees the Committee has that they are not going to be held responsible for a hospital.

Mr. Molera said, to convey what the University Presidents and ABOR said, they have no intentions of the universities going into the hospital business.

Senator Burns said that is fine if they get a good plan that everyone understands, but what assurances are there if the best laid plans do not work out. They do not want to get into a runaway project which is a big concern of the Committee.

Mr. Molera said that ABOR and the Presidents could lay out some kind of assurance to the Committee that their intent is not to build a hospital and make it clearer as to what their fallback position would be. They would not want to be in conflict with their providers or hospitals. There are quality hospitals in Phoenix that do a tremendous job. They must work with the partners that are in place to try to solve these issues.

Senator Burns asked what contingency plan exists if dispersed clinical rotation do not work.

Mr. Molera said the Governor created the Arizona Commission on Medical Education and Research to address that issue.

Representative Tully said that the universities and ABOR were not considering the doctor shortage when they decided to move forward with the medical school.

Mr. Molera said that he believes that is one reason for the expansion.

Representative Tully said he read the Memorandum of Understanding (MOU) signed by ABOR, the UofA and ASU and it seems that the reason for creating the medical school was to address the need to have facilities that would allow it to reach its potential as a research university.

Mr. Molera said the MOU basically laid out how they would develop the partnership between the UofA and ASU. The underlying reasons for expanding in Phoenix and Tucson are not included in the MOU, nor should they be. That was just an agreement of how those 2 universities would work together. From the discussion between the parties one of the reasons for the expansion was how to deal with the physician shortage in Arizona and how, as a state university system, they could meet those needs.

Representative Tully said, in reading the MOU, it says this acute need derives from the fact that the state is growing in population and complexity in the Phoenix Metro area and all of its health care enterprises have been left without the benefit of a fully developed public research-grade, teaching medical school. He said it seems that the driving force was the desire to upgrade the university system.

Mr. Molera said that is a huge benefit to them but is not the primary reason.

Representative Pearce said he is concerned that they are not taking a straight forward approach. The Legislature gave the universities \$400 million for biotech and the universities promised the programs would be self-sustaining. Representative Pearce asked if the PMC plan is a backdoor to get more biotech money.

Mr. Molera said he believes they have been very clear in that they need to train more students. But you cannot miss the opportunity to collaborate with things that are part of the College of Medicine, and Biotechnology is one of them. This is why the ABC building is going to be a part of the campus and why a lot of the research being done there will translate into better training of doctors. These things are not done in isolation. Their ability to get new technology and have a state-of-the-art facility is going to be critical to having that kind of quality College of Medicine and getting more doctors in Arizona.

Representative Tully asked Mr. Molera if he agreed that the universities' priority is to provide a high quality, accessible education to the citizens of the state.

Mr. Molera said that was correct, it is a constitutional mandate.

Representative Tully said the constitutional mandate is not to address the doctor shortage in the state or to generate business development. If those things occur it is an ancillary benefit to the driving force behind the universities. He said that when he read the JLBC and ABOR materials it said to be a top-tier medical school you need to be attached to a hospital.

Mr. Molera said there was a consulting report that was done to look at this issue. What they found was that there can be a stand-alone college of medicine without any kind of partnership, however, they said it is not the optimum situation. There is no 1 model that says you have to have a hospital in place, there are different ways to do this. One of the advantages of being in Phoenix is that they have those kinds of partners in place and are working on these issues.

Representative Tully said it is his understanding that the preferable method is a hospital attached to the medical school. He said that although the UofA does not want to get into the hospital business, have they made a decision not to have a hospital on this campus or has there been a decision that they want to have a first-class facility that has a hospital attached to it.

Mr. Molera said that no decision has been made.

Representative Tully said that the College of Medicine without a connected hospital will allow ASU to reach its goal of becoming a first-tier research university which was the primary goal of having the PMC built.

Mr. Molera said that he has never been in conversations where ASU said that if they do not have the hospital then they do not want to do this. The ABC 1 building will provide some access to patients.

Senator Waring said what he envisions when this is all done, is what is best for constituents. To have a place where a person can go when they are sick, such as a research and teaching facility, greatly enhances their lives. What was available 30 years ago has changed greatly to what is available today because of programs like this.

Representative Tully said that the selling points for this seems to be the doctor shortage in Arizona as well as it being an economic driver. He does not think the universities are tasked with either of those mandates. He said this point has come up short because there are other ways to deal with both of those issues. They may be very valid and great reasons but are not the primary role of the universities. He said the universities are responsible for high quality education and expressed concern that UofA only has a plan to build a 2nd tier medical school.

Senator Waring said he believes they will not have a problem raising \$30 million in grants based on their size. He believes they are being cautious in their estimates on what they could expect.

Senator Cannell said that they do not need a hospital attached to it. Tucson has a problem with their students coming to Phoenix for their clinical rotations because they do not have enough slots in Tucson. Medical students are having to move in their 3rd year. That would not happen in Phoenix since they could do their whole 4 years here. There is the opportunity for a great education here because of ASU, TGen and the clinical facilities here. TGen does not need a university hospital, they study pathological tissue which they get from all over the country.

Representative Huffman said that he appreciates the concerns brought up, however, he has looked at the public university system across the country and the direction in which they are going. Less and less of their budgets are coming from state General Fund and taxpayers. He said we have to look at things like this where there is availability of research dollars. These opportunities are where schools are going now to find a lot of the quality education that we are all concerned about. In the absence of raising private dollars, the only way we can have a quality university system is from the state General Fund or higher tuition, which he does not think anyone really wants to do. The economic reasons and doctor shortage issue are reasons why this project will be financially viable in the future. The universities will use technology transfer and other methods of economic development to raise funds. This will result in a higher quality of education for all of Arizona students in the university system.

Representative Pearce said he gets concerned when they get into competing tax dollars and huge investment with little or no return. There has to be a balance in this. The Committee needs to have all the information and decide if this is the right decision for the taxpayers.

Representative Huffman said he does not believe the state could finance the kind of research and quality of education that is going on in the state's educational system if they had to go it alone. The state is dependent on the research dollars coming in from federal government and private industry and they have to keep that in the back of their minds when they look at any opportunity like this.

Representative Pearce said that the universities' General Fund portion grows every year.

Senator Burns asked about curriculum development and the private school issue, which was discussed at the subcommittee meeting. He said there was significant costs involved in developing new curriculum and some members are concerned on why they are spending so much money on curriculum when there is a medical school in Tucson. The Committee needs more specifics on that issue. Regarding private medical schools, there are some members interested in seeing the universities cooperate with the private medical schools and come back before the Committee with a report on how that activity is proceeding and how it affects the doctor shortage. The report should focus on the doctor shortage and how public and private universities can work together on that issue.

Senator Burns moved that the Committee give a favorable review for the operational and capital plans for the Phoenix Medical Campus in FY 2006 and further move that the Arizona Board of Regents report back to the Committee by February 15, 2006 on the following topics:

- *How increased medical students without increased residency positions results in additional doctors in Arizona.*
- *How replacing out-of-state educated medical students participating in Arizona residency programs with Arizona educated medical students increases the total number of doctors in Arizona.*
- *Formal agreements with area hospitals to financially support clinical activities if the plan proceeds to level 2.*
- *Specific proposals to partner with private medical schools to address a potential doctor shortage.*
- *Finally, as recommended by the subcommittee, Committee review of the Phoenix Medical Campus does not constitute endorsement of any monies for the Phoenix Medical Campus beyond \$7 million. The motion carried.*

B. Review of FY 2006 Tuition Revenues

Ms. Amy Strauss, JLBC Staff, said this item is for Committee review of FY 2006 tuition revenues. ABOR estimates overall FY 2006 tuition collections applied to the university operating budgets will reach \$30.1 million above the tuition amounts appropriated by the Legislature. The higher revenue is due primarily to increases in tuition approved by ABOR in March 2005. The universities plan on using the additional \$30.1 million in the operating budget to cover operating inflationary increases, unfunded enrollment from prior years, including the hiring of adjunct faculty, and academic and support planning priorities.

Senator Burns said that some tuition is used for financial aid and he assumed there is different funding for different universities. He asked if there a breakdown in the tuition increase in how much goes to financial aid.

Mr. Greg Fahey, University of Arizona, said at the UofA basically \$7.6 million of the tuition increase will be allocated to go to financial aid.

In response to Senator Burns, Mr. Fahey said as he understands it, tuition money at the UofA is not being used for the Alumni Association, but he would verify that.

Mr. Stavneak said that may be an ASU issue. When you look on the supporting detail you see a line for the Alumni Association for about \$1.4 million, however, UofA is also listed at \$1.1 million.

Senator Martin asked how much of the \$30.1 million is coming from new students and how much from students that were already enrolled last year who are returning. He said he did not want to see tuition raised for students who are already there being priced out of the market midway through their education.

Mr. Fahey said he would have to provide that information.

Senator Bee asked why tuition increase is higher for in-state students than out-of-state students.

Mr. Fahey said that the feeling was that tuition was already high for out-of-state students. If they price it too high they will see a fall off and will actually lose money. He said they had an aggressive increase about 15 years ago and they saw a dramatic fall off.

Senator Waring said that if you look at the chart, ASU's increase is almost 17% at all 3 of their campuses. Why would they do that if there is the possibility of a fall off.

Mr. Fahey said there has been discussions about this and there is a difference of opinion of where the break point is.

Representative Biggs asked if the conversion of tuition waivers to cash dollars is an accounting maneuver or is this being given to students in the form of scholarships.

Mr. Fahey said this is a complex issue and he would like to defer this to someone who has expertise in this area.

Representative Biggs said he would like more information on this from all 3 universities.

Representative Pearce said the Committee needs more answers on this item before they go forward on it. He said they would hold this item until they receive further information.

DEPARTMENT OF ECONOMIC SECURITY (DES) – Review of Arizona Specific Child Protective Services Caseloads.

Mr. Eric Jorgensen, JLBC Staff, said the department was asked by the Legislature during the 2003 Special Session, to develop and adopt Arizona specific caseload standards for Child Protective Services (CPS) and submit them to the Joint Committee on Children and Family Services by July 1, 2004. The department failed to meet this deadline and as a result, in the FY 2006 budget, a footnote was inserted instructing the department to submit the standards to this Committee by September 1, 2005. Half of their funding for new case managers and for the FTE Positions was contingent on them submitting this review by September 1. It was submitted by that date and now is coming up for review. Mr. Jorgensen explained 2 options for the Committee as shown in the JLBC agenda book memo:

1. A favorable review with the provision that it does not constitute an endorsement of additional funding required achieving the proposed staffing levels. Overall, the DES proposal is comparable to the Child Welfare League of America's (COLA) national standards. These standards, however, reflect Desk's best estimate of the time required to complete its Arizona-specific responsibilities.
2. An unfavorable review. The proposed standards simply reflect current workloads and procedures. They do not attempt to address what is the most appropriate level of staffing, and would serve to validate any inefficiency currently in the system.

In addition, Mr. Jorgensen explained information submitted in the semi-annual Financial and Program Accountability report using a handout (Attachment 2).

Representative Boone asked if there are ratios on the supervisors and are they included in the caseworkers.

Mr. Jorgensen said the semi-annual report does include the ratio of supervisors to caseworkers. The whole report is included as an appendix to the memo. The caseload that CPS tries to maintain is a 1 to 6 ratio caseworker to supervisor.

Ms. Tracy Wareing, Acting Deputy Director, Division of Children, Youth and Families, DES, said her division has oversight of Child Protective Services.

Representative Lopez asked how confident they were that they would need the additional 180 caseworkers.

Ms. Wareing said they believe their need for additional caseworkers will go down as they meet their objectives for the coming year. She said they have strategies in place to try to keep children at home, but in a safe environment, and to be able to provide more intensive services early on.

Representative Lopez asked if most of those caseworkers would be working on in-home cases.

Ms. Wareing said they intend to focus on developing their in-home services unit and workers. The proposed standards merge a little bit with the Child Welfare League of America's (CWLA) standards. In terms of the numbers of investigations, they were lower at 10 cases per month rather than 12. This is because so much has to happen at that critical intake stage to be able to be sure that they are responding appropriately to the families' needs and be able to make a determination that they can go to in-home services. Regarding the in-home services and comments regarding the level of staffing, the national standard for CWLA is 17 for in-home workers; DES has it slightly higher at 19. One reason is they are going to approach their in-home services in a private partnership. They are developing intensive wrap-around services and have an RFP out to contract for services. They intend to work with their private provider agencies in collaboration with agency workers providing the services, and believe they can handle a few additional cases.

Representative Lopez said that it appears you will have more eyes making sure that the kids are cared for and safe.

Ms. Wareing said yes, and that is an important point to the delivery of effective in-home services to be able to be sure those children are safe.

Representative Lopez asked, based on the Auditor General's report from 2 years ago, what kinds of changes have been made to CPS.

Mr. David Longo, Business and Finance Manager, DES, said in regards to improvements that have been made to the system, some have been in regards to contractual arrangements. In group homes and placement settings, they have partnered with contractors to try to provide transportation and arrange medical appointments. Their caseworkers were making medical appointments and did not have time to provide transportation. In addition, they are having their case aides input some of the case notes and some of the documentation that takes place during visitations. That is also a feature of the current in-home RFP. In addition, in their automated system, they have looked at several areas to streamline the flow of the system. It was an 8 step process to get from one area of the system to another, now it is a direct line. They have also added some additional multi-select features. Ms. Wareing said in regards to the Auditor General's report and the methodology used, CPS is preparing to submit a follow-up on caseloads and training and are looking forward to the Auditor General's response.

Senator Burns asked for information on participation by faith-based organizations and at the level of participation.

Ms. Waring said CPS has, over the years, engaged with the faith-based community for improvements of foster homes. There are a number of opportunities for their participation. She stated that CPS is open to participation with community partners.

Senator Burns asked for documentation as to the nature and level of participation.

Representative Pearce asked what CPS is doing to encourage their participation. He believes they need to be aggressively pursuing participation by community organizations.

Ms. Wareing said they have reached out to the faith-based community and received a tremendous response.

Senator Burns asked what the differences were between the Attorney General and CPS in their estimate of number of children waiting placement.

Ms. Wareing said they are trying to get to the bottom of why they have these differences. They have never done a cross match where they take their case names and information and compare it to the Attorney General's information. Some of it may be a difference in in-home cases that are calculated differently across the 2 agencies. They agree that it is disturbing that there are differences and they are trying to understand what those are and will report back to the Committee.

Senator Burns said it is his understanding that during the first of the year the number of investigations was relatively stable, but the number of children in foster care increased by 650. He asked for an explanation as to why that is occurring.

Ms. Wareing said that a tremendous amount of cases that come into the system have been because they have done a better job in their risk and safety process. They have developed tools that they think have made things better in terms of doing investigations. They have started the process of their in-home intensive services, and their units will become operational in October.

In response to Representative Pearce, Ms. Wareing said that there have been numerous attempts to try to increase the level of in-home cases and they have not been successful. One thing needed is to do a better job in investigations and working with families. What CPS did not understand was what they needed to do with their providers in shifting all of those services into in-home services.

Representative Boone wanted to know where Arizona stood in comparison to other states with the number of appropriated FTE Positions.

Mr. Longo said the number of filled positions is an evolving number, day in and day out that number changes. What he thought Representative Boone was looking for is how many filled positions CPS has on a certain day and how that compared to the CWLA standards. This is one of the things they provided in their semi-annual report. For instance, on June 30 they had 165 agent field positions, and 163 people in training to fill those positions. When you look at filled positions, some of those people are still in training functions and may be working with a partial caseload. He said that when the CWLA study was done and less than 20 states responded to and it was difficult to compare apples to apples because of the individual structure of each office, or geographic differences.

Representative Boone said it is important to look at the details so that when comparisons are being made you are comparing apples to apples. He also would like to have a brief summary of caseloads by type of case if all FTE Positions were filled.

Representative Pearce said these issues have been ongoing for a long time. He said it seems they are still talking about intentions instead of performance. He said he shares Representative Boone's concern about how they arrived at certain numbers, and why CPS and the Attorney General's office differ in numbers. He said he is concerned about numbers that have gone in the opposite direction from what was discussed.

Senator Burns moved that the Committee give an unfavorable review. In addition, the Committee requested the following additional provisions:

- *DES reevaluate the standards in 1 year and report back to the Committee by September 1, 2006. The report should include any recommendations for changes to the standards as well as data to support those changes.*

- *DES and the Attorney General examine and resolve their differences in the reporting of the number of children awaiting placement, and submit their joint findings to the Committee by December 31, 2005.*
- *The statutorily required semi-annual Financial and Program Accountability Report include the following measures:*
 - *The number of children in licensed foster care, kinship care, or other family-style placements.*
 - *The number of children in group home, shelters, residential centers or other congregate care settings.*
 - *The number of children in shelter care more than 21 days and the average number of days in care for these children.*
 - *The number of children 0 to 3 years old in shelter care.*
 - *The number of children 0 to 6 years old in group homes.*
 - *Expenditures for services allowed under the Federal Title IV-E waiver including counseling, drug treatment, parenting classes, rent, furniture, car repairs and food expenditures.*
 - *Information on participation of faith-based organizations.*

Senator Garcia moved a substitute motion of a favorable review with the addition of the report on participation of faith-based organizations.

Representative Lopez said that no matter whether there is a favorable or unfavorable review DES is still moving forward in terms of the appropriation and she said she supports Senator Garcia's motion and believes DES has done the best they can under the circumstances. They have worked very hard to develop their standards and are moving forward and she believes the Committee needs to recognize that.

Representative Burton Cahill said she echoes what Representative Lopez and requested a hand vote be taken on this item.

By a show of hands the substitute motion failed.

A vote was taken on the original motion. The motion carried.

JLBC STAFF – Consider Approval of Index for Construction Costs.

Mr. Jake Corey, JLBC Staff, said that statute requires a certain dollar amount per square foot for both new school construction and building renewal formulas. The statute also requires the JLBC to annually adjust the index for inflation. Prior to 2002 the Committee used the Marshall Valuation Service (MVS) index, which is a local Phoenix-based index that tracks Class C – Masonry Bearing Walls, which is typically what school buildings are made of. In 2003, the Committee did not approve an index, and in 2004 the Committee began to use the Bureau of Economic Analysis (BEA) index for state and local government structures. The Committee took action last year using the BEA index. Mr. Corey explained 3 possible options that the Committee could consider (Attachment 3):

1. U.S. State and Local Structures – The BEA index for FY 2005 at 5.8%.
2. Phoenix Masonry Construction – The MVS index for FY 2005 at 6.4%.
3. Phoenix Masonry Construction plus retroactive adjustment – MVS index of 6.4% plus retroactive 2-year adjustment of 9.6%.

Mr. Corey said that one point the Committee may want to consider is the School Facilities Board (SFB) is required by statute to provide funding to build their schools within a set of minimum guidelines. If the amount that the school receives is not sufficient to build a minimum standard school, the SFB can go above and beyond the formula amount. Since its inception SFB has gone above the formula in about 15% of total projects. In terms of total dollars, it has been about 1%. Statute required the SFB to adopt minimum facility standards which they did in 1999 and were approved by the Joint Committee on Capital Review. When a school comes forward for extra money, the SFB looks at the amount that the formula is providing to the district. If a district can build a

minimum standard school with the dollar amount that has been provided they do not approve any additional funding.

Senator Burns asked if that procedure takes place prior to construction and what happens after completion of the project.

Mr. Corey said that the formula amount is the amount the school receives unless they are provided additional funds. Additional funds that they have left over would be left to the district's discretion. Most districts would likely use that money for certain types of upgrade or amenities within that particular project.

Senator Burns said the complaint seems to be that there is not enough money to build a minimum standard school in the first place.

Mr. Corey said that what the districts talked about, is that they are seeing a large increase if they want to build the same building they built 5 years ago. With the amount that the formula is providing them they are not able to build the same school as before.

Representative Pearce said it sounds like they are still able to build the school, just without as many amenities as before.

Representative Boone said there was a recommendation from SFB far above 1%. He asked if it only takes 1% more to build a minimum standard why they would be asking for so much more. From his perspective there needs to be some increase for SFB but the question is how much.

Representative Lopez said she knows that there are procedures in place for SFB, such as a change order, allowing the districts to stay within their budget. The rationale for increasing this is because of the increased cost of construction. She has heard of some districts that have put masonry in the front and then stick and stucco construction on the back of the school. She said that is not adequate, it will not stand up to wear and tear.

Senator Waring said he understands that with the formula you can build a baseline school, but you cannot have any extra things not included in the formula. Everything they are talking about is based on what they have always been doing but does not say how they arrived at those prior amounts.

Mr. Corey said he was not sure how the dollar amounts were originally set up in statute.

Mr. Bill Bell, Executive Director, School Facilities Board, wanted to clarify some statements that were made. In regards to the 15% increase in the SFB program, he said it was a 15% increase over the last 3 years, not since the inception of the program. With respect to the recommendation by the SFB of the 6.4% and the retroactive number, the SFB is recommending it and strongly believes in it. They need additional help to assist schools to build the kind of schools that the community desires and the children deserve. He said they did a lot of research before they made the recommendation and stand behind it fully. He said they are finding themselves in a very difficult position. They are, in some circumstances, able to build the minimum adequacy schools only. What happens when a school district comes in over the amount allowed, and SFB engineers pare down the school to a point where it does meet the minimum guidelines. They are building a much less adequate school today because of inflation.

Senator Waring asked if he was talking about, for instance, a cheaper less efficient air conditioner unit or something along those lines.

Mr. Bell said he was talking about the materials. In some cases, they are building modular schools simply because it is the only alternative left to them.

Senator Waring asked why it was not in all cases.

Mr. Bell said that the prices vary across the state. When they build a school in a remote area it costs considerably more. The bottom line is that what they were able to build with the formula amount that was initially given to SFB at its inception, has become less and less acceptable because of the impact of inflation. They are not able to keep up with inflation using the current formula.

Representative Pearce said that Arizona's minimum standard is pretty high.

Senator Waring said he did not realize the price varied so much across the state and how greatly it impacted the schools. He asked if it was that way in 1998 when the program started or has that changed over time.

Mr. Bell said that what they were able to buy for a certain amount in 1998 they cannot buy today. He said he is not suggesting that the minimum standard be changed, but the minimum standard is more difficult to achieve today with the dollars they have because of inflation.

Senator Waring said that it sounds like some school districts were getting better, bigger schools with more stuff and better construction all through the years. He thought that the whole point of the program was to make it so that all schools got the same thing.

Mr. Bell said some school districts are more capable than others of putting in additional dollars to build the kind of structures they want that exceed the minimum guidelines. That has occurred in the past and continues to occur.

Representative Pearce said that the issue is to have a formula to build a school at minimum standards, and districts can figure out how to raise money for extra amenities.

Representative Boone asked if the SFB's recommendation is based on meeting minimum standards. As far as the retroactive issue, is that for projects that are currently under construction or approved and have not started construction yet.

Mr. Bell said that was correct. Regarding the retroactive issue, that is for projects that have been approved but not yet begun construction. They anticipate building 25 schools a year, some do not start on time so there is a backlog of schools on the books.

Representative Lopez said this item is not to change the minimum standards, it is just to cover the cost of building schools to meet minimum standards.

Senator Burns asked Mr. Stavneak if this needed to be addressed today.

Mr. Stavneak said there is not a statutory requirement regarding when the Committee acts, there is a requirement that the Committee act annually and they last acted on this on September 21, 2004.

Senator Burns said what his recommendation would be is to hold this item because he does not feel comfortable voting for this as they are talking about 2 different issues. One is the baseline, which is the minimum standard. He said when Students First was started they came up with a minimum standard that was to address the issue of inflation, there was supposed to be a mechanism to increase the amount of money available. He said he understands the Arizona is number one in the country when it comes to capital construction. He said if they increase the dollar amount one time it does not appear to fix the real problem. Apparently the system that was designed is not working.

Representative Pearce agreed with that but would give people who were in attendance an opportunity to speak on this item.

Representative Tully asked if the 9.6% retroactive number is just to come up with 15%.

Mr. John Arnold, Deputy Director of Finance, SFB, said that the 9.6% is the difference between what the Marshall and Swift inflation index would have produced versus what the Committee has adopted.

Mr. Arnold said what the number suggests is that when Students First was initiated, the Legislature provided \$90 per square foot to build in the Arizona market. He said Marshall and Swift is an excellent inflation index for the Arizona market. Based on Marshall and Swift, today we are providing \$82 per square foot. They have lost almost 10% of their buying power on the formula over the last 5 years.

Representative Tully asked if there was an analysis to prove those numbers and was Marshall and Swift a state or national index.

Mr. Arnold said they have accepted the Marshall and Swift analysis, and they publish an index specific to the Phoenix market.

Senator Bee wanted to clarify that the 4.8% would be retroactive and also would apply to projects that are in the process. He asked if the 4.8% was built into the system and then an additional 6.4%, so the new projects would be receiving 11.2%.

Mr. Arnold said they are doing 4.8% on prior projects that are in the process and 11.2% on the new ones. With regards to the index adjustment, he said the SFB normal awards cycle begins in November. If the inflation index is not adjusted by then for new projects that will work fine but if there is any type of retroactive adjustment, the further they go on, the more projects will have to be started from scratch.

Representative Burton Cahill said this same discussion has gone on in the past. She noted that since we can no longer build schools for the same money as we did years ago, will this mean that less schools or inadequate schools will be built and how does that affect the students.

Mr. Arnold said the school districts would have to answer that.

In response to Representative Boone, Mr. Arnold said that what the SFB sees is that the amount of dollars they have today is 9.6% below where they believe it should be. The inflation adjustment of 6.4% should be made off a base that is 9.6% higher than it currently is. What they would like to do is bring the base up to where it should be and then make those additional inflation adjustments that they have asked for. It would in the end be 11.2%

Mr. Michael Bradley, Representing 13 School Districts, said the reason this issue is before the Committee is because of Students First. The basis of the Students First lawsuit was if you have a wealthy school district or voters that approved bonds you could build 9 schools but if your district was a low property tax base or people who would reject bonds then you could not build new schools.

Regarding a question by Senator Waring regarding the cost per square foot, Mr. Bradley said the \$90 and \$110 per square foot were based on the Peoria School District. They were the cheapest buildings being built that they could find at the inception of Students First. The first problem arose was the \$90 and \$110 cost per square foot was for construction costs, not the program cost. Now it is being interpreted as program costs which can add up to 25% of the total cost of the project. That leaves them instantly 25% off budget. There are about 6 different indexes that are used and whichever was the lowest index would be the one chosen. By picking the lowest index they have gotten behind on inflation. The number they believe they are behind is about 25%. That was based on factors but also the actual cost of prototype schools. There were 3 different districts that built prototype schools and to build that exact school today is 30% to 50% higher in cost. If the district goes to their voters with a bond and it is approved, they are bonding on the basic schools, not the add-ons. If you get a district that is not capable of that you get back to the Students First lawsuit which is not building even a basic school. Mr. Bradley said the districts are not in a position to negotiate the price down with contractors, they are only in a position to pay the inflation. If they do not get it from the state they have to bond for it and it gets them back into the territory of the lawsuit if they do not get the funding.

Mr. Bradley said the other issue SFB has is their minimum standards are different from new construction standards. When they got Students First there were 3 components: 1) building renewal, 2) existing deficiencies, which was one of the reasons for the lawsuit, and 3) new construction. The minimum standards were for existing deficiencies first, such as a leaky roof, or things that are falling apart. There was never really a discussion on what the standard is for a new school. There was a de facto minimum, which was basically the schools that the Peoria School District were building. Now when they do their site plan it comes out 25% higher than SFB will fund. The things that are considered minimum standards would be no carpeting, just concrete floors and no wall dividers. Essentially the school would be a modular building. The districts want to build a school at least as good as the ones they already have.

Mr. Bradley said Arizona is a very fast-growing state which is why we are building a lot of schools. They have the highest school construction because a lot of states are losing population and Arizona is growing dramatically.

Mr. Paul Winslow, Representing American Institute of Architects, said as they have been talking with business and community leaders, as well as the educators and construction industry, and one of the key points is that when you look at any national building index for schools, Arizona is in the lowest part of the low categories. If you take a house or current office building, they exceed what Arizona is spending on schools. Schools have a much higher use, need to be longer lasting, and be a more efficient and effective structure than either of those. The guidelines used that have been discussed today relate to the Marshall and Swift Index. The cost numbers that have been utilized by the SFB and by JLBC were in fact construction numbers. If you use the Marshall and Swift Index, things like phones and furniture add an additional 25% to the cost. If you take the Marshall and Swift projections and add the 25% it actually comes out to \$152 per square foot for this past year, which means that if you added on the 6.4%, which has been suggested, it comes out to \$161 per square foot.

Mr. Winslow said the correct number that should be adjusted on a square foot basis, should be 18.6% plus the 6.4% for this year's inflation factor. They believe they have not yet seen the effect of some of the construction cost factors because of Hurricane Katrina. The cost for an elementary school should be \$161 per square foot, so at a minimum the increase should be 25%.

Representative Boone asked Mr. Winslow if he is suggesting that the current cost of \$103 per square foot for an elementary school should go up to \$161 per square foot.

Mr. Winslow said they are suggesting a 25% increase, not even what the Marshall and Swift low category is for an elementary school would be. They are using that as a baseline to illustrate the point that they believe there needs to be a 25% increase this year to adjust for what they have been behind. He said to bring the schools up to the minimum standards you would need 25%. He said the schools they have been forced to build have been less than minimum, appropriate educational facilities.

Representative Tully asked Mr. Winslow for a list of substandard schools that have been built. It would be beneficial for the Committee to see what they consist of.

Representative Boone asked, in Mr. Winslow's professional opinion, what he believes the increase needs to be to build a minimum school.

Mr. Winslow said he would provide that to Representative Boone.

Mr. Calvin Baker, Superintendent, Vail School District, said in 18 years at Vail he has been directly involved in the planning, construction and opening of 12 schools. Six of those schools were built after Students First. Prior to coming to Vail he had construction experience with 4 major construction projects in northern Alaska. He said buildings make a very strong statement regarding values and priorities, such as churches, court houses and high schools. In the older sections of Arizona there are still original court houses and schools because they were greatly valued. Today things have changed, schools have to demonstrate that they are building the least expensive schools possible. They opened 2 schools this year and both of them were staffed 2 days before school opened. They only had the school office and some classrooms available because that is all they could get done in time.

There is no way to go back to the SFB and redesign and then go out for another hard bid, it would take too much time. In Vail, after Students First went into effect, they significantly cut back on building features. Today, with the dramatic increases in construction costs combined with the revenue, it is not keeping pace. They are being forced to consider designs that will have a significant negative impact for building quality and efficiency.

Representative Tully said that Mr. Baker mentioned that after Students First they were building minimalist schools and as he understands it, before Students First it was local bonds that would pay for the schools. Now they are getting state money which they are able to supplement with a bond issue.

Mr. Baker said that they felt an obligation to build a school like what was being built across the state. When Students First was passed communities developed an expectation that the state was paying for the basic school. They do bonds because Students First does not cover things like stadiums, tracks and landscaping. The board directed them to do the basic school with the money that was coming from SFB.

Senator Burns said they must have been satisfied then or they would have come forward and said that is not sufficient.

Mr. Baker said that is correct. The schools were functional and attractive schools. They cannot do that today because of the costs.

Representative Tully said that 2 things keep coming up and they are that they have not kept up with inflation and that the schools districts have been building schools that are inadequate. He asked Mr. Baker if he thought they should not only catch up to inflation but go further than that.

Mr. Baker said no that the standards issue needs to be dealt with legislatively. Students First missed some very critical basic standards, like a flagpole or a stadium, for example. Today we are dealing with what is necessary to keep doing what they were doing when Students First was first passed. A 25% increase is necessary just to tread water, not to go above the standards to get to where they were at the beginning of students first.

Representative Lopez asked Mr. Baker what kinds of changes they have had to make in terms of construction in order to stay within the formula.

Mr. Baker said they went to simple concrete masonry units, galvanized walkways; they funded the carpeting, football stadiums and playing fields themselves. Today, they either have to significantly supplement the additional 40%, which is how far they are over budget at this point, or they go to a stick and stucco construction, metal buildings, and even at that they are still not meeting the budget. The contractors are telling them they will have to go to modular buildings.

Representative Lopez said those alternatives are not appropriate for our schools.

Senator Waring said he has visited schools in other states and does not find Arizona schools in worse condition than those. He said he believes this is being greatly overstated.

Senator Martin said he spent most of his education in the valley in a trailer. He said he believes he got a good education even though it was not in a state-of-the-art building. He commented that the focus should be to make sure the kids are educated not to make sure they have the nicest building because the money cannot be spent on anything else.

Senator Bee noted that school buildings are an investment. As inflation is increasing, if they do not keep up with the quality of investment that they need to be making, that is of great concern. He said that the school he went to was very old but structurally sound. The modulars that were put on the property have been gone for 20 years because they fell apart. He said they would be wisely investing their money, even if it is a higher quality product, they will get a longer life out of it, thereby saving money.

Mr. Jay St. John, Superintendent, Sahuarita Schools, said that at their next governing board meeting they were going to have to make some critical decisions. They have a K-8 building funded through the SFB and are trying to figure out how to fund the complete construction of that building. In addition, they have grown 15% over the last 3 years, up to 3,700 students. They think they will be able to scrape up about \$200,000 worth of capital to either tear out some locker rooms and a wrestling room, which they built with their own money many years ago, and turn that into classroom space. The other thing important to the discussion is that there is a charter school adjacent to their district that is going under. The owner of the building said it would cost the district \$185 a square foot to buy the building. The point being that what the SFB and state of Arizona is asking schools to do is to build a K-8 building for \$105 a square foot.

Mr. Phil Swaim, Architect, Swaim Assoc. Ltd, said he has been designing schools for the past 25 years. He said he has complained about funding for schools since 1998. As has been said, they were somehow successful in being able to design very basic schools. He said they are currently in the process of trying to design an elementary school and cannot meet the basic minimum standards. They have pared it down just as SFB would. They have no flooring, landscaping, and no insulation in the walls, the back half of the building is stick and stucco and they are still about 25% of the cost away from meeting basic minimum standards. He noted that at this point, they are at a crisis.

Ms. Cathy Rex, Architect, said that at a school south of Tucson you cannot get contractors or architects there. They have selected a design built contractor but the building is over budget. They had to throw out the contract and start over. The building they were awarded in 2002 they could not complete and start over again 3 years later. The children do not have a school. The district had to make a choice since they do not have any grounds or maintenance people. With the way the standards are written they either have to do a stick and stucco construction, which they cannot maintain, or they have to go to a masonry building which they cannot insulate the way they need to. They are either going to spend M&O money on paying extra utilities to heat and cool the building or spend M&O money in order to have a stucco building that they cannot maintain themselves.

Mr. Joe Malisewski, Sundt Construction, said the state is building schools that will not last 20 years. He said that the 25% is the minimum that is needed for inflation.

Representative Tully asked if this is a competitive field.

Mr. Malisewski said it is very competitive, there are many contractors that are pursuing this work. They are finding more and more leaving the market because it is no longer profitable. There is a tremendous amount of effort that goes into the front end of these projects, trying to get them within budget. They are doing it but it is bare minimum standards, such as concrete floor and uninsulated walls.

Representative Pearce said that the Committee is not going to take action on this but is rescheduling this for another meeting.

ARIZONA DEPARTMENT OF ADMINISTRATION (ADOA)

A. Consider Approval of Mileage Reimbursement for State Travel by Motor Vehicles & Report on Tiered Rate Mileage Reimbursement System.

Mr. Tyler Palmer, JLBC Staff, said that the mileage rate is set by ADOA but is not implemented until approved by the Committee. ADOA is requesting a rate increase from 37.5¢ per mile to 40.5¢ per mile. This 40.5¢ per mile is consistent with the IRS rate. This increase would have a \$66,000 annual impact on the General Fund and a \$237,000 impact on all Other Funds. These amounts do not include the impact on the universities. However, in response to recent gas price increases the IRS has implemented an emergency rate increase from 40.5¢ to 48.5¢ per mile. This is effective for the remainder of the year and will be revisited toward the end of the year.

Senator Burns asked if the Committee could change policy relative to going to a tiered rate or would it need to go before the whole Legislature in the form of a bill.

Mr. Stavneak said that the Committee could approve a change in the rates, for example 40¢ for certain trips and 30¢ for another. He said they have had some discussion with ADOA about whether the Committee only has the ability to approve something forwarded on to them by ADOA or not. ADOA has not formally recommended the tiered reimbursement system. He said it is an open question with regards to the Committee's ability to approve the tiered reimbursement system.

Representative Pearce said to have 40% of the fleet sit there is inappropriate. There are factors involved on whether it is more efficient to pay an employee for use of a private vehicle as opposed to using a fleet vehicle. At this point, he said he supports a tiered system. There should be some incentive for employees to use a state vehicle, however, there are certain trips where it is advantageous to use a private vehicle.

Mr. Clark Partridge, State Comptroller, GAO, ADOA, said that they had submitted a 40.5¢ rate prior to Hurricane Katrina. We have now experienced the single largest gas price increase. He said it is like hitting a moving target at this point, and is the reason why they have not made a revised recommendation. Since Hurricane Katrina happened, in the last 2 weeks they have had record declines in gas prices nationwide. They try to look at where gas prices are and do what is equitable for employees, however, they are also concerned about the cost to the state and the budget. Mr. Clark said to put this issue in perspective, they are talking about \$4 million a year that the state spends, excluding the universities.

Representative Tully asked if it will encourage people to use fleet vehicles if they adopt the 40.5¢ as recommended, even if it is not effectively reimbursing them.

Representative Pearce said that to a degree the answer is yes. Instead of just picking a number, he said it would be nice to have a proposal before a proper tiered system is implemented. He said ADOA did not object to it originally but he has heard they may have some problems with it. He said they are not prepared to go to a tiered system today but would like to work towards that end.

Mr. Partridge said fleet vehicle usage has gone up 21% in the last month due to increased gasoline costs.

Senator Harper said he has a constituent with 9 employees and he said that each of them puts between 300 and 1,500 miles a month on their personal vehicle. Since they are being reimbursed below what the IRS allows, essentially they are donating \$33 to \$165 each to the state of Arizona.

Senator Burns moved that the Committee approve the 40.5¢ per mile reimbursement as recommended by the Department of Administration. The motion carried.

B. Review of Risk Management Deductible.

Representative Pearce deferred the last item on the agenda to a later date.

EXECUTIVE SESSION

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

At 2:25 p.m., the Joint Legislative Budget Committee went into Executive Session.

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

At 2:35 p.m. the Committee reconvened into open session.

Senator Burns moved that the Committee approve the recommended settlement proposal by the Attorney General's Office in the case of *Heintz v. State of Arizona, et al*, and in the case of *Hoffman v. State of Arizona* from the September 1, 2005 meeting. The motion carried.

Chairman Pearce adjourned the meeting at 2:43 p.m.

Respectfully submitted:

Cheryl Kestner, Secretary

Richard Stavneak, Director

Representative Russell Pearce, Chairman