

ARIZONA HOUSE OF REPRESENTATIVES  
Forty-sixth Legislature – First Regular Session

**COMMITTEE ON EDUCATION**

Minutes of Meeting  
Wednesday, January 22, 2003  
House Hearing Room 3 -- 8:30 a.m.

Chairman Gray called the meeting to order at 8:33 a.m. and attendance was noted by the secretary.

**Members Present**

Mr. Allen J	Mr. Carruthers	Mr. Miranda B
Mr. Arnold	Mr. Downing	Mr. Yarbrough
Mr. Boone	Mr. Huppenthal	Mr. Nichols, Vice-Chairman
Ms. Cajero Bedford	Ms. Lopez L	Mrs. Gray L, Chairman

**Committee Action**

H.B. 2003 – DP (12-0-0-0)	H.B. 2012 – DP (8-4-0-0)
H.B. 2051 – DP (12-0-0-0)	H.B. 2091 – TESTIMONY TAKEN & HELD
H.B. 2096 – DP (12-0-0-0)	H.B. 2193 – NO TIME
H.C.M. 2001 – NOT HEARD	H.C.M. 2002 – NOT HEARD

**Speakers Present**

Dr. Michael Awender, Dean, College of Education (COE), Arizona State University (ASU) West  
Dr. Eleanor Perry, College of Education (COE), Arizona State University (ASU) West  
Steve Moortel, Majority Intern  
Brian Lockery, Majority Research Analyst  
John Arnold, Deputy Director for Finance, School Facilities Board (SFB)  
Michael Smith, representing Arizona School Administrators  
Chuck Essigs, representing Arizona Association of School Business Officials  
Michael Hunter, representing Arizona Tax Research Association  
(Chairman Gray recognized persons in support of H.B. 2051, page 10)  
Christy Farley, representing State Board of Education

**CONSIDERATION OF BILLS**

**H.C.M. 2001, education; unfunded federal mandates – NOT HEARD**  
**H.C.M. 2002, special education; full federal funding – NOT HEARD**

**Chairman Gray announced that H.C.M. 2001 and H.C.M. 2002 will not be heard.**

## PRESENTATION

Dr. Michael Awender, Dean, College of Education (COE) Arizona State University (ASU) West, provided handouts on the following items:

- Summary and Application Form for Graduate Programs in Education (Attachment 1).
- Enrollment, Programs, and Delivery Modes (Attachment 2).
- Partnerships with School Districts (Attachments 3 and 4).
- ASU West COE “To Do” List (Attachments 5).
- Registration Information for Undergraduate Professional Teacher Preparation Program (PTPP) (Attachment 6).
- Postbaccalaureate Program for Teacher Certification (Attachment 7).
- Longview PDS *Professional Development School* ESL Teacher Education Program (Attachment 8).
- Endorsements (Attachment 9).
- Student Teaching Policy *Professional Field Experiences* (Attachment 10).
- Learning Enhancement Center (Attachment 11).
- Brochure on Undergraduate Degrees in Education (Attachment 12).
- Brochure on Master of Education Degrees (Attachment 13).

Dr. Awender related that when he became dean two-and-a-half years ago, one of the first endeavors was revising the teacher education program. Every student who graduates from the new program in early elementary and early childhood education will now have sufficient coursework and field experience to qualify for English as a Second Language (ESL) provisional endorsement and be better prepared to work with second language learners than predecessors of the previous program. The new program also includes a stronger phonics component. Reading courses now consist of phonemic and phonetic instructional strategies consistent with research-based strategies found in reports for the Center for Improvement of Early Reading and Achievement, as well as other research-based phonics-related components such as queuing systems, structural analysis, etc.

He stated that practicing teachers are offered professional development opportunities leading to reading endorsements through on-site and campus programs. Graduate courses are also offered with an applied focus in the reading area. The COE has the only Master of Education program in the state that combines special education with early childhood education and focuses on early identification of learning problems, including those in the language processing area.

Dr. Awender stated that he believes the new teacher preparation program contributes to accomplishing the objectives of the *No Child Left Behind* legislation. The content-rich secondary education preparation, increased field experiences, focus on multiple assessment techniques, and alignment of every course in the program with the Arizona standards, provides a better foundation for beginning teachers that should filter through to Arizona students.

Dr. Eleanor Perry, College of Education (COE), Arizona State University (ASU) West, advised that the Leadership for Educational Entrepreneurs (LEE) program was established after six years of research showing that charter school leaders need business and education skills to be successful, but universities were not meeting those needs (Attachment 14). LEE is the only

university program in the country that bridges the COE Master of Education and the School of Management Master of Business Administration degrees. The program was recognized for creativity by the United States Department of Education, which provided \$760,000 in federal grants of which \$60,000 was unsolicited for doing a great job. There are 78 people on the waiting list for the next group. The satisfaction rate of students is 89 percent and there is a 100 percent retention rate after four courses. She added that new challenges arise every day because this course was never offered before, but she is proud to be part of a dynamic team that is designing, developing, and delivering a program that will make a difference to children by providing strong school leaders who will increase student achievement.

Mr. Huppenthal asked how to motivate children to read in an age where there are numerous cartoon shows on cable television. Dr. Awender responded that some work was done by the Sierra Group whereby 10 research-based principles were created under the umbrella of improving the reading achievement of America's children. Basically, the suggestion is to start very early to create an environment in which youngsters are exposed to the magic of books, reading, and words, which is easier for some families than others. The COE makes sure candidates preparing for certification are aware of that need and create reading opportunities whenever possible.

In response to questions posed by Mr. Miranda, Dr. Awender conveyed that the COE is in the process of establishing a research and development office that could conduct research and all types of services for school districts and school boards. He said when he came to Arizona the issue of teacher shortage was discussed at a meeting in Flagstaff, and he was amazed to find there was no central data source about teachers to determine the extent of the problem. Everybody tells him there is going to be a teacher shortage, but in talking to superintendents, the seriousness of the problem varies from place to place. It appears from demographics that there will be a shortage, but that does not mean in every subject area, every part of the state, or every part of the city. Some districts fill vacancies faster than others. He indicated that salary is part of the difficulty in attracting and retaining teachers, but not the only factor. Other issues involved are safety of teachers, stability, and how well the profession is regarded by the general public. Countless people opt to teach despite the initial salary, but many leave shortly after beginning to teach, so there must be other factors. He added that during this difficult budget time, everyone's salary cannot be increased, but other things can be done to make the profession more attractive, and those areas should be looked at.

He advised Mr. Miranda that the COE does have additional space. The problem in Arizona for the future is not capacity, as much as attracting people to the profession. In order to attract more people, it is important to place a more positive spin on the profession, and a safe environment must be created by establishing codes of conduct in schools that can be enforced. It is necessary to have order in the classroom in order to teach.

Mr. Boone wondered if the component of the LEE program on how to more effectively operate charter school systems could be included in certification and programs for public school district administrators. He asked if the COE has certification programs where people with four-year degrees in other areas can receive certification to teach in the public school system in a quicker way than going through the traditional education. Dr. Awender related that he and Dr. Perry have discussed the possibility of establishing a leadership center that would cover leadership in various areas, but remain part of the current charter school program, since the program would be

beneficial for individuals aspiring to leadership positions in public school systems. Regarding alternative certification, he indicated that the issue is being discussed, and hopefully, can be addressed shortly.

### **CONSIDERATION OF BILLS (CONTINUED)**

#### **H.B. 2003, ASDB; continuation – DO PASS**

Steve Moortel, Majority Intern, explained that H.B. 2003 extends the Board of Directors of the Arizona State Schools for the Deaf and the Blind (ASDB) until July 1, 2013 (Summary, Attachment 15).

Mr. Huppenthal encouraged the Members to visit the ASDB where the children really need technology because of limited hearing or sight, and the Legislature attempted, over time, to provide funds for that purpose. He noted that the Director of ASDB is not present and stated that he was hoping for discussion on how the technology is being integrated. Also, the employees were on performance pay for a certain period of time and he wonders to what degree that is working.

Chairman Gray commented that during the sunset review hearing, Members of the Committee of Reference learned that because of the small size of classes necessary at ASDB, the school does not receive the benefit for teacher performance from Proposition 301 funds like other schools, which needs to be addressed.

**Vice-Chairman Nichols moved that H.B. 2003 do pass. The motion carried by a roll call vote of 12-0-0-0 (Attachment 16).**

#### **H.B. 2012, school facilities board; building renewal – DO PASS**

Brian Lockery, Majority Research Analyst, explained that H.B. 2012 amends the building renewal formula for school districts under Students FIRST (Fair and Immediate Resources for Students Today) (Summary, Attachment 17).

John Arnold, Deputy Director for Finance, School Facilities Board (SFB), indicated that he is neutral on the bill, but testifying for informational purposes. He provided a diagram of the SFB formula and reviewed the proposed changes (Attachment 18). He advised Mr. Huppenthal that the changes would reduce the payout by about \$35 million (40 percent). The changes bring the Students FIRST building renewal formula more in line with the formula that is used nationally and is widely accepted. It is calculated once a year and statute requires that the money be spent on certain items relating to upgrade and replacement of building systems. If a school district spends outside the statutory limitations, the SFB can report the matter to the Arizona Department of Education (ADE) so dollars can be withheld from the school district until the money is paid back.

Mr. Huppenthal asked Mr. Arnold to randomly choose a school district, find out what these funds were spent on, and let the Members know. He indicated that the formula is supposedly a constitutional item to protect children in bad conditions, but common pools of money are often extremely abused.

Chairman Gray recalled that last year some school districts were not reporting how the money is spent even though reporting is required, so if the repairs are not reported, money will now be withheld. Money needs to be held in a fund for a number of years for maintenance of systems, and a recommendation is available through the Arizona Department of Administration (ADOA) and other sources for school districts to use.

Mr. Arnold advised Mr. Huppenthal that the total amount of the fund in 2003 would have been \$113 million. In response to Mrs. Lopez's query about whether he anticipates a legal challenge to changing the formula, Mr. Arnold replied that the changes reduce the ultimate pad of the formula so there is a chance that school districts may challenge the changes, but he is not sure if it would be justifiable. SFB staff believe the modifications are legitimate changes that are more in line with the nationally accepted formula.

Mr. Downing asked if it could be assumed that schools in Maine and Arizona have the same facility problems, if this is going to be the nationally accepted standard. Mr. Arnold answered that the formula was established in 1998 by the crafters of Students FIRST. Since he was not involved, he does not know why it was based on the Sherman Dergis model.

Mr. Downing opined that this is a substantial change that he perceives as a cut to education of about \$35 million. He noted that he received a letter dated January 21, 2003 from Tim Hogan stating that the changes will not withstand legal scrutiny (Attachment 19). Mr. Arnold acknowledged that Mr. Hogan has a record of successful actions against the state; however, he does not believe his conclusions are justified in this case.

Mr. Downing remarked that the assumption that portable and regular buildings are the same is not credible. Mr. Arnold clarified that the assumption is, for example, that the roof of a portable and the roof of a regular building costs about the same to replace.

Mr. Boone pointed out that the building renewal fund was created under Students FIRST. It obviously is not perfect and this is the first time changes have been discussed. Mr. Arnold related that Governor Hull suggested these changes during the last legislative session, but this is the first time the changes were introduced.

Mr. Boone surmised that this is a significant fund to the state because it is designated for maintaining buildings in which the state and school districts made a major investment; therefore, it is important that the funds are adequate. That is difficult to debate because the Legislature has not fully funded the formula, which is basically the focus of Mr. Hogan's legal actions. Mr. Arnold agreed that FY-2001 is the only year the formula was fully funded.

Mr. Boone noted that the only data available regarding adequacy is what was used as of June 30, 2002. Mr. Arnold said he did not bring copies of that particular report, but it is the annual report that was submitted at the end of this calendar year. Mr. Boone stated that in looking at what has been reported and used, even with the formula not fully funded, there appears to be balances in nearly all of the school districts. He added that much more information is needed in terms of reports, though.

Mr. Carruthers asked if the rationale for the changes is to save \$35 million in the budget crisis by saying the changes match up well with other types of systems and formulas. He opined that Students FIRST in its entirety should be reviewed. Mr. Arnold replied that it would be more appropriate for the Sponsor to answer; however, some of the changes were brought up by the Governor's budget office three or four years ago when the formula was first introduced and noted as errors in the formula when there was no budget crisis.

Chairman Gray, Sponsor, explained that \$35 million is the result of changes in the formula. She submitted that if an air conditioning unit on a portable costs the same as a unit on a permanent building, the formula needs to be changed.

Mr. Arnold reported to Chairman Gray that reports on how the money is spent were due on October 15, 2002, and as of December 1, 2002, 46 school districts had not reported. The vast majority were very rural, small school districts. As of yesterday, 22 school districts had not submitted a report, but the reports are trickling in.

Mr. Boone opined that with the significant investment the state has made, particularly in deficiencies corrections, some type of inspection program with teeth is needed to make sure the facilities are maintained and building renewal money is used specifically for the intended uses.

Michael Smith, representing Arizona School Administrators, indicated a neutral position on the bill. He stated that there is a rationale behind each of the changes that makes sense resulting in a reduction in the renewal formula, but no one knows if the remaining funds will be sufficient for the intended purpose.

Chairman Gray requested information on how much school districts invested prior to the state providing funds. Mr. Smith responded that he can try to obtain the data, which raises an interesting additional point. Maintenance falls to the school districts with building renewal funds that can only be used for specific purposes, or local maintenance and operations (M&O) money can be used if building renewal funds cannot. It is not yet known how the mix plays out in terms of appropriate maintenance of facilities, which is a concern.

Chairman Gray pointed out that if everyone were brought up to standard by 2004, major maintenance/replacement of systems would not be necessary for five to seven years. Mr. Smith surmised that is the reason for the balances in the building renewal formula, which he does not believe provide sufficient funds to replace an air conditioning system in any one fiscal year; therefore, districts are required to develop maintenance programs and will have to do some serious planning. The Legislature provided the right to school districts to accumulate the funds for system replacements.

Mr. Smith advised Mr. Downing that the SFB is developing criteria for routine maintenance so school districts know what is reasonable to set aside.

Vice-Chairman Nichols assumed the Chair.

Chuck Essigs, representing Arizona Association of School Business Officials, opposed H.B. 2012. He commended everyone who wrote the building renewal formula because it is very complicated and the only mistake was providing overfunding in a few areas. He related that

building renewal is a cash-controlled fund so work can only be committed and done when cash is available for payment. Most building renewal work in school districts takes place in June, July and part of August when the children are not in school. The school districts receive half of the money in the spring and half of the money in the fall so if there is not a large balance left over on June 30 (the end of the fiscal year), the school district cannot pay for the work done in July and August. The balances are there in order to take the money that generally would be received in the fall to pay for the work, and the money received in the spring is used to pay for work in July and August. Also, some school districts, especially smaller school districts, may have to accumulate money over two or three years for a major repair.

Chairman Gray resumed the Chair.

Mr. Essigs indicated to Mr. Huppenthal that the way the formula works, a majority of school districts will have ample resources to keep buildings in good working condition because there is the ability to carry over, look at different products, and plan ahead. The formula adjusts for the age of the buildings and items of that nature so if the formula is funded, it will meet the needs of most districts. He added that legislation was passed last year to allow a portion of building renewal money to be used for maintenance because school districts indicated that doing so would cut costs. Discussion followed.

Mr. Carruthers asked if most school districts would be able to maintain facilities with the reduction of \$35 million in the formula. Mr. Essigs replied that he does not believe anybody can answer that question currently. If the impact does not show up right now, it will show up in three to five years. He suggested that if changes are made, the formula should be constantly reviewed to make sure resources are adequate.

Michael Hunter, Vice-President, Arizona Tax Research Association, spoke in support of the bill. He submitted that when the state is in the kind of fiscal situation it is currently in, an opportunity exists that usually does not present itself when the state has a lot of money to review formulas on the books to determine the extent the state is spending on auto pilot through establishment of the formulas and how the formulas are working. He acknowledged that there is a rational reason for each of the changes and Students FIRST should be reviewed in its entirety, but it is useful to review certain aspects that may not take as long as others to enact. He related that as of today, the state spent \$2.577 billion through the Students FIRST formula since its inception. Before Students FIRST, Arizona ranked about 7th in the country in the amount of capital money per pupil spending because of growth. Today Arizona ranks 1st according to the National Center for Education Statistics. He opined that it would be appropriate, given the fiscal situation, to adjust this statutory formula in a rational way, and perhaps again, after deficiency corrections funds no longer exist and new information may be available.

**Vice-Chairman Nichols moved that H.B. 2012 do pass.**

Mr. Yarbrough remarked that it is logical that a lighting system in a portable building costs approximately the same as a lighting system in a permanent building. Mr. Smith said there is no information available now so nothing should be done; however, information is better now than in 1998. He submitted that these revisions make perfectly good sense, and the formula needs to be revised because the changes are logical and advance the purposes of the statute.

**The motion carried by a roll call vote of 8-4-0-0 (Attachment 20).**

**H.B. 2091, school facilities board; new facilities – TESTIMONY TAKEN & HELD**

Brian Lockery, Majority Research Analyst, explained that H.B. 2091 contains the following provisions (Summary, Attachment 21):

- Repeals the requirement that the SFB provide project managers, as requested by school districts, for the construction of new school facilities and maintenance of existing school facilities.
- Removes the ability of school districts to retain surplus monies for new school construction if the SFB determines that the project was completed with quality products.
- Contains a retroactive date of January 1, 2003.

Ms. Lopez explained that a proposed amendment allows school districts to retain surplus monies from the new school facilities fund for other capital purposes to encourage schools to build with quality materials, but not overextend in order to use the money, and thus, avoid returning the money (Attachment 22).

Mr. Lockery conveyed that a partial list of the amount of money school districts received as the final payout includes 33 school districts for a total amount to date of \$16.2 million, but some projects are still in the works.

John Arnold, Deputy Director for Finance, School Facilities Board, clarified that the list referred to is the complete list of school districts where the SFB closed out a new school. Another list of about 80 schools are open, but the SFB has not finished the closeout process or issued a final check. He indicated that the amount is paid out to the school district when the school is completed; however, the SFB does not release new school facility dollars until a district presents a credible invoice or shows an expenditure for construction of the new school. Many districts hold the invoices, close out the school with the SFB, and the SFB releases the dollars to the school district; therefore, the number is probably overstated. He advised Chairman Gray that out of 84 projects, 37 school districts added additional dollars.

Mr. Boone pointed out that Deer Valley is on the list three times for a total of about \$2 million. He is aware that Deer Valley added on to every project approved by the SFB so he is surprised there is a surplus. Mr. Arnold explained that the SFB requires a school district to keep 3 percent of the formula in contingency, and if those contingency dollars are not used during the life of the project, the funds are released to the district at the end of the project, and those funds would be included on the list.

Mr. Arnold related to Mr. Allen that the state has minimum guidelines, and as long as those are met, the school district is free to choose the types of materials and procurement process in order to obtain the best materials. Varying types of procurement processes yield lower costs. He related to Mr. Boone that from interaction with school districts, he believes the vast majority are using the full formula for the school and those that have dollars returned use the funds to improve fields or other amenities to the school that were approved through the SFB.

Mr. Huppenthal indicated that he was shocked to see a wrought iron fence in place of a chain link fence at the school across the street from his parents' house and asked how much of the funds are transferred to district offices for amenities such as fancy new desks and refurbishing. Mr. Arnold stated that after the SFB releases those dollars, the funds become unrestricted capital so he does not have that data. Mr. Huppenthal suggested that the monies should remain at the school site.

Ed Boot, Director, School Facilities Board, advised that none of the state money goes into district offices, but if a new school is built and money is left over, those funds become unrestricted capital with no limitations and could go to the district office.

Mr. Huppenthal said he believes it is not a bad idea for school districts to have some incentives and ability to use the money, but if the funds are abused, there should be a way to spotlight the situation so anyone engaging in that kind of behavior would be embarrassed. Mr. Boot stated that once the money goes into other district accounts, the SFB does not receive reports on how it is spent. The SFB does receive a report on how building renewal dollars are spent each year; however, the type of materials used is not included. He indicated to Mr. Carruthers that in the vast majority of cases, people are not making bad decisions on how the money is spent.

Mr. Boot conveyed to Mr. Huppenthal that the SFB opened 84 schools for a total of 5.5 million square feet at an average price of \$99.34 per square foot, and 92 additional schools are either in the design or construction phase. In 90 percent of the projects, the contingency was intact when it reverted to the district at the end of the project. On 33 of the projects, the schools were completed, opened, and transactions finalized. Another 51 schools were opened, but the SFB is awaiting final invoices before closing those out. He acknowledged that the 33 projects came in within a few percentage points of the bid with the exception of any contingency money, which was minimal. Discussion followed concerning how contingency funds are spent.

Chairman Gray indicated a need to determine if there is a more effective way to deal with the money that is left over.

**Chairman Gray announced that H.B. 2091 will be held.**

**H.B. 2096, schools; building renewal fund; report – DO PASS**

Brian Lockery, Majority Research Analyst, explained that H.B. 2096 requires the School Facilities Board (SFB) to withhold building renewal monies from school districts that fail to submit an annual report currently due by October 15 on the use of building renewal monies until the school district is in compliance (Summary, Attachment 23).

**Vice-Chairman Nichols moved that H.B. 2096 do pass. The motion carried by a roll call vote of 12-0-0-0 (Attachment 24).**

**H.B. 2051, board of education; administrative duties – DO PASS**

Steve Moortel, Majority Intern, explained that H.B. 2051 removes the duty of the State Board of Education (SBE) to approve intergovernmental agreements (IGA) or contracts between two or more school districts. Additionally, the bill returns to the Office of Administrative Hearings

(OAH) all contested cases or appealable agency actions except those relating to certification and discipline of certificate holders (Summary, Attachment 25).

Chairman Gray noted that the following persons are in favor of H.B. 2051:

Barbara Robey, representing Arizona School Boards Association

John Wright, representing Arizona Education Association

Michael Smith, representing Arizona School Administrators

Christy Farley, representing State Board of Education, spoke in favor of the bill. She related that it is as simple as the explanation provided by staff. She spoke to most of the Members on the issue and would be glad to answer any questions.

Mr. Boone stated that in transferring hearings to the OAH where cases will be heard by an administrative law judge, school districts should be advised that it is not necessary to have an attorney present. When he met with Ms. Farley, she assured him that the State Board would make sure school districts are aware.

Ms. Farley related that since meeting with Mr. Boone, she looked on the OAH web site, which indicates that a lawyer is not needed to go through the process because it is less formal, i.e. a due process hearing, but not a trial and not in a court of law. That will be relayed from the State Board's perspective.

**Vice-Chairman Nichols moved that H.B. 2051 do pass. The motion carried by a roll call vote of 12-0-0-0 (Attachment 26).**

Without objection, the meeting adjourned at 11:23 a.m.

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Linda Taylor, Committee Secretary  
February 3, 2003

(Original minutes, attachments, and tape are on file in the Office of the Chief Clerk.)