

ARIZONA STATE SENATE

46TH LEGISLATURE
FIRST REGULAR SESSION

MINUTES OF COMMITTEE ON EDUCATION

DATE: January 27, 2003

TIME: 1:30 p.m.

ROOM: SHR 109

CHAIRMAN: Senator Hellon

VICE CHAIRMAN: Senator Mead

ANALYST: Kimberly Yee

INTERN: Tyler Manic

ASSISTANT

ANALYST: Dallas Gold

COMMITTEE

SECRETARY: Carol Dager

ATTENDANCE

BILLS

Committee Members

	<u>Pr</u>	<u>Ab</u>	<u>Ex</u>	<u>Bill Number</u>	<u>Disposition</u>
Senator Aguirre	X			SB 1025	DPA
Senator Anderson	X			SB 1026	DISCUSSION/HELD
Senator Jackson	X				
Senator Miranda	X				
Senator Mitchell	X				
Senator Verschoor	X				
Senator Waring	X				
Senator Mead, Vice Chairman	X				
Senator Hellon, Chairman	X				

GOVERNOR'S APPOINTMENTS

<u>Name</u>	<u>Position</u>	<u>Recommendation</u>
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PRESENTATIONS

Tom Horne, Superintendent of Public Instruction

Doug Nick, Associate Superintendent for Federal Relations, Arizona Department of Education (ADE)

Garrett Holmes, Policy Analyst, ADE

Dr. Ildiko Laczko-Kerr, Interim Director, Research and Policy, ADE

Chairman Hellon called the meeting to order at 1:35 p.m., and attendance was taken.

APPROVAL OF MINUTES

**Senator Mead moved the minutes of January 20, 2003 be approved.
Without objection, the minutes were approved as distributed.**

PRESENTATIONS

Tom Horne, Superintendent of Public Instruction, distributed a copy (Attachment A) of the remarks he made when he was sworn into office which outlines in detail his nine goals. He mentioned that the overall philosophy of the ADE is that they want to be of service to the schools, while being conscientious about their compliance function. He explained that he has appointed a new upper level executive team with extensive experience to provide instructional leadership.

Mr. Horne introduced the team who will be working with the Legislature this session – Art Harding, Kerri McKnight, and Doug Nick. He indicated that one of ADE’s high priorities is to reform the capital finance system. He also mentioned that they are working on several bills: 1) character education; 2) enforcement of law; 3) administrative costs; 4) tax credits; and 5) accountability. He noted that he would like to see character education provided to the schools free so that it would not be an unfunded mandate. Currently, if a district is not in compliance with State law, there are no remedies available. The “enforcement of law” bill would enable the State Board of Education (SBE) to withhold funds if a district is defiant and refuses to obey State law. He suggested that most people would like to see more money spent in the classroom; therefore, he is asking that each of the districts hold their administrative costs to 5% of the budget. He pointed out that he is aware of a district whose administrative costs were at 2.7%.

Mr. Horne further discussed the bill on accountability, referring to ADE’s program entitled AZ LEARNS and how it relates to the federal law “No Child Left Behind (NCLB).” He stated that the principle measure that is used in AZ LEARNS, and the only measure allowed by NCLB, is how many students reach proficiency. However, he suggested that a better measurement would be how much progress is made annually by each student. The emphasis should be on a student’s academic progress than on the absolute measure. One of the problems is that under the federal law, the State is only allowed the absolute measure. There needs to be changes in the legislation to allow for flexibility. He proposed that the designation of schools be changed to “performing” or “highly performing.” ADE is committed to working with the underperforming schools to reach their academic proficiency levels.

In response to Senator Verschoor’s questions, Mr. Horne replied that he is in favor of keeping the current tax credit system in place, but he is not interested in expanding the tax credits because of the budget deficit. He did respond that he might look at expansion of the program as the budget recovers. Senator Verschoor asked if the bill had any language in it that spelled out that monies could be used for extracurricular activities. Mr. Horne replied that he would have no problem with an amendment for that purpose.

Senator Waring wondered if there was a standard definition of administrative costs. Mr. Horne replied that there is not. He indicated that he is trying to focus on a definition that will assist in eliminating waste. Senator Waring asked if there is any measure that shows what percentage of

funds actually go directly to the classroom. Mr. Horne replied that he believes that the Joint Legislative Budget Committee (JLBC) has reports that would show that information.

Senator Jackson mentioned a group who represents Native American students attending Arizona schools who wish to form a Native American education organization that would be reviewing relevant education to teach various tribal values in the classroom. Mr. Horne replied that he would meet with the group. He indicated that the SBE will be passing a resolution encouraging all schools to teach Native American history and culture.

Senator Mead wondered if SBE is considering keeping Fine Arts as part of the curriculum during the budget crisis. Mr. Horne responded that he would not consider removing Fine Arts from the curriculum. He stated that he believes the Arts and academics are not mutually exclusive, rather they are symbiotic. Every study that has been done indicates that students who are active in the Arts do better in academics than students who are not.

Senator Anderson referred to a Utah school that played classical music throughout the school day, and also required every student to learn to play an instrument, and noted that it improved the academics of the students. A few years ago, there was a bill introduced in the Arizona Legislature to create a similar program; however, the bill did not pass. A Tucson school implemented the program and he wondered if the Committee could receive a report. Mr. Horne replied that he would check into that report because it would be interesting to see those results.

Senator Waring inquired as to how much money could be saved by consolidating school districts. Mr. Horne responded that he does not feel consolidation would save money for the State, but would help achieve one of his goals by getting the monies directly into the classroom. He pointed out that the Auditor General recently did a study defining administrative costs that includes the assistant principals, under which one school district was spending \$320 a student for administration and some of the small districts were spending \$1,000 a student. The schools are funded \$4,700 a student. If all districts could reduce their administrative costs to \$400 or less, there would be quite a bit more money to use in the classroom and help raise the standards of education. He noted that consolidating also assists capital financing. Unification (elementary and high schools together) enables the district to have a continuous K-12 curriculum. He emphasized that there are no unified school districts that have any high schools underperforming that are part of a K-12 system.

CONSIDERATION OF BILLS

SB 1025 – school bus employees; dispensing medications – DO PASS AMENDED

Tyler Manic, Education Committee Intern, explained that SB 1025 requires school district governing boards to allow employees to possess and administer a prescription or over-the-counter medication to special needs pupils on pupil transportation vehicles. He also explained the Mead 17-line amendment dated 01/24/03 at 11:29 a.m.

Senator Verschoor asked if this bill increases any liability for the individuals at the school district who are authorized to dispense medications. Ms. Yee replied that question would probably be best answered by a school district representative.

Senator Mead, sponsor of the bill, noted that the current interpretation of a Department of Public Safety (DPS) rule is that no one can dispense medicine on a school bus. This bill would limit the

distribution of medicine to buses with special needs students. These buses already have a special aide on board who would administer the medication; it would not be the bus driver. Parental permission would be necessary which would be part of the student's individualized education program (IEP). He pointed out that the aide would be protected by the school district's liability insurance. He stressed that he does not feel there would be a liability issue.

Janice Palmer, Arizona School Boards Association (ASBA), testified that they originally opposed the bill, because there already is a federal law that requires an IEP be designed for each special needs student, which would cover dispensing medications on a bus. Ms. Palmer indicated that she feels any liability issue is actually covered by the amendment by clarifying that a school bus aide that would administer the medication. Another important aspect missing from the original bill was that anything provided for special needs children must be included in the IEP. She commented that because of the clarifying amendment, they would support the bill.

In response to Senator Verschoor's question, Ms. Palmer answered that since this is already federal law, there would be no liability to the State. Senator Verschoor asked if this is an added cost to the school district. Ms. Palmer replied that there would not be any added costs, unless a special needs aide was required on a bus where they currently did not have one. Ms. Palmer noted that there must be written permission to administer any medication to alleviate any liability for the school. Senator Verschoor wondered when the written permission must be given to the school. Senator Mead replied that the IEP is the key, no verbal deviation to the plan can be accepted, unless there is a written amendment to the IEP.

Senator Miranda asked if there is a requirement to have an aide on the buses with special needs students. Ms. Palmer replied that if it is specified in the IEP that a school bus aide is necessary, than an aide will be provided. Senator Aquirre suggested that there would not be an aide for each special needs student on the bus, rather there would only be one aide on the bus. Senator Mead noted that the cost for a special needs aide is not designated under administrative costs. He emphasized that it is federal law to ensure there is an aide on the bus if it is designated in the IEP.

In response to Senator Waring's questions, Ms. Palmer explained that the aide is not a nurse and the buses are specifically identified for special needs students. Ms. Palmer noted that she still is concerned about controlled substances.

Michael Smith, Arizona School Administrators (ASA), indicated that they were initially concerned with the term "employee" in the original bill; however, the amendment resolves any questions.

Senator Hellon announced the individuals who registered their position on the bill (Attachment B)

Senator Mead moved SB 1025 be returned with a DO PASS recommendation.

Senator Mead moved his 17-line amendment dated 01/24/03, 11:29 a.m. be ADOPTED. The motion CARRIED by voice vote. (Attachment C)

Senator Mead moved SB 1025 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED with a roll call vote of 9-0-0. (Attachment 1)

Doug Nick, Associate Superintendent for Federal Relations, ADE, provided a handout (Attachment D) and an overview of the NCLB Act of 2001. Arizona has been working on complying with NCLB, specifically the performance standards and technical matters. There are concerns that under the current system, Arizona may have approximately 85% underperforming schools; however, he does not feel that would adequately measure education excellence in Arizona. There are significant differences between the NCLB and the AZ LEARNS programs. ADE feels that the State requirements are higher and more realistic. He pointed out that nearly \$500 million of the education budget comes from the federal government and if the State does not comply with the NCLB Act, ADE would lose the funds. It is in the best interest of ADE to comply with the NCLB Act. As long as the lines of communication are open between the federal and State Departments of Education and the State is working in a good faith effort, the federal government does have a certain amount of flexibility.

Senator Mitchell stated that he understands that the NCLB Act requires yearly testing, which will cost a great deal of money. Mr. Nick replied that the State and federal requirements do not match and they are keeping the lines of communication open with the federal government because if additional appropriations are necessary, they will be in a position to ask for them. There are also other federal grants that ADE will be pursuing.

In response to Senator Aquirre's question, Mr. Nick noted that every state is in the same position as Arizona and most of the schools are underperforming according to the NCLB Act requirements. He emphasized that ADE does have a good ongoing dialogue with the federal Department of Education.

Garrett Holmes, Policy Analyst, ADE, introduced **Dr. Ildiko Laczko-Kerr, Interim Director, Research and Policy, ADE**, distributed a handout (Attachment E) regarding AZ LEARNS and noted the Internet sites where schools can download their achievement profiles. She pointed out the advantages of AZ LEARNS: 1) recognizes growth across student groups; 2) includes a longitudinal growth indicator; 3) includes added evidence; and 4) evaluates according to a compensatory model. She discussed how the elementary and high schools are evaluated, the indicators of school performance, and the growth across student groups. She noted that the handout covers calculations on various growth points and suggested that the Committee members review the data and if they have any questions, she would answer them at a later date. She also noted the targets that have been identified for dropout and graduation rates.

Senator Verschoor said that it is his understanding that parents who move their children from a district school to home schooling are considered in the calculation of dropout rate. Dr. Laczko-Kerr replied that she is not familiar with the report and would have to get back to him with the answer.

Mr. Holmes provided some additional data on the NCLB Act, explaining that he is currently working on the consolidated state application accountability workbook which must be submitted to the United States Department of Education on January 31, 2003. This workbook will detail Arizona's accountability plan. He indicated that there are five core elements of Title I: 1) academic standards; 2) assessment; 3) accountability; 4) early reading; and 5) teacher quality.

Mr. Holmes referred to an earlier question regarding annual testing and explained that ADE does test Grades 3, 5, 8, and high school annually in reading, writing, and mathematics. This testing does comply with the NCLB Act. By 2005-2006, ADE will be required to test annually Grades 3 through 8 in reading, language arts, and mathematics. He noted that there are two accountability requirements:

1) Arizona must define adequate yearly progress (AYP) for all schools, locate education agencies (LEAs), and the State itself; and 2) Arizona must conduct annual evaluations to determine if these entities make AYP. There are four elements of the AYP: 1) timeline; 2) starting point; 3) intermediate goals; and 4) annual measurable objectives (AMOs).

Mr. Holmes noted that in order to make AYP, a school must do the following: 1) 95% of enrolled students must take the Arizona Instrument to Measure Standards (AIMS); 2) all students and each disaggregated student subgroup must meet the AMO for grade/subject; and 3) adequate progress on other indicators.

Senator Anderson asked why it is a difficult thing for 95% of the students to take the test. Mr. Holmes replied that most schools have a greater number of absenteeism than 5%, so to have a single day where they could give the test would be difficult. Senator Anderson asked if the test could be given over a two-day period. Mr. Holmes responded that there was a “no retake” policy. He added that if the enrollment is considered from the first day of school, attrition will have occurred by the time the test is administered in the Spring.

Senator Anderson asked if the testing could include AIMS or Stanford 9. Mr. Holmes replied that the NCLB Act indicates that there is a choice of three tests: 1) standards-based assessment; 2) norm-reference augmented test; or 3) combination of a state-mandated test with a local criterion referenced test. Senator Anderson inquired as to what the downside is of not meeting the NCLB requirements. Mr. Holmes indicated that the schools that need the most help represent 15% to 20% of the lowest performing schools. If 85% of the schools under the NCLB Act are rated underperforming, the resources to assist in improving the performance will be spread thin. The schools need to be rated underperforming twice to receive technical assistance from AZ LEARNS. NCLB works somewhat differently – a school has to not make AYP for two consecutive years before it is placed in federal school improvement. At that point, federal dollars would be available to help these schools improve.

In response to Senator Mitchell’s question, Mr. Holmes replied that the State is not testing every student every year. NCLB requires testing of a student once between grades 3 and 5, between grades 6 and 9, and in high school. Technically, Arizona is in compliance with the NCLB Act. Senator Mitchell asked if a child enters the school one day prior to the testing, if that child is counted. Mr. Holmes replied that technically he is part of the Arizona accountability system. He pointed out that Arizona does test all students in Grades 2 through high school with the norm-referenced test, but not with the AIMS test.

Senator Waring asked if it would not be a good idea to eliminate the AIMS test at this point. Mr. Holmes replied that ADE likes the AIMS test and it does comply with NCLB Act.

Senator Mead asked if the 95% enrollment target includes children with IEPs that indicate they do not have to take the test. Mr. Holmes responded that NCLB provides some interesting issues for students with disabilities; it does stipulate that they have to take the test. In the disability category, 0.5% of the students are seriously disabled and schools can develop alternate standards and assessments to test that small group.

Senator Verschoor wondered if a student who takes a General Educational Development (GED) test is considered a graduate. Mr. Holmes replied that students who take the GED test are excluded from the graduation rate in the State. Dr. Laczko-Kerr responded that GED recipients are considered dropouts. Senator Verschoor asked if that hurts the State. Dr. Laczko-Kerr replied that ADE feels it

gives them a more accurate measure of students who actually attain the standards. She pointed out that it hurts the State because Arizona's dropout rate is not comparable to the remainder of the states.

Senator Hellon explained that the reason the Committee schedules presentations is because many of the bills that will be considered this session will deal with topics covered in these presentations. She pointed out that ADE is interested in meeting with members in small groups to provide more detailed information. She stressed that the small groups of members cannot be a quorum of the Committee. Dr. Laczko-Kerr offered the services of the ADE Research and Policy staff.

SB 1026 – K-3 overrides; governing board approval – DISCUSSION/HELD

Dallas Gold, Education Committee Assistant Research Analyst, explained that SB 1026 provides for the approval of a school district K-3 budget override without submitting the question to the qualified voters if the school district is within the bonded indebtedness limit and the governing board approves the override.

Senator Mead, sponsor of the bill, maintained that SB 1026 gives the school board the ability to implement a K-3 override which is 5% of the Maintenance and Operations (M&O) operating budget. This money would be dedicated to one of three items or a combination: 1) lowering class size for K-3; 2) offering full-day kindergarten; or 3) offering a curriculum that is above and beyond the normal curriculum for K-3. He pointed out that 5% is not enough money to do the job properly; however, it would give the school districts a chance to begin to correct the K-3 poor performance record.

Michael Hunter, Vice President, Arizona Tax Research Association (ATRA), testified that ATRA opposes the bill. Currently there are 28 school districts that have voter approved K-3 overrides for which property taxes are being levied. Statewide, that levy is about \$12.4 million. If all Arizona school districts levied property taxes for K-3 programs, it would equal approximately \$115 million. He indicated that there are a handful of school districts that are at their debt limits. In 1980, when Arizona adopted a system for property taxation, there was an important distinction between primary and secondary property taxes. Primary property taxes do not have voter approval requirements. Local governments can access primary property taxes within certain parameters and they are limited. Secondary property taxes are unlimited because there is a voter approval requirement on these taxes. He suggested that if all school districts are going to have a K-3 override, it should be funded through the M&O formula and should be equalized.

Senator Anderson questioned if the \$115 million was based on all school districts having a K-3 override. Mr. Hunter replied that the \$115 million represents 5% of the K-8 Revenue Control Limit (RCL) not the limit drafted in the bill.

In response to Senator Mead's question, Mr. Hunter explained that the statement "by local option" refers to those overrides that are currently available to school district that require a public vote. He pointed out that there are other local option taxes.

In response to Senator Jackson's question, Mr. Hunter noted that ATRA opposes the bill because it removes the voter approval requirement for the override. Senator Jackson asked if an amendment should be offered. Mr. Hunter explained that there currently are override opportunities that the voters will be able to elect. He indicated that they are not opposed to the current system other than to

acknowledge that there are certain inequities that exist where there is a reliance on a local property tax base to fund programs.

In response to Senator Miranda, Mr. Hunter stated that the voters play an important role in the local options.

Senator Mead asked if more money would go into K-3 education if the bill passed. Mr. Hunter replied that more schools would be levying property taxes with inequitable results across the State.

Senator Mead announced the individuals who registered their position on the bill (Attachment B)

There being no further business, the meeting was adjourned at 3:35 p.m.

Respectfully submitted,

Carol Dager
Committee Secretary

(Tapes and attachments on file in the Secretary of the Senate's Office/Resource Center, Room 115.)