

ARIZONA STATE SENATE

46TH LEGISLATURE
FIRST REGULAR SESSION

MINUTES OF COMMITTEE ON EDUCATION

DATE: March 31, 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

<u>Committee Members</u>	<u>Pr</u>	<u>Ab</u>	<u>Ex</u>	<u>Bill Number</u>	<u>Disposition</u>
Senator Aguirre	X			HB 2001	DPA
Senator Anderson	X			HB 2007	FAILED
Senator Jackson	X			HB 2008	DP
Senator Miranda	X			HB 2012	DP
Senator Mitchell	X			HB 2016	DPA
Senator Verschoor	X			HB 2052	FAILED
Senator Waring	X			HB 2092	DPA/SE
Senator Mead, Vice Chairman	X			HB 2093	DPA
Senator Hellon, Chairman	X			HB 2097	FAILED
				HB 2126	DPA
				HB 2277	DPA
				HB 2279	DPA
				HB 2396	DP
				HB 2402	HELD
				HB 2461	DP

GOVERNOR'S APPOINTMENTS

<u>Name</u>	<u>Position</u>	<u>Recommendation</u>
Dr. Sarah L. Bickel	Member, Commission for Postsecondary Education	CONFIRMATION
David O. Lagunas	Member, Commission for Postsecondary Education	CONFIRMATION
Michael R. Rooney	Member, Commission for Postsecondary Education	CONFIRMATION

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 March 24, 2003 be approved.
Without objection, the minutes were approved as distributed.**

EXECUTIVE NOMINATIONS

Michael R. Rooney, Member, Commission for Postsecondary Education – RECOMMEND CONFIRMATION

Mr. Rooney indicated that the years he has spent on the Commission have given him an insight as to the types of projects the Commission works on. He said that he believes the continuity of having someone on the Commission who understands the projects is useful. He also noted that he has always had an interest in education.

**Senator Mead moved the Committee on Education recommend to the full Senate the CONFIRMATION of Michael R. Rooney as a Member of the Commission for Postsecondary Education. The motion CARRIED by a roll call vote of 8-0-1.
(Attachment 1)**

Dr. Sarah L. Bickell, Member, Commission for Postsecondary Education – RECOMMEND CONFIRMATION

**Senator Mead moved the Committee on Education recommend to the full Senate the CONFIRMATION of Dr. Sarah L. Bickel as a Member of the Commission for Postsecondary Education. The motion CARRIED by a roll call vote of 9-0-0.
(Attachment 2)**

David O. Lagunas, Member, Commission for Postsecondary Education – RECOMMEND CONFIRMATION

**Senator Mead moved the Committee on Education recommend to the full Senate the CONFIRMATION of David O. Lagunas as a Member of the Commission for Postsecondary Education. The motion CARRIED by a roll call vote of 9-0-0.
(Attachment 3)**

CONSIDERATION OF BILLS

HB 2402 – open meetings; public testimony; schools – HELD

HB 2016 – schools; teacher certification; examinations – DO PASS AMENDED

Kimberly Yee, Education Committee Research Analyst, explained that HB 2016 is an emergency measure requiring a person who has not passed the United States and Arizona Constitution examination, but who has met all other certification requirements, to be granted a certificate for up to five years to become a school superintendent, principal or teacher. She also explained two

amendments: 1) Anderson 17-line amendment dated 3/18/03 at 10:14 a.m. and 2) Anderson 11-line amendment dated 3/18/03 at 10:16 a.m.

Representative Robson, sponsor of the bill, noted that this bill would assist in filling a gap in the teaching community. He stated that he supports the two amendments.

In response to Senator Aguirre, Representative Robson replied that the amendment changes the timeframe in which to take the test from one year to three years.

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

Senator Mead moved HB 2016 be returned with a DO PASS recommendation.

Senator Anderson moved his 17-line amendment dated 3/18/03, 10:14 a.m. be ADOPTED. The motion CARRIED by voice vote. (Attachment B)

Senator Anderson moved his 11-line amendment dated 3/18/03, 10:16 a.m. be ADOPTED. The motion CARRIED by voice vote. (Attachment C)

Senator Mead moved HB 2016 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED with a roll call vote of 9-0-0. (Attachment 4)

HB 2461 – classroom site fund; teachers; definition (now: truth in taxation) – DO PASS

Ms. Yee explained that HB 2461 makes changes to the school district truth in taxation hearing notice form.

Representative Boone, sponsor of the bill, indicated that this bill is clarifying language for school districts to comply with the truth in taxation statute. He pointed out that the Arizona Tax Research Association (ATRA) concurs with the language and is neutral on the bill.

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

Senator Mead moved HB 2461 be returned with a DO PASS recommendation. The motion CARRIED with a roll call vote of 9-0-0. (Attachment 5)

HB 2008 – commission for postsecondary education; membership – FAILED*

Ms. Yee explained that the strike-everything amendment to HB 2008 requires a school district that budgets for excess utilities to conduct a review of its excess utilities. She also explained the Hellon six-line amendment dated 3/28/03 at 3:41 p.m.

Senator Aguirre wondered what happened to the original utilities bill. Senator Hellon replied that SB 1161 will be heard in the House Appropriations Committee.

Chris Thomas, Legal Council, Arizona School Boards Association (ASBA), testified in opposition to the strike-everything amendment. He noted that Proposition 301 allows for excess utilities expenses outside the revenue control limit through 2009. It was hoped the bill would include

establishing a taskforce to revise the funding formula so that the utilities could be taken care of within the revenue control limit. However, the bill does not address that issue.

In response to Senator Mead, Mr. Thomas replied that there might be a cost to the school districts for preparing a report.

Representative Boone, sponsor of the bill, explained that there have been various bills proposed to bring the excess utilities within the current control limit. Proposition 301 requires that the excess utilities are within control limits by June 30, 2009. School districts do not want to be told how to phase out their excess utilities; therefore, that is why this bill is being introduced. It requires that a school district discuss its plan at the governing board meeting, which should not include any additional costs. He noted his concern that the school districts are not planning towards the 2009 deadline and feels nothing will take place, unless they are requested to do so.

Michael Hunter, Vice President, ATRA, testified in support of the bill.

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

Senator Mead moved HB 2008 be returned with a DO PASS recommendation.

Senator Mead moved the Hellon two-page strike-everything amendment dated 3/27/03, 2:05 p.m. be ADOPTED. The motion CARRIED by voice vote. (Attachment D)

Senator Mead moved the Hellon six-line amendment dated 3/28/03, 3:41 p.m. be ADOPTED. The motion CARRIED by voice vote. (Attachment E)

Senator Mead moved the Hellon amendment AS AMENDED, be ADOPTED. The motion CARRIED by voice vote.

Senator Mead moved HB 2008 be returned with an AS AMENDED, DO PASS recommendation. The motion FAILED with a roll call vote of 4-5-0. (Attachment 6)

*(See reconsideration of HB 2008 on page 18)

HB 2279 – elections; school resources – DO PASS AMENDED

David Lujan, Judiciary Committee Research Analyst, explained that HB 2279 prescribes penalties for a person who violates the prohibition on the use of school district or charter school resources to influence elections and permits the Attorney General or a county attorney to attempt to recover public monies by issuing orders of compliance and imposing penalties. He also explained three amendments: 1) Anderson five-line amendment dated 03/28/03 at 11:36 a.m.; 2) Aguirre 15-line amendment dated 3/28/03 at 3:40 p.m.; and 3) Aguirre two-line amendment dated 3/28/03 at 2:19 p.m.

Representative Gray, sponsor of the bill, indicated that current law states that school districts shall not use its personnel, equipment, materials, buildings, or other resources for the purpose of influencing the outcome of elections. HB 2279 would change the words “school districts” to

“individuals.” She pointed out that the Arizona School Boards Association (ASBA) has distributed a memo stating: 1) there is a lack of clarity as to what is or is not a violation; 2) neither the Attorney General (AG) nor the county attorneys have issued authoritative guidelines nor is there any clear agreement between the AG, county attorneys, or school district attorneys about what activities are or are not prohibited; and 3) until the AG has issued guidelines that define what activities are prohibited by this statute, there should be no civil penalties. Representative Gray stressed that she strongly disagrees with those statements.

Representative Gray referred to a handout (Attachment F) that represents reelection post cards for two incumbent school board members. These cards were distributed to the school administrators, teachers, and staff mailboxes with the purpose of circulating petitions. This card was printed with school resources and distributed inside a school facility. This is an example of using school resources to affect the outcome of an election.

Representative Gray noted that complaints of violations of this law have greatly increased, because this is a law without any consequences. She emphasized that this bill would put a consequence on this law. She next discussed a large color brochure mailed to voters prior to an election, that cost approximately \$33,000 to produce and distribute, that appears to influence the outcome of the election. She suggested that the monies could better be spent in the classroom.

Representative Gray referred to the amendments, stating that she supports the Anderson amendment. She talked about the first Aguirre amendment, noting her concern with the cost of distributing the guidelines to the school districts. She suggested that it would be less expensive to post them on the Arizona Department of Education (ADE) website. Senator Aguirre explained that her second amendment addresses the concern of a parent who distributes leaflets being prosecuted under this bill.

In response to Senator Mead, Representative Gray noted that the bill states that “nothing contained in this section shall be construed to deny the civil and political liberties of any employee.”

Senator Anderson referred to a six-page document from the Maricopa County (Attachment G) that explains the Rules on School Political Activity and Electioneering. He indicated that this document is available to the school districts. Senator Aguirre explained that there are no consequences to the Maricopa County’s document, noting that is the reason for the bill.

Chris Thomas, Legal Council, ASBA, testified in opposition to the bill; however, he feels that the amendments do make it better. He pointed out that although the bill has language that stipulates nothing in the statute is construed to violate first amendment rights, it is open to interpretation whether a particular practice does violate first amendment rights.

Senator Anderson asked if Mr. Thomas was supporting the main concept of the bill which indicates that there should be some type of consequences for people who are intentionally misusing school district resources for campaigning. Mr. Thomas replied that he does believe that there should be consequences; however, he does not feel this bill provides the right type of consequences. He suggested that currently there are consequences such as having a person’s name published in the newspaper alleging misuse of public funds, which would not be good publicity for someone running for reelection to the school board.

Jill Kennedy, Deputy County Attorney, Maricopa County Attorneys Office (MCAO), provided a handout (Attachment H) and noted that they have worked on this issue for many years. ADE was directed to have each school district adopt guidelines to avoid their resources being used to influence an election. She pointed out that each school district did adopt guidelines, as well as the AG and MCAO have issued guidelines. She noted that there have been 50 plus complaints regarding school elections with most regarding inappropriate use of school resources. She indicated that there is nothing the MCAO can do with these complaints. She referred to a section of the bill that indicates “person acting on behalf of the school district,” maintaining that is pretty difficult to prove. Many people are doing things that are a violation of the guidelines; however, they are not working on behalf of the school district. She stressed that it does not matter who the individual is working on behalf of, it only matters that school resources are being used to influence an election. Another concern is the county attorney must bring these actions in Superior Court, which would be costly. She emphasized that the MCAO has similar powers to allow for administrative enforcement. She stated that she feels the Legislature intends that there is a less harsh, preferably expedient method to solve these issues by allowing for the administrative proceedings. Ms. Kennedy explained that the MCAO favors the bill and is against all of the amendments.

Thomas Pickrell, General Counsel, Mesa Public Schools, pointed out that his school district has policies to enforce ARS §15-511. He stated that he feels it is important to have an understanding about the contours of the statute. If a person wants to be involved in political activities and electioneering on school grounds, they would be violating the statute. Even if a person is not directly trying to influence the outcome of an election, simply by asking people to vote could be construed as a violation of the statute because of the person’s intent. These rules are unworkable and do not take into account first amendment rights of various people who routinely visit a school. He suggested that the AG needs to write a set of guidelines so that everyone understands what can or cannot be done.

Senator Mead wondered if a school employee wears a political button, would that be allowed under Section D. Mr. Pickrell replied that he feels it should be; however, the guidelines indicate “a person who engages in political activity on school grounds is violating the statute.” He stressed that this statute has serious repercussions to the reputation of a person who is accused. He added that he supports the Aguirre amendments.

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

Senator Mead moved HB 2279 be returned with a DO PASS recommendation.

Senator Mead moved the Anderson five-line amendment dated 3/28/03, 11:36 a.m. be ADOPTED. The motion CARRIED by voice vote. (Attachment I)

Senator Mead moved the Aguirre 15-line amendment dated 3/28/03, 3:40 p.m. be ADOPTED.

Senator Aguirre moved the following verbal amendment to the amendment:

**Page 1, line 6, strike “BY JANUARY 1, 2004,”
The motion CARRIED by voice vote.**

Senator Mead moved the Aguirre 15-line amendment, AS AMENDED, be ADOPTED. The motion CARRIED by voice vote. (Attachment J)

Senator Mead moved the Aguirre two-line amendment dated 3/28/03 at 2:19 p.m. be ADOPTED. The motion CARRIED by voice vote. (Attachment K)

Senator Mead moved HB 2279 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED with a roll call vote of 8-1-0. (Attachment 7)

HB 2097 – school districts; compliance (now: school districts; charters; compliance) - FAILED

Dallas Gold, Education Committee Assistant Research Analyst, explained that HB 2097 authorizes the withholding of monies from school districts and charter schools that are out of compliance with education laws.

Tom Horne, Superintendent of Public Instruction, ADE, noted that when he accepted his position and reviewed legislation to determine what his rights and duties were, he found that there was no ability to force the school districts to comply with the law. If a school willfully does not comply, there needs to be something in statute to compel them to do so. He suggested that this is a law without a remedy.

In response to Senator Mead, Mr. Horne replied that the Legislature makes laws and someone else needs to enforce them. The Board has many compliance functions such as powers over charter schools, but has no power to deal with school districts that choose willfully to violate a law that the Legislature passes. Senator Mead noted that he has a problem with one person being able to hold a school district hostage for funds. Mr. Horne clarified that if a person thought a school district was out of compliance, they would bring that concern to ADE, who would first determine if the complaint was substantial; if it is, they would ask the school district to come into compliance. If the school district refused to come into compliance, ADE would ask the State Board of Education (SBE) to issue a 90-day notice to the school district. If they failed to come into compliance within those 90 days, the SBE would have the ability to levy a sanction if there was a finding that the violation was substantial and willful.

Senator Mead noted his concern that this bill would circumvent a complaint being filed with the AG, and also the fact that 90 days might not be enough time for a school district to come into compliance, and therefore, the school district's funds would be withheld. Mr. Horne replied that currently there are no provisions for the AG to do anything. He added that if the Committee members want to amend the bill to have the AG issue sanctions to the school districts, he could support that recommendation. He stressed that someone should be able to withhold funds if a school district is out of compliance with a substantial rule. He noted that currently if charter schools are out of compliance, funds can be withheld and is asking that the same rule apply to the school districts.

Michele Diamond, Director of Government Affairs, State Board for Charter Schools (SBCS), testified that she supports the bill, because it provides increased flexibility in how the SBCS responds to charter school violations. Currently, they are limited to withholding no more than 10% of State aid, irrespective of the type of violation that occurs. On the other extreme, they have the ability to revoke

a school's charter. Presently, these are the only two options available to the SBCS and because the types of violations vary significantly, it would be helpful to have some type of interim options available.

In response to Senator Verschoor, Ms. Diamond replied that there are two separate laws. Currently, the SBCS goes through the SBE to request that they withhold payment. This bill would allow SBCS to go directly to ADE unless the SBE is the sponsor of the charter school. The bill also amends ARS §15-185 which is charter school law to allow them to withhold any portion of State aid.

In response to Senator Verschoor's question, Ms. Diamond explained that there are three possible sponsors of charter schools: 1) SBCS; 2) school district; or 3) SBE.

Chris Thomas, Legal Council, ASBA, testified in opposition to the bill because there are sanctions in law if a school district is out of compliance such as withholding 10% of their funds. However, this bill does not have a cap on it.

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

**Senator Aguirre moved HB 2097 be returned with a DO PASS recommendation.
The motion FAILED with a roll call vote of 4-4-1. (Attachment 8)**

HB 2277 – school achievement profiles; failing schools (now: school achievement; failing schools – DO PASS AMENDED)

Ms. Yee explained that HB 2277 modifies school achievement profile designations and extends for an additional year the time before a school is classified as a school failing to meet academic standards. She also explained two amendments: 1) Hellon two-page amendment dated 3/28/03 at 2:47 p.m. and 2) Aguirre four-line amendment dated 3/27/03 at 4:27 p.m.

Tom Horne, Superintendent of Public Instruction, ADE, pointed out that this bill delays for a year the designation of schools as failing schools. Under existing legislation, improvement plans are received on January 30, and students begin taking tests in April. If improvement is not achieved, the school would be labeled as a failing school in October, allowing only three months for the school district to implement its improvement plan, which is impossible. By delaying this action, it would give the schools a full year to implement their improvement plan. He said that it is ADE's intent to work with the schools to increase scores, avoiding an underperforming status. Hopefully, no school will be labeled as a failing school.

Mr. Horne stated that the second thing the bill does is that it changes labels. Currently, schools that are not underperforming, are labeled as improving, maintaining, or excelling. The labels "improving and maintaining" are ambiguous, because the schools are performing. This bill would change the labels to "performing, highly performing, and excelling." The bill also takes the definition of excelling out of statute consistent with the other labels, so the SBE can have flexibility in the criteria. He indicated that he is neutral on the amendments.

Penny Kotterman, Arizona Education Association (AEA), testified in support of the bill and Aguirre amendment but in opposition to the Hellon amendment.

Chris Thomas, Legal Council, ASBA, testified in support of the bill and Aguirre amendment. He suggested that it is fundamentally unfair to hold school board members accountable for the underperforming or failing schools in the district.

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

Senator Mead moved HB 2277 be returned with a DO PASS recommendation.

Senator Mead moved the Hellon two-page amendment dated 3/28/03, 2:47 p.m. be ADOPTED. The motion CARRIED by voice vote. (Attachment L)

Senator Aguirre moved her four-line amendment dated 3/27/03, 4:27 p.m. be ADOPTED. The motion CARRIED by voice vote. (Attachment M)

Senator Mead moved HB 2277 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED with a roll call vote of 8-0-1. (Attachment 9)

HB 2007 – school employees; psychiatric diagnosis; medications – FAILED

Ms. Yee explained that HB 2007 prohibits school employees from requiring pupils to undergo psychiatric or psychological evaluations or use psychiatric medication in order to attend school, and provides for parental consent to administer medication and health exams and transport pupils to treatment facilities. She also explained the Hellon nine-line amendment dated 3/26/03 at 4:24 p.m.

Representative Gray, sponsor of the bill, provided a seven-minute video for the members to view, showing reports from television programs where students died who were using psychiatric medication at the request of school officials. The video also noted that some parents would not give their children a psychiatric drug and after additional tutoring were better controlled in the classroom. The video went on to identify several children who brought weapons to school and killed classmates, noting that these shooters were taking psychiatric drugs at the time they committed these violent crimes.

Representative Gray stated that never before has there been so much violence in the schools. She stressed that if students continue to be drugged, more of these types of violent events will occur. She referred to a handout (Attachment N) that shows similar behaviors of a child with an attention-deficit/hyperactivity disorder (ADHD) and a gifted child. There is not a medical test to give the child for a doctor to diagnosis ADHD, only a list of criteria that also identifies a gifted child. She also discussed several other items in the handout: 1) symptoms of hypoglycemia; 2) news article entitled Wonder Drugs Misused; 3) Drug Enforcement Agency (DEA) overview of Ritalin; 4) federal requirements on controlled substances; and 5) a message from a Rhode Island state representative. She emphasized that the drug companies that sell the drugs have paid \$500,000 to the Pediatric Association and \$500,000 to the Mental Health Association.

Representative Gray stressed that this bill stipulates that children will not be expelled from school because their parents will not put them on a psychiatric drug.

In response to Senator Jackson, Representative Gray replied that currently a teacher or principal will tell a parent that they need to put their child on a psychiatric drug. She pointed out that a child can be expelled from school for inappropriate behavior, but she does not feel they should be expelled if the parent refuses to put the child on a psychiatric drug.

Senator Mitchell questioned how a school can require that a child cannot attend school if they are not on Ritalin. He indicated that a doctor must make a diagnosis for a drug to be prescribed to a child. He suggested that the issue is larger than a school problem. Representative Gray replied that the problem occurs when school personnel encourage the parents to drug a child. She quoted from DEA "the manner in which medicine is handled at school has provided an opportunity for some individuals to divert and abuse this medication. One school had more medications than the local pharmacy."

Senator Anderson clarified that the bill only states it is a good policy that schools not require children to take drugs in order to be enrolled in the school. The other issue is that parents must consent before a child is placed on a drug.

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

Senator Mead moved HB 2007 be returned with a DO PASS recommendation.

Senator Mead moved the Hellon nine-line amendment dated 3/26/03, 4:24 p.m. be ADOPTED. The motion CARRIED by voice vote. (Attachment O)

Senator Mead moved HB 2007 be returned with an AS AMENDED, DO PASS recommendation. The motion FAILED with a roll call vote of 4-5-0. (Attachment 10)

HB 2012 – school facilities board; building renewal – DO PASS

Mr. Gold explained that HB 2012 caps a school building's age at 30 years when calculating the age of a significantly remodeled or upgraded building for the School Facilities Board (SFB) database. The bill also equalizes the building renewal formula amount for school buildings and reduces the building renewal cost per square foot.

Edward Boot, Interim Executive Director, SFB, indicated that this bill has resulted after many discussions with staff regarding items in the building renewal formula that were not correct. He discussed concerns regarding the calculations for a portable building versus a permanent building, explaining that the formulas should be identical. He also talked about the costs of replacement space and capping the age of a building at 30 years.

Tim Hogan, Executive Director, Arizona Center for Law, testified in opposition to the bill, noting that mathematically, the formula cannot be premised on a denominator of 50 years for the life of the building and a numerator of 30 years. He noted that the formula is a national one, which cannot arbitrarily be changed and is predicated on the useful life of the building, which is 50 years. He stressed that no one has any idea whether cutting the formula almost in half would be adequate to renew facilities, indicating that school districts do not have the funds to take care of the deficiencies.

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

Senator Mead moved HB 2012 be returned with a DO PASS recommendation. The motion CARRIED with a roll call vote of 9-0-0. (Attachment 11)

HB 2001 – ~~schools; energy cost savings~~ (now: vocational education; study committee) – DO PASS AMENDED

Tyler Manic, Education Committee Intern, explained that HB 2001 establishes a joint legislative study committee on vocational and technological education. He also explained the Hellon eight-line amendment dated 3/18/03 at 3:00 p.m.

Representative Bedford, sponsor of the bill, indicated that she introduced this bill because she is interested in seeing that vocational education is brought back into the schools. She stated that she feels the current education system is a “one size fits all.” Approximately 75% of the high school students do not advance to college. Opportunities are limited if there are no alternatives. Students, teachers, parents, and business leaders are asking for more vocational education. She pointed out that there are numerous good paying jobs available for students with the proper training in areas such as accounting and computers.

Senator Anderson stated that he feels that if students had an option to attend a vocational school, the State’s dropout rate would drop dramatically.

Senator Mead moved HB 2001 be returned with a DO PASS recommendation.

Senator Mead moved the Hellon eight-line amendment dated 3/18/03, 3:00 p.m. be ADOPTED. The motion CARRIED by voice vote. (Attachment P)

Senator Mead moved HB 2001 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED with a roll call vote of 8-1-0. (Attachment 12)

HB 2093 – ~~technology assisted pilot program; repeal~~ (now: distance learning; technology assisted program) – DO PASS AMENDED

Mr. Manic explained that HB 2093 establishes testing requirements for pupils enrolled in the technology assisted project based instruction program (TAPBI) and establishes a Joint Select Committee on Technology Assisted Learning. He also explained the Anderson five-line amendment dated 3/28/03 at 2:28 p.m.

Representative Gray, sponsor of the bill, stated that the reason for the bill is that there was a pilot program with 500 students. During an audit, it was determined that not everyone was taking the State test. This bill stipulates that if a student wants to continue with the program, they must take the test. She indicated that they also wanted to know how much distance learning costs. She added that she supports the amendment.

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

Senator Mead moved HB 2093 be returned with a DO PASS recommendation.

Senator Anderson moved his five-line amendment dated 3/28/03, 2:28 p.m. be ADOPTED. The motion CARRIED by voice vote. (Attachment Q)

Senator Mead moved HB 2093 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED with a roll call vote of 7-1-1. (Attachment 13)

HB 2126 – nonstate aid school districts; growth – DO PASS AMENDED

Ms. Yee explained that HB 2126 allows nonstate aid school districts to increase the school district's property tax rate to fund anticipated enrollment growth. She also explained the Hellon six-line amendment dated 03/27/03 at 2:55 p.m.

Senator Verschoor asked if there is a limit on raising the property tax rate. Ms. Yee replied that currently there is no limit; however, the school district is required to notify the voters that they are raising the property tax rate.

Representative Arnold, sponsor of the bill, commented that this is a growth problem in the Saddle Mountain School District, requiring assistance to operate through some of the months. He added that he does support the amendment.

Susan Charlton, Attorney, Gallagher and Kennedy, representing DMB Associates, testified in support of the bill. She pointed out that school districts that receive State aid are able to adjust their budgets at the 100-day mark to deal with the influx of new students and the funds are increased. Nonstate aid school districts do not receive additional monies to pay for the budget increase since their student aid is derived from a primary property tax set on an annual basis, which cannot be adjusted midyear to address enrollment growth. Instead, the superintendent issues warrants with the county, which must be paid back the following tax year, plus interest.

In response to Senator Verschoor, Ms. Charlton explained that warrants are used for borrowing money from the county or a bank. Currently, the property tax rate is set based on last year's student count. Under this bill, the average of the last three year's enrollment growth would be factored into the property tax rate increase. If the enrollment growth was not reaching, the monies would rollover into the next tax year and the property tax rate would be decreased.

Judy Richardson, School Finance Consultant and Vice President, Stone & Youngberg, mentioned that this bill would shift the property tax from one year to the next to cover any increase in enrollment.

In response to Senator Verschoor, Ms. Richardson replied that the school district has the power to shift the property tax rate without voter approval. The tax rate is set by the county each year based on information received from the school district. She pointed out that no school district is currently allowed to estimate their budget; rather, they must adopt a budget based on the prior year's student count. This bill would allow a nonstate aid school district to estimate their budget and for the county to include that estimate when the tax rate is set.

In response to Senator Verschoor's question regarding where the school district receives their monies, Ms. Richardson responded that the school district is capable of funding the full amount required to operate the school district through the qualifying tax rate. There are approximately ten school districts in Arizona that do not receive any state aid.

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

Senator Mead moved HB 2126 be returned with a DO PASS recommendation.

Senator Mead moved the Hellon six-line amendment dated 3/27/03, 2:55 p.m. be ADOPTED. The motion CARRIED by voice vote. (Attachment R)

Senator Mead moved HB 2126 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED with a roll call vote of 8-1-0. (Attachment 14)

HB 2396 – school tax credit; reporting requirements – DO PASS

Ms. Yee explained that HB 2396 requires every school tuition organization and public school that receives a contribution or fee, which can then be taken as an individual income tax credit, to report certain information to the Department of Revenue (DOR) by February 28 of each year.

Representative Yarbrough, sponsor of the bill, stated that this bill is an effort to help bring accountability to the receipt and distribution of funds that are received pursuant to the scholarship tax credit and the extracurricular activities tax credit. This bill has the support of the Children's Hope Association, with approximately 80% of the school tuition organizations (STOs) receiving 90% of all scholarship tax credit donations. This bill is also supported by the AEA, ASBA, and the Arizona School Administrators (ASA). The present law has no reporting requirement for either of these tax credits. Over the years, most of the STOs have voluntarily reported information; however, a number of them did not. He encouraged the members' support of the bill regardless of how they may feel about the merit of the tax credits, because having these reports can only foster the quality of the underlying policy debate.

In response to Senator Miranda, Representative Yarbrough replied that he does support the Finance Committee's amendment. The corporate tax credit, if it becomes law, would go to STOs and they would be subject to this reporting requirement.

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

Senator Mead moved HB 2396 be returned with a DO PASS recommendation. The motion CARRIED with a roll call vote of 6-3-0. (Attachment 15)

HB 2092 – school accountability; testing; dropout data – DO PASS AMENDED/STRIKE EVERYTHING

Mr. Gold explained that the strike-everything amendment to HB 2092 requires the SBE to adopt Braille literacy rules before November 1, 2003 and rules for other Braille and textbook versions by July 1, 2004.

Mary Platner, Special Education Teacher and President, Arizona Council for Exceptional Children, mentioned that she has taught special education for 28 years in all disabilities. Many students with disabilities do not have accessibility to textbooks. She pointed out that there are approximately 100,000 students in Arizona with Individualized Education Programs (IEP), in addition to children covered under Section 504 plans. Of these 100,000 students, it is estimated that approximately 40,000 would benefit from this bill. Most of these children have learning disabilities, specifically in reading. Approximately 52,000 students qualify for learning disabilities, 32,000 of these students would benefit from the bill. School districts would be able to inform vendors that the materials must be available in an alternative format as well as a print format. General curriculum textbooks would be accessible to many disabled children.

Ms. Platner noted that some people feel this is an antiblind bill; however, the Braille bill is still intact, with a few modifications. She indicated that there is no fiscal impact to the State. She pointed out that Texas has a similar law that has been in effect for ten years and publishers are already providing them with an electronic format to meet their needs. Copyright issues are addressed by the school districts signing copyright agreements to ensure no modifications of the textbooks.

Senator Verschoor questioned if all curriculum had to be provided in an electronic format. Ms. Platner responded that Senator Mead's amendment limits the bill to textbooks.

In response to Senator Waring, Ms. Platner replied that HB 2092 provides more opportunities for individuals with visual impairments who are not covered under HB 2275, the Braille bill. Children who are visually impaired but can still see and need large print are not covered under the Braille bill. Large print textbooks must be supplied by the publisher, because modifications cannot be made to the electronic format.

In response to Senator Verschoor, Ms. Platner explained that various formats could be provided for students; Braille, electronic, and audio. The electronic format would be used with the computers already available through Students FIRST and the No Child Left Behind Act.

Ms. Platner suggested that Arizona is at a liability because federal law requires that students have equal access, which does not mean the same type of access.

Terri Hedgpeth, representing herself, provided some background information, noting that she has worked at Arizona State University (ASU) with alternative print production, as a consultant to the California Legislature in developing their bill, and with Purdue University establishing their alternative print format production lab. She indicated that the publisher cannot charge more for an alternative format than they do for the print copy of the textbook. Electronic format of the textbooks saves many hours of work converting the textbook into Braille or other formats.

Edward Myers, Attorney, Arizona Technology Access Program/Northern Arizona University, explained that their program is a federally funded plan to help people with disabilities gain access to assisted technology. HB 2092 is good because it helps all children with disabilities. He suggested that the national bill currently being worked on only covers the blind and a limited number of people with disabilities. He pointed out that there are several states that have a similar bill and the publishers are already providing the alternative formats. He noted that the bill does not violate the copyright law. The Individuals with Disabilities Education Act (IDEA) and the American Disabilities Act (ADA) require school districts to provide accommodations for disabled children.

Marcus Osborn, Manager, Government and Public Affairs, American Association of Publishers, testified in opposition to the bill, specifically to the copyright issue. Under federal law, publishers and school districts have flexibility in reproducing materials in electronic formats with or without the publishers' or the copyright holders' permission. He suggested the publisher may have approval from ten or 15 authors who would have materials in a book. Under this proposed bill, the publisher would have to receive authorization from each one of the copyright holders, which will be costly and problematic. He referred to Texas, noting that it is the second largest state in terms of buying power. Texas has a centralized system when purchasing textbooks which gives them enormous market power to require elements that Arizona cannot provide. Texas provides individual licensing of each textbook and electronic format. Under HB 2092, the publisher would be required to meet the requirements of every adaptation. Currently, there is nothing in law that would prohibit school districts from asking for an electronic format. He pointed out that with 35,000 children, it could represent upwards of 5,000 adaptations. Many textbook publishers are pulling out of the market because of the concern as to how these bills will affect them.

In response to Senator Waring, Mr. Osborn replied that because publishers do not know how many different versions would be needed, the costs could rise dramatically. He indicated that the publishers have committed to completing the Braille versions of the textbooks. He suggested that the standards have not been written into law, which makes it difficult for the publishers to meet any requirements.

Ms. Hedgpeth commented that Mr. Osborn and the publishers do not have a choice as to what they will have to provide to people with disabilities. This bill is not asking for publishers to provide 5,000 different versions of a textbook; rather, it asks for one electronic format. She suggested that once a textbook is published for commercial use, it is available for everyone in whatever format is needed.

Bob Kresmer, National Federation of the Blind of Arizona, and Secretary, Governor's Council on Blindness, testified in opposition to the bill. He explained that the Arizona Braille bill is intended to promote the use of Braille by blind students and reform the university training of Braille teachers. He noted that HB 2092 has dropped the language about promoting the use of Braille and redefines blind students as anyone eligible to receive special education monies. The United States copyright laws have very limited and specific exceptions and he feels they will not accommodate this bill. He suggested that the implementation of this bill will be delayed for some time.

In response to Senator Anderson, Mr. Gold explained that a fiscal note was requested which indicates that the publishing cost of the textbook will remain virtually unchanged since it will only require the publisher to provide ADE with an electronic copy of the textbooks. He added that publishers already store textbooks in an electronic form.

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

Senator Mead moved HB 2092 be returned with a DO PASS recommendation.

Senator Mead moved his four-page strike-everything amendment dated 3/27/03, 2:48 p.m. be ADOPTED. The motion CARRIED by voice vote. (Attachment S)

**Senator Mead moved the following verbal amendment to the amendment:
Page 3, line 13, strike "SCHOOL MATERIALS" insert "TEXTBOOKS"
Line 14, strike "EACH ITEM OF SCHOOL MATERIALS" insert
"THESE TEXTBOOKS"
Line 27, strike "OR OTHER INSTRUCTIONAL MATERIALS"
Line 31, strike "AND MATERIALS"**

The motion CARRIED by voice vote.

Senator Mead moved his four-page strike-everything amendment, AS AMENDED, be ADOPTED. The motion CARRIED by voice vote.

Senator Mead moved HB 2092 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED with a roll call vote of 7-1-1. (Attachment 16)

HB 2052 – school accountability; excelling schools (now: students FIRST; new school facilities) – FAILED

Mr. Gold explained that HB 2052 prohibits unified school districts from receiving new school facilities funding for high school space under specified conditions.

Jason Ayreh, representing himself, testified in support of the bill. He noted that by approving HB 2052, the members have a unique opportunity to both preserve the high quality of education and to direct scarce State resources to essential state-sponsored educational programs. He indicated that passing this bill will result in a fiscal and educational "win-win" both locally and statewide, noting that a high school in the Tanque Verde District is not needed. Sabino High School, which is located 1.9 miles from the proposed location, is underpopulated and one of the top high schools in Arizona, providing a superb education to students. He provided information (Attachment T) demonstrating the academic excellence of Tanque Verde students and the overwhelmingly high parental satisfaction with the quality of education received at the school. Sabino has a capacity for 1,950 students with a current enrollment of 1,650, which includes the 339 students from Tanque Verde. Sabino's enrollment has been declining since 1999 and will not approach 100 students of full capacity in the next 20 years. Tanque Verde District's enrollment has been steadily declining since 1997; it is a small school district with one junior high and two elementary schools. In addition to the Tanque Verde students who attend Sabino, 58 students attend University High School, the only public high school rated "excellent" in Arizona. Unfortunately for these students, if Tanque Verde builds this new high school, they will not be permitted to attend University High School, thus preventing the State's brightest students from experiencing Arizona's best. The high quality of education provided by Sabino High School will be significantly degraded if the proposed high school is built. He suggested that the proposed Tanque Verde High School is not financially feasible and could educationally bankrupt the district.

Lisa South, Tanque Verde School Board Member, testified in opposition to the bill. She mentioned that as an educator, when she hears the word “education,” she thinks of future; when she hears “high school,” she thinks of opportunity; when she hears “cost of education,” she thinks of investment. She feels an investment in the Tanque Verde High School would provide an opportunity to determine the future of children. The Tanque Verde School District has been providing programs to students for 118 years. She indicated that studies of the budget and enrollment figures show that the school district can afford to operate a K-12 budget and that they have the enrollment now and in the future to support a high school. Tanque Verde wanting its own high school is not a criticism of any other school district but a statement of their lack of representation to control any of the curricular programs offered to the students. The school district has no voice or vote in their children’s high school education. She asked that the Committee members oppose the bill and allow the school district to build a new high school following the guidelines created by the Legislature.

Dave Moser, Tanque Verde Coalition, testified in support of the bill. Although the school district states that they have done everything correct to obtain a high school, according to the minutes from the January 2001 school board meeting, it was acknowledged that Tanque Verde and not the SFB has been at fault for the delays that caused Tanque Verde to miss its deadlines. Tanque Verde failed to meet the legal requirements, and under current law would not qualify for State funding for a high school because there are plenty of quality seats at Sabino High School. The school district indicates that this bill is unconstitutional despite the fact that the Senate and House of Representatives Rules Committee have approved it. The bill affects three separate school districts. After missing their legislative deadline last year, Tanque Verde school board members lobbied to be exempted from the law. He stated that residents were told their taxes would go down, why not vote for a new high school and lower taxes? There was no mention that adjacent ways taxes would be imposed without approval of the voters, which would raise taxes significantly. Until Students FIRST, Tanque Verde was unwilling to bond to build a high school. Many school districts in Arizona send their children to high schools in other districts. It is too expensive for each school district to build its own high school. With the mounting long-term State debt, monies should be spent judiciously for school districts that truly need a school. Tanque Verde does not need a high school.

Brian Harpel, representing self, testified in opposition to the bill, noting that the majority of the residents of Tanque Verde support the building of a high school. In 2001, with a 40% turnout, school district voters overwhelming supported the building of a high school. To date, approximately \$4 million has been spent on this endeavor. The school district owns the land, schematic drawings have been completed, construction documents are being finalized, a preconstruction contract has been executed, and construction can begin within 75 days with a target opening of August, 2004 for a fully functioning high school. He stressed that they have followed the SFB guidelines and diligently worked under their direction to find the least expensive, most feasible site for their school district. However, following the SFB directive, it has caused numerous delays and added years to the process. Currently, a small minority of residents are trying to circumvent the democratic process.

Edward Harrow, Tanque Verde Coalition, testified in support of the bill, noting that the SFB will be paying from the State general fund \$200 million a year for the next decade for construction. Spending \$13 million on the Tanque Verde High School project will be a questionable expense, even in good times. Given today’s economic situation, the facts speak for themselves: 1) the State borrowing \$100 million from the SFB to balance the 2003 budget; 2) the State’s \$1 billion deficit in 2004; 3) the SFB \$120 million over budget; and 4) Tanque Verde School District currently operating \$500,000 in the red without a high school in place. Building this high school would be a waste of limited taxpayer dollars. He referred to the Humboldt High School that was built with SFB monies that

today has been empty for one year because there are no funds to open the school. He suggested that new schools are built as they are needed and stated that there is no compelling or critical need for a new high school in Tanque Verde. There is no overcrowding and no inferior education. If HB 2052 fails, the Legislature will be forcing the SFB to build a school that is unnecessary.

Michael Racy, Lobbyist, Tanque Verde School District, testified in opposition to the bill, noting that this bill is not about State policy or revising the criteria used by the SFB created by the Legislature to authorize schools. The State took over responsibility to fund construction of schools in every school district and established rules. The Tanque Verde School District has followed each of those rules.

Senator Jackson stated that last year three schools were eliminated from the SFB list, two of which are in his district and questioned some of the language in the bill. Representative Gray replied that last year, they extended the timeline for Tanque Verde. Mr. Boot added that the bill provides that any school not in construction within three years after its award by the SFB would be canceled. Cedar School District has until September 2004 and Littlefield School District will be in construction within 120 days.

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

**Senator Mead moved HB 2052 be returned with a DO PASS recommendation.
The motion FAILED with a 4-4-1. (Attachment 17)**

HB 2008 – commission for postsecondary education; membership – DO PASS

Senator Mead moved the Committee RECONSIDER the action whereby it failed to pass HB 2008. The motion CARRIED.

**Senator Mead moved HB 2008 be returned with a DO PASS recommendation.
The motion CARRIED with a 5-3-1. (Attachment 18)**

There being no further business, the meeting was adjourned at 6:38 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.)