

ARIZONA HOUSE OF REPRESENTATIVES  
Fifty-first Legislature – First Regular Session

**COMMITTEE ON EDUCATION**

Minutes of Meeting  
Monday, February 11, 2013  
House Hearing Room 3 -- 2:00 p.m.

Chairman Goodale called the meeting to order at 2:15 p.m. and attendance was noted by the secretary.

**Members Present**

Mr. Allen	Mr. Meyer	Mr. Pierce J
Mr. Boyer	Ms. Miranda	Mr. Coleman, Vice-Chairman
Mrs. Carter	Ms. Otondo	Ms. Goodale, Chairman

**Members Absent**

None

**Committee Action**

HB2217 – DP (8-1-0-0)	HB2476 – DPA (8-1-0-0)
HB2399 – DISCUSSION ONLY	HB2500 – DPA (7-1-1-0)
HB2425 – DP (9-0-0-0)	HB2530 – DP (6-3-0-0)

**CONSIDERATION OF BILLS**

**HB2399 - school districts; bonded indebtedness limitations – DISCUSSION ONLY**

**Chairman Goodale announced that HB2399 will be heard for discussion purposes only; no action will be taken.**

Virginia Carico, Majority Assistant Research Analyst, explained that HB2399 contains the following provisions (Attachment 1):

- Increases school district class B bonding capacity limits from 5 percent to 10 percent and increases unified school district class B bonding capacity from 10 percent to 20 percent.
- Applies to bonds pursuant to elections held before and after the effective date of this act. Bonds issued pursuant to elections held before the effective date of this act only apply until July 1, 2016 and will revert back after July 1, 2016.

In response to a question, she related that a fiscal note was not requested on the bill.

Mrs. Carter, sponsor, stated there will be no impact to the General Fund with this bill. Mr. Allen commented that fiscal notes can provide a statewide cost of an activity, so he will request a fiscal note.

Mrs. Carter encouraged Mr. Allen to do so. She related that due to the state economic downturn, the Legislature has not funded capital expenditures through the General Fund for several years. At the same time, the drop in property values has left school districts with no ability to use existing bonds that were already approved by local voters. Also, there is no corresponding adjustment in the bond cap of the constitutional limit of 30 percent. This is part of budget conversations.

Jeremy Calles, Chief Financial Officer, Kyrene Elementary School District, spoke in favor of HB2399. He indicated that assessed values are on a two-year lag so school districts were at the peak on assessed values in 2009. Because of the housing market downturn, it was known that the school district would not be able to bond further. Capital issues are increasing and more school districts are being impacted year after year. Last year, the school district proposed a plan to the community operating under the five-percent limit to address capital needs, which included increasing the tax rate by 64 cents. The school district decided against that and decided to approach the Legislature. He noted that while bonds cannot help every school district, it is a component of the solution. This is a critical bill to his and other school districts.

Richard Hopkins, Governing Board Member, Buckeye Elementary School District, testified in support of HB2399. He said the school district has been a good steward of constituent tax money; in the last six years, the tax rate was lowered 34 percent, even with the fluctuation in assessed valuation. Teachers were given an 18 percent pay raise and three schools were opened within 18 months. In 2008, voters approved \$23 million in additional bonds, but the school district has only been able to sell approximately \$4 million; remaining funds were used to add six classrooms at one school. Every year there are more students, so this bill is very important to the school district, which has had to utilize a 1950s building or classrooms that need repair and modernizing.

Joel Wirth, Chief Financial Officer, Chandler Unified School District, spoke in favor of HB2399. He said the school district has three routes to fund capital needs: Fair and Immediate Resources for Students Today (Students FIRST) and traditional capital funding, both of which were eliminated during the recession, as well as bonding. Chandler Unified School District is one of the wealthier school districts with the lowest tax rate in the East Valley and the second-largest construction project in the world, but it has no bond capacity. There is no ability to take care of capital needs so the Members' support of this bill is needed.

Leonard Clark, representing self, stated he is neutral on HB2399. He is a former schoolteacher who appreciates how diligently the board members of the school districts are working together, but from the testimony given, he said he will have to follow the bill longer.

Vice-Chairman Coleman announced the names of those who signed up in support of HB2399 but did not speak:

Charles Essigs, Director of Government Relations, Arizona Association of School Business Officials

Judy Richardson, Vice President, Stifel Nicolaus  
Meghaen Duger, Education Finance Reform Group  
Barry Aarons, Lobbyist, Arizona Association of County School Superintendents  
John Kaites, Education Finance Reform Group  
Mitzi Epstein, Parent, Tempe Union High School District; Kyrene School District  
Brian Tassinari, Lobbyist, CORE Construction  
Doreen Zannis, representing self  
Alicia Klassen, representing self  
Tim Carter, Yavapai County School Superintendent  
Janice Palmer, Governmental Relations Analyst, Arizona School Boards Association  
Nichole Kotsur, representing self  
Sarah Angus, representing self  
Dana Rivera, representing self  
Veronica Moreno, representing self  
Tom Farley, Lobbyist, CORE Construction  
Sam Polito, Tucson Area School Districts  
Marcus Dell'Artino, Chandler Unified School District  
Sabrina Vazquez, Legislative Liaison, Arizona School Administrators  
Tim Ham, Superintendent, Madison School District

Vice-Chairman Coleman announced the names of those who signed up in opposition to HB2399 but did not speak:

Kevin McCarthy, President, Arizona Tax Research Association  
Gretchen Conger, Director of Government Relations, Arizona Chamber of Commerce and Industry  
Brett Jones, Vice President of Operations, Arizona Construction Association (AZCA)  
Allison Bell, Senior Government Affairs Representative, Arizona Public Service

Vice-Chairman Coleman announced the names of those who signed up as neutral on HB2399 but did not speak:

Richard Rundhaug, Superintendent, Willcox Unified School District

Mrs. Carter stated that building and maintaining schools is of utmost concern to the vitality of Arizona's economy. This bill returns authority to local school districts to decide whether to ask taxpayers for a bond to build or maintain schools. She opined that the state needs to decide whether capital construction will be funded through Students FIRST or if power should be returned to people in school districts to determine what is needed in their community.

### **HB2425 – ELL task force replacement – DO PASS**

**Vice-Chairman Coleman moved that HB2425 do pass.**

Virginia Carico, Majority Assistant Research Analyst, explained that HB2425 eliminates the Arizona English Language Learners (ELL) Task Force (Task Force) and directs the State Board of Education (SBE) to take over its statutory authority, powers, duties and responsibilities (Attachment 2). It requires the Arizona Department of Education (ADE) to provide adequate staff support for SBE to comply with these duties and applies retroactively to December 31, 2012.

Chairman Goodale, sponsor, stated that the ELL Task Force was established to study how to work with non-English speaking students and a model was developed that has been implemented in all schools. The Task Force has not met recently and appears to have accomplished its mission. By moving this responsibility to ADE, there will be an opportunity to develop curriculum to ensure ELL students are included in the Common Core Standards program. She thanked the Members of the Task Force for a mission accomplished.

Alan Maguire, representing self, spoke in favor of HB2425. He related his background and stated that the ELL Task Force was established in 2006 by state law to develop and adopt ELL development models for Arizona schools. Dozens of hearings were held and testimony was given by Arizona and national experts. Some key principals from the Task Force include:

- Language is fundamental to learning.
- Focused curriculum and teachers improve learning through rigorous standards.
- Proficiency-based groupings tend to narrow and focus teaching objectives.
- Four key skills in the acquisition of language are reading, writing, grammar and speaking vocabulary.
- Time on task increases proficiency.

He thanked Marlene Johnston from ADE and Kevin Clark, an ELL acquisition expert in California, for their work with the Task Force. He submitted that the work of the Task Force is done and the models are now a basic constructional pedagogy in most schools in Arizona, with ADE diligently expanding implementation of the model statewide. In response to questions, he related the following:

- State law requires students to be in an ELL classroom until they become language proficient, after which they are moved to a mainstream classroom. The models group students by proficiency, so students just acquiring language skills are in classes together, and intermediates who are nearly proficient are in classes together, to the extent possible given constraints of funding, etc. It helps the teacher narrow the curriculum and focus of instruction and students to move more rapidly due to the focus on one section of the overall standards and performance. This concept is used throughout education.
- The Task Force designed a guideline for teaching and learning for students in ELL; ADE is involved in implementation, tracking and training. The SBE will oversee that and implement any changes. The models are similar to the Common Core Standards being implemented statewide.

Jodi Jerich, representing self, neutral on HB2425, indicated that she was a member of the ELL Task Force. She submitted that it is logical to transfer the duties of the ELL Task Force to the SBE, which is statutorily and constitutionally directed to prescribe the course of study and minimum requirements for Arizona pupils and adopt proficiency examinations, such as the Arizona English Language Learner Assessment (AZELLA), which tests ELL proficiency.

Vice-Chairman Coleman announced the names of those who signed up in support of HB2425 but did not speak:

Barry Aarons, Lobbyist, Arizona Association of County School Superintendents

Tim Carter, Yavapai County School Superintendent

Janice Palmer, Governmental Relations Analyst, Arizona School Boards Association

Vince Yanez, Executive Director, State Board of Education

Charles Essigs, Director of Government Relations, Arizona Association of School Business Officials

Sam Polito, Tucson Area School Districts

Sabrina Vazquez, Legislative Liaison, Arizona School Administrators

Jennifer Loreda, Arizona Education Association

Vice-Chairman Coleman announced the names of those who signed up as neutral on HB2425 but did not speak:

Doreen Zannis, representing self

**Question was called on the motion that HB2425 do pass. The motion carried by a roll call vote of 9-0-0-0 (Attachment 3).**

**HB2476 – schools; isolation rooms; restrictions – DO PASS AMENDED**

**Vice-Chairman Coleman moved that HB2476 do pass.**

Virginia Carico, Majority Assistant Research Analyst, explained that HB2476 requires school district governing boards, beginning in school year 2013-2014, to set disciplinary policies for the confinement of students left alone in an isolation room and outlines minimum requirements for what the policies must include (Attachment 4).

**Vice-Chairman Coleman moved that the Goodale 14-line amendment to HB2476 dated 2/8/13 (Attachment 5) be adopted.**

Ms. Carico related that the Goodale 14-line amendment to HB2476 dated 2/8/13 (Attachment 5) contains the following provisions:

- Removes the specific policy requirements outlined in the bill.
- Requires school boards to develop a process for written parental consent before a student attends a school that implements an isolation room disciplinary policy and before isolation is allowed.
- Requires that there be an exemption to allow for a school principal or teacher to confine, without parental consent, a student determined to pose imminent harm to self or others. In such an instance, the principal or teacher must make reasonable attempts to notify the parent or guardian in writing by the end of the same day confinement was used.

Representative Kelly Townsend, sponsor, advised there is a lawsuit in the Deer Valley Elementary School relating to a situation where policies were avoided and her client's child was placed in a small padded room many times. The parents are suing because they were not told the child was being placed in the room. Arizona is one of six states in the country with no

regulations on these rooms. She indicated she is working closely with Gilbert Public Schools, where she was shown a larger room in the basement with padding for a child with an individualized education plan (IEP). Across the hall from the principal's office, were three small 15-square-foot rooms that are not padded, and one had a little boy in the room, who was roaming around because he had been there all day. The principal indicated that the rooms are sometimes used in cool-down situations, but mostly for all-day suspension.

Representative Townsend related that as the parent of a special education child, she was never told about these rooms, and at the very least, parental permission should be required to allow this. She is working with Speaker Andy Tobin to create an interim Ad Hoc Committee to revisit these best practices and develop comprehensive legislation next year. This bill states that before a child can be placed in confinement, if it is not an emergency, parental permission must be obtained. In situations where the parent cannot be reached and something needs to be done about the child, the amendment allows the principal or teacher to make that determination and advise the parent by the end of that day. In response to questions, she related the following:

- To her knowledge there are no specific standards for these rooms; it is up to the school district to make its own rules, which is something that needs to be reviewed for next year's legislation.
- It is not possible to regulate the rooms, but with parental knowledge, parents will likely choose to keep the child at home or request another option.

Mr. Meyer stated if a child is a danger to their self or others, it would not be a good idea to place the child in these rooms unsupervised. Recommendations were made for school districts, which the Legislature required boards to review, but not implement. He does not know if this is the answer, but there is a need for further discussion because he does not believe children should be placed in small rooms all day where they are not learning.

Representative Townsend related that not every school has a specified room size or uniform policy; it is critical to at least require parental permission so the parent is aware and can object. She indicated it would be nice to put a stop to these rooms, but she does not believe the bill will pass. By examining this issue during the interim, stronger regulations can be imposed.

Mr. Meyer expressed concern that still allowing the rooms to be used may result in more potential lawsuits. Representative Townsend responded that the lawsuit with the Deer Valley School District involves a student in the special education program and does not address all-day suspension or the general population, so those children are currently not protected.

Chairman Goodale commented that the immediacy is to at least obtain parental notification, and during the interim, Representative Townsend can lead the discussion on management of not only regular discipline, IEP students, what should be an effective use of isolation and time out, and whether there is ever an appropriate time to use isolation, etc.

Ms. Miranda remarked that in her experience as a former administrator in charge of discipline, this was never an option; in fact, it could escalate the situation. The bill also requires the student to be monitored by an adult in close proximity, which is not realistic unless a person is hired for

that purpose. Representative Townsend replied that the amendment strikes that portion of the bill.

Ms. Miranda recommended that the bill be held so the Ad Hoc Committee can discuss the issue and pass better legislation. Representative Townsend replied that if the bill is held, nothing will happen and more children will be placed in these rooms without parental knowledge, although she understands Ms. Miranda's concerns.

Ms. Otondo indicated that she taught classes designed to help students bridge the ELL program with the general population in which there were special education students. Children tease other children. A young man often had meltdowns, so in order for him to have downtime, he was sent to another room to gather his thoughts, but he was not kept there for four or five hours. She is almost sure his parents knew. She added she can see a need for this policy, but suggested that the bill be held to develop good legislation on which everyone agrees.

Staci Burk, Governing Board Member, Gilbert Unified School District (USD), indicated that she supports the bill with the amendment. Gilbert USD is the fourth-largest school district in the state. If this bill passes with the amendment, it will help the school board identify parents that may oppose the use of the seclusion rooms and legally protect the school district by engaging parents in dialogue about the issue. She added that the superintendent prefers uniformity across school districts.

Janice Palmer, Governmental Relations Analyst, Arizona School Boards Association (ASBA), neutral on HB2476, expressed appreciation for the amendment, which makes the bill more workable. She noted that a meeting is set up to discuss items ASBA attorneys believe need to be addressed. The ASBA wants to ensure that in dealing with IEP or 504 Plan students, this action is not meant for disciplinary purposes, while keeping discipline for the entire general population so it is clear that the issue is not about seclusion restraint but disciplinary rooms. As far as imposing imminent physical harm, the ASBA agrees with that provision, but would also like to discuss damages that could also be caused to school property. She clarified that the 504 Plan is a federal code for special education children.

Hope Kirsch, representing self, spoke in favor of HB2476. She stated she is the attorney who filed on behalf of a client in Deer Valley. She is a former teacher and school administrator who worked with children with severe behavioral problems, and in nearly 20 years, she never saw or placed a child in seclusion, even children with repeated meltdowns; there was always someone to speak with the child. She submitted that she would like a legislative pronouncement on parental notification. Her client's child was placed in a barbaric-looking five-by-five-foot confinement room over a dozen times. The Deer Valley School District adopted recommendations from the Task Force on Best Practices in Special Education and Behavior Management, including parental notification; however, her client was not notified that her seven-year-old boy was placed in isolation. There is no positive behavior training provided for these children, so they are not learning anything. She surmised that teachers and staff are using this measure punitively because it is an easy way to remove the child from the classroom. She added she looks forward to having these rooms eliminated one day.

Chairman Goodale asked if other school districts use similar practices. Ms. Kirsch replied that she is aware of one charter school and a school district that placed a child in a janitorial closet. She has heard of other incidents, but without corroboration, there is nothing that can be done.

Mr. Meyer said if the recommendations made by the Task Force were adopted, it included parental notification for children under a 504 Plan, to which Ms. Kirsch agreed, noting that the parents should be notified, but there is no enforcement.

Leonard Clark, representing self, opposed HB2476. He stated that the title of the bill makes him queasy because when he was teaching, he was told, by state law, not to ever leave a student without monitoring since teachers represent the state and parents trust teachers with their children; however, sometimes it can be dangerous for the teachers. He added that he appreciates everyone working together on the bill.

Melissa Van Hook, Parent, East Valley Autism Network, spoke in favor of HB2476. She indicated that this is a step in the right direction, but it is a starting point with which to work with legislators on the issue of seclusion and restraint in schools. In 2009, former Senator John Huppenthal introduced SB1197, task force; special education (Laws 2009, Chapter 62E), which established the Task Force on Best Practices in Special Education and Behavior Management that developed excellent recommendations (Attachment 6). The recommendations were provided to every superintendent and special education director in the state, and every school district governing board was to hold a public meeting to adopt, reject or modify the recommendations; however, only a fraction of school districts responded, even though it was required in statute. Incidents of seclusion or restraint in the schools are not required to be reported to the Student Accountability Information System (SAIS), so ADE has no data. She has heard dozens of similar stories about children who do not have behavior issues and are not a danger to themselves. Staff people often do not have the proper training. The Network would like to see the Task Force recommendations become law and ADE to require reporting and parental notification across the board.

Ms. Otondo opined that the bill requires parental notification, making the rooms legal. Chairman Goodale responded that the Ad Hoc Committee will develop laws, review the Task Force recommendations and solidify what has not been enacted. This is the first step to at least notify parents before or afterward.

Leslie Noyes, representing self, spoke in favor of HB2476. She said she has two children in the Deer Valley School District, so she is very concerned about the use of these rooms without the parents' knowledge. She went to the school to see her child and found him in a room about the size of the elevators in the House; he was lying on the floor and completely unresponsive. She questioned why she was not notified if he was such a problem. The room was used as punishment, not for imminent danger, which should be defined. These rooms are dangerous and there is no monitoring or recordkeeping, in some cases. She said she moved her son to another school where he does not need restraint or seclusion. Monitoring of these rooms is needed because most of these children are on IEPs and have health conditions; lack of training has resulted in injuries. She contended that rules and consistency relating to these rooms are needed to make sure they are properly used for imminent danger instances only. She opined that the rooms are being used unfairly by targeting children with disabilities.

Mr. Meyer said he agrees that the rooms should not be used, but if they are, there should be parental notification and set standards. He noted that this bill requires parental notification, but there is no enforcement provision.

Vice-Chairman Coleman announced the names of those who signed up as neutral on HB2476 but did not speak:

Janice Palmer, Governmental Relations Analyst, Arizona School Boards Association  
Sabrina Vazquez, Legislative Liaison, Arizona School Administrators  
Chris Kotterman, Deputy Director Government Relations, Arizona Department of Education  
Christian Wolff, representing self  
Anjali Abraham, Public Policy Director, American Civil Liberties Union of Arizona  
Peri Jude Radecic, Director of Public Advocacy, Arizona Center for Disability Law  
Susan Cannata, Special Education Administrators Association of Arizona

Vice-Chairman Coleman announced the names of those who signed up in opposition to HB2476 but did not speak:

Doreen Zannis, representing self

Representative Townsend stated that the policies set in place were adopted, but were not mandatory; this bill requires parental notification in statute.

**Question was called on the motion that the Goodale 14-line amendment to HB2476 dated 2/8/13 (Attachment 5) be adopted. The motion carried.**

**Vice-Chairman Coleman moved that HB2476 as amended do pass. The motion carried by a roll call vote of 8-1-0-0 (Attachment 7).**

### **HB2500 – schools; teacher evaluations; dismissals – DO PASS AMENDED**

**Vice-Chairman Coleman moved that HB2500 do pass.**

**Vice-Chairman Coleman moved that the Goodale two-page amendment to HB2500 dated 2/8/13 (Attachment 8) be adopted.**

Brooke White, Majority Research Analyst, explained that HB2500, with the amendment, contains the following provisions (Attachment 9):

- Stipulates that a certificated teacher who is currently a continuing teacher but has been designated in the lowest performance classification for the current school year must immediately become a probationary teacher and remain so until their performance classification is designated in one of the two highest classifications.
- Requires teacher evaluation policies to include performance improvement plans and dismissal or non-renewable procedures that require the school district to issue the preliminary notice of inadequacy of classroom performance no later than the second consecutive year if the teacher is designated in one of the two lowest classifications.
- Requires the school board to give preliminary notice of inadequacy of classroom performance at least 45 calendar days before giving notice of intent to dismiss or not

reemploy a teacher. The preliminary notice of inadequacy of classroom performance must be accompanied by a performance improvement plan designed to help the teacher correct inadequacies and demonstrate adequate classroom performance.

Janice Palmer, Governmental Relations Analyst, Arizona School Boards Association (ASBA), spoke in support of HB2500. She advised that last year, HB2823, schools; teachers; principals; evaluation system (Laws 2012, Chapter 259) passed dealing with teacher evaluations, as well as incentives and consequences. At the ASBA Law Conference, which Chairman Goodale attended, attorneys talked about the bill's vague language and concerns that make implementation difficult. HB2500 ensures that last year's bill is implemented properly and addresses vague language so employees and employers know what is expected as far as dismissals. There are two outstanding issues with the AEA, but a commitment has been made to work on those items.

Jennifer Loreda, Arizona Education Association (AEA), opposed HB2500 and the Goodale amendment. She said a number of items were worked out that are addressed in the amendment; such as changing the improvement time for a teacher on an improvement plan from 90 calendar days for probationary teachers and 60 calendar days for continuing status teachers, to 45 days, which will be easier for teachers and administrators. She addressed two outstanding issues with the bill:

- Currently, a probationary teacher can be dismissed for many reasons at the end of any year; however, if the teacher is dismissed for inadequate classroom performance, current law requires the teacher to be notified by January 15; this bill removes that date. The AEA wants to ensure it is clear that if a teacher on probationary status is going to be non-renewed for classroom performance, the teacher is allowed the 45 calendar days.
- A long-term teacher may have a disagreement with the principal and be labeled ineffective, which is not performance-related. The AEA wants to give these teachers the ability to plead their case before the school board, which is the reason for language stating the teacher will be immediately dismissed in that given year or potentially moved to the probationary status in the second year, so the teacher does not lose due process the first year he/she is ranked ineffective.

In response to questions, Ms. Loreda related that teacher performance classifications are reported to the ADE, so if someone attempts to obtain a job at a school district or charter school, those classifications are disclosed. The AEA does not want a personality conflict to end someone's career without an opportunity for due process.

Ms. Otondo said she lives in a rural area where teachers are recruited from the Midwest and asked if this bill could discourage out-of-state teachers to locate to Arizona. Ms. Loreda answered that she does not know how much a new teacher will look at this process.

Leonard Clark, representing self, opposed HB2500. He stated he is glad everyone is working together. Educators in the classroom are being evaluated, but he does not see any "teeth" in the bill for evaluators who carry out personal vendettas.

Leeann Wieser, President, Arizona Federation of Teachers, opposed HB2500. She stated she agrees with Ms. Loreda about changing someone from continuing status to probationary status immediately because they would lose their chance to have a hearing the first year if the school district decided to terminate their employment at that time. She is also in favor of allowing the teacher to remain as a continuing teacher for the first year in order to have the opportunity for a hearing before the school board.

Vice-Chairman Coleman announced the names of those who signed up in support of HB2500 but did not speak:

Kelly McManus, Government Affairs Director, Stand for Children

Tom Pickrell, General Counsel, Mesa Public Schools

Barry Aarons, Lobbyist, Arizona Association of County School Superintendents

Tim Carter, Yavapai County School Superintendent

Jennifer MacLennan, school district clients

Sydney Hay, A Plus Arizona - Every Child Can Learn

Jonathan Butcher, representing self

Elizabeth Hatch, Mesa Public Schools

Charles Essigs, Director of Government Relations, Arizona Association of School Business Officials

Vice-Chairman Coleman announced the names of those who signed up as neutral on HB2500 but did not speak:

Sabrina Vazquez, Legislative Liaison, Arizona School Administrators

Chris Kotterman, Deputy Director, Government Relations, Arizona Department of Education

Doreen Zannis, representing self

**Question was called on the motion that the Goodale two-page amendment to HB2500 dated 2/8/13 (Attachment 8) be adopted. The motion carried.**

**Vice-Chairman Coleman moved that HB2500 as amended do pass. The motion carried by a roll call vote of 7-1-1-0 (Attachment 10).**

### **HB2530 – empowerment scholarship accounts; tests; surveys – DO PASS**

**Vice-Chairman Coleman moved that HB2530 do pass.**

Brooke White, Majority Research Analyst, explained that HB2530 requires students enrolled in an Empowerment Scholarship Account (ESA) to annually take a norm-referenced achievement test, an advanced placement test or a college admissions examination, and directs the Arizona Department of Education (ADE) to compile a list of achievement tests that satisfy the testing requirements (Attachment 11). ADE is required to report the graduation rate of ESA students on its website. The bill exempts students with an individualized education program (IEP) from the testing requirements.

Mrs. Carter, sponsor, explained that this was brought to her attention by articles in *The Arizona Republic* relating to ESA accountability. She supports these accounts and has heard reports of children positively impacted by ESAs. Parents receive a debit card with taxpayer dollars deposited in an account and have the choice of how the money is spent within the

parameters of the original legislation. This bill attempts to build academic accountability into the program.

Mr. Allen asked what the cost will be since someone will have to administer the tests in an environment in which it is not currently done. Mrs. Carter responded that the cost will be borne by the parent using taxpayer dollars on their debit card for the ESA account. She will have to conduct research on how much each of the tests will cost, but it will depend on the individual setting. If the student is in a private school where the tests are administered as part of the standard curriculum, that test will suffice, and it will not cost parents anything; however, if the child is not in a setting where a test is administered, the cost will have to be borne by the parent using the ESA. Tests range from \$90 or more, which is an estimate, but she would like the opportunity to obtain the specific cost.

Lisa Keegan, President, The Keegan Company, representing self, spoke in favor of HB2530. She stated there are appropriate levels of accountability for the different kinds of choices in Arizona. This is an appropriate way to require parents of students who participate in this program to be accountable for the academic performance of the students. There are nationally-recognized examinations that can be used, and it would be a tragedy if the state lost this opportunity for choice because of stories about not producing the test results of the students.

Mrs. Carter noted that most private schools administer a standardized test that will meet the requirements of this bill. She does not want to be overly prescriptive by specifying a specific test.

In response to questions, Ms. Keegan provided the following information:

- The Partnership for Assessment of Readiness for College and Careers (PARCC) assessment will determine which schools are “D” and “F” schools in the future.
- ADE is required to develop a list of achievement tests to ensure students are learning standards set by the state. There are cross relationships between the Common Core Standards, the PARCC assessment, Smarter Balanced and most of the tests that will likely be on that list.
- This information is going to the parents and no one else. If a student does not do well on the test, hopefully, the parents will decide whether the student shall remain in the program or move the student somewhere else.

Mr. Pierce noted that the bill stipulates that the money can no longer be used to keep a student in a “D” or “F” school. Mrs. Carter answered that a student is eligible for an ESA account if they already attend a school labeled “D” or “F”, which is determined based on Arizona’s Instrument to Measure Standards (AIMS) test scores. A previous bill before the Committee addressed the transition from AIMS to the PARCC assessment. This bill states that parents need to ensure their children are academically achieving, and as a condition of receiving public money, their child must take a standardized test of the parent’s choice for academic accountability purposes. Parents will still have the choice to allow the student to remain at a public school labeled “D” or “F” or use the ESA.

Ms. Otondo questioned whether a student who does not pass the test will be required to repeat the grade level. Mrs. Carter replied that the information will be used to determine the best academic setting for the student. Ms. Otondo stated she would prefer that the information be made public.

Jonathan Butcher, representing self, spoke in favor of HB2530. He related that the cost of tests range from \$90 to \$120 for the Scholastic Aptitude Test (SAT) or the Preliminary Scholastic Aptitude Test (PSAT). In addition, as the legislation is drafted, the test would be purchased by a parent for their child. He opined this is an important step forward in the maturity of the ESA program. Tests show a child's strengths and weaknesses, and provide more detail about what is the best education experience for the child, which is the aim of the ESA program.

Mr. Boyer asked if purchase of the test is a legitimate use of ESA funds. Mr. Butcher replied that is an eligible expense. If ADE is asked to significantly facilitate this program with taxpayer dollars, it is important to require parents to have the children academically assessed each year.

Matthew Ladner, Senior Advisor of Policy and Research, Foundation for Excellence in Education, spoke in favor of HB2530. He stated there is a Bell curve opinion with two extremes, both of which he recommends the Members avoid. One extreme is that public dollars are involved, so these students should be given the AIMS test or the PARCC assessment. It is very important to have transparency, but it is also important that it fits the system that is being assessed. The other extreme is the current program, which requires no testing and allows parents a variety of options on how to best educate their children, with the ability to pay for a test, but no requirement for testing. This bill is a requirement for parents to choose a diagnostic test for their child, and the parents are the only recipients of that information, which is somewhere between the two extremes. In response to questions, he related the following:

- The main option would be a national norm-referenced test. Requiring a state test or a test similar to the PARCC assessment in order to receive the funds would homogenize schools and encourage them to adopt the curriculum and methods used in the public school system, which would be a mistake.
- There is nothing to stop parents from seeking this information currently and it would be paid for.
- It is risky to maintain the program as it is because at some point in the future, the AIMS test or PARCC assessment could be imposed.
- Transparency to parents alone is better than the status quo.
- Education delivery systems are better with some level of transparency, which has been done in other states without causing problems.

Mrs. Carter indicated that the language in the bill was carefully crafted through the stakeholder process, which included people opposed to the bill, but there may be some iteration in the future.

Aiden Fleming, Legislative Liaison/Administrator of ESA Accounts, Arizona Department of Education (ADE), opposed HB2530. He related that the following concerns:

- Making changes to the statute may affect the outcome and longevity of the program in the future. This is a new way of approaching education for children, but there is a lawsuit

underway. These parents are removing their children from the public education system to avoid testing; requiring testing will create a hybrid situation that will be difficult to monitor.

- Currently, the norm-referenced test given is the Stanford Achievement Test, Tenth Edition (Stanford 10), which is only taken in second to ninth grade, whereas ESA children are also in kindergarten and first grade.
- Administering the test will be expensive because a proctor will be needed.
- Norm-referenced tests do not have a test site, which would have to be addressed by the parents, who have limited resources with ESA funds.

In response to a question, Mr. Fleming acknowledged that the bill does not require ADE to administer the test.

Chris Kotterman, Deputy Director, Government Relations, Arizona Department of Education (ADE), advised the Members that the Superintendent of Public Instruction, John Huppenthal, does not support the philosophy of this legislation. Mr. Kotterman suggested a meeting with the Superintendent to work on the items mentioned by Mr. Fleming.

Mrs. Carter stated the bill does not place an undue burden on ADE and thanked Mr. Fleming for an excellent job in administering the ESA program. She stated she respects the Superintendent's position, which is different than saying it cannot be implemented.

Sydney Hay, American Federation for Children; A Plus Arizona, said she supports HB2530 because the academic accountability is to parents only, in exchange for contracting with the state to remove their child from the public school system and agreeing to educate their child in specific basic subjects. She responded to questions about testing in private schools.

Vice-Chairman announced the names of those who signed up in support of HB2530 but did not speak:

Doreen Zannis, representing self  
Janice Palmer, Governmental Relations Analyst, Arizona School Boards Association  
Kathryn Gonzalez, representing self  
Melissa Keckler, Political Coordinator, American Federation for Children  
Sabrina Vazquez, Legislative Liaison, Arizona School Administrators  
Deb Gullett, A Plus Arizona  
Jennifer Loreda, Arizona Education Association  
Shawna Bolick, representing self

Vice-Chairman announced the names of those who signed up in opposition to HB2530 but did not speak:

Leeann Wieser, President, Arizona Federation of Teachers  
Harry Miller, Executive Director, Tuition Organization for Private Schools

Mr. Boyer read a statement from Deborah Sheasby, Legal Counsel, Center for Arizona Policy, in opposition to the bill. Ms. Sheasby indicated that the fundamental philosophy behind school choice is that parents know what is best for their own children. A testing requirement undermines this core principle by forcing parents to answer to the state. When programs like the

ESA use public funds, there should be accountability on how the money is spent, but parents should not be required to answer to the government for their child's educational outcomes, which is an unnecessary and improper intrusion into the parents' decision-making.

**Question was called on the motion that HB2530 do pass. The motion carried by a roll call vote of 6-3-0-0 (Attachment 12).**

**HB2217 – extraordinary educators special plates – DO PASS**

**Vice-Chairman Coleman moved that HB2217 do pass.**

Brooke White, Majority Research Analyst, explained that HB2217 contains the following provisions (Attachment 13):

- Establishes an Extraordinary Educators Special License Plate and Trust Fund.
- Specifies the superintendent is required to administer the fund.
- Provides that the beneficiary of the trust is the foundation that supports an elementary school district in Arizona that helps prepare students in kindergarten through grade eight.
- Requires the foundation to raise money to advance opportunities for the students of an elementary school district, enrich current education programs and create an environment of community involvement for students and staff.

Representative Jeff Dial, sponsor, stated this will be a mini-grant program and provided the following handouts:

- Memo outlining the provisions of the bill (Attachment 14).
- Letter in support of HB2217 from Jared Taylor, Business Manager, Heritage Academy (Attachment 15).
- Picture of the proposed license plate (Attachment 16).

Sasha Glassman, representing self, in favor of HB2217, stated she approached Representative Dial about the concept of an educational license plate to provide extra resources for public and charter school teachers committed to providing special opportunities for their students. Individual teachers will apply on an annual basis for \$500 mini-grants for extraordinary projects. In order to raise the \$32,000 required to pay the Arizona Department of Transportation (ADOT) and have a small marketing budget to share information about the plate, a statewide committee of nine community leaders was established. The license plate is designed to give the appearance of being drawn by a student (Attachment 16). She pointed out that the legislation requires approval from ADOT.

Tim Ham, Superintendent, Madison School District, in support of HB2217, indicated that Ms. Glassman approached him with this idea. The Madison Foundation helped to raise money for the license plate and marketing and, hopefully, people will purchase the license plates. County superintendents will review applications and award the mini-grants to extend and enrich experiences in K-8 settings, and afterward, some type of celebration will be held for teachers awarded the grants. He requested that the Members support the bill.

In response to a request, Superintendent Ham stated that the money does not go to the Madison School District. The Madison Foundation is a totally separate organization that will deposit the money and write the checks. The fee for ADOT is \$32,000, but he believes attempts are being made to raise \$65,000 in order to market the license plate.

Vice-Chairman Coleman announced the names of those who signed up in support of HB2217 but did not speak:

Lisa Keegan, President, The Keegan Company, representing self

Sam Polito, Tucson Area School Districts

Charles Essigs, Director of Government Relations, Arizona Association of School Business Officials

Leeann Wieser, President, Arizona Federation of Teachers

Jennifer Loreda, Arizona Education Association

Vice-Chairman Coleman announced the names of those who signed up as neutral on HB2217 but did not speak:

Doreen Zannis, representing self

Chris Kotterman, Deputy Director, Government Relations, Arizona Department of Education

**Question was called on the motion that HB2217 do pass. The motion carried by a roll call vote of 8-1-0-0 (Attachment 17).**

Without objection, the meeting adjourned at 5:29 p.m.

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Linda Taylor, Committee Secretary  
February 15, 2013

(Original minutes, attachments and audio on file in the Chief Clerk's Office; video archives available at <http://www.azleg.gov>)