

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

COMMITTEE ON APPROPRIATIONS

Minutes of Meeting
Wednesday, February 26, 2014
House Hearing Room 1 -- 2:00 p.m.

Chairman Kavanagh called the meeting to order at 2:19 p.m. and attendance was noted by the secretary.

Members Present

Ms. Alston	Mr. Kwasman	Mrs. Ugenti
Mr. Boyer	Ms. Mach	Mr. Olson, Vice-Chairman
Mr. Forese	Mr. Sherwood	Mr. Kavanagh, Chairman
Mr. Gray		

Members Absent

Mr. Campbell (excused)

Committee Action

HB2139 – DPA S/E (7-3-0-1)	HB2612 – NOT OUT OF PRIMARY COMMITTEE
HB2238 – DP (6-3-0-2)	HB2618 – DPA S/E (6-3-0-2)
HB2241 – DP (8-0-0-3)	HB2646 – DISCUSSED & HELD
HB2343 – DPA S/E (10-0-0-1)	HB2651 – DPA (7-2-0-2)
HB2412 – DPA (7-3-0-1)	HB2674 – DPA (10-0-0-1)
HB2419 – DPA S/E (7-2-0-2)	HB2692 – DP (7-3-0-1)
HB2521 – DPA (7-2-1-1)	HJR2001 – DP (8-0-0-3)

CONSIDERATION OF BILLS

HB2612 – fire suppression; federal reimbursement – NOT OUT OF PRIMARY COMMITTEE

Chairman Kavanagh announced that HB2612 is not out of the primary committee and will not be heard.

HB2692 – DPS; operating expenses; appropriation; intent – DO PASS

Vice-Chairman Olson moved that HB2692 do pass.

Mike Huckins, Majority Research Analyst, explained that HB2692 replaces Highway User Revenue Fund (HURF) monies in fiscal year (FY) 2015 and 2016 with state General Fund (GF) monies for the Arizona Department of Public Safety (DPS) operating expenses (Attachment 1).

Mr. Huckins related that with the state facing budget deficits over the past few years, HURF monies were diverted from the statutory beneficiaries and used to pay for highway patrol costs through DPS. The total amount of the HURF shift over the two years that will be offset by GF monies is approximately \$238.5 million.

Speaker Andy Tobin, sponsor, related that this bill returns HURF monies to the cities and counties over a two-year period to be used for shovel-ready projects; the state cannot recover unless some attention is given to infrastructure costs. The bill also returns the responsibility for funding DPS to the GF.

Vice-Chairman Olson questioned if this would be better addressed in the broad context of the budget, noting that it is not included in the Governor's budget. Speaker Tobin responded that the roadways have been in disrepair for a long time and, without this appropriation, the cost will be more in the future. He acknowledged that it is not included in the Governor's budget, but said the Governor is not opposed to this legislation.

Ken Strobeck, Lobbyist, League of Arizona Cities and Towns, related that he represents all 91 incorporated cities and towns in Arizona which support HB2692. He provided resolutions passed by local city and town councils in support (Attachment 2), as well as the 2014 Municipal Policy Statement of the League, which has been calling for this for a number of years (Attachment 3). He added that streets and roads are critical to the ability to provide safe, efficient transportation and to attract economic development. More than \$100 million dollars has been taken from cities and towns and shifted to DPS over the last three years from this account. By returning this money to the distribution formula, it will not only go to the cities and towns; it will also go to counties and the State Highway Fund. When people fill their gas tanks, there is an expectation that the gas tax will be used for roadways, and the cost of replacing a roadway is far more than the cost of maintenance.

Vice-Chairman Olson announced the names of those who signed up in support of HB2692 but did not speak:

Steve Trussell, Lobbyist, Arizona Rock Products Association
Lu Anne Frost, Lobbyist, Town of Pinetop-Lakeside
John Lewis, Mayor, Town of Gilbert, representing self
Leah Hubbard Rhineheimer, Town Of Gilbert
Heather Wilkey, Lobbyist, Town of Gilbert
D.L. Wilson, Supervisor, La Paz County, representing self
Adriana Marinez, Lobbyist, City of Tucson
Jacqueline Walker, representing self
Lana Mook, representing self
Amber Wakeman, Lobbyist, City of El Mirage
Nicholas Gioello, representing self
Robert Medler, Lobbyist, Tucson Metropolitan Chamber of Commerce
Daryl Seymore, representing self
Matthew Busby, Assistant to the City Manager, City of Apache Junction
Trey Williams, Lobbyist, Arizona Association of Counties
Paul Jepson, Lobbyist, City of Maricopa
Tony Bradley, President and CEO, Arizona Trucking Association
Leonard Clark, representing self

Ryan Harper, Lobbyist, Town of Marana; City of Sierra Vista
Scott Butler, City of Mesa
Marge Zylla, Lobbyist, City of Tempe
Mark Mitchell, representing self
George Diaz, Lobbyist, Town of Buckeye
Jackie Meck, representing self
Eric Emmert, Lobbyist, East Valley Chamber of Commerce Alliance
Brandy Petrone, AAA Arizona
Stephen Cleveland, representing self
Amanda Rusing, Lobbyist, Arizona Association for Economic Development

Question was called on the motion that HB2692 do pass. The motion carried by a roll call vote of 7-3-0-1 (Attachment 4).

HB2646 – veterans; home buyers; grants; appropriation – DISCUSSED & HELD

Vice-Chairman Olson moved that HB2646 do pass.

Vice-Chairman Olson moved that the Kavanagh three-line amendment to HB2646 dated 02/21/14 (Attachment 5) be adopted.

Casey Baird, Majority Research Assistant Analyst, explained that HB2646 appropriates \$1 million from the Housing Trust Fund in fiscal year (FY) 2015 to the Arizona Department of Housing for the purpose of issuing grants to first-time veteran home buyers (Attachment 6). The Kavanagh three-line amendment to HB2646 dated 02/21/14 (Attachment 5) clarifies that only an Arizona veteran who has been honorably discharged within five years of the grant application may be issued a grant.

She related that the three-page Alston amendment to HB2646 dated 02/26/14 (Attachment 7) continues to allow the Department of Housing to issue grants to first-time Arizona veteran homebuyers and declares that 55 percent of the proceeds from the sale of abandoned property must be deposited into the Housing Trust Fund rather than the \$2.5 million regular appropriation.

Representative Sonny Borrelli, sponsor, stated that he spoke to the Director of the Arizona Housing Finance Authority and this program can be implemented without legislation.

Michael Traylor, Director, Arizona Department of Housing, neutral on HB2646, stated that the Department currently operates the HOME PLUS Mortgage Loan Program in 13 rural counties. The goal of this legislation can be achieved by increasing the down payment assistance for military personnel to five percent, without legislation or using Housing Trust Fund dollars that are stretched to the limit.

Representative Borrelli requested that the bill be withdrawn from consideration.

Vice-Chairman Olson withdrew the motion that the Kavanagh three-line amendment to HB2646 dated 02/21/14 (Attachment 5) be adopted.

Vice-Chairman Olson withdrew the motion that HB2646 do pass.

Ms. Alston objected, stating that she was unable to offer the three-page Alston amendment.

Question was called on Vice-Chairman's Olson's motion to withdraw the motion that HB2646 do pass. The motion carried.

HB2618 – uninsured vehicles; impounding – DO PASS AMENDED S/E
S/E: legislative appropriation; federal monies

Vice-Chairman Olson moved that HB2618 do pass.

Vice-Chairman Olson moved that the Kavanagh two-page strike-everything amendment to HB2618 dated 02/20/14 (Attachment 8) be adopted.

Casey Baird, Majority Research Assistant Analyst, explained that the Kavanagh two-page strike-everything amendment to HB2618 dated 02/20/14 (Attachment 8) gives the Legislature the authority to appropriate noncustodial federal monies (Attachment 9). She indicated that it is identical to HB2697 - legislative appropriations; state; federal; monies, which passed the Committee the previous week.

Representative David Livingston, sponsor, indicated that \$11.3 million in next year's budget flows through federal agencies to state agencies that the Legislature does not appropriate. The Legislature needs to know where that money is going, particularly with the new Department of Child Welfare and Family Services. The bill excludes federal funding for universities, community colleges and schools. In response to a question, Representative Livingston indicated that he did not realize a similar bill passed, but he will review the other bill to decide which will be taken to Committee of the Whole and Third Read.

Question was called on the motion that the Kavanagh two-page strike-everything amendment to HB2618 dated 02/20/14 (Attachment 8) be adopted. The motion carried.

Vice-Chairman Olson moved that HB2618 as amended do pass. The motion carried by a roll call vote of 6-3-0-2 (Attachment 10).

HB2521 – school calendar; 200 days; funding – DO PASS AMENDED

Vice-Chairman Olson moved that HB2521 do pass.

Vice-Chairman Olson moved that the Boyer 16-line amendment to HB2521 dated 02/20/14 (Attachment 11) be adopted.

Mike Huckins, Majority Research Analyst, explained that HB2521 increases from five percent to eight percent the amount that a charter school district or charter holder that provides a 200-day calendar can increase its base level and allows individual schools and charter schools to provide a 200-day calendar if they are assigned a letter grade of *D* or *F* from the Arizona Department of Education (ADE) (Attachment 12). The schools must have incorporated a 200-day instructional calendar into their submitted school improvement plan. The bill requires schools, school

districts, charter schools and charter holders to have obtained approval from ADE by November 1, 2013 in order to raise their base level to the eight percent in fiscal year (FY) 2015. The Boyer 16-line amendment to HB2521 dated 02/20/14 (Attachment 11) caps the base level funding increase for new schools or school districts entering the program at \$1 million and instructs ADE to approve the new requests on a first-come, first-served basis.

Representative Paul Boyer, sponsor, related that this is the same bill as last year except for a new amendment establishing a threshold of \$1 million. It is already a law at five percent. If a school district has a particular *D* or *F* school that would benefit from the additional 200-day instructional time, a governing board vote would be taken, after input from the community, teachers and parents. It is not a mandate; it is an optional program for school districts.

Dr. Jeff Smith, Superintendent, Balsz School District, representing self, in support of HB2521, conveyed that two failing schools in the school district extended the school year to 200 days. In addition to an extra month of instruction, the time off in the summer is shortened so students do not lose what they have learned. It is a win-win situation for schools, communities and very popular with parents who are working and need their children in a safe environment. There have been increases of 10 percent in math and reading scores over the last four years. This would be a benefit to individual schools across the state. He said he talked to other superintendents who would like the opportunity to make this change.

Barry Aarons, Lobbyist, Arizona Association of County School Superintendents, in support of HB2521, said unbundling will create opportunities, especially for *D* and *F* schools within large school districts that might not have the opportunity to do this but would like to. He and Don Covey, Maricopa County School Superintendent, are meeting with ADE and there have been ongoing stakeholder meetings and discussions with Members of the Senate. Many ideas have arisen, such as increasing the base level funding on an incremental basis, implementing the changes under a pilot program on a per school or per school district basis, implementing a planning period with delayed implementation and accountability measures. He recommended that the Members keep the bill moving because the basic concept of increasing the base level and unbundling is a worthwhile exercise; when the bill reaches the Senate, he believes agreement will be reached to enable it to move forward.

Stacey Morley, Arizona Department of Education, neutral on HB2521, said she continues to work with the sponsor and stakeholders on the bill, but she is seriously concerned about implementing school level budgeting when budgeting is done at the school district and charter school holder level. She hopes that once the new finance system is in place, ADE will be able to do that, but there are issues with taxpayers and tax rates. State and local funding is involved, so if the base level for individual schools is increased, taxpayers would be paying for the slightly increased tax rate in order to fund this at only some schools in the school district. She endorsed the concept, noting that what has been done at Balsz School District is incredible.

In response to questions, Ms. Morley indicated that she changed ADE's position to neutral because of the general effective date. It would be a year out and, hopefully, the finance system will have been replaced and things can be done at the school level; otherwise, it would have to be done manually on a spreadsheet, which introduces the possibility of human error. She clarified that with the amendment, any schools currently in *D* or *F* categories would be able to apply but would only receive \$1 million and not the full eight percent increase to the base level.

Ms. Alston related that if everyone eligible participated, it would cost \$26 million and, if additional schools participated, it would cost an additional \$1 million, for a total cost of \$27 million. Mr. Boyer noted that the fiscal note showing an impact of \$26 million was if every *D* and *F* school participated; that was before the amendment with the cap at \$1 million because of concern about the fiscal note. Ms. Morley stated that even if all of the schools applied, it would not be nearly \$26 million. She indicated to Ms. Mach that ADE's ability to implement this is contingent upon obtaining full funding for replacement of the data system (\$14.5 million).

Vice-Chairman Olson asked about the possibility of a grant program equal to a percent of the base support level rather than an increase in the base support level that goes directly to the school. Ms. Morley answered that would be much easier than wrapping it into the school finance formula.

Leeann Wieser, State President, Arizona Federation of Teachers Union, in support of HB2521, stated that she represents teachers in the Balsz School District. The governing board and administration have been working diligently to stretch the current five percent increase to accommodate the 200-day calendar and it has been challenging every year. Besides additional funds used for operations, this bill will allow for increases to teacher salaries for working the extra days. In response to questions, she indicated that the Union has a good relationship with administration and the governing board and could probably discuss options about what may happen with the increased money, but the law does not state that a certain percentage of increased funding must go to employees.

Mrs. Alston stated those kind of relationships do not exist throughout the state. Representative Boyer said he would like to retain local control. Ms. Alston stated she would also, but if this is going to be done she would like to see it funded at 11 percent rather than 8 percent so there is the ability to make decisions to appropriately compensate employees.

Vice-Chairman Olson announced the names of those who signed up in support of HB2521 but did not speak:

Kelly McManus, Lobbyist, Stand for Children

Tim Carter, Yavapai County School Superintendent, representing self

Janice Palmer, Arizona School Boards Association

Sabrina Vazquez, Lobbyist, Arizona School Administrators Association

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

Trey Williams, Lobbyist, Arizona Association of Counties

Geoff Esposito, Arizona School Boards Association

Question was called on the motion that the Boyer 16-line amendment to HB2521 dated 02/20/14 (Attachment 11) be adopted. The motion carried.

Vice-Chairman Olson moved that HB2521 as amended do pass. The motion carried by a roll call vote of 7-2-1-1 (Attachment 13).

HB2674 – tobacco settlement agreement – DO PASS AMENDED

Vice-Chairman Olson moved that HB2674 do pass.

Vice-Chairman Olson moved that the Kavanagh four-page amendment to HB2674 dated 02/25/14 (Attachment 14) be adopted.

Jeanine Jones, Majority Research Analyst, explained that HB2674 makes numerous changes to the Arizona Revised Statutes to increase Arizona's compliance under the tobacco Master Settlement Agreement (Attachment 15). The Kavanagh four-page amendment to HB2674 dated 02/25/14 (Attachment 14) contains the following provisions:

- Modifies definitions relating to small cigars
- Adds the effective date for e-filing provisions as July 1, 2015
- Clarifies provisions relating to tax stamps for on-reservation sales of tobacco products
- Provides procedures relating to redemption of unused or spoiled Arizona tax stamps and refunds for inventory that is unfit for sale due to spoilage or breakage
- Adds a severability clause in the escrow statutes
- Amends the bonding provision
- Makes other technical and conforming changes

Representative T.J. Shope, sponsor, thanked everyone who worked on this legislation and noted that people from the Arizona Attorney General's Office are present to answer any questions.

Art Harding, Arizona Attorney General's Office, in support of HB2674, said this bill is the result of a cooperative effort between tobacco manufacturers, the Arizona Department of Revenue (DOR) and distributors. The job of the Arizona Attorney General's Office is to represent the state and enforce this escrow statute. DOR collects the sales and tax data and regulates and inspects the supply chain.

Vice-Chairman Olson announced the names of those who signed up in support of HB2674 but did not speak:

Sean Laux, Lobbyist, Arizona Department of Revenue
Don Isaacson, RAI Services Company
Norman Moore, Attorney, Reynolds American, Inc.
John Mangum, Altria Client Services, Inc. and affiliates

Vice-Chairman Olson announced the names of those who signed up as neutral on HB2674 but did not speak:

Steve Barclay, Lobbyist, Cigar Association of America

Question was called on the motion that the Kavanagh four-page amendment to HB2674 dated 02/25/14 (Attachment 14) be adopted. The motion carried.

Vice-Chairman Olson moved that HB2674 as amended do pass. The motion carried by a roll call vote of 10-0-0-1 (Attachment 16).

HB2343 – supplemental appropriation; state forester – DO PASS AMENDED S/E
S/E: forest health management

Vice-Chairman Olson moved that HB2343 do pass.

Vice-Chairman Olson moved that the Kavanagh 22-line strike-everything amendment to HB2343 dated 02/24/14 (Attachment 17) be adopted.

Vice-Chairman Olson moved that the Kavanagh three-page amendment to the strike-everything amendment to HB2343 dated 02/26/14 (Attachment 18) be adopted.

Tom Savage, Majority Research Assistant Analyst, explained that the Kavanagh 22-line strike-everything amendment to HB2343 dated 02/24/14 (Attachment 17) requires the State Land Department (SLD) to establish a program to facilitate the removal of wood fiber and other vegetative natural products for the purpose of fire suppression and conservation on state lands (Attachment 19). The Kavanagh three-page amendment to the strike-everything amendment to HB2343 dated 02/26/14 (Attachment 18) contains the following provisions:

- Provides a date for when the SLD must establish a program for the removal of vegetative natural products from state land
- Clarifies that the purpose of the program is for forest management
- Requires the State Land Commissioner and the State Forester to adopt best land management practices to decrease the severity of wildland fires on state lands
- Establishes the Best Plan Management Practices Fund with yearly appropriations of \$1.8 million from the state General Fund (GF)
- Appropriates \$1.8 million in fiscal year (FY) 2015 to the State Forester for forest health and forest thinning projects
- Appropriates \$200,000 and one full-time employee position from the GF to the SLD in FY 2015.

Mr. Savage mentioned the Kavanagh two-line amendment to HB2343 dated 02/26/14 (Attachment 20).

Representative Brenda Barton, sponsor, related that the strike-everything amendment to HB2343 and the amendments are a compilation of forestry bills that have been going through the House, and it is still a work in progress. This legislation allows the SLD to establish a program and application process for individuals interested in setting up a clearing program for management of state trust land for removal of trash, foliage and vegetation, making the land more valuable and less forest fire prone. Several biomass companies and facilities would be able to take advantage of the unwanted products and proceeds go to the school fund. She is trying to reach an agreement so funds are available with a grant program through the State Forester. The City of Flagstaff bonded \$10 million to work toward the urban interface and would like to be able to address state trust land issues in the Coconino County area. The amendment relates to best land

management practices and requires public meetings to be held in counties where the State Forester and the SLD Commissioner prioritized areas for implementation of best practices. One full-time equivalent and \$200,000 is included so it is not an unfunded mandate.

Vice-Chairman Olson opined this is severely needed to prevent tragic fires such as those that have occurred in the past. He asked why the funds that are raised are not being used to make this a self-sustaining project. Representative Barton said she would like to do that, but the Enabling Act in the Arizona Constitution requires funds derived from state trust lands to go into the school funding program. It could be considered in areas that interface with the counties when the two agencies decide on priorities.

Mr. Kwasman asked if a dollar-for-dollar offset can be done. Vice-Chairman Olson responded that would be a mechanism for accomplishing a self-sustaining process. Representative Barton indicated there could be a revolving fund where a specific amount of funding is provided and money goes back into the fund so it is available for another project. Chairman Kavanagh advised checking with the attorneys.

Vice-Chairman Olson announced the names of those who signed up as neutral on the strike-everything amendment to HB2343 but did not speak:
Sandy Bahr, Lobbyist, Sierra Club-Grand Canyon Chapter

Vice-Chairman Olson announced the names of those who signed up in support of the strike-everything amendment to HB2343 but did not speak:
Brad Lundahl, Lobbyist, City of Scottsdale
Michael Colletto, Professional Fire Fighters of Arizona
Norris Nordvold, representing self

Adam Hawkins, Lobbyist, Veridus LLC, in favor of the strike-everything amendment to HB2343, in relation to a potential revolving fund, said it is complicated; state funding of non-trust lands is another category but, in this case, most of the properties are state trust land.

Representative Lisa Otondo, representing self, said this legislation is the culmination of many bills worked on by many Members and a bipartisan effort. People who love this state, the forest lands and chaparrals, cannot sit around and watch more lives be placed in danger and more land and natural resources destroyed. It is anticipated that up to 400 jobs will be made from the best land management practices portion of the bill and over \$15 million in economic benefits. The City of Scottsdale is extremely supportive because state land management is a priority due to the fact that their water infrastructure has been damaged from mud slides off the mountains after the fires. The cities and counties are willing to provide money and want to use intergovernmental agreements (IGA). The state is suffering from a terrible drought and prevention is always the best measure. She added that the Game and Fish Department, the Arizona Cattlemen's Association, etc., are in support of this legislation. She thanked Representative Barton and Representative Frank Pratt for their work on this issue.

Question was called on the motion that the Kavanagh three-page amendment to the strike-everything amendment to HB2343 dated 02/26/14 (Attachment 18) be adopted. The motion carried.

Vice-Chairman Olson moved that the Kavanagh two-line amendment to the strike-everything amendment to HB2343 dated 02/26/14 (Attachment 20) be adopted. The motion carried.

Vice-Chairman Olson moved that the Kavanagh 22-line strike-everything amendment to HB2343 dated 02/24/14 (Attachment 17) as amended be adopted. The motion carried.

Vice-Chairman Olson moved that HB2343 as amended do pass. The motion carried by a roll call vote of 10-0-0-1 (Attachment 21).

HJR2001 – child abuse prevention month – DO PASS

Vice-Chairman Olson moved that HJR2001 do pass.

Casey Baird, Majority Research Assistant Analyst, explained that HJR2001 establishes April 2014 as Child Abuse Prevention Month in Arizona (Attachment 22).

Representative Brophy McGee, sponsor, stated that this resolution is intended to raise awareness and unite legislators around a common and very important cause, which is reform of Arizona's child welfare system. Recognizing April as Child Abuse Prevention Month is a great start.

Question was called on the motion that HJR2001 do pass. The motion carried by a roll call vote of 8-0-0-3 (Attachment 23).

HB2241 – appropriation; client services trust fund – DO PASS

Vice-Chairman Olson moved that HB2241 do pass.

Katie Scates, Majority Research Intern, explained that HB2241 appropriates \$120,000 from the state General Fund (GF) in fiscal year (FY) 2015 to the Developmentally Disabled Client Services Trust Fund and states that it is the intent of the Legislature that the appropriation is to partially replace monies swept from the Fund for services to developmentally disabled (DD) clients in FY 2008 and FY 2009 (Attachment 24).

Representative Brophy McGee, sponsor, said the original fund had a balance of \$4 million that was swept during the budget crisis in 2008 and 2009. The program was designed around a policy Arizonans embrace, which is to keep DD clients with their families at home and living as independent a life as possible. The fund is almost out of money so this bill provides an additional year's worth of funding of grants to be able to pull the disabled community together to talk about strategies to maintain DD clients in their homes, which is the least cost to the state.

Gina Judy, Member, Developmental Disabilities Advisory Council, in support of HB2241, stated that the Council oversees the fund. The original amount of \$4.25 million was from the sale of properties in 1998, and the interest generated was used to fund requests and allow people to stay in their homes or family homes, such as a unique shower stall, specialized scooter for their son or daughter, wheelchair lift for a van, bedrails that are easily removable, corrective shoes, vehicle ramps, etc. In FY 2013, only about \$12,000 was expended on these one-time situations whereas,

in previous years, over \$100,000 was expended each year, which reduced the ability of what can be done to support families across the state. There are 300 to 400 applications per year for that fund asking for items when other avenues have been exhausted. During the past year, there has been a focus on alternative methods to fulfill requests, such as agreements with mattress companies to provide a unique mattress that needs to be replaced for an individual, but it is not possible to cover all of the requests. She asked the Members to move the bill forward so this issue can be considered during the budget process.

In response to a question, Ms. Judy stated that if this legislation does not pass, the result would depend on individuals. In rural areas, the situation in the home would be so dire that alternative methods of serving the individual would have to be found, such as moving them into a residential setting that would be fully accessible, which is much more costly. The figure of \$100,000 was arrived at because that amount was provided annually over the last few years, from \$200,000 annually years ago.

Vice-Chairman Olson announced the names of those who signed up as neutral on HB2241 but did not speak:

Leonard Clark, representing self

Vice-Chairman Olson announced the names of those who signed in support of HB2241 but did not speak:

Brandy Petrone, Arizona Association of Providers for People with Disabilities

Christine Saeva, representing self

Steven King, representing self

Susan Bastian, representing self

Susan Cannata, Lobbyist, The Arc of Arizona, Inc.

Monica Attridge, representing self

Question was called on the motion that HB2241 do pass. The motion carried by a roll call vote of 8-0-0-3 (Attachment 25).

HB2139 – technical correction; petroleum product storage – DO PASS AMENDED S/E S/E: increased eligibility; empowerment scholarship accounts

Vice-Chairman Olson moved that HB2139 do pass.

Vice-Chairman Olson moved that the Kavanagh three-page strike-everything amendment to HB2139 dated 02/24/14 (Attachment 26) be adopted.

Aaron Wonders, Majority Research Analyst, explained that the Kavanagh three-page strike-everything amendment to HB2139 dated 02/24/14 (Attachment 26) expands eligibility for the Arizona Empowerment Scholarship Accounts (ESA) program to the siblings of current ESA recipients and children who are eligible to enroll in preschool programs for children with disabilities (Attachment 27).

Representative Warren Petersen, sponsor, stated this is an expansion of the ESA program to siblings of children participating in the program and disabled children in preschool.

Sydney Hay, American Federation for Children; Every Child Can Learn, Inc., in support of the strike-everything amendment to HB2139, indicated that the ESA program is unique in the country. There are 761 students participating and these two provisions will make the program much better for families with students with disabilities. The program is capped at one-half of one percent of K-12 population in the state, so about 5,500 new children are able to enter the program every year, which will not change with this legislation that allows siblings and preschoolers with profound disabilities, who would be able to attend public schools anyway, into this program. A student in ESA is provided with 90 percent of funding the state would spend for that child to attend a public school with charter school additional funding, so if the child has a disability that would cost the state \$20,000, the ESA program would be \$18,000. The extra 10 percent is kept within the Arizona Department of Education (ADE) and Treasurer's Office where it is divided up to administer the program so there is a negligible fiscal impact. These children receive no federal funding and no district funding.

Ms. Mach asked the percentage of schools receiving funds that are religiously affiliated. Ms. Hay deferred the question to the ADE, but noted that the bulk of children currently in the program are children with disabilities, and most of those schools are nonreligious.

Stacey Morley, Arizona Department of Education, neutral on HB2139, said it is actually the formula funding so for some children who attend a school district, the funding shifts from partially local, partially state funded to totally state funded so there is a slight increase; the Joint Legislative Budget Committee (JLBC) came up with about a \$700 difference. If the student is from a charter school, the funding is less because it is all General Fund money. Currently, not a huge number of children attend religious schools because the majority of children who attend specialized schools are children with disabilities. The only difference with this change is that the children will not have to attend a public school in Arizona for the prior school year to qualify.

Ms. Mach asked if the traditional public school is experiencing difficulty dealing with these children. Ms. Morley said it depends on the school; larger school districts have excellent programs. Also, the students' parents fight for what they want for their children and sometimes want the choice to place them somewhere else, which this program allows.

Chairman Kavanagh asked if the students currently in the program are spread proportionately in rural versus urban areas. Ms. Morley replied they are mostly urban, but about 10 percent of the parents choose to home school. The students are from all over the state, with the majority in Pima and Maricopa Counties.

Vice-Chairman Olson announced the names of those who signed up as neutral on the strike-everything amendment to HB2139 but did not speak:

Aiden Fleming, Arizona Department of Education

Vice-Chairman Olson announced the names of those who signed up in support of the strike-everything amendment to HB2139 but did not speak:

Josh Kredit, Lobbyist, Center for Arizona Policy

Marc Ashton, representing self

Harry Miller, representing self

Deb Gullett, A Plus; Every Child Can Learn

Bill Fathauer, Americans for Prosperity Arizona
Julie Batt, representing self
Dave Kopp, Manager, Americans for Prosperity Arizona
Grant Batt, representing self
Jonathan Butcher, representing self

Vice-Chairman Olson announced the names of persons who signed up in opposition to the strike-everything amendment to HB2139 but did not speak:

Janice Palmer, Arizona School Boards Association
Sabrina Vazquez, Lobbyist, Arizona School Administrators Association
Jennifer Loreda, Lobbyist, Arizona Education Association
Geoff Esposito, Arizona School Boards Association

Question was called on the motion that the Kavanagh three-page strike-everything amendment to HB2139 dated 02/24/14 (Attachment 26) be adopted. The motion carried.

Vice-Chairman Olson moved that HB2139 as amended do pass. The motion carried by a roll call vote of 7-3-0-1 (Attachment 28).

HB2412 – firearms; schools; safety designee program – DO PASS AMENDED

Vice-Chairman Olson moved that HB2412 do pass.

Vice-Chairman Olson moved that the Kavanagh two-page amendment to HB2412 dated 02/26/14 (Attachment 29) be adopted.

Casey Baird, Majority Research Assistant Analyst, explained that HB2412 establishes the Optional School Safety Designee Program (Attachment 30). The Kavanagh two-page amendment to HB2412 dated 02/26/14 (Attachment 29) contains the following provisions:

- Replaces references to *Optional School Safety Designee Program* with *School Safety Designee Program*
- Requires the Attorney General to send a list of the designees and participating schools to local law enforcement
- States that the Attorney General may establish rules relating to employee designees, limits on the types of firearms that may be used and program training standards
- Requires the program training to be conducted by an Arizona Peace Officer Standards and Training (AZPOST) firearms instructor or an instructor approved by the Attorney General's Office rather than DPS
- Clarifies that the designated employee may only remove the firearm from the locker to defend the lives of others on school grounds or to be transported for other lawful purposes, which could include training or cleaning

Ms. Mach asked if the bill requires ongoing training. Ms. Baird responded that the bill requires annual training.

Representative David Stevens, sponsor, deferred testimony to the Attorney General.

Tom Horne, Attorney General, related that this is his idea. Everyone was shocked when the Sandy Hook shooting occurred. People throughout the country proposed that teachers be permitted to take guns to school, which sounds dangerous, but doing nothing is also dangerous because if someone who means to do harm enters a school and no one in the school has a gun, the intruder can do a lot of damage. In fact, the principal at Sandy Hook tried to stop the perpetrator who killed her; if she had a gun the story might have turned out differently. He said this proposal is voluntary; schools that wish to participate can designate someone who will be trained at no charge as outlined in the bill. This could prevent a major tragedy or reduce the damages from a major tragedy. He said the biggest objection is from people who say they would rather have school resource officers (SRO) who are trained police officers, which he agrees to, but with the economic crisis there has not been enough money to put SROs in a significant number of schools, so this is the second best choice. He noted that the Arizona School Boards Association (ASBA) signed in support if it is limited to schools without SROs, which he supports.

Ms. Mach asked where the gun locker would be located in the school and expressed concern about the possibility of misplacing the key. Attorney General Horne responded that it would be near the designee for quick response, and a good communication system would be necessary so if there is a problem at the school, that person could be notified quickly. He noted that many schools have teachers or administrators with military backgrounds, which is advantageous.

Chairman Kavanagh remarked that there are many misconceptions about guns in K-12 schools. People believe it is never done or it is unusual, which is not true. A *New York Times* article in September 2013 had some interesting details:

- Hawaii, New Hampshire and Utah currently allow anyone with a concealed weapons permit to carry a gun on school property.
- Massachusetts, Louisiana, Nevada and Texas allow teachers to carry guns at school with school permission.
- Georgia and Missouri allow guns in cars at schools.
- Kansas, Tennessee, Arkansas and Kentucky allow selected school employees to carry guns.

He submitted that Arizona is behind the curve in protecting children in situations where maniacal, homicidal, armed and dangerous people walk into schools with guns. If there is not a safety officer present, it will take five to ten minutes for a police officer to arrive in an urban area; in a rural area, it could take a half hour. In relation to placing SROs in schools, with 2,000 public schools in Arizona, 3,000 with the inclusion of private schools, at an average cost of \$100,000 for a certified police officer, including salary, equipment, etc., placing a SRO in every K-12 school would cost \$300 million. The state does not have the money and it may not even be a good expenditure. This is totally voluntary and no school employee will be forced to take part. He noted that he heard on the radio that the bill allows teachers to carry a gun in school, which is not true. An individual who has received extensive training on a yearly basis will have access to a locked firearm in the event of an emergency.

Attorney General Horne noted that someone in his office found, on the *New York Daily News* website, 44 school shootings that claimed 25 lives since Sandy Hook; all of those did not make the headlines, but there is a need to protect the children.

Chairman Kavanagh pointed out that school shootings occurred in Colorado and Connecticut where no one carries guns on campus, not even qualified trained employees.

In response to questions, Attorney General Horne said he does not know how many schools will participate in this program, but reiterated that he supports the request made by the ASBA. Having someone who is highly trained with a military or law enforcement background would eliminate risks. He indicated that he has not checked into liability. Chairman Kavanagh surmised that if insurance increases, schools will decide not to participate in the program. He indicated that the *New York Times* article indicated there have been no accidents in states that allow teachers to take guns to school; in Texas the policy has been in effect since 2008. Discussion followed.

Sandra Borchers, representing self, in opposition to HB2412, submitted that as the mother of three children, the last thing that is needed in schools is guns. She was a day care provider with a fraction of the amount of children in her home that teachers have in the classroom; her oldest son is in a classroom of 30 with one teacher, which is stressful. She asked what happens if the teacher is the lunatic in the classroom, which occurs because teachers have molested students. Guns are not the answer. She questioned what happens if a teenage boy takes the gun from a female teacher.

Chairman Kavanagh asked if she would object if a teacher who retired a month earlier after 20 years of police service was the designee, even if that person may have been the SRO in the school. Ms. Borchers answered that she would still object.

In response to a question, Attorney General Horne indicated that designees will go through a thorough background check. Chairman Kavanagh noted that all school employees are checked every day and are probably the most screened employees in the state.

Ms. Mach stated that people in a position of trust are screened but they sometimes trust people who are not screened. Mr. Kwasman asked if the designee would be under criminal penalty if someone else obtained the firearm. Attorney General Horne responded that the designee would be trained not to entrust the gun to other people. Chairman Kavanagh related that the bill specifically states that only the designee can have access to the gun, and the only time it can be used is to protect children, or removed for maintenance, training or cleaning.

Andy Swann, Lobbyist, Arizona Attorney General's Office, in favor of HB2412, in response to a question about the stakeholder process, related that specific formalized stakeholder meetings were not held, but numerous discussions were held with stakeholders whose opinions ran the gamut.

Vice-Chairman Olson read the comment that the ASBA would be willing to support the proposal if it was significantly scaled back to create a minimum police response time, as a benchmark, that cannot be met due to a rural/remote setting. Attorney General Horne said that is different

than what he was told and he would not support it. Even if the police station is a block away, it could take too much time to respond.

Chairman Kavanagh related that he attended a school shooting training program that Sheriff Joe Arpaio gave for personnel in which the actual footage of the Columbine shooting was shown, and it was shocking to see the two lunatics casually walking through the school pointing guns and killing children; he could perhaps back ASBA's time schedule if it is a nanosecond, which is the only time it is acceptable to leave children unprotected.

Discussion followed about the possibility of other solutions.

Leonard Clark, representing self, opposed HB2412. He noted that when he received training for the Arizona Army National Guard and as a military police officer, one of the things he was taught is that room-to-room fighting is probably the deadliest type of combat. An armed security guard at Columbine fired off four shots, but one of the perpetrators chased him back into the school and had more time to kill students. There was also an officer nearby to respond. As a former teacher, he suggested locking the doors in schools. This is not New York City; it is Arizona and guns are not needed in classrooms.

Nohl Rosen, representing self, in support of HB2412, said he is a Second Amendment advocate. He questioned if teachers and administrators who carry concealed weapons permits and already have training will be required to go through more training.

Chairman Kavanagh answered yes, and every year after the initial training.

Mr. Rosen stated that he believes in arming administrators and teachers to protect children and lives because every second counts. Just locking the doors or having a gun-free zone will not stop a bad guy.

Vice-Chairman Olson announced the names of those who signed up in support of HB2412 but did not speak:

Daniel Reid, National Rifle Association

Todd Rathner, Arizona State Rifle and Pistol Association

Jose Borrajero, representing self

Dave Kopp, Manager, Arizona Citizens Defense League, Inc.

Art Harding, Lobbyist, Arizona Attorney General's Office

Vice-Chairman Olson announced the names of those who signed up in opposition to HB2412 but did not speak:

Stephanie Seigla, representing self

Karen Peters, representing self

Mary Pradelt, representing self

Daniel Hernandez, representing self

Janice Palmer, Arizona School Boards Association

Jennifer Loreda, Lobbyist, Arizona Education Association

Alicia Klassen, representing self

Vice-Chairman Olson announced the names of those who signed up as neutral on HB2412 but did not speak:

Joe Carter, representing self

Chairman Kavanagh pointed out that many safes and gun lockers no longer require keys, but have button combinations, and the most sophisticated require fingerprint identification, so if the schools have concerns about key misplacement, etc., a higher level of gun locking device could be used.

Question was called on the motion that the Kavanagh two-page amendment to HB2412 dated 02/26/14 (Attachment 29) be adopted. The motion carried.

Vice-Chairman Olson moved that HB2412 as amended do pass. The motion carried by a roll call vote of 7-3-0-1 (Attachment 31).

HB2419 – tax exemption; technical correction – DO PASS AMENDED S/E
S/E: public records; labor costs

Vice-Chairman Olson moved that HB2419 do pass.

Vice-Chairman Olson moved that the Kavanagh three-page strike-everything amendment to HB2419 dated 02/24/14 (Attachment 32) be adopted.

Virginia Carico, Majority Research Analyst, explained that the Kavanagh three-page strike-everything amendment to HB2419 dated 02/24/14 (Attachment 32) allows public record custodians to charge for labor costs associated with furnishing public records after the first eight hours (Attachment 33).

Representative David Stevens, sponsor, related that this issue arose in the last few months while working on other bills. A stakeholder meeting was held yesterday so he asked the Committee to trust him to address stakeholder concerns that were raised in relation to constant, large, time-consuming requests from an individual who does not inspect them and payment of litigation fees if the request is denied and the case ends up in court.

Chairman Kavanagh said this is a problem at town and state levels. In Fountain Hills, individuals requested copies of all email communications from all town council members for the past 12 months, which could be copied on CDs, but there is a labor expense involved when a paralegal, for example, must redact information that is not subject to public disclosure. There needs to be some curtailment on this activity. Representative Stevens agreed, noting that some cities have had to hire people to work only on public records requests.

Chris Moeser, Attorney, Phoenix Newspapers, Inc.; KPNX Broadcasting Company, related opposition to HB2419 because it imposes a transparency tax on members of the public exercising their statutory right to inspect public records and monitor government. This is unprecedented under Arizona law which, since statehood, has allowed inspection of public records requested for a noncommercial purpose without any fee whatsoever. This is completely unnecessary; the Arizona Supreme Court has already said that unduly burdensome or harassing public records

requests can simply be denied by the public body. He added that he is not aware of any litigation where someone requested dozens of records without inspecting them or who sued, prevailed and won attorney fees. This proposal could be used by unscrupulous public officials to delay access to public records or hide something from the public, which is troubling.

Chairman Kavanagh asked if someone requesting a copy of all emails from all council members for the past 12 months would be declared unduly burdensome by the courts. Mr. Moeser said yes; in fact, Sheriff Joe Arpaio submitted a public records request to the court, which said it is an unduly burdensome request that would tie up court resources. The courts said the same thing in another case involving the City of Phoenix.

Vice-Chairman Olson announced the names of those who signed up as neutral on the strike-everything amendment to HB2419 but did not speak:
Stacey Morley, Arizona Department of Education

Vice-Chairman Olson announced the names of those who signed up in support of the strike-everything amendment to HB2419 but did not speak:
Aiden Fleming, Arizona Department of Education
Janice Palmer, Arizona School Boards Association
Art Harding, Lobbyist, Arizona Attorney General's Office
Rene Guillen, Lobbyist, League of Arizona Cities and Towns
Miryam Gutier-Elm, Lobbyist, Maricopa County
Joe Hornat, representing self

Vice-Chairman Olson announced the names of those who signed up in opposition to the strike-everything amendment to HB2419 but did not speak:
John Moody, Lobbyist, Arizona Newspapers Association
Sandy Bahr, Lobbyist, Sierra Club-Grand Canyon Chapter
Angel Rodriguez, representing self
Marilyn Purvis, Lobbyist, Wick Communications
Michael Preston Green, Lobbyist, Arizona Capitol Times; Arizona News Service
Rich Robertson, representing self

Question was called on the motion that the Kavanagh three-page strike-everything amendment to HB2419 dated 02/24/14 (Attachment 32) be adopted. The motion carried.

Vice-Chairman Olson moved that HB2419 as amended do pass. The motion carried by a roll call vote of 7-2-0-2 (Attachment 34).

HB2238 – ADE; appropriation; geographic literacy – DO PASS

Vice-Chairman Olson moved that HB2238 do pass.

Katie Scates, Majority Research Intern, explained that HB2238 makes a nonlapsing appropriation of \$100,000 from the state General Fund (GF) in fiscal year (FY) 2015 to the Department of Education (ADE) to issue a grant to strengthen geographic literacy in this state (Attachment 35).

Ms. Alston, sponsor, conveyed that the Arizona Geographic Alliance (AzGA) was funded through a GF grant through the ADE, which was matched by the National Geographic Society but, in 2008, the monies were eliminated in the budget. It is spent directly for professional development and content training for teachers in the area of geography, which includes curriculum development, resource sharing, website development and workshops.

Michael Ostapuk, representing self, in favor of HB2238, stated that he taught geography in Arizona for 33 years. He displayed a 60-year-old cloth map of Arizona that he had on his bedroom wall as a child, which started his love of geography. There are many careers in geography such as demographers, economic geographers, urban planners, military geographers, foresters, etc. He requested funding to continue their good work.

Mr. Kwasman questioned why private funding was not obtained for this purpose. Mr. Ostapuk replied that he tried, but he has been unsuccessful to date. He reviewed handouts provided to the Members (Attachment 36) and noted that two colleagues are currently in Washington, D.C. attempting to obtain federal funding.

Vice-Chairman Olson announced the names of those who signed up as neutral on HB2238 but did not speak:

Leonard Clark, representing self
Stacey Morley, Arizona Department of Education
Aiden Fleming, Arizona Department of Education

Vice-Chairman Olson announced the names of those who signed up in support of HB2238 but did not speak:

Jason Neenos, representing self
Donna Campbell, representing self
Sara Jenkins, representing self
Robert Moore, representing self

Malcolm Comeaux, representing self, in favor of HB2238, related that he is a retired professor of geography for 28 years from Arizona State University and he wrote a book on the State of Arizona. It is amazing how students do not know much about geography. The National Geographic Society realized that many students do not know where places are so they developed a system to give \$50,000 to any state that matched it and brought teachers almost every summer into Washington, D.C. for training. Since funding was pulled, the Alliance has worked on a shoestring. ASU provides two storage rooms, a half-time secretary, air conditioning, etc., and one of the leaders has been able to obtain grants.

Question was called on the motion that HB2238 do pass. The motion carried by a roll call vote of 6-3-0-2 (Attachment 37).

HB2651 – clean elections funding – DO PASS AMENDED

Vice-Chairman Olson moved that HB2651 do pass.

Vice-Chairman Olson moved that the Kavanagh four-page amendment to HB2651 dated 02/26/14 (Attachment 38) be adopted.

Virginia Carico, Majority Research Analyst, explained that HB2651 is an emergency measure that modifies clean elections funding and officeholder expense accounts (Attachment 39). The Kavanagh four-page amendment to HB2651 dated 02/26/14 (Attachment 38) contains the following provisions:

- Gives officeholders an option to choose expense account monies funded by individual contributions or the Clean Elections Commission (CEC)
- Directs any person who violates this section and whose expense accounts are funded by the CEC to be subject to a civil penalty of three times any amount improperly received, spent or reported, assessed pursuant to the CEC's enforcement procedures outlined in statute
- Removes the requirement for the check-off box to be on the first page of tax return forms
- Replaces the dollar-for-dollar tax credit with a tax deduction for voluntary contributions
- Removes the option for taxpayers to receive a \$5 tax reduction
- Directs the CEC to not include voluntary contributions in their expenditure limitations
- Makes conforming changes

In response to questions, Ms. Carico clarified provisions of the bill and amendment.

Chairman Kavanagh, sponsor, related that if a traditional candidate opts not to take clean elections money, the CEC has no authority to look at their officeholder's account. If a candidate takes clean elections money for their officeholder account, the CEC only has the ability to look at their officeholder account monies. The money can be used for nonpolitical outreach purposes. He added that it is the same officeholder account, but two 50 percent payments are received each year of the candidate's term, and certain things are given to the CEC in return. He said he ran this by clean elections people who had no problems with it.

Thomas Collins, Executive Director, Arizona Citizens Clean Elections Commission, in support of HB2651, said in relation to the check-off box, in 1998, legislation passed provided that if someone checked the box, \$5 went to the Clean Elections Fund and \$5 was returned to the taxpayer in the form of a tax cut. In addition, there was a dollar-for-dollar tax credit up to \$500. HB2651 bill reinserts the language that was passed in 1998; the amendment eliminates the \$5 tax cut for the person who checks the check-off box and changes the dollar-for-dollar tax credit into a tax deductible donation the person can make to the Clean Elections Fund. The CEC returned excess monies to the General Fund that, over the life of the act, was calculated at approximately \$73 million. The revenue picture is unclear, but it will be less because there will not be an incentive and it will not be on the front page. Mr. Collins answered questions relating to the funding mechanism and advertising costs.

Vice-Chairman Olson announced the names of those who signed up in support of HB2651 but did not speak:

Peter Bengtson, representing self
Jerry Landau, Arizona Judicial Council
Helen Purcell, representing self

Karen Osborne, representing self
Sam Wercinski, Lobbyist, Arizona Advocacy Network
Rebekah Friend, Arizona State AFL-CIO
Trey Williams, Lobbyist, Arizona Association of Counties
Daniel Ruiz, Arizona Citizens Clean Elections Commission
Leonard Clark, representing self

Vice-Chairman Olson announced the names of those who signed up as neutral on HB2651 but did not speak:

Sean Laux, Lobbyist, Arizona Department of Revenue

Vice-Chairman Olson announced the names of those who signed up in opposition to HB2651 but did not speak:

Joseph Seelye, representing self

Eric Emmert, Lobbyist, East Valley Chamber of Commerce Alliance

Question was called on the motion that the Kavanagh four-page amendment to HB2651 dated 02/26/14 (Attachment 38) be adopted. The motion carried.

Vice-Chairman Olson moved that HB2651 as amended do pass. The motion carried by a roll call vote of 7-2-0-2 (Attachment 40).

Without objection, the meeting adjourned at 6:21 p.m.

Linda Taylor, Committee Secretary
March 24, 2014

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