

ARIZONA HOUSE OF REPRESENTATIVES
Fiftieth Legislature – First Regular Session

COMMITTEE ON EDUCATION

Minutes of Meeting
Monday, March 21, 2011
House Hearing Room 3 -- 2:00 p.m. or upon adj. or recess of Floor

Chairman Goodale called the meeting to order at 2:47 p.m. and attendance was noted by the secretary.

Members Present

Mr. Court	Mr. Meyer	Mrs. Tovar
Mr. Crandell	Mrs. Pancrazi	Mrs. Yee, Vice-Chairman
Mr. Fillmore	Ms. Proud	Mrs. Goodale, Chairman

Members Absent

Mrs. Carter

Committee Action

SB1141 - DP (7-1-0-2)	SB1452 - DP (7-0-0-3)
SB1256 - DPA (9-0-0-1)	SB1453 - DP (5-3-0-2)
SB1303 - DP (9-0-0-1)	SB1554 - DPA FAILED (3-5-0-2)
SB1451 - DP (7-0-0-3)	

Chairman Goodale stated that this is the final meeting of the Committee this Session and thanked the people in the audience, staff and Members for their participation.

CONSIDERATION OF BILLS

SB1303 - schools; dropout recovery programs - DO PASS

Vice-Chairman Yee moved that SB1303 do pass.

Paul Benny, Majority Assistant Research Analyst, explained that SB1303 establishes the Dropout Recovery Program, outlines the program's requirements and funding and permits school districts to contract with an educational management organization (EMO) to provide programs (Attachment 1).

Senator Rich Crandall, sponsor, clarified that a student who enrolls in the program will be counted and funded the same as any other student. The major difference is the focus on outputs instead of seat time. The bill allows school districts and charter schools to create a learning program in monthly modules for the students, and funding is provided if the student meets

expectations; if not, funding is not provided. In response to questions, he indicated that the EMO (virtual school) that is contracted with will test the students monthly. The regular school district has the management responsibility of the student and the EMO has the responsibility for the curriculum and teaching, so it is a partnership. The bill is revenue neutral to the state. He explained that the EMO will find the students to bring them back to school.

In response to further questions, Senator Crandall clarified that a student cannot be enrolled full-time in a school district and participate in the program; however, a student in the program will be able to take other classes part-time, in which case the Average Daily Membership (ADM) will be split between the two.

Discussion followed between Mr. Crandell and Senator Crandall about upfront costs to EMOs and funding.

Mr. Crandell asked if there is a potential for students to drop out of school to enter the program and take advantage of going to school when they want. Senator Crandall stated that it could be an unintended consequence, but it is not likely because virtual classes are already available, as well as the Grand Canyon Diploma.

Mr. Crandell asked how ADM funding will be provided if a student is a few months ahead since the funding is based on a month's education. Senator Crandall answered that will be included in the private contract negotiated between the school district and the EMO.

Mr. Crandell stated that the concept is good, but if he were a district superintendent, he would be leery because the school may or may not receive funding; for example, if a student does not remain for the entire school year, the student is not counted for the full year. Senator Crandall acknowledged that there are some risks, but noted that six other states are currently doing this.

Senator Crandall related to Mrs. Pancrazi that the program is voluntary. The intent is for the learning to be all virtual unless the student takes school district classes half-time and virtual classes half-time, as mentioned by Mr. Crandell.

Dr. Amy Schlessman, President, Arizona Alternative Education Association, indicated a neutral position on SB1303. She explained that the Association was formed in December 2010 and consists of representatives from school districts, alternative education campuses and charter alternative education campuses. She said she is delighted to see the state placing emphasis on dropout prevention and recovery, which is what alternative education campuses in Arizona are about. She asked for the inclusion of Arizona alternative education campuses in further collaboration in order to address concerns about the bill relating to the accountability provisions and reporting requirements. In response to a query, she related that alternative education campuses serve almost 22,000 students. In 2009, the most recent year for which numbers are available, the campuses graduated 5,888 students.

Gerry Baumann, Consultant, Arizona Alternative Education Consortium; SIATech Charter High School, testified in opposition to SB1303. She said she is pleased that this topic has come to the forefront in Arizona because there is a need to recover these students and provide them with another opportunity for an education. She noted that Section C of the bill refers to school districts or charter schools, but the rest of the sections only refer to school districts. She

indicated that she is working with the Arizona Department of Education (ADE) to clarify portions of the bill regarding sufficient progress, assessments, curriculum materials, ADE's responsibility for providing information and the definition of *teacher-facilitated* in relation to courses.

In response to questions, Ms. Baumann indicated that she is not sure how the provisions of this bill mesh with the provisions for online instruction already in place. She said she can understand why outside vendors may be necessary. Alternative-type programs require development of curricula that is different than using a textbook. It is complicated for teachers to create the curricula and teach it at the same time, or it can become an extra cost for a school district or charter school. She discussed the importance of more flexible opportunities for students who drop out of school.

Jennifer Anderson, Majority Research Analyst, provided the following information:

- According to ADE, the number of dropouts in Arizona in FY2010 was approximately 506,000 students; of those, about 13,000 were considered dropouts by the end of the year, which is about 2.7 percent.
- School districts and charter schools can currently apply to ADE to offer alternative high school programs, as well as programs on an alternative calendar, to accommodate students who are at-risk, students who may be in work programs, etc.
- The bill directs the State Board of Education (SBE) to delineate the testing requirements for the programs.
- The bill states that school districts may contract with an outside vendor, but it is not required, so a school district can have its own program.
- The entire bill is intended to address school districts and charter schools, which will have to be addressed at some point.

Mrs. Pancrazi noted that the bill refers to a program that everyone is assuming will be virtual, but that is not specified. Ms. Anderson answered that the bill does not specify whether the program will be virtual or in a physical classroom, which will be up to the school districts and charter schools. Some of the EMOs interested in running these programs operate with a mix of virtual and physical classes, but again, school districts and charter schools do not have to contract with an EMO and can design their own program.

Mrs. Pancrazi asked if the bill attempts to privatize public schools in this one area. Mr. Crandell pointed out that the school is still responsible for oversight, so there is no privatizing. He asked what happens if a student already has a General Equivalency Diploma (GED), which is the equivalent of a high school diploma. Ms. Anderson responded that she will have to find out.

In response to a question, Ms. Anderson clarified that while the programs are required to report graduation scores, etc., those numbers will not be used to calculate a school district's or charter school's report card or average yearly progress (AYP).

Mr. Meyer referred to lines 17 through 21 of the bill, which state that the school district or charter school may claim up to 1.0 ADM through the state equalization funding formula for each pupil who attends both that school district's Dropout Recovery Program and another school's

Dropout Recovery Program during the same fiscal year, and asked how the ADM will be divided.

Stacey Morley, Director, Policy Development & Government Relations, Arizona Department of Education (ADE), testified as neutral on SB1303. She stated that the school contracts with the Dropout Recovery Program, so the ADM is apportioned between the two. The contract between the school district and program will delineate how much the EMO is paid to provide the services. The student is still funded as if he or she is attending the school.

Mr. Meyer asked, since there is no seat time, how the school will know how much work the student does, with which company, and what will be paid by the state. Ms. Morley surmised that will be up to the school district and program to include in the contract, as well as stipulations for the school to receive funding in the event the student is found to be enrolled in another program.

Mr. Crandell remarked that the bill states ADM will not be paid unless students reach the outcomes. He questioned if that refers to the contract or ADE. Ms. Morley stated that ADE will not determine what the outcomes will be in the contract for each individual charter school and school district. ADE will set the testing requirements, but the scores will not count toward the report card or AYP for the schools.

Senator Crandall stated that he has been communicating with the CEO of one of the EMOs. ADE is out of the loop in funding between the school district and the company. It will be necessary to clarify how the funding works so it is 100 percent output-based, which he will do in a Committee of the Whole amendment. He added that the contract has to take into account whatever the State Board of Education (SBE) sets as standards in order to be valid.

Mr. Meyer stated that there is an issue with how the student is counted if a student is dual-enrolled in programs with different schools. Senator Crandall said he will work on language to ensure that a student can only be enrolled in one Dropout Recovery Program, with only 1.0 ADM for that student.

Mr. Meyer asked what happens if the student begins the program in summer school. Senator Crandall answered that these are 12 one-month programs so they are year-round. If the student does not finish the program, the ADM is pro-rated, which will be stipulated in the contract in order to be fair to both parties.

Chairman Goodale emphasized that this option is voluntary.

Vice-Chairman Yee announced the names of those who signed up in support of SB1303 but did not speak:

Janice Palmer, Governmental Relations Analyst, Arizona School Boards Association

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

Tim Carter, Yavapai County School Superintendent

Sam Polito, Tucson Area Schools; Statewide Joint Technological Education Districts

Vice-Chairman Yee announced the names of those who signed up as neutral on SB1303 but did not speak:

Zach Tretton, Assistant Director of Policy Development & Government Relations, Arizona Department of Education

Jeff Sawner, Vice President, EdOptions High School, in support of SB1303, stated that the bill provides another valuable tool to use when students are ready to return to school.

Question was called on the motion that SB1303 do pass. The motion carried by a roll call vote of 9-0-0-1 (Attachment 2).

SB1452, schools; e-learning programs(now: e-learning programs; schools) - DO PASS

Vice-Chairman Yee moved that SB1452 do pass.

Stephanie Jaffa, Majority Research Staff Intern, explained that SB1452 instructs the State Board of Education (SBE) to establish the Arizona Digital Learning Center and solicit proposals for private organizations to enter into a seven-year agreement for the operation and administration of the Center, and prescribes its duties (Attachment 3).

Senator Rich Crandall, sponsor, stated that there is an emergence of blended learning models across the U.S. that focus on outputs, which many school districts would like to utilize but do not know where to turn, so SB1452 requires the SBE to issue a request for proposals (RFP) for organizations to operate the Digital Learning Center.

Mrs. Pancrazi asked if teachers who provide online instruction will have to apply to be certified in the State of Arizona. Senator Crandall replied that he is not sure if teachers will have to pay a fee to become certified if there is a reciprocity agreement, but that is not the intent.

Mr. Meyer asked how much the bill will cost. Senator Crandall stated that it depends on the mission. There is significant funding available for open educational resources (OER). The leader is the Hewlett Foundation of Hewlett-Packard, whose goal is to have OER nationwide, so the organization provides funding. Other organizations fund digital learning. He noted that Sybil Francis, Executive Director, Center for the Future of Arizona, represents one of the entities that will possibly bid on the RFP.

Bob Rosenberg, eLearning System for Arizona's Teachers & Students (eSATS), spoke in favor of SB1452. He stated that this bill places in statute the pieces that are needed to be able to approach organizations like the Hewlett Foundation and other sources.

Jay Kaprosy, Senior Government Relations Advisor, Pearson, testified as neutral on SB1452. He said he has some concerns based on experience in other states with OERs and learning centers. This concept has been most successful when there has been a public body with more stringent parameters on the kind of curriculum that will be reviewed and appropriate evaluation of the curriculum. From the perspective of Pearson, an entity that develops digital curriculum, he is concerned about the levelness of the playing field by having a private entity with few parameters on how it will operate rather than a prescribed public body with a very direct set of parameters.

Jeff Sawner, Vice President, EdOptions High School, spoke in opposition to SB1452. He stated that he likes many things about the bill such as hybrid e-learning, open entry and open exit possibilities for students and reciprocity; however, he is concerned about oversight of the center, which will have great input and control over the future outcome of digital education in Arizona. The bill refers to a private vendor with no state oversight. He added that he is willing to work with the sponsor and Committee Members to make some changes.

Chairman Goodale announced the names of those who signed up in support of SB1452 but did not speak:

Sybil Francis, Executive Director, Center for the Future of Arizona

Theodore Kraver, eSATS

Janice Palmer, Governmental Relations Analyst, Arizona School Boards Association

Jason Bagley, Government Affairs Manager, Intel Corporation

Tim Carter, Yavapai County School Superintendent

Becky Hill, Scottsdale Unified School District

Ken Quartermain, Lobbyist, Arizona Technology Council; Cox Communications

Chairman Goodale announced the names of those who signed up as neutral on SB1452 but did not speak:

Stacey Morley, Director, Policy Development & Government Relations, Arizona Department of Education

Zach Tretton, Assistant Director of Policy Development & Government Relations, Arizona Department of Education

Elizabeth Hatch, Mesa Public Schools

Question was called on the motion that SB1452 do pass. The motion carried by a roll call vote of 7-0-0-3 (Attachment 4).

SB1451 - high schools; board examination systems - DO PASS

Mr. Court moved that SB1451 do pass.

Stephanie Jaffa, Majority Research Staff Intern, explained that SB1451 makes various clarifying, technical and conforming changes related to implementation of the Grand Canyon Diploma (GCD) (Attachment 5).

Chairman Goodale noted that the sponsor Senator Rich Crandall is not able to be present.

Sybil Francis, Executive Director, Center for the Future of Arizona, spoke in favor of SB1451. She related that last year, the Education Committee approved and voted on the creation of the GCD, which was signed into law by the Governor. This bill clarifies certain issues in that legislation.

Mr. Meyer noted that the bill states that after a student receives a GCD, the student can attend a community college, joint technological education district (JTED) or remain in the program. If a student attends a community college, the community college receives 20 percent of the ADM and the student is responsible for tuition. Ms. Francis answered that 20 percent of the ADM funds received for the student will be used to pay the full-time student equivalent (FTSE) at the

community college, so it replaces what the state would normally be giving the community college for FTSE; the language in the bill clarifies that despite the fact that the FTSE is being paid, the community college is paid tuition in addition. She added that because the community college is receiving FTSE out of the ADM fund, those students are not included as part of the student count for purposes of any state funds the community colleges receive.

Mr. Meyer stated that for JTEDs, it appears there will be 1.25 ADM; the JTED will receive 1.0 ADM; the student will attend the JTED full-time and the school district retains 0.25 ADM. Ms. Francis agreed, noting that SB1451 also defines *full-time* as any program leading to an industry-recognized certificate. She said she believes transportation costs remain the same, but she will find out. She clarified that if a student is eligible for the GCD, but chooses not to graduate, the student has the same options as other students.

Mr. Meyer asked if the student has to attend a JTED that is aligned with the school district.

Jennifer Anderson, Majority Research Analyst, advised that under the JTED statute, students who attend JTEDs and share ADM with the school district have to attend a member school district. If a student attends a JTED that is not a member school district, the other requirements for charging tuition etc. come into play. Additionally, since transportation is funded based on route miles, not ADM, if the school district continues to provide transportation for students, the school district will still be able to claim route miles for those students.

Mr. Meyer stated that since funding for transportation does not keep up with the cost of transportation, a burden is placed on the school district to provide a service it is losing money on. Ms. Francis stated that freshman classes for the GCD will begin at 11 schools in 2011. There may be many technical questions that will be faced, at the earliest in 2013, so there is time to work out some of the scenarios.

Mr. Meyer stated that certain programs are offered in certain JTEDs; it is the only part of the education system where students cannot open enroll in another JTED, which is partly due to the tax structure. Ms. Francis said that will be an interesting question to pursue in advancing with the Grand Canyon option.

Mr. Crandell expressed concern about delineating the amount of FTSE at 20 percent, which may be more than what the state is currently paying. He noted that the bill stipulates that 50 percent of the remaining balance of per-pupil funding shall be used for teacher and pupil incentives and asked what that means. Ms. Francis explained that the funds retained by the school can be used to support the GCD program, examples of which were provided in the original legislation, such as paying for provider materials and assessments, teacher professional development, scholarships for students to attend community college and other incentives.

Mr. Crandell wondered if the incentive goes against the Constitution in relation to gifts of public funds. He asked who will pay to administer the board exam. Ms. Francis stated that the cost associated with the GCD, including administration of the exams, is the responsibility of schools that opt into this program. Students will continue to take the Arizona's Instrument to Measure Success (AIMS) test until changes are made in the federal requirements of *No Child Left Behind*.

Mr. Crandell asked, since students will not be able to opt out of the AIMS test, which is a graduation requirement, if students will not be able to opt out of credits and other requirements. Ms. Francis said the SBE reviewed the offerings of the board examination systems and students will have a defined course of study deemed by SBE to meet Arizona requirements for graduation.

Mr. Crandell expressed puzzlement that one part of the graduation requirement can be changed but students cannot opt out of the AIMS test.

Vince Yanez, Executive Director, State Board of Education (SBE), clarified that last year the Legislature relaxed the AIMS requirements to the extent possible for students who go through this *Move on Ready* model, so a passing score on the board examinations can substitute for a passing score on AIMS. It is very unlikely that a student can pass the board examinations and not pass AIMS because the board examinations are more rigorous.

Mr. Crandell said he attributes the high dropout rate to the fact that students become discouraged with some of the hoops that have to be jumped through that they consider redundant.

Chairman Goodale announced the names of those who signed up in support of SB1451 but did not speak:

Stacey Morley, Director, Policy Development & Government Relations, Arizona Department of Education

Kristen Jordison, Governmental Affairs Director, BASIS Educational Group

Don Covey, Maricopa County Superintendent, representing self

Doug Pruitt, representing self

Tom Franz, Greater Phoenix Leadership

Janice Palmer, Governmental Relations Analyst, Arizona School Boards Association

Jennifer Loreda, Arizona Education Association

Jason Bagley, Government Affairs Manager, Intel Corporation

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

Patricia Hill, Legislative Liaison, Maricopa Community Colleges

Zach Tretton, Assistant Director of Policy Development & Government Relations, Arizona Department of Education

Tim Carter, Yavapai County School Superintendent

Katy Cavanagh, Executive Director, Stand for Children

Alisa Lyons, Arizona Community College Presidents' Council

Sam Polito, Valley Academy for Career and Technology Education

Ron Lee, Arizona State Impact Aid Association

Question was called on the motion that SB1451 do pass. The motion carried by a roll call vote of 7-0-0-3 (Attachment 6).

SB1141 - technical correction; escape; secure facility(now: schools; residency requirements) - DO PASS

Mr. Court moved that SB1141 do pass.

Stephanie Jaffa, Majority Research Staff Intern, explained that SB1141 requires public schools to obtain documentation of Arizona residency for pupils enrolled in school (Attachment 7).

Mr. Fillmore stated that he understands the bill deals exclusively with schools along the border. Mrs. Pancrazi remarked that she lives in one of those communities, and there is already a requirement to request documentation to prove that students live in the school district.

Mr. Crandell asked how a foreign exchange student will provide documentation. Mrs. Pancrazi replied that the host family will have a letter providing the ability for medical care, etc.

Ms. Jaffa pointed out that foreign students and students from other states are covered in other sections of statute.

Senator Steve Smith, sponsor, indicated that there is a problem, mainly along the border, with students attending school who may not be residents of the state.

Mr. Meyer noted that every school district will have to do this despite the fact that the bill is meant to address an issue at the border. He asked how long the documentation must be kept and if it becomes part of the student's permanent record. Senator Smith opined that it is appropriate to keep the documentation in the student's file since audits can occur at any time, and in case there is ever any question.

Mr. Meyer stated that when items are made part of the permanent record, the school district has to pay to have it microfilmed and kept on file, which costs thousands of dollars every year. Senator Smith replied that other documents are kept from when a student registers for school, so he does not believe this is a burden. He opined that there is a greater cost to educating students that are not in the school district.

Mr. Meyer noted that he is aware of one school district that was busing students across the border from Mexico and asked if that is occurring in other school districts. Senator Smith answered that there is the possibility for many school districts to do so. He clarified that the underlying purpose of the bill is to identify students who reside in Arizona; it does not address citizenship.

Mrs. Pancrazi asked if students who are U.S. citizens, but live in Mexico with their parents who are not citizens, will be prevented from going to school in Arizona. Senator Smith answered yes, if the student cannot prove residence in the state. If someone who is a resident of Texas wants to go to school in Arizona, he would also question why the state is paying for the student's education. Mrs. Pancrazi stated that her school district has the same problem with California; students from California have to pay out-of-state tuition to go to school in Arizona.

Mrs. Pancrazi asked if those children can reside with someone else with a notarized signature and attend school in Arizona, to which Senator Smith answered affirmatively.

Stacey Morley, Director, Policy Development & Government Relations, Arizona Department of Education (ADE), spoke in favor of SB1141. She conveyed that although Title 15 states that a student must be a resident of Arizona, it does not stipulate how it should be proven. In Ajo, students were walking across the border, getting on school buses and going to school. The

burden falls on ADE to prove that the students do not live in Arizona. She said she understands Mr. Meyer's concern about application to all school districts, which is why ADE will issue reasonable guidelines. She added that state taxpayer dollars and local tax revenue should be used to fund Arizona students.

Mrs. Pancrazi pointed out that one school district along the border has a reciprocity agreement with a school district in California and asked if it will be impacted by this bill. Ms. Morley answered that it should not as long as there is an agreement to account for the students, which happens on reservations as well.

Mr. Meyer asked if the language on lines 14 through 17 can be refined so the school district must keep documentation collected at the beginning of the year when the student lives in the district, but after the student is not enrolled, the documentation no longer has to be part of the permanent record. Ms. Morley said she would be glad to work on language.

Jaime Farrant, Policy Director, Border Action Network, opposed SB1141. He stated that the language in the bill is broad. He is concerned that children will be punished by not being able to attend school in Arizona if their family moves to Mexico because of economic hardship, or if a child leaves home because of domestic violence and stays with a relative or friend on the other side of the border.

Vice-Chairman Yee announced the names of those who signed up in support of SB1141 but did not speak:

Zach Tretton, Assistant Director of Policy Development & Government Relations, Arizona Department of Education

Vice-Chairman Yee announced the names of those who signed up as neutral on SB1141 but did not speak:

Janice Palmer, Governmental Relations Analyst, Arizona School Boards Association

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

Question was called on the motion that SB1141 do pass. The motion carried by a roll call vote of 7-1-0-2 (Attachment 8).

SB1256 - education; omnibus - DO PASS AMENDED

Vice-Chairman Yee moved that SB1256 do pass.

Jennifer Anderson, Majority Research Analyst, explained that SB1256 makes clarifying, technical and conforming changes to K-12 education statutes, requires schools to include provisions against cyber bullying in the bullying policies and defines *bullying* (Attachment 9).

Ms. Anderson related that the Goodale 16-page amendment to SB1256 makes three additional technical changes (Attachment 10):

- Confirms the number of instructional hours for 0.75 average daily membership (ADM) for a part-time high school student equivalent to 75 percent of the hours required for a full-time student.

- Clarifies charter schools must use the final ADM count provided by the Arizona Department of Education (ADE) in April every year to determine ADM for the budget year.
- Allows school districts to continue using prior year ADM counts as the basis for bond limit calculations.

Ms. Anderson explained that the Meyer 26-line amendment to SB1256 updates references to the Montgomery GI Bill for the purpose of receiving benefits at a community college or public university to reflect the changes adopted by the Post 9/11 GI Bill (Attachment 11).

Ms. Anderson explained the reason for the change from three hours to 75 percent of the hours required for a full-time student and reviewed ADE's requirement to adopt a definition for bullying that is consistent with the federal *No Child Left Behind Act of 2001*.

Stacey Morley, Director, Policy Development & Government Relations, Arizona Department of Education (ADE), testified in support of SB1256. She indicated that most of the provisions in the bill address errors in bills passed in prior years, such as in relation to early kindergarten repeaters. She said she hoped the bill would include only technical changes, but the bullying provision was added in the Senate. She stated that the definition of *bullying* is already used by school districts that have reporting requirements for the Az SAFE Project, but it is not required by state statute.

Mr. Crandell asked how school districts monitor and deal with incidents that occur outside school parameters, such as cyber bullying. Ms. Morley stated that ADE cannot do anything unless an incident occurs during school hours, within school parameters, at school events and using school computers.

Vice-Chairman Yee announced the names of those who signed up in support of SB1256 but did not speak:

Zach Tretton, Assistant Director of Policy Development & Government Relations, Arizona Department of Education

Meghaen Duger, Education Finance Reform Group

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

Elizabeth Hatch, Mesa Public Schools

Tim Carter, Yavapai County School Superintendent

Becky Hill, Scottsdale Unified School District

Ron Lee, Arizona State Impact Aid Association

Sam Polito, Tucson Area School Districts, Joint Technological Education Districts Consortium

Vice-Chairman Yee moved that the Goodale 16-page amendment to SB1256 dated 3/17/11 (Attachment 10) be adopted. The motion carried.

Mr. Meyer moved that the Meyer 26-line amendment to SB1256 dated 3/18/11 (Attachment 11) be adopted.

Mr. Meyer clarified that he has an agreement with ADE to place the amendment on this bill and he also spoke to the sponsor.

Question was called on the motion that the Meyer 26-line amendment to SB1256 dated 3/18/11 (Attachment 11) be adopted. The motion carried.

Vice-Chairman Yee moved that SB1256 as amended do pass. The motion carried by a roll call vote of 9-0-0-1 (Attachment 12).

SB1453 - schools; parents' rights(now: parents' rights; schools) - DO PASS

Vice-Chairman Yee moved that SB1453 do pass.

Paul Benny, Majority Assistant Research Analyst, explained that SB1453 states that parents have a right to review learning material and activities and remove their child from certain activities or classes deemed harmful by the parent (Attachment 13).

Ms. Proud asked how this is different from what schools are already required to do. She does not know about high schools, but in elementary and middle schools, parental consent is needed for students to view PG or PG-13 movies. Mrs. Pancrazi stated that those restrictions are in school district policies and different school districts have different policies.

In response to a question, Mr. Benny indicated that the bill includes charter schools, except in Section A relating to a parent's right to review learning materials and activities in advance.

Mr. Meyer noted that some classes must be passed to meet state standards, citing anatomy as an example. He said he is worried about parents picking and choosing assignments for their child. If the child does not meet state standards, the child cannot obtain a grade in the class.

Stacey Morley, Director, Policy Development & Government Relations, Arizona Department of Education (ADE), assumed that school districts must have alternate assignments in order to fulfill the requirements of a class.

Mrs. Pancrazi surmised that school districts have policies relating to alternatives. Children in her school district who were Jehovah's Witnesses were not allowed to celebrate holidays, so alternative activities were provided. Ms. Morley agreed that many school districts have policies, especially if there is a large population with certain beliefs, but Mr. Meyer is concerned that parents can continuously make a claim. All of this is handled at the school district level, not by ADE.

Cathi Herrod, President, Center for Arizona Policy, spoke in support of SB1453. She related that last year the Legislature passed the parents' rights law, after which the Center began receiving calls from parents in charter schools. The original intent of the bill was to address parents' rights in charter schools. She related that a group of high school sophomores in a charter school were shown the film *Gangs of New York*, which is R-rated and violent. One father picked up his daughter who was white as a ghost after seeing the film. The father, who was very involved in the child's education, had no idea the film was going to be shown. The Center also received calls from parents who love their child's charter school, but were concerned about specific

books. SB1453 states that the parent of a student in a public educational institution has the right to review materials in advance, upon written request, so if the parent sees the materials before the school year begins and agrees to it, the parent cannot object during the school year. If something changes, the parent can request, in writing, the right to withdraw the student from the classroom.

Ms. Herrod noted that many advocates of charter schools are concerned about regulation of charter schools, but charter schools are publicly funded, so at least some measure of parental rights is appropriate. The Motion Picture Association has concerns about R and PG-13 ratings in statute, which she is willing to work on. She said she would like to see the inclusion of charter schools, which were removed in a Senate Floor amendment; if charter schools are not included in a Floor amendment, she does not want to see the bill move forward.

Wendy Briggs, Motion Picture Association of America, spoke in opposition to SB1453. She said she appreciates the need for parents to control what their children are exposed to in school, but she is concerned about adoption of the rating system in statute. Producers are not required to submit films to the Association for rating, but do so in an effort to provide parents with information so parents know what kind of films to permit their children to see. The more that is adopted in statute, the more the Association is concerned that producers will not voluntarily submit the films for rating. She said this has been tried in other states and was held unconstitutional by various district courts around the country. This legislation can be crafted to remove the reference to the rating system and requiring parental consent for any film to be viewed.

In response to questions, Ms. Briggs stated that Senator Rich Crandall is aware of the concern about that specific provision.

Mr. Fillmore asked if requiring parental consent for any film could be overly burdensome to schools so movies will not be shown at all. Ms. Briggs answered that there are two ways to make this constitutional: remove the content-based references or reference *obscenity* or *harmful to minors*, which may be overly broad. A brief discussion followed.

Vice-Chairman Yee announced the names of those who signed up in opposition to SB1453 but did not speak:

Jay Kaprosy, Senior Government Relations Advisor, Motion Picture Association of America
Jim DiCello, Certified Public Accountant, Paradise Valley Schools

Vice-Chairman Yee announced the names of those who signed up in support of SB1453 but did not speak:

Tim Carter, Yavapai County School Superintendent
AJ Wells, representing self

Question was called on the motion that SB1453 do pass. The motion carried by a roll call vote of 5-3-0-2 (Attachment 14).

SB1554 - ADE; teachers; liability insurance - ~~DO PASS AMENDED~~ FAILED

Vice-Chairman Yee moved that SB1554 do pass.

Vice-Chairman Yee moved that the Yee four-line amendment to SB1554 dated 3/18/11 (Attachment 15) be adopted.

Paul Benny, Majority Assistant Research Analyst, explained that SB1554 requires the Arizona Department of Education (ADE) to issue a request for proposals (RFP) to private insurers to provide statewide personal liability insurance for teachers (Attachment 16). The amendment to SB1554 transfers the responsibility of issuing an RFP and awarding a state contract for teacher liability insurance from ADE to the Arizona Department of Administration (ADOA) (Attachment 15).

Senator Rick Murphy, sponsor, stated that the only place teachers can obtain the type of liability insurance contemplated by the bill is through the Arizona Education Association (AEA). The premise of the bill is to provide another avenue for teachers to obtain group level liability coverage.

Mrs. Pancrazi asked if insurance companies were consulted because a liability rider can be added to a policy, which she has had during 30 years of teaching. Senator Murphy answered that this bill will make the insurance available through a group scenario, which is less costly.

Mrs. Pancrazi noted that school districts already have liability insurance on teachers. Senator Murphy responded that school districts provide liability insurance that covers actions within the scope of work. The AEA offers liability insurance that covers actions deemed as outside the scope of work. Sometimes situations fall into a gray area, so teachers are more comfortable having insurance that will cover actions one way or the other.

Mrs. Pancrazi stated that coverage can be added to homeowners, renters, personal or automobile insurance policies at very little expense, so having the state offer this seems to be an added burden when there are no state funds. Senator Murphy said there is a demand, so this bill provides an alternate provider for people who choose to take advantage.

Mr. Fillmore expressed concern that the state will ultimately be paying for this and other insurance on behalf of schools. Senator Murphy said the bill specifies that the insurance is not to be paid for with state monies, but by the teachers. He indicated that he does not anticipate that Members in the House or Senate will approve payment for the insurance. He noted that an individual insurance broker does not have access to people to market the insurance to like the AEA does, nor do insurance brokers have access to the payroll feature.

Mr. Fillmore opined that an entrepreneur will find a way to do that. In a few years, there could be Members at the Legislature who will allow the state to pay for the insurance.

Mr. Crandell asked if numbers are available indicating how many of the teachers who currently use liability insurance from the AEA will switch to a state-sponsored insurance consortium. Senator Murphy responded that anecdotally over the years, many teachers indicated that they are only members of the AEA because of that particular feature, which is not available anywhere else at the same cost, but he does not have any statistics.

Matthew Ladner, Senior Economist, representing self, testified in support of SB1554. He related that the State of Florida decided to provide state-sponsored professional liability insurance, not

only for teachers, but for a number of other categories of school workers. The state appropriated \$1.2 million, but subsequently gave back \$150,000, so the total cost was about \$1 million. For the teachers, instructional aides, principals, assistant principals and others that were covered, the employee cost was between \$4 and \$6 per person, mostly because of the large number of people participating. He noted that not all teachers who would be eligible for this kind of pooling are members of the AEA.

Mr. Crandell asked if Mr. Ladner is advocating that the state pay for this. Mr. Ladner said no, he is simply providing information about a state that did, which is the worst-case scenario, but it worked out to be fairly inexpensive in Florida.

Mr. Crandell asked if statistics are available showing how many people will switch versus simply making this option available. Mr. Ladner answered that would be difficult to ascertain, but there are pooling effects in the cost structure. Discussion followed.

Chairman Goodale surmised that putting together an RFP for the state is a perfunctory process.

Stacey Morley, Director, Policy Development & Government Relations, Arizona Department of Education (ADE), neutral on SB1554, said she believes the RFP process is embedded in the ADE administrative budget and RFPs have been issued for no money. She related that she had a concern with the bill, which was addressed by the amendment, because ADE does not specialize in or administer insurance; another agency may be better suited to provide the service.

Mr. Crandell asked if there are already liability pools in Arizona that teachers can become part of as state employees. Ms. Morley answered that the School Risk Retention Trust provides a lot of insurance for school districts and charter schools. Teachers look for extra coverage because a school district that does not want to put itself on the line by defending a teacher can say the teacher was acting outside the scope of employment. ADE does not sanction that and it is different for every individual school district.

Sydney Hay, A Plus Arizona - Every Child Can Learn, testified in support of SB1554. She stated that in these eras of budget cuts when teachers should be paid according to the professionals they are, this is something that can be done to be pro-teacher and save teachers money every year. She said a friend, who is a teacher, added liability insurance to her homeowners insurance as a rider, which cost \$175. In addition, many teachers are not homeowners and do not have those policies to add to, so with very little effort, the state could investigate whether insurance can be made available for teachers at a reasonable cost.

Mr. Crandell asked if this opportunity is already provided through the AEA at a low cost and if this insurance will be offered at an even lower cost. Ms. Hay said that is the hope because when a teacher joins the AEA for this purpose, the teacher is paying for many other items he or she may not want. This bill provides another option. She indicated that A Plus Arizona does not have the funds to gather empirical data.

Senator Murphy conveyed that when the bill was drafted, he was not aware that ADE does not administer payroll deduction-type activities. When it was brought to his attention, he agreed to the change from ADE to ADOA where the cost will be minimal. He noted that RFPs are a fairly routine function, especially for ADOA. He added that if teachers can be saved a few hundred

dollars per year to have insurance at their option without all the other items associated with membership in AEA, this should be done so it is not necessary to have a rider on homeowners insurance that is costly.

Vice-Chairman Yee announced the names of those who signed up in support of SB1554 but did not speak:

Deb Gullett, A Plus Arizona

Vice-Chairman Yee announced the names of those who signed up as neutral on SB1554 but did not speak:

Zach Tretton, Assistant Director of Policy Development & Government Relations, Arizona Department of Education

Jerry Williams, Board Member, Central Arizona Valley Institute of Technology

Question was called on the motion that the Yee four-line amendment to SB1554 dated 3/18/11 (Attachment 15) be adopted. The motion carried.

Vice-Chairman Yee moved that SB1554 as amended do pass. The motion failed by a roll call vote of 3-5-0-2 (Attachment 17).

Without objection, the meeting adjourned at 6:20 p.m.

Linda Taylor, Committee Secretary
April 11, 2011

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