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## Gov. refuses to sign English-learner bill but lets it become law

**By Howard Fischer**

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PHOENIX — Gov. Janet Napolitano agreed Monday to provide \$40.6 million in new state funds for English learners, one day ahead of a deadline set by a federal judge.

But she refused to actually sign the measure, to show she doesn't believe the funding resolves the issue. Instead, Napolitano let the bill become law without her signature.

That is, as a practical matter, the legal equivalent of signing the bill. But choosing this course gives her a chance to express her concerns and displeasure in writing.

More to the point, the governor noted if the state missed today's deadline of funding the plan it would have been subject to fines starting at \$2 million a day.

Monday's action does not end the legal fight, which has been going on since 1992. Attorney Tim Hogan said he believes Arizona is still not complying with federal laws requiring states to ensure all students have an opportunity to learn English.

Hogan said Monday he will ask U.S. District Court Judge Raner Collins to order the state to come up with more cash. He also wants the judge to bar the state from forcing schools to use new mandated teaching "models," including four hours a day of English immersion classes, until the extra cash is in place.

But state School Superintendent Tom Horne said Collins already has said the model is acceptable, requiring only that the state provide adequate funding.

Collins did rule the state can't require schools to first use certain federal grants before qualifying for additional state aid. He also said a two-year limit on additional aid for any student is illegal.

Horne said the funding formula takes both objections into account, meaning it complies with the judge's order. And that will remain the case unless and until that is overturned on appeal.

And he said Collins never objected to another provision in the law, which lets the state reduce additional funding by the amount of money schools already get from the state — an offset Hogan said is unacceptable.

"If he has a problem with the bill, it was his obligation to say it when he issued his first order so we could make the adjustments," Horne said of the judge. "We've now acted in reliance on exactly what he said."

How much more Hogan wants is unclear.

He said there is evidence the Nogales Unified School District, where the lawsuit first started, spends an average of \$1,600 a year to educate its students classified as "English-language learners." These are youngsters with a different first language who are not yet proficient in English.

Yet Hogan said the formula used by Horne to allocate the \$40.6 million gives Nogales no additional funds, based on the premise the district already has enough. Hogan said that directly runs afoul of Collins' order that the state is responsible for the full cost of the extra programs.

Using Nogales' spending as an example, Hogan could argue the state needs to chip in an additional \$1,235

per student, or about \$170 million. That's on top of the more than \$50 million now divided up among districts based on the number of English learners.

School officials previously submitted requests for additional funding in excess of \$274 million, which Horne pared to \$40.6 million.

Napolitano's concerns about the legislation are different.

She pointed out some school districts are unhappy with being told the only acceptable method of teaching English to those speaking other languages is four hours a day of immersion. The governor said questions include whether that is workable within a regular school curriculum "and whether such long absences from other academic pursuits, such as math and science classes, are in the students' best interests."

She called the funding "only a first step to providing Arizona's children with a chance to read, write and speak English."

Some of the opposition to additional funds has been tied up in the issue of illegal immigration.

The Pew Hispanic Center has concluded a majority of English learners are U.S. citizens. But it also found most of those in the programs are here because, even if the youngsters themselves were born in this country, their parents are here illegally.

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