

# ARIZONA STATE SENATE

46TH LEGISLATURE  
FIRST REGULAR SESSION

## MINUTES OF COMMITTEE ON NATURAL RESOURCES AND TRANSPORTATION

**DATE:** February 4, 2003                      **TIME:** 1:30 p.m.                      **ROOM:** SHR 1

**CHAIRMAN:** Senator Binder                      **VICE CHAIRMAN:** Senator Jarrett

**ANALYST:** Kerri Morey                      **COMMITTEE SECRETARY:** Debbie Kennedy  
Sean Laux

**INTERNS:** Summer Woodson                      **ASSISTANT ANALYST:** Tracey Landers

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### ATTENDANCE

### BILLS

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<u>Committee Members</u>	<u>Pr</u>	<u>Ab</u>	<u>Ex</u>	<u>Bill Number</u>	<u>Disposition</u>
Senator Allen	X			SB 1043	DPA/SE
Senator Arzberger	X			SB 1050	HELD
Senator Blendu	X			SB 1055	HELD
Senator Brown	X			SB 1070	DISCUSSION/HELD
Senator Cannell	X			SB 1107	DP
Senator Jarrett, Vice Chairman	X			SB 1118	DP
Senator Binder, Chairman	X			SB 1177	DP
				SJR 1001	HELD

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### GOVERNOR'S APPOINTMENTS

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<u>Name</u>	<u>Position</u>	<u>Recommendation</u>
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Chairman Binder called the meeting to order at 1:35 p.m., and roll call was taken.

## **APPROVAL OF MINUTES**

**Chairman Binder moved the minutes of January 21 and January 28, 2003 be approved. Without objection, the minutes were approved as distributed.**

Senator Binder announced that the Exotic Newcastle Disease has now been found in Parker, Arizona on the reservation.

## **CONSIDERATION OF BILLS**

Senator Binder announced that the following bills would be held:

**SB 1050 – credits; refunds; license plates - HELD**

**SB 1055 – class G driver license – HELD**

**SJR 1001 – state highway 264 ; designation – HELD**

**SB 1070 – airport expansion oversight commission – DISCUSSION/HELD**

**Sean Laux, Research Analyst**, testified that the bill establishes the Airport Expansion Oversight (Commission) consisting of legislators who represent districts that include any or entire parts of a city or town located within the 65-decibel day-night sound level contour of a commercial airport. The city or town that owns that commercial airport must enter into an arbitration agreement with the Commission and submit an Airport Expansion Environmental Impact Mitigation (Plan) to the Commission prior to the airport's expansion. The Commission is required to approve or reject that plan and specifies that if the plan is rejected, the Commission must recommend an alternative to mitigate the airport expansion environmental impact within the 65- decibel day-night sound level contour. The city or town is required to comply with the plan if approved by the Commission and agree and comply with the Commission's recommended alternative, or agree and comply with the arbitrator's recommendation. If the city does not, this bill will withhold the cities or towns' monies distributed from the State aviation fund.

**Senator Mitchell, sponsor of the bill**, testified that the bill gives people who are most negatively impacted to have a forum and input. The Legislators in the 65-decibel area districts will form this Commission. That would be one district in Tempe and two districts in Phoenix. Senator Mitchell expounded that when Sky Harbor Airport wants to expand, they must submit to this Commission how they plan to mitigate the negative impact. If the Commission disagrees, they will submit their plan to the City of Phoenix or Sky Harbor. If Sky Harbor does not like the plan, it goes to a third party agreed to by both parties. If they do not agree, Phoenix can still expand. However, if they expand, they will forfeit their aviation funds. This year Sky Harbor's projected aviation funds are approximately \$1 million. Senator Mitchell confirmed that this is not an attempt to shut down the airport and does not impact the current operations or ownership of the airport.

**David Krietor, Aviation Director, Phoenix Aviation Department**, testified in opposition to the bill. They are concerned that this legislation will establish a new layer of government that duplicates

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existing regulations that they are obligated to follow. They are currently in a three-year environmental review process that covers the construction of new ground transportation systems at the airport and new terminal facilities. Mr. Krietor implied that this legislation would stop construction at Sky Harbor Airport which includes \$1.2 billion of new construction which is funded by the users of the airport. It would also put thousands of people out of work and eliminate millions of dollars in tax revenue to the local and State government.

**Shannon Wilhelmsen, Lobbyist and Government Relations Director, City of Tempe**, spoke in support of the bill. She testified that there needs to be better communication between the affected communities that Sky Harbor serves. Ms. Wilhelmsen commented that the bill should be amended to bring in other communities that have issues concerning possible expansion of Sky Harbor.

In response to Senator Binder, Ms. Wilhelmsen confirmed that the City of Tempe is the most vocal because they are affected every single day by the issues. However, they realize the important economic asset that Sky Harbor provides to the community and to the City of Tempe.

Senator Blendu indicated that it is not a lack of communication, but that the City of Tempe does not like what they hear. Ms. Wilhelmsen responded that the City of Tempe needs to be notified in advance of expansion plans for Sky Harbor. If there are any plans of expansion for a fourth runway or any additional capacity, the Intergovernmental Agreement with the City of Phoenix and the Federal Aviation Agency (FAA) could possibly be in jeopardy.

Senator Blendu commented that the City of Tempe would like a sixty-year plan from the City of Phoenix. He further implied that the Legislature does not make things better when they get in the middle of these battles. Ms. Wilhelmsen contended that there is not a forum for communication with the City of Phoenix.

In response to Senator Allen, Ms. Wilhelmsen countered that they do not know of any plans for expansion and what they do know is hearsay. She further designated that noise pollution and air quality issues are some of the concerns for the City of Tempe. Senator Allen emphasized that the mayors of Phoenix and Tempe should be collaborating on these issues. Ms. Wilhelmsen concurred that the intent of the bill is for discussions to take place and not to create a level of bureaucracy. All parties impacted by Sky Harbor will have a voice in these plans.

Senator Arzberger asked if the commercial airlines have followed the agreement for diversion over the Salt River for noise mitigation. Ms. Wilhelmsen responded that there is a dispute concerning whether this procedure is being followed. It is currently being litigated.

In response to Senator Arzberger, Mr. Laux testified that the Commission is required to submit an alternative plan if the Commission rejects the plan. Mr. Laux further pointed out that the city that owns the airport can agree with the alternative or if they disagree, there would be arbitration.

In response to Senator Allen, Mr. Laux stated that the FAA would have to approve any airport expansion plans. However, this is not mentioned in the bill.

**Norris Nordvold representing John Wayne Gonzales, City of Phoenix**, spoke in opposition to the bill. He confirmed that the mayors of the two cities do meet with each other. He stated that the City of Phoenix has given the City of Tempe approximately \$1 million in equipment so they can track

every aircraft that takes off or lands. If an airline does not go through the box, they know which ones have not. He further commented that the FAA approved this procedure. If there are any changes, the FAA has to approve them.

Senator Mitchell reiterated that this bill will not stop construction. He commented that Sky Harbor only needs user fees and monies from the federal government, so they do not have to go to the public and show any of their plans. He further commented that the City of Phoenix has already bought the land for building the fourth runway. Senator Mitchell emphasized that most regional airports are owned by an authority, not owned by an individual city. He further emphasized that the City of Phoenix can still expand and not submit any plans. The City of Phoenix only has to document an Environmental Impact Statement (EIS) and then proceed.

Senator Blendu indicated that no legislation has ever been passed concerning the airport and consequently Sky Harbor is one of the best airports in the world.

In response to Senator Allen questioning the number of lawsuits, **Corrine Young, Coalition Concerned About Aircraft Noise (CCAAN)**, spoke in support of the bill. Ms. Young commented that there are current lawsuits pending including a couple of lawsuits that the City of Tempe has filed. The City of Scottsdale will file an amicus brief if the City of Tempe determines that they cannot resolve these issues with the FAA. The Town of Paradise Valley has also agreed to file an amicus brief if the lawsuit goes back into court.

In response to Senator Blendu, Ms. Young stated that the FAA has the ultimate authority, but the continued expansion on the ground will soon become very distressing to many communities.

**Thomas Mertens, Vice President, DMJM Aviation**, stated that he is a career aviation professional and stated that Sky Harbor Airport has looked at the compatibility of the airport and surrounding communities.

### **SB 1043 – school bus; definition – DO PASS AMENDED/STRIKE EVERYTHING**

**Tracey Landers, Assistant Research Analyst**, testified that the strike-everything amendment to SB 1043 restricts public, charter and private schools from transporting children in 15-passenger vans after July 1, 2008. The seven-line Binder amendment dated February 3, 2003 at 2:35 p.m. exempts community-based youth development programs which transports students from school to their program, from the restriction.

In response to Senator Allen, Ms. Landers stated that the amendment deals with community based programs like Boys and Girls Clubs and day care programs.

**Jack Lane, Lieutenant and Legislative Liaison, Arizona Department of Public Safety (DPS)**, testified in support of the bill. Mr. Lane presented a five-minute video concerning the safety of these vans. The 15-passenger van is three times more likely to roll over than the smaller vans. The problem is the design, weight and balance of the van. The back end is rear heavy and therefore swings out more easily when there is a sudden swerve. The van is also top heavy when completely full. Also, the tires on a 15-passenger van must never fail.

Mr. Lane clarified that new dealers are prohibited from selling these vans at this time to any school for use. There are federal violations and sanctions.

**Barbara Robey, Director of Governmental Relations, Arizona School Boards Association,** testified that they will be encouraging school districts to discontinue the use of 15-passenger vans. She further requested that SB 1242 be scheduled for a hearing, which is a bill to look at school transportation costs.

In response to Senator Jarrett, Ms. Robey commented that a number of school districts have phased out the vans. It is a problem however in the outlying areas as to the cost to replace these vans. Ms. Robey expounded that there are smaller school buses that do meet the federal safety guidelines for transporting children that are not the big buses; however, they are more expensive. The ten-passenger vans are okay to use. Ms. Robey stated that the concern is the costs for replacing these vans. Ms. Robey requested additional language be put in the bill stating that this bill does not commit school districts to a higher standard of care and therefore higher liability. Senator Binder stated that staff could work that out.

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

**Senator Jarrett moved SB 1043 be returned with a DO PASS recommendation.**

**Senator Jarrett moved the Binder three-page strike-everything amendment, dated 01/29/03, 5:30 p.m., be ADOPTED (Attachment B). The motion CARRIED by a voice vote.**

**Senator Jarrett moved the Binder seven-line amendment, dated 2/3/03, 2:35 p.m. (Attachment C) to the strike-everything amendment be ADOPTED. The motion CARRIED by a voice vote.**

**Senator Jarrett moved the strike-everything amendment, AS AMENDED, be ADOPTED. The motion CARRIED by a voice vote.**

**Senator Jarrett moved SB 1043 be returned with an AS AMENDED, DO PASS recommendation. The motion carried by a roll call vote of 5-2-0 (Attachment 1).**

### **SB 1107 – ADOT; federal monies; acceptance; expenditures – DO PASS**

Ms. Landers explained that currently the Arizona Department of Transportation (ADOT) awards federal grant monies to non-profit agencies and tribal governments. However, statute does not specifically list Indian tribes as an entity ADOT can cooperate with to disburse federal grant money. This bill adds Indian tribes to the entities ADOT can cooperate with to secure full benefits for State transportation.

**Kevin Biesty, Legislative Liaison, ADOT,** testified that ADOT is in full support of the bill and it is strictly clarifying language.

**Senator Jarrett moved SB 1107 be returned with a DO PASS recommendation. The motion CARRIED by a roll call vote of 7-0-0 (Attachment 2).**

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## **SB 1118 – traffic survival school; notification – DO PASS**

**Summer Woodson, Research Intern**, testified that the bill requires that the officer issuing a red light traffic violation provide the driver with written information advising the defendant of the requirements to successfully complete traffic school upon conviction or a plea of responsibility.

**Senator Rios, sponsor of the bill**, testified that a constituent paid the citation, but was never notified that she had to attend traffic survivor school. This bill will notify people of this situation in advance.

In response to Senator Allen, Senator Rios stated that this legislation was changed when the Legislature wanted to bear down on red light runners approximately two years ago. He further stated that there is no fiscal impact to the general fund and most municipalities have already started doing this.

**Senator Jarrett moved SB 1118 be returned with a DO PASS recommendation.  
The motion CARRIED by a roll call vote of 7-0-0 (Attachment 3).**

## **SB 1177 – air pollution; jurisdiction; Indian lands – DO PASS**

**Kerri Morey, Research Analyst**, stated that in 1990, the Federal Clean Air Act (CAA) was amended requiring the Environmental Protection Agency (EPA) administrator to treat Indian tribal lands as states, and allow the tribes to administer CAA programs involving all resources on their lands. This bill will repeal the authority of the State of Arizona and its political subdivisions to enforce state laws relating to air quality on Indian tribal lands only.

Senator Allen contended that the 1990 CAA requires EPA to administer the programs, and it is superfluous for the Legislature to have the authority to enforce State law because they do not have that authority any more.

**Senator Jarrett moved SB 1177 be returned with a DO PASS recommendation.  
The motion CARRIED by a roll call vote of 7-0-0 (Attachment 4).**

## **Presentation by Dr. Wally Covington, Regents' Professor of Forest Ecology at Northern Arizona University (NAU), Regarding Forest Health**

**Dr. Covington** distributed a handout entitled "Ecological Restoration Institute" (Attachment D). He also presented a slide presentation entitled "Restoring Forest Health: Fire, Bark Beetles, and the Quality of Life in Arizona" (Attachment E). His testimony came directly from the slide presentation and handout. Dr. Covington stated that he directs The Ecological Restoration Institute at NAU which was established by the Legislature. Dr. Covington emphasized that the greatest single threat to Arizona's natural resources is the impending collapse of the forest and woodlands within the State. The most obvious evidence of this is the unnatural crownfires that are getting more devastating, and the bark beetle outbreaks. This collapse could happen within the next 20 years.

Dr. Covington pointed out that the Ecological Restoration Institute does the following:

- Knowledge, discovery and synthesis

- Not just research in the traditional sense
- Collaborative research in service of management
- Knowledge transfer
  - Not just academic publications
  - Practical documents, both printed and electronic
  - Not just teaching academic course work
  - Continuing education, both directed and self-directed
- Knowledge application
  - Work with practitioners on a broad range of projects
  - Work with local to national policymakers
  - Work with all parties to get forest health treatments on the ground

Dr. Covington affirmed that Arizona's forests are the driest in the west and Arizona has the largest Ponderosa pine forest, along with the longest fire season.

Dr. Covington declared that crownfires are the latest in a long series of symptoms and indicators of declining ecosystem health. Some of the indicators are the following:

- Loss of herbaceous cover
- Increased erosion
- Tree population explosions
- Watershed degradation
- Loss of plant and animal diversity
- Loss of esthetic values
- Unnatural insect and disease epidemics
- Shift to catastrophic crownfires

Dr. Covington acknowledged that the Rodeo-Chediski fire burned 468,638 acres.

Dr. Covington pointed out that they are looking at the underlying mechanisms of the crownfires and trying to restore ecosystem health. He further noted that multi-scaled collaborative approaches must be supported at the State level.

Dr. Covington explained that a reference treatment is a treatment that restores the forest to as close to a natural condition as possible. Some of these treatments include:

- Retain trees which predate settlement
- Retain postsettlement trees needed to re-establish presettlement structure
- Thin and remove excess trees
- Rake heavy fuels from base of trees
- Burn to emulate natural disturbance regime
- Seed with natives/control exotics

Dr. Covington emphasized that they might leave more trees to accommodate specific resource management objectives; e.g., screening cover for human or wildlife habitat goals, future wood harvesting and favoring specific uses. They might also have fewer trees to accommodate other objectives; e.g., to favor viewsheds, wildlife goals, grazing and water balance.

Dr. Covington reiterated that comprehensive ecosystem restoration approaches not only reduce crownfire threat, but also improve forest health and resource use opportunities for present and future generations. He noted that the State can support our congressional delegation in acquiring resources to restore forest health in Arizona; provide leadership in assuring federal, State and local government cooperation in implementing large-scale restoration treatments; support efforts to assure that federal and State agencies are adequately funded; and support advanced preparedness for fire suppression and emergency services.

Senator Blendu commented that Dr. Covington's presentation was very concise and accurate.

In response to Senator Allen, Dr. Covington stated that the Governor is in full support of restoring forest health. He further noted that the President's Healthy Forest Initiative is looking at a lot of the procedural problems and getting them implemented rapidly. He stated that with strong State and local support for actions, the probability will be great to get these actions implemented within the next five years.

In response to Senator Cannell, Dr. Covington stated that if the small trees can be utilized from areas already roaded in Arizona, analysis suggests that these treatments can be done for about half the costs.

There being no further business, the meeting adjourned at 3:25 p.m.

Respectfully submitted,

Debbie Kennedy  
Committee Secretary

(Tapes and attachments on file in the Secretary of the Senate's Office/Resource Center, Room 115.)