

ARIZONA STATE SENATE

46TH LEGISLATURE FIRST REGULAR SESSION

MINUTES OF COMMITTEE ON FINANCE

DATE: February 24, 2003

TIME: 1:30 p.m.

ROOM: SHR 1

CHAIRMAN: Senator Martin

VICE CHAIRMAN: Senator Harper

ANALYST: Denisse Gee

**COMMITTEE
SECRETARY:** Nancy L. DeMichele

**ASSISTANT
ANALYST:** Lace Collins

INTERN: Sharad Desai

ATTENDANCE

BILLS

<u>Committee Members</u>	<u>Pr</u>	<u>Ab</u>	<u>Ex</u>	<u>Bill Number</u>	<u>Disposition</u>
Senator Brown	X			SB 1036	DPA
Senator Burns	X			SB 1138	DPA/SE
Senator Chevront	X			SB 1187	HELD
Senator Garcia	X			SB 1195	DISC/HELD
Senator Jarrett	X			SB 1207	FAILED
Senator Leff	X			SB 1214	HELD
Senator Weiers	X			SB 1263	DPA
Senator Harper, Vice Chairman	X			SB 1267	DPA/SE
Senator Martin, Chairman	X			SB 1313	HELD
				SB 1314	DPA
				SB 1315	DPA
				SB 1323	DP
				SB 1331	DP
				SB 1332	HELD
				SB 1335	HELD
				SB 1342	FAILED
				SB 1343	HELD
				SB 1347	DP
				SB 1351	DPA
				SB 1353	DP

GOVERNOR'S APPOINTMENTS

Name

Position

Recommendation

Chairman Martin called the meeting to order at 1:41 p.m., and roll call was taken.

Senator Martin announced that any bills not heard today will be held until Friday, February 28.

CONSIDERATION OF BILLS

SB 1187 – school tax credit; programs; activities – HELD

Senator Martin announced SB 1187 will be held until February 28 in order to include additional information.

SB 1332 – residential property tax limits; reform – HELD

Senator Martin announced SB 1332 will be held until February 28 because an amendment is being prepared.

SB 1353 – covered loans – DO PASS

Sharad Desai, Finance Research Intern, explained SB 1353 places restrictions on covered loan lenders and creates a mechanism for the enforcement of restrictions on covered loans.

Senator Martin stated this bill pertains to loans covered under regulations for predatory lending. He said many meetings have taken place recently with stakeholders in an attempt to reach a compromise, and the bill will have amendments as it moves through the process.

Kelsey Lundy, Government Relations Specialist, Arizona Financial Services Association (Association), testified in support of SB 1353. She explained the bill consists of two parts: preemption and the issue of predatory lending. She said the goal is to have some protections for people obtaining loans, while at the same time ensuring that loans are attainable. She said a floor amendment is being prepared to clarify some items and to include additional provisions. Ms. Lundy indicated that meetings are being held with the Arizona Attorney General's Office (AG) and consumer advocate groups in an attempt to reach a resolution. She said it is important that restrictions are not placed on the market that would, in turn, dry up capital that borrowers need to obtain home loans.

In response to Senator Garcia, Ms. Lundy stated that currently most local jurisdictions do not become involved in lending and finance law, which has traditionally been the responsibility of the Arizona Banking Department (Department). She said this bill would clarify that the Legislature and the Department would determine the policies. She indicated the Association's members are licensed and regulated at the State level but not at the local level. She noted that the only types of programs currently existing at the local level would be low-interest loan type programs. Senator Garcia referred to a situation that occurred in Tucson in the early 1980s regarding balloon payments, and said the Southern Arizona Legal Aid Society changed that practice. He said he has concerns with the State pre-empting any local ordinance, which would impede the ability of local governments to allow its citizens a fair shake in whatever business they transact. He commented that he is concerned that the sub-prime lenders would concentrate on the communities in his district as well as those in Senator Soltero's district. Ms. Lundy responded that to date there has not been any local ordinances dealing with lending activities. She said this bill prohibits balloon payments for ten years with some minor exceptions.

Richard Travis, Assistant Attorney General, AG, testified in opposition to SB 1353. He said the AG realizes predatory lending is a problem in Arizona. He indicated that most of the bill is preempted by federal legislation, and the AG would like to see additional consumer protections that still keep the secondary lending market in a healthy and thriving position. He pointed out that competition for loans would be in the best interest for consumers; however, there are too many practices that could take place to support the bill at this time. He noted that based on the ongoing discussions with Senator Martin and others in the lending community, progress has been made towards developing a bill. He said the major issue currently is a threshold issue as to which group these protections would be applicable. He commented the AG is concerned that if the group is too small, people will think they are protected when they are not. He noted that predatory lending usually impacts seniors and individuals having a language barrier with the lender, and the borrowers become locked into some outrageous loan conditions.

Kevin Demenna, Lobbyist, Arizona Mortgage Lenders Association, testified in opposition to SB 1353. He stated it is critically important for the law to be uniformly applied in every jurisdiction. He said Arizona constantly imports capital, and capital flight results anytime the markets are “rattled” creating a shortage of capital and increased prices. He said this bill would make it even more difficult to obtain a loan, and the goal is to ensure that protections are focused on the most needy population.

Lupe Solis, Associate Director, Advocacy, testified in opposition to SB 1353. She stated Advocacy is a non-profit organization with over 690,000 members, comprising 50 years of age or older. She said the organization seeks to enhance the quality of life for all members. She pointed out that the sub-prime lending industry has grown significantly in recent years. She highlighted some points of interest taken from an American Association of Retired Persons (AARP) study, which indicates a predatory lending problem exists in Arizona for certain populations. She commented that instead of setting a ceiling on fees and interest rates, the law should limit or prohibit altogether certain loan terms and lending practices for high-cost loans. She said although the proposed bill purports to address the problem, in reality it does little for the consumer.

Eddie Sissons, Executive Director, William E. Morris Institute for Justice, testified in opposition to SB 1353. She stated that she appreciates the discussions that have taken place on this bill; however, there are still some items that are not resolved. She commented that protecting an individual’s home is part of the American dream, and any legislation that helps consumers provide for that preservation is an essential characteristic.

Senator Leff stated that if the bill fails, then there would be no protections for the individuals affected. She asked Ms. Sissons if she would prefer to ask the Committee to vote on the bill with reservations, or to vote “no” on the floor. Ms. Sissons responded she understands and respects Senator Leff’s point of view. She said in order to keep discussions ongoing, she would suggest a proposal that would eliminate the preemption of local ordinances.

Kenneth Scruggs, Household Financial Group, testified in opposition to SB 1353. He explained the organization consists of Household Finance and Beneficial Finance, the two best known prime sub-lenders in the Country. He explained the key points between sub-prime lending and sub-prime borrowing. He said the groups opposing this bill are focused on a segment of the sub-prime industry that his company and others are having difficulty serving currently. He said his organization would like to do everything it can to help those borrowers, and outlined the items in the bill that would help those individuals. He said discussions are being held to resolve the outstanding issues in the bill.

Senator Harper moved SB 1353 be returned with a DO PASS recommendation.

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

Senator Garcia stated he would like to propose a verbal amendment. Senator Martin responded unless it is purely technical, he is not going to accept it at this time because ongoing negotiations are taking place on the language. Senator Garcia said he is concerned whether the issue will improve as it moves along through the process because the driving force of this measure will be the sub-prime lending institutions. Senator Martin responded that many individuals are present today taking strong positions on both sides of the issue. He said time is running short and the language will take some time to negotiate. He indicated discussions are ongoing and all the information will be distributed to the members before the bill goes to the floor.

Senator Chevront explained his vote. He stated he understands the concerns of Senator Garcia, but at the same time he believes everyone will have to work to resolve the issues. He said he will vote "aye."

The motion CARRIED by a roll call vote of 7-2-0 (Attachment 1).

SB 1347 – recreational corridor channelization districts – DO PASS

Kerri Morey, Natural Resources and Transportation Research Analyst, explained SB 1347 establishes a process for creating a new type of special district called a "recreational corridor channelization district." She said the district could be formed upon approval of effective municipalities, approval by the county board of supervisors, and passage at the ballot. She noted the district board could then refer the question of levying a secondary property tax to the ballot. Ms. Morey pointed out the powers of the district in addition to levying the tax. She said the Natural Resources and Transportation Committee amended the bill to additionally require the signature of over 50% of property owners in the proposed district before it is placed on the ballot.

Rusty Bowers, Executive Director, Arizona Rock Products Association, stated the genesis of this bill represents a desire to take any river undergoing a rapid urbanization in the State. He stated that a specific example of this is the Agua Fria River. He said the Flood Control District of Maricopa County and at least four other major counties have been mandated to take certain steps to protect health, safety and property along the riverbeds. He indicated that this mandate along with the demand of the economy for the sand and gravel products began to clash. He commented that as a result, a recreational corridor channelization district has been proposed. He outlined the proposal on a graph, and said this work in progress has a 2005 implementation target date. In response to Senator Leff, Mr. Bowers explained the rock mining procedure in relation to this project.

Douglas Williams, Planning Manager, Flood Control District of Maricopa County, commented that there has been concern for some time regarding the impacts of urbanization and sand and gravel operations on the river systems. He said a water course master plan was recently completed for the Agua Fria River, and part of the process included close collaboration with the aggregate industry to provide protection for people, property and utilities along the River. He said an amendment is being prepared for the bill to include the requirement that all development within the District be consistent with all applicable federal, State and local flood plain regulations and water course master plans.

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

**Senator Harper moved SB 1347 be returned with a DO PASS recommendation.
The motion CARRIED by a roll call vote of 8-0-1 (Attachment 2).**

SB 1331 – truth in taxation – DO PASS

Denisse Gee, Finance Research Analyst, explained SB 1331 prohibits a community college district, county, city or town governing board to levy or assess primary property taxes higher than the prior year if the governing board fails to comply with Truth in Taxation noticing and hearing requirements.

Kevin McCarthy, President, Arizona Tax Research Association (ATRA), testified in support of SB 1331. He stated that this bill simply closes the loophole of the Truth in Taxation legislation passed in 1997 to provide a level of oversight. He clarified that the bill as written would limit a community college, city or town from affixing taxes in excess of last year's levy plus new construction, which is the Truth in Taxation limit. He explained that currently the law requires publishing of notices and a public hearing to establish a tax rate higher than the Truth in Taxation rate. He indicated that the Property Tax Oversight Commission (Commission) has no authority to do anything with the information provided. He explained this measure simply puts the Commission in the position of ensuring that the hearing was held, the rate was voted and notification was made to the county board of supervisors of the jurisdictions that have fulfilled the requirement to exceed the rate.

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

**Senator Harper moved SB 1331 be returned with a DO PASS recommendation.
The motion CARRIED by a roll call vote of 8-0-1 (Attachment 3).**

SB 1263 – corporate tax credit; tuition organizations – DO PASS AMENDED

Ms. Gee explained SB 1263 allows corporations to use an income tax credit up to \$100,000 for each taxable year for contributions made to a school tuition organization (STO) that provides scholarships and tuition grants to children of low-income families. She said the current tax credit is capped at \$50 million each year in the bill. Ms. Gee explained a 3-page Martin amendment dated 2/21/03 at 2:45 p.m. is being proposed, and she pointed out some of the following significant changes.

- The amendment allows a taxpayer to take the tax credit at any amount rather than at the \$100,000 limit. The amendment also caps the total tax credit at \$10 million for calendar year 2004, and increases that cap by \$10 million each year until 2007 when the tax credit will be permanently capped at \$50 million.
- The tax credit is limited to first grade students or higher.
- If the amount of contributions that an STO collects exceeds the amount of scholarships or tuition grants that the STO issues, then the STO is required to refund the excess amounts to the taxpayer. The taxpayer is then not allowed to claim a credit for the refunded amount.
- The Superintendent of Public Instruction must reduce the student count of a school district where a child was enrolled, but now is attending a private school through a scholarship or tuition grant made possible by the tax credit.
- The amendment prohibits an STO from issuing a scholarship or tuition grant that exceeds 60% of the per pupil expenditure amount.

Senator Anderson, bill sponsor, explained the purpose of the bill. He said the goal is to expand the current tax credit in a way that corporations will be able to contribute in order for more children to be able to go to schools of choice to achieve their goals. He indicated that discussions have taken place with all interested parties in an effort to make it work fiscally. He stated that a fiscal note is being

prepared by the Joint Legislative Budget Committee (JLBC), and it appears there will be a positive affect on the State budget with the proposed amendment.

In response to Senator Leff, Senator Anderson said this bill establishes a separate tax credit system and is limited to low-income families unlike the bill that passed previously.

Dr. William Patterson, Secondary Education Supervisor/Teacher, testified in support of SB 1263. He stated this bill would be extremely beneficial in allowing parents to take ownership of a student's education. He said he strongly believes parents need to find the right school and to check out the products their children are receiving.

Janice Palmer, Governmental Relations Analyst, Arizona School Boards Association (ASBA), testified in opposition to SB 1263. She said the bill includes a \$100,000 tax credit for a corporation, and the amendment provides unlimited tax credits. She commented that the State's liability would be up to \$10 million and phased in through the years up to \$50 million. She questioned the "first come, first served" basis as to how it would work. She noted the bill would target low-income individuals giving them access to private schools. Ms. Palmer stated that Arizona State University (ASU) and the Education Policies Study Laboratory looked at the current STO tax credit as well as the extracurricular tax credit. The study revealed that with the current STO many low-income individuals did not have access to private schools because there are other factors and costs associated with low-income students being able to go to private schools. She said that this bill has the effect of having different rules for different schools. She outlined the distinctions between public and private schools, and said that public money will be put into the private school system with little accountability for the progress of students. Ms. Palmer commented that there have also been some discrepancies in the reporting requirements between the public and private schools.

In response to Senator Martin, Ms. Palmer stated that even though parents participate in the cost of the child's education, it is doubtful that low-income families have any resources to be able to have a choice of schools. She said while the bill allows low-income students an opportunity for choice, the reality is that low-income students will not be able to take advantage of the tax credits.

Senator Martin stated that parents who participate in their child's education will no doubt demand more than the standard requirements currently in place at the federal level.

Senator Burns asked for clarification from Ms. Palmer regarding "public money." Ms. Palmer responded that corporations are able to direct monies to a STO and receive a tax credit from the corporation's State tax liability. She explained that rather than the corporation paying taxes to the State, those corporations are able to lessen tax liability through the tax credits. Senator Burns stated he believes it is not public money until it becomes money within the treasury. He said since the money is staying within the private sector, it is private money. Senator Burns asked why Ms. Palmer has a problem with parents sending their children to a school of choice. Ms. Palmer replied the objection of the Association is having public money going into a private system.

Senator Chevront stated he maintains the funds are public monies because the tax liability is on the books of the Arizona Department of Revenue (DOR), but merely redirected. He raised the question of the provision in the amendment that takes money away from public schools if private schools are given those funds, and asked how public schools would be impacted. He also wanted to know at what point in time would those funds be taken from the public schools. Ms. Palmer responded that based upon the amendment, the money would be taken from the public school system to the private school system during the following year's funding. She explained that public schools are funded on

the previous year's average daily membership (ADM). She said that number is taken from the following year in order to fund public schools and provide basic State aid.

Senator Martin questioned the funding of positions in public schools where children may no longer be enrolled in those schools. Ms. Palmer responded she is not asking the State to fund positions that do not exist. She said by taking children from the public to private school system, money is being transferred from the public school system into a private institution. Senator Martin stated this bill does not take anyone out of the school system, but rather allows parents freedom of choice. Ms. Palmer reiterated that if public monies go to private schools, then the same rules and accountability mechanisms should apply within financial records. Senator Martin stated the United States Supreme Court has ruled that it is not public money. He said if this was determined to be public money, then it would be unconstitutional to propose this legislation.

Christopher Smith, testified in support of SB 1263. He stated he is appearing as a parent with children who attend charter school, public school, and home preschool. He said he supports both the public and private credits. He commented he supports the direct improved educational opportunities for children who need those opportunities. Secondly, by adding more options and healthy competition into Arizona's educational system, he is optimistic that the program will help stimulate improvement in all school systems, both public and private.

In response to Senator Leff regarding the STO percentages, Mr. Smith said he does not have the answer to that question as he was not involved in the crafting of this particular proposal.

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

Jeffrey Kros, Legislative Liaison, DOR, testified as neutral on SB 1263. Senator Chevront asked how the "first come, first served" provision will be feasible in this instance. Mr. Kros responded DOR is not sure how it will be handled, because the State has never had a cap on a "first come, first served" basis with this type of credit. He said Florida has similar legislation, and DOR would look at it closely in order to administer it properly.

Senator Chevront referred to the alternative fuel issue, and asked Mr. Kros whether he would anticipate any type of lawsuit that may be directed at the State based on the time element involved with pre-clearance. Mr. Kros responded that is a good question. He said the tax credit is somewhat complicated; however, DOR will look at it closely. He pointed out that corporations differ from individuals in that corporate fiscal years usually end on any month during the calendar year whereas individuals share one calendar year. He said there are issues with carryforward and other possible problems, and that is why DOR is involved in the process now to alleviate any problems and to hopefully make it work.

Sydney Hay, Children First America, testified in support of SB 1263. She stated she was involved in the 1997 legislation and believes she is able to answer some questions. She said Children First America is a nationwide organization dedicated to improving educational opportunities for children and was the driving force behind the Florida corporate tax credit legislation. She said this bill is modeled after the Florida legislation and she believes it will result in a savings. She indicated that preliminary estimates from Florida indicate that the budget savings over the next ten years will be \$600 million. She noted that the cap in Florida is \$50 million, which is the same as the Arizona measure. She said the largest scholarship that can be given in Florida is \$3,700. Arizona's scholarship amount will be lower, which is good news for budget savings. Ms. Hay pointed out that the Arizona School Choice Trust (ASCT), which has been the longest running and one of the largest

STOs in Arizona, has an average scholarship currently at \$1,500. She said it is important to note that the scholarship is not being capped at 60%, as the scholarships will actually be lower than 60%. She stated that with the ASCT program, the parents actually pay a portion on a sliding scale because they feel it is important that the parents are invested in their children's education. She emphasized that it has been a real success story for parents becoming involved.

Ms. Hay stated she disagreed with some of the comments addressed by the representative of the ASBA, and explained the procedure in Florida with respect to the tax credit. In relation to that she said the Arizona Supreme Court ruled and made it very clear that these tax credits are not public monies. With respect to low-income families, she said there are success stories of those families who can take the tax credits and are willing to invest in their children's education. She said even capped at 60%, oftentimes 100% of tuition will be covered for low-income students.

Doug Kilgore, Government Relations Consultant, Arizona Education Association (AEA), testified in opposition to SB 1263. He said he agrees with the comments of Ms. Palmer. He referred to the question raised as to why public schools are losing money when the student leaves and the school no longer has the responsibility to educate that student. He said if there was a one-to-one teacher to student ratio, there would not be a problem. However, as students leave, faculty and support staff is not reduced proportionately. He noted that funding is lost, but the level of services has to remain the same to ensure the remaining students are adequately educated. He said the major concern is to have quality education for students, and AEA is working to cooperate with many different accountability and school improvement initiatives. He said AEA believes this measure represents a step in the wrong direction.

In response to Senator Burns, Mr. Kilgore stated that the decline in student enrollment is not a one-to-one tradeoff as far as the ability to provide staff and support services for the remaining students.

Nelson Llumiquinga, Executive Director, ASCT, testified in support of SB 1263. He said he is present representing himself, but would like to share some information regarding ASCT. He provided background information on ASCT, and said scholarships are based on a financial need to low- and moderate-income families on a "first come, first served" basis. He noted in the school year 2001/2002, ASCT was able to assist 800 students with an average scholarship of \$1,500. He said parents are required to pay at least 25% of tuition costs, and most families pay 50% to 75%. He commented that for the past ten years a situation has not occurred where a family has declined a scholarship based on an inability to pay a share of the student's education. He said schools will go to extra lengths to assist low-income families so that those students are able to attend the schools.

Senator Burns moved SB 1263 be returned with a DO PASS recommendation.

Senator Burns moved the 3-page Martin amendment dated 2/21/03 at 2:45 p.m. be ADOPTED (Attachment B). The motion CARRIED by a voice vote.

Senator Burns moved SB 1263 be returned with an AS AMENDED, DO PASS recommendation.

Senator Brown explained his vote. He stated that caution should be taken regarding tax credits, particularly during the current budget crisis. He said he prefers tax exemptions, but believes this issue should be studied further because this is neither the right time nor the proper method. He said the funds may not be called public money, but will be public money if this measure is passed. He said he will vote "no."

Senator Cheuvront explained his vote. He stated that a tax credit is an appropriation, and this measure will redirect monies that would have come into the State's general fund to STOs. He commented it is important for students of low-income families to have an option of where to attend school. However, he said the problem currently is that STOs have no accountability or oversight. He commented that until it is known where the money is going and how it is being utilized, he cannot support extending or giving more money to STOs. He referred to the alternate fuel fiasco and indicated that any State money has to have oversight and accountability. He stated he will vote "no."

The motion CARRIED by a roll call vote of 6-3-0 (Attachment 4).

SB 1207 – hospital districts; funding – FAILED

Mr. Desai explained SB 1207 allows a hospital district with the same boundaries as a county that has a population of less than 45,000 people to levy a transaction privilege tax (TPT). He said the maximum TPT rate that can be levied is 10% of the State TPT rate. He indicated that an amendment was adopted in the Health Committee, which prohibits a hospital district from imposing a TPT and secondary property tax at the same time. He explained a 9-line Martin amendment dated 2/21/03 at 4:57 p.m. is being proposed that prohibits a hospital district from levying a TPT unless it has the approval of voters. The amendment requires a hospital district to notify DOR of a successful vote.

Senator Cannell, bill sponsor, explained La Paz Hospital is in his district on the Colorado River. He said it is a small hospital that has been struggling the same as many other rural hospitals. He commented that the hospital is the only such facility within 50 miles that serves the local community as well as tourists. He said under current legislation hospitals have the ability to assess a property tax without a vote of the people. However, the problem is that there is not much property tax in La Paz County because most of the land is federal or State land. He indicated that the citizens of that community would prefer to have a sales tax, which is not allowed under current legislation for hospital districts. He said he worked with Kevin McCarthy of ATRA over the summer on this issue. He indicated he opposes the amendment because the hospital will be limited in its ability to quickly react to a funding situation. He noted that the bill requires a vote of the people after four years. He said other individuals are present today to testify.

Gene Fisher, Supervisor, La Paz County, District 1, testified in support of SB 1207. He explained the reasons for his opposition to the amendment, and provided background information as to why he believes the bill should move forward without going back to a vote of the people. He urged the Committee to pass the bill without the amendment, and to change it from a four-year tax to a three-year initial tax. He explained in that way the time period would be the same as the property tax, which was approved by the voters in November. He pointed out that approximately 20% of the population resides on the California side of the community and are not affected by the property tax; however, they use the services of the hospital. He said by converting to a sales tax, it would be more equitable to have those individuals pay for services that they use. He commented that some families have been donating sums of money because they realize the need for the hospital.

Vickie Clark, Administrator, La Paz Regional Hospital, testified in support of SB 1207. She stated the hospital operates four clinics in La Paz County, and covers primary medical services throughout the County. She urged passage of the bill without the amendment as voters have indicated they wanted to be taxed for three years and to switch the method of taxing.

Sandra Pierce, President, Parker Area Chamber of Commerce, testified in support of SB 1207. She stated that she has a signed resolution from the board members in support of SB 1207 (Attachment C). She provided background information regarding the area and events, and emphasized the importance of the hospital for the community and tourists.

Kevin McCarthy, President, ATRA, testified in opposition to SB 1207. He stated that ATRA opposes allowing a special district to have access to any tax without voter approval. He said by moving the sales tax into special districts will set a huge precedent, and caution needs to be taken. He indicated that the property tax is a viable mechanism to fund special districts because it is fairly easy to administer and for taxpayers to be in compliance. He noted that the arguments presented by La Paz County regarding the advantageous nature of the sales tax could be made by hundreds of other jurisdictions, such as school and fire districts. He indicated that currently some sales tax rates in the State are approaching 10%, and he strongly suggested not expanding sales tax districts any further.

Michelle Ahlmer, Executive Director, Arizona Retailers Association, testified in opposition to SB 1207. She said she appreciates the predicament of the hospital, but the Association is very concerned that this will set a precedent. She pointed out that in this particular area the current sales tax is over 9%. She said there is concern that consumers may turn more to Internet business to avoid paying sales taxes.

Jim Trevino, Chairman of the Board, La Paz County Hospital District, testified in support of SB 1207. He stated that in the last election he was one of three people who proposed the property tax. He said he was re-elected to the Board, and the property tax also passed. Therefore, he believes he is able to represent the people in La Paz County to a certain degree. He urged the passage of the bill without the amendment. Mr. Trevino presented a petition to the Committee. He explained that his community is based on tourism, and economic resources will be lost without a hospital to service the individuals who visit the area. He said the people who voted to impose a property tax are the same people who would vote and support a sales tax, whereas many of the tourists will never have the opportunity to vote on the taxes.

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

Senator Harper moved SB 1207 be returned with a DO PASS recommendation.

Senator Harper moved the 9-line Martin amendment dated 2/21/03 at 4:57 p.m. be ADOPTED (Attachment D). The motion CARRIED by a voice vote.

Senator Harper moved SB 1207 be returned with an AS AMENDED, DO PASS recommendation.

Senator Burns explained his vote. He stated he will vote "no." He believes ATRA has made a strong case. He said the budget issue is not resolved, and if spending continues there will be a strong need for a support mechanism for that spending. He commented one of the issues that will be reviewed is sales tax. He noted that sales tax is paid in La Paz County and is returned to La Paz County; therefore, it is not an issue of whether the tourists are paying. However, it is an issue of how the county supervisors decide to spend the money. He commented that perhaps a grant system could help the hospital.

Senator Chevront explained his vote. He stated that he agrees with Mr. McCarthy that the sales taxes in the State are among the highest in the country. He said there appears to be a cash flow problem in La Paz County. He said he will vote “aye.”

Senator Leff explained her vote. She said she has mixed feelings regarding this issue since Mr. McCarthy testified, and would like more time to think about expanding the sales tax. At this point she said she will vote “aye” to keep the bill moving.

Senator Jarrett explained her vote. She stated she understands the dilemma of La Paz County, but is very concerned with the comments of Mr. McCarthy. She said she will vote “no.”

Senator Martin explained his vote. He stated that the idea of moving from a property tax to a consumption tax is a good idea in general; however, setting a precedent is a major concern. He said he is inclined to work with the sponsor on other changes. He thanked the people who drove to Phoenix to voice their concerns today, and said perhaps the issue could be resolved by creating a funding stream through La Paz County. He said that opening a special sales tax district could be a problem. He said he regretfully will have to vote “no,” but will work with the sponsor.

The motion FAILED by a roll call vote of 4-5-0 (Attachment 5).

SB 1315 – rental motor vehicles; insurance – DO PASS AMENDED

Lace Collins, Finance Assistant Research Analyst, explained SB 1315 prohibits rental car insurance sold by an authorized agent to include the rental company’s agreement to waive the rental company’s right to compensation. She said the measure also requires insurance coverage that names or is available to a renter or an unauthorized driver to apply as primary insurance coverage for any injury or property damages caused by an unauthorized driver. She indicated a 3-line Martin amendment dated 2/21/03 at 3:10 p.m. is being proposed, which removes certain language.

Kevin Demenna, Arizona Rental Car Coalition, testified in support of SB 1315. He stated the Coalition includes every rental car company in Arizona with the exception of one. He explained that the bill does two things:

- Addresses the issue of when an unauthorized driver uses the vehicle. Mr. Demenna said the issue is whether the insurance of the rental car company or the insurance of the operator is primary. He indicated the Coalition requested the removal from the bill of the language that deals with primary and secondary coverage for unauthorized drivers.
- Collision damage waivers (CDW) is the other portion of the bill. Mr. Demenna explained this pertains to the rental company’s agreement to waive its right to collect against a renter for damages to the vehicle. He said he has a letter from the Arizona Department of Insurance (DOI) stating that offering a CDW is not the practice of insurance. He stated that the attorneys for the rental car companies are not comfortable with just a letter, and are asking that it be codified in statute.

Vista Brown, DOI, clarified some points raised. She said she would have drafted the bill differently, but believes it is consistent with the interpretation by DOI and accomplishes the purpose intended.

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

Senator Harper moved SB 1315 be returned with a DO PASS recommendation.

Senator Harper moved the 3-line Martin amendment dated 2/21/03 at 3:10 p.m. be ADOPTED (Attachment E). The motion CARRIED by a voice vote.

Senator Harper moved SB 1315 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED by a roll call vote of 8-0-1 (Attachment 6).

SB 1351 – revised uniform trust code – DO PASS AMENDED

Ms. Collins explained SB 1351 adopts the revised Uniform Trust Code to Arizona law. She said the adoption of the Uniform Trust Code is a recommendation of the Arizona Uniform Law Commissioner appointed to the National Conference of Commissioners on Uniform State Laws (NCCUSL). Ms. Collins explained the 19-line Weiers amendment dated 2/20/03 at 2:09 p.m. clarifies that the transfer of some of the functions of a trust by a corporate trustee to another state is not a transfer of the corporation's principal place of business and adds application dates to various provisions in the bill. She said the amendment also makes technical and clarifying changes agreed upon by the Arizona Banking Association, the NCCUSL and the Arizona State Bar.

Jim Bush, Chairman, Arizona Uniform Laws Commission (AULC), testified in support of SB 1351. He stated that this measure will greatly improve the civil justice system in Arizona regarding the governance of trusts as well as any litigation that may arise from trusts. He said this complex act represents a compilation of common law that exists as well as a proposal from the American Law Institute. He thanked all the parties involved with this measure, and said that AULC also supports the amendment.

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

Senator Leff moved SB 1351 be returned with a DO PASS recommendation.

Senator Leff moved the 19-line Weiers amendment dated 2/20/03 at 2:09 p.m. be ADOPTED (Attachment F). The motion CARRIED by a voice vote.

Senator Leff moved SB 1351 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED by a roll call vote of 8-0-1 (Attachment 7).

SB 1195 - sales tax rates; preexisting contracts – DISCUSSION/HELD

Ms. Collins explained the strike-everything amendment to SB 1195 allows a property tax exemption for property owned by a nonprofit organization that promotes, sponsors and operates a county fair in Arizona.

Representative O'Halleran, bill sponsor, stated this measure is important for economic development in the Prescott and Prescott Valley area.

Anthony Martinez, Yavapai County Assessor, testified in opposition to SB 1195. He provided background information regarding this issue. He stated that the Assessor's Office made many requests to the Yavapai County Fair Association (Association) for certain information to ascertain whether they qualified to be a tax-exempt organization. He noted he is still waiting for the requested information despite several meetings and discussions, and instead the Association has approached the Legislature requesting an exemption. He indicated that an exemption would mean a tax shift on all the people who reside within that taxing district, and would be retroactive beginning January 1,

2002. He said this issue will create problems with the Assessor's Office because it deals with assessments only, and not taxes. Mr. Martinez urged the Committee to oppose this measure.

Jim Grundy, General Manager, Yavapai County Fair Association, testified in support of SB 1195. He outlined the Association's mission statement. He stated the Association has been in operation since 1913, and has been a non-profit organization since the 1970s. He said the County Fair is very important to the entire northern part of Arizona and particularly Yavapai County. He noted that the tax burden would make it impossible for the County Fair to remain in operation. He urged the Committee to support the measure.

Gary Spiker, Achieve School Director, Achieve Academy, testified in support of SB 1195. He said he has been a superintendent of schools in the State for the past twenty years. He said the Achieve Academy picked up students last year when another school experienced monetary problems and dropped its agricultural and veterinarian programs. He indicated his Academy works closely with Yavapai College, and the Academy pays tuition for students to attend their first year at the College. He said the Academy also works closely with the University of Arizona regarding programs offered at that facility. He commented that the Academy also conducts a summer school program for students.

Rick Killingsworth, Mayor, Town of Prescott Valley, testified in support of SB 1195. He stated that he had discussions with representatives of Yavapai College and the Fire District Board, and learned that they do not oppose this measure. He said the Town supports the County Fair because it provides economic development for the surrounding area. He indicated attempts are being made within the area to help support projects that create revenues for the State. He said the Towns of Prescott Valley, Prescott, and Chino are all in support of this bill.

Jim Norton, President, Yavapai County Fair Association, testified in support of SB 1195. He stated that the Association is a unique entity. He said as a non-profit organization, the Association not only operates the County Fair but also other events throughout the year for multiple purposes. He said the County could not take over the property and operate the Fair because it would then become tax-exempt and government owned at that point. He said this bill would allow a non-profit organization to continue to assist the community with economic development. Mr. Norton said a letter from Mr. Grundy outlining a proposal was delivered to Senator Weiers today, and he provided another copy (Attachment G). Senator Weiers explained the purpose of the letter to the Committee, and voiced his concerns to Mr. Norton. Senator Weiers suggested that the appropriate parties get together to resolve this issue prior to taking votes on this measure.

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

Senator Martin stated another Committee meeting will be held on February 28, and he will hold the bill until that time.

SB 1335 – school construction funding reform – HELD

Senator Martin announced SB 1335 will be held at the request of the sponsor. He stated the bill was also held in the Education Committee. He said since the Education Committee is not scheduled to have another meeting, the bill is essentially "dead" as a result of the actions in that Committee.

SB 1036 – public retiree health insurance subsidy – DO PASS AMENDED

Ms. Gee explained SB 1036 extends for one additional year to June 30, 2004, the temporary health care premium subsidy for members of the Arizona State Retirement System (ASRS), Public Safety Personnel Retirement System (PSPRS), Corrections Officer Retirement Plan (CORP) and Elected Officials' Retirement Plan (EORP) in areas where no managed care program is available. She said the measure is retroactive to July 1, 2001. She noted that based on a preliminary estimate by the ASRS actuary, this measure would cost the State general fund \$216,000. Additionally, according to PSPRS, the measure would cost the general fund \$110,000. She said the total fiscal impact would be \$326,000 to the general fund. However, she stated that a JLBC fiscal note is currently being prepared for this bill and these fiscal impact numbers may change. Ms. Gee explained the 2-page Chevront amendment dated 2/7/03 at 8:50 a.m. changes the time extension for the subsidy from one year to two years, and the subsidy would thus expire in 2005. She said the amendment would also require ASRS to seek health care coverage that is affordable, accessible and available to all eligible members. The amendment additionally requires ASRS to report to the Legislature by June 30, 2004 regarding its progress and success in obtaining health care insurance to meet the above goals.

Senator Arzberger, bill sponsor, stated this is a temporary subsidy being extended for two more years. She explained this measure is needed because rural retirees have no options until January 1, 2005, and this subsidy extension would carry them through to 2005. Senator Arzberger provided background information and emphasized the importance of this temporary measure for the rural community. She pointed out that many retirees are delaying retirement because of the concerns regarding the rural subsidy.

Amber Hill, Finance Director, City of Holbrook, testified in support of SB 1036. She provided a written statement to the Committee (Attachment H).

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

Senator Harper moved SB 1036 be returned with a DO PASS recommendation.

Senator Harper moved the 2-page Chevront amendment dated 2/07/03 at 8:50 a.m. be ADOPTED (Attachment I). The motion CARRIED by a voice vote.

Senator Harper moved SB 1036 be returned with an AS AMENDED, DO PASS recommendation.

Senator Harper explained his vote. He stated he appreciates the work provided by public employees; however, at this time of budget crisis he is not inclined to vote on any continuation of spending. He said he will vote "no."

Senator Martin explained his vote. He stated when the bill was first brought forward, he did not support it because of the additional cost. However, this is the last time he will support this type of subsidy measure for retirement bills. He said he will vote "aye."

The motion CARRIED by a roll call vote of 6-1-2 (Attachment 8).

SB 1342 – agricultural property tax classification; criteria – FAILED

Ms. Collins explained SB 1342 limits agricultural classified properties participating in federal farm programs and scheduled crop rotation to a 12-month inactive period in order to qualify for an agricultural property tax classification. She said the measure also requires croplands located at an elevation of 4,000 feet or lower to have water rights for irrigation in order to be classified as an agricultural property. She noted the legislation allows the county assessor to withdraw an application for classification, if the requested evidence of agriculture use is not provided.

David Bailey, Intergovernmental Relations Officer, Maricopa County Assessor's Office, testified in support of SB 1342. He distributed a handout entitled "Summary of Agricultural Cap Rates" (Attachment J), which outlined statistical data. He pointed out that many claims are being made as agricultural properties without substantiation of viable crops being grown on those properties. He said it results in a huge tax shift.

Rick Lavis, Executive Vice President, Arizona Cotton Growers Association, testified in opposition to SB 1342. He stated that if the objective of the Assessor is to determine whether dry land farming is a viable agricultural entity, that is one thing. However, it is bad public policy when the Assessor uses legislation to determine whether farming is being conducted or mandates farming practices. He urged the Committee to defeat this measure.

Bas Aja, Director, Government Relations, Arizona Cattlemen's Association, testified in opposition to SB 1342. He stated that this bill does two things. He explained the bill turns the Assessor's Office into an Internal Revenue Service commission because it can request certain information. Secondly, the bill provides for language in requesting documents that agriculture does not have, such as water rights. He urged the Committee to oppose this bill.

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

Senator Burns moved SB 1342 be returned with a DO PASS recommendation.

Senator Brown explained his vote. He stated he has been involved in the agricultural and ranching business since 1963 when legislation passed that re-evaluated property in Arizona. He said this particular issue has been revisited many times as to when a piece of property should be placed on the tax rolls at a higher rate than agriculture. He commented that this bill will make it more difficult for the farmer, and these issues can be worked out without this legislation as it has in the past. He said he will vote "no."

Senator Burns explained his vote. He said he agrees with Senator Brown and will vote "no."

Senator Weiers explained his vote. He stated that the reason he agreed to sponsor the bill is because the County Assessor approached him indicating there are parcels of vacant land not being farmed, and yet those parcels are taxed at a much lower rate. He said it is a loophole, and as a result other people have to pay more. He said he will vote "aye."

Senator Harper explained his vote. He stated he did not sponsor the bill because he did not believe he was qualified to determine which elevation levels are proper for dry farming. He said he will vote "no."

Senator Martin explained his vote. He said he agrees with some of the testimony; however, he agrees with the concept and will work with the sponsor and County Assessor. He said the language does not concern real farmers and ranchers, and he will vote “no.”

The motion FAILED by a roll call vote of 1-6-2 (Attachment 9).

SB 1138 – tax credit review committee; membership – DO PASS AMENDED/STRIKE EVERYTHING

Mr. Desai explained the strike-everything Martin amendment dated 2/20/03 at 3:36 p.m. to SB 1138 creates the Joint Legislative Revenue Committee (JLRC) to review revenue methods, make recommendations on revenue methods and issue revenue notes for those bills that have a revenue impact on this state. He explained a proposed amendment to the strike-everything amendment is being offered. He said the 14-line Martin amendment dated 2/21/03 at 4:55 p.m. makes technical changes.

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

Senator Martin explained this measure allows for the existing State staff to review revenue methods, and there may be a clarifying floor amendment to ensure that there will be no fiscal impact.

Senator Harper moved SB 1138 be returned with a DO PASS recommendation.

Senator Harper moved the 8-page Martin strike-everything amendment dated 2/20/03 at 3:36 p.m. be ADOPTED (Attachment K). The motion CARRIED by a voice vote.

Senator Harper moved the 14-line Martin amendment to the strike-everything amendment dated 2/21/03 at 4:55 p.m. be ADOPTED (Attachment L). The motion CARRIED by a voice vote.

Senator Harper moved the Martin strike-everything amendment, AS AMENDED, be ADOPTED.

Senator Harper moved SB 1138 be returned with an AS AMENDED, DO PASS recommendation.

Senator Leff explained her vote. She said she will vote “aye” for now, but would need further assurances or a fiscal note showing that this measure will not have any additional costs.

Senator Martin explained his vote. He said “the staff” refers to the existing JLBC staff. He indicated the idea is to have a Standing Oversight Committee outside of the normal legislative session to review revenues.

The motion CARRIED by a roll call vote of 5-3-1 (Attachment 10).

SB 1323 – transportation peace officers; retirement – DO PASS

Ms. Collins explained SB 1323 allows certified peace officers of the Arizona Department of Transportation (ADOT) to participate in PSPRS. She said a JLBC fiscal note has been requested.

Phillip Hubbard, representing Peace Officers of the Motor Vehicle Division (MVD) of ADOT, and the American Federation of State, County and Municipal Employees (AFSCME) testified in support of SB 1323. He stated this bill authorizes MVD Certified Peace Officers to be an eligible group for consideration in PSPRS. He provided background information and outlined the hazardous duties conducted by MVD Peace Officers. He also outlined the requirements for eligibility to join PSPRS, and specific differences between PSPRS and ASRS. In response to Senator Burns, Mr. Hubbard stated that currently there are 150 Certified Peace Officers who would be eligible for this program and the majority of those Officers are assigned to some form of hazardous duties.

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

Senator Harper moved SB 1323 be returned with a DO PASS recommendation.

Senator Martin explained his vote. He stated that an amendment specifically pertaining to those officers assigned to hazardous duty may be a better clarification. At this point he will vote "aye."

The motion CARRIED by a roll call vote of 5-3-1 (Attachment 11).

SB 1314 – DOR; procedures and appeals – DO PASS AMENDED

Ms. Gee explained SB 1314 allows a taxpayer who is protesting a notice of tax deficiency from DOR to bring action directly to tax court. She said the bill allows a taxpayer who disagrees with a DOR private taxpayer ruling to appeal directly to the State Board of Tax Appeals. She explained the 11-line Martin amendment dated 2/21/03 at 2:32 p.m. allows only TPT and corporate income taxpayers to appeal assessments directly to tax court. She noted that the bill as currently written also applies to individual income tax assessments. The amendment additionally clarifies that DOR only has to make decisions relating to TPT disputes available to the public.

James Tunnell, Manager of Public Affairs, Arizona Chamber of Commerce, testified in support of SB 1314. He stated that the bill originated from tax practitioners who are attempting to make some procedural and process-oriented changes. He indicated the Chamber has worked with DOR to ensure consensus.

Senator Harper moved SB 1314 be returned with a DO PASS recommendation.

Senator Harper moved the 11-line Martin amendment dated 2/21/03 at 2:32 p.m. be ADOPTED (Attachment M). The motion CARRIED by a voice vote.

Senator Harper moved SB 1314 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED by a roll call vote of 7-0-2 (Attachment 12).

SB 1267 – insurers; use of derivative instruments – DO PASS AMENDED/STRIKE EVERYTHING

Senator Martin explained SB 1267 is a strike-everything amendment to handle the luxury privilege tax enforcement clarification, and is technical in nature.

Senator Harper moved SB 1267 be returned with a DO PASS recommendation.

Senator Harper moved the 2-page Martin strike-everything amendment dated 2/18/03 at 4:22 p.m. to SB 1267 be ADOPTED (Attachment N). The motion CARRIED by a voice vote.

Senator Harper moved SB 1267 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED by a roll call vote of 8-0-1 (Attachment 13).

SB 1343 – property valuation; three-year period – HELD

Senator Martin announced SB 1343 will be held until February 28 at the request of the parties involved.

SB 1214 – use tax declaration – HELD

SB 1313 – contractors; indemnity agreements – HELD

Senator Martin announced SB 1214 and SB 1313 will be held until February 28.

There being no further business, the meeting adjourned at 5:30 p.m.

Respectfully submitted,

Nancy L. DeMichele
Committee Secretary

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