

ARIZONA HOUSE OF REPRESENTATIVES  
Forty-seventh Legislature – First Regular Session

**COMMITTEE ON FEDERAL MANDATES  
AND PROPERTY RIGHTS**

Minutes of Meeting  
Monday, February 28, 2005  
House Hearing Room 3 -- 1:30 p.m.

Chairman Gray called the meeting to order at 1:38 p.m. and attendance was noted by the secretary.

**Members Present**

Mr. Alvarez  
Mr. Pierce

Mr. Prezelski  
Mrs. Burges, Vice-Chairman

Mr. Gray C, Chairman

**Members Absent**

Mr. Smith (excused)

**Committee Action**

H.B. 2364 – DPA (5-0-0-1)  
H.B. 2630 – DP (5-0-0-1)  
H.B. 2131 – DP (3-2-0-1)

H.B. 2592 – DP (3-2-0-1)  
H.C.R. 2004 – DPA S/E (3-2-0-1)

**Speakers Present**

Lace Collins, Majority Research Analyst  
Craig Sullivan, Deputy Director, County Supervisors Association  
Spencer Kamps, Deputy Director, Home Builders Association of Central Arizona  
Arlan Colton, Co-Chair, Governor's Growing Smarter Oversight Council  
Bill Towler, representing himself  
Representative Eddie Farnsworth, sponsor  
Representative Ted Downing  
Barbara Epperson, Arizona Silver Haired Legislature  
Fred Fischer, representing himself  
Ron Short, President, Manistee Ranch Community Association  
Karen McConaghy, representing herself  
Brian Lincks, Vice President, City Property Management  
Josh Noble, Majority Intern  
Representative Andy Biggs, sponsor  
John Paladini, Deputy City Attorney, City of Glendale  
Barb Dolan, Legislative Associate, League of Arizona Cities and Towns

Ginny Dickey, Arizona Department of Environmental Quality (ADEQ)  
Representative Colette Rosati, sponsor  
Eleanor Eisenberg, Executive Director, Arizona Civil Liberties Union (ACLU)  
Regina Garza, Legislative Campaign Organizer, National Day Laborer Organizing Network  
Salvador Reza, representing himself  
Phil Corbell, representing himself  
Barry Goldwater, Jr., representing himself  
Arvin Schultz, President, Arizona Pilots Association  
Richard Hubbard, Deputy Land Commissioner, State Land Department  
Names of persons who did not speak (pages 3, 6, 8, 9, 12 and 14)

CONSIDERATION OF BILLS:

H.B. 2364, county development rights; transfer – DO PASS AMENDED

**Vice-Chairman Burges moved that H.B. 2364 do pass.**

Lace Collins, Majority Research Analyst, related that H.B. 2364 authorizes counties to transfer development rights with the approval of the owners of the sending and receiving properties (Attachment 1). The bill requires counties to adopt ordinances relating to the transfer and severance of development rights.

Ms. Collins advised the Gray two-page amendment dated 2/25/05 makes clarifying changes to the bill (Attachment 2).

Craig Sullivan, Deputy Director, County Supervisors Association, testified in support of H.B. 2364. H.B. 2364 authorizes counties to implement a transfer and development rights (TDR) program. This proposal is supported by all 15 counties. A TDR program encourages the voluntary transfer of growth from places where a community would like to see less development to places a community would like to see more development. He pointed out that transfer and development is done only on approval of the property owner. Property owners benefit because they are compensated and the community gains because it is able to achieve an important land use goal using no public money. He expressed support of the amendment that will be offered.

Spencer Kamps, Deputy Director, Home Builders Association of Central Arizona, spoke in support of H.B. 2364. He advised the Home Builders Association has worked with the counties on the issue of density transfers, and supports this concept. The county is the facilitator between two willing parties to engage in density transfers, and the amendment provides for that process. It requires consent and stipulates that parties cannot be forced into these decisions.

Arlan Colton, Co-Chair, Governor's Growing Smarter Oversight Council, testified in support of H.B. 2364. He advised the Council believes the transfer and development rights proposal for counties is sound public policy. It works for both the counties and for private property owners. It will put development in places where development should be and provide a tool for open space.

Mr. Prezelski stated this is not a tool counties would use very often but is a tool they want. Mr. Colton said there are circumstances where utilizing this makes far more sense than using other processes, such as rezoning.

Bill Towler, representing himself, testified in favor of H.B. 2364. He advised this offers a tool to allow ranchers to keep their ranches intact rather than be put in a position of being forced to sell and subdivide their property.

Persons in support of H.B. 2364 who did not speak:

Tom Farley, representing Arizona Association of Realtors

Michael Racy, representing Pima County

Jean Richmond-Bowman, Executive Vice President, Northern Arizona Building Association

Bryan Ginter, representing himself

Susan Culp, Assistant Director, Arizona League of Conservation Voters

Paul Barnes, Neighborhood Coalition of Greater Phoenix

Rebecca Blackburn, Government Affairs Director, Arizona Association of Counties

Jerry Neill, Neighborhood Activists Inter-linked Empowerment Movement (NAILEM)

F.C. Slaght, Treasurer, Neighborhood Activists Inter-linked Empowerment Movement (NAILEM)

Donna Neill, Director, Neighborhood Activists Inter-linked Empowerment Movement (NAILEM)

Diane Sikokis, Government Relations Director, Maricopa County Board of Supervisors

Sandy Bahr, Conservation Director, Sierra Club – Grand Canyon Chapter

Bas Aja, Director, Government Relations, Arizona Cattlemen's Association

**Vice-Chairman Burges moved that the Gray two-page amendment dated 2/25/05 be adopted (Attachment 2). The motion carried.**

**Vice-Chairman Burges moved that H.B. 2364 as amended do pass. The motion carried with a roll call vote of 5-0-0-1 (Attachment 3).**

H.B. 2630, homeowners' associations; condominiums; homestead exemption – DO PASS

**Vice-Chairman Burges moved that H.B. 2630 do pass.**

Lace Collins, Majority Research Analyst, explained that H.B. 2630 allows the homestead exemption protection, which is up to \$150,000 of the equity in a person's home, to be applied against association liens (Attachment 4).

Representative Eddie Farnsworth, sponsor, revealed there is no protection in a homeowner's association for the equity individuals have in their home. Legislation was passed in 1996 giving homeowners' associations (HOAs) foreclosure authority, creating a status for HOAs as a secured creditor. He gave the example that if an individual owes \$5,000 to an association, the association can foreclose, sell the home for \$5,000 and the equity in the home is lost. This bill tries to restore some protection for homeowners in associations so they do not lose their equity in

case of foreclosure. It does not prevent the HOAs from taking appropriate legal action for an unsecured credit to collect on any debt that might exist. It does not absolve any homeowner of any debt. It restores homeowners' association members to pre-1996 status.

Vice-Chairman Burges asked whether this amounts to eminent domain. Representative Farnsworth replied the concept is similar to eminent domain which is limited to the governmental sector. Because of the 1996 law, HOAs were raised to a secured creditor status.

In response to Mr. Prezelski, Representative Farnsworth explained that an HOA can go after the entire amount and anything else the person has. The difference is if they foreclose, the HOA has automatic lien authority. He said that has become the tool of choice, in many cases, for trying to enforce an assessment. This legislation does not prevent an HOA from going after any assets a person might have; it protects \$150,000 of equity.

Representative Ted Downing testified in support of H.B. 2630. He stated that equity is the key source of individual wealth in Arizona. He said this legislation puts homeowners back to the condition they were in before 1996.

A handout from Mika Sadai was distributed (Attachment 5).

Barbara Epperson, Arizona Silver Haired Legislature, expressed support of H.B. 2630. She stated that Arizona citizens, living in planned communities, should have the same protections as those citizens living outside of planned communities. Prior to 1996, all citizens living in Arizona enjoyed the protection of having the homestead exemption. Lawmakers took this protection from members of HOAs in 1996. At that time, some management companies argued that HOAs might go bankrupt without this law. After research, she said she has been unable to find one case of an HOA that has gone bankrupt.

Fred Fischer, representing himself, testified in favor of H.B. 2630. For the first time, this legislation will return HOA members as equal citizens. Currently, HOA members pay the same taxes and are bound by the same laws as non-HOA communities, but they are not entitled to the same protections, privileges and rights. He pointed out that it is significant to note that HOAs do not own the private properties of their members. The HOA industry claims that if members get the homestead exemption passed, members will not pay their assessments. He disagreed with that claim. He passed out a statement in support of H.B. 2630 (Attachment 6).

Chairman Gray agreed with Mr. Fischer's contention that HOA residents do pay and are not trying to avoid paying their assessments.

Ron Short, President, Manistee Ranch Community Association, testified against H.B. 2630. He declared that the Board of Directors is committed to maintain the 20-acre community. The financial demand on the Board's limited budget to maintain the community is great; however, the major problem is "deadbeat" property owners. He revealed that 26.6 percent of members are delinquent in paying membership dues. Delinquent property owners owe the Association \$94,017. The issue is so critical that the Board has discussed raising membership assessments to make up for the high amount of delinquent membership dues. He maintained this proposal will

place a severe hardship on HOAs in the collection of delinquent membership dues. He asked Members to vote against this measure.

Mr. Pierce asked the amount typically charged off in a bankruptcy that is owed to the Association. Mr. Short answered the average amount is \$6,000 to \$7,000.

Mr. Prezelski asked Mr. Short to explain some of the legal methods the Association uses to collect money owed. Mr. Short replied the Association's attorney has written letters, attempted garnishment of wages, tried to track people down, etc. It has been extremely difficult and expensive, and only fairly fruitful in getting the assessments paid.

Karen McConaghy, representing herself, expressed opposition to H.B. 2630. She advised that the idea behind homeowners' associations was to have common areas that needed to be taken care of. The care of these areas is paid for through assessments on members. If one homeowner does not pay his assessment, the burden falls on all the other homeowners. She opined that if a homeowner is not paying his assessment, he is probably not paying his mortgage and is in danger of losing his home. She asked Members to vote against this bill.

Mr. Pierce asked whether it is true that an association gets paid when a home goes through foreclosure and the amount of fees and dues are paid out of escrow. Ms. McConaghy said she is not sure what happens in a foreclosure. Mr. Pierce explained there must be a clear title to sell the property. He opined that if a homeowner has equity in his property, he will not let it go lightly.

Brian Lincks, Vice President, City Property Management, testified against H.B. 2630. He revealed that consensual liens are agreed on by homeowners when they buy into the community. Many times, cities mandate common areas for the community. They have to be paid for through the contract. When someone does not pay his assessment, the rest of the homeowners are impacted. He clarified that in a trustee sale, the association is wiped out of its lien and the association is not able to collect the monies due to it. He believes that if this legislation passes, people who are paying their assessments are going to pay higher fees. He asked Members to oppose this bill.

Chairman Gray stated that when a home is sold in an HOA, the new homeowners are advised they may be giving up their homestead exemption. He asked the sponsor if he would be amenable to removing that language out of current law if this bill passes. Representative Farnsworth replied in the affirmative.

Representative Farnsworth revealed he sponsored a bill last year specifying that if an HOA is going to foreclose, it has to sell the home at fair market value and give the homeowner whatever is left over. Although that was a reasonable approach, the bill failed. He believes the proposed legislation is a reasonable approach. HOAs want to maintain controlling power. HOAs have existed for a long time. Prior to 1996, the homestead exemption always applied and HOAs never went out of business. He believes the current situation is nothing but a bane on the citizens of the State. He encouraged Members to support this legislation.

Persons in support of H.B. 2630 who did not speak:

John Lamer, representing himself  
Roland Kelly, representing himself  
Pat Haruff, Coalition of Homeowners for Rights and Education (CHORE)  
Anne Stewart, Sun City Formula Registry  
George Staropoli, representing himself  
Georgia Horton, Villages Action Group  
Rauni Armbruster, representing herself  
Fran Noe, representing herself  
Mary Arnold, representing herself  
Bryan Ginter, representing himself  
Derek Johansen, representing himself  
N. Kasper, representing himself  
Eileen Pallas, representing herself

Persons in opposition to H.B. 2630 who did not speak:

Trent O'Brien, representing himself  
Nancy Robinette, Secretary, Manistee Ranch Community Association  
Spencer Kamps, Deputy Director, Home Builders Association of Central Arizona  
Jeff Sandquist, representing Arizona Association of Community Managers  
Kevin DeMenna, representing Community Associations Institute  
Paul Barnes, Neighborhood Coalition of Greater Phoenix  
Mike Harris, representing himself  
Shawna Burns, representing herself  
Stefanie Puglia, representing herself  
Susan Charlton, representing Diamond Ventures  
Lori Loch-Lee, representing herself  
Mike Kuzmin, representing himself  
David Young, representing himself  
Josh Ahlvin, representing himself  
Mitch Menlove, Community Associations Institute

**Question was called for on Vice-Chairman Burges' motion that H.B. 2630 do pass.  
The motion carried with a roll call vote of 5-0-0-1 (Attachment 7).**

H.B. 2131, county islands; annexation; property rights – DO PASS

**Vice-Chairman Burges moved that H.B. 2131 do pass.**

Josh Noble, Majority Intern, stated that H.B. 2131 mandates that land use and septic sewage use within an annexed county island retains its designation unless changed by a current or subsequent owner (Attachment 8).

Representative Andy Biggs, sponsor, explained that annexation by cities and towns has left some parcels of land as islands. This bill respects the private property rights of those county island

residents who were there long before annexation of cities made them into a county island. In addition, this allows people to stay connected to a septic tank. He advised this bill will only apply to residential lots of 15,000 feet or more, or about one-third of an acre. He revealed that an amendment will be made on the Floor replacing language referring to health regulations with environment regulations.

To that point, Chairman Gray expressed concern that a person with a third of an acre would have more rights than a person with a fourth of an acre. He mentioned a person with a smaller home or a smaller income would be less likely to afford a mandate by the city to connect into the sewer system. To that point, Mr. Pierce stated that a certain amount of space is needed to remove a septic tank. Representative Biggs pointed out that with a third of an acre, there is plenty of room to remove the old septic tank and replace it with a new septic tank.

Chairman Gray mentioned that cities do not have a problem if the subdivision is not annexed. Representative Biggs understands one of the motivations for wanting to move to sewage is the ability to spread the cost around to more people.

Chairman Gray asked whether the cities are able to take that sewage and sell it at a profit. Representative Biggs said he is not able to answer that. Chairman Gray commented that cities have found that selling sewage is a source of revenue. Whenever cities can annex a section of property and require the people to hook into the sewer system, it is a motivation to mandate that people hook into the system.

To that point, Mr. Prezelski advised that Pima County runs the sewage system, not the cities, so the profit motive does not exist there.

Chairman Gray said his comment applies to cities, but may apply to counties too. Mr. Prezelski commented that possible revenue enhancement from annexation is not necessarily a motive when talking about a sewer system.

Chairman Gray asked the authority the cities cite when they require a landowner to hook into the sewer system after annexation. Representative Biggs replied that he does not know the authority. He advised that some cities do not require landowners to sign up for the sewage system. There could be a pre-annexation agreement that would allow property owners to stay on the septic system.

Mr. Pierce believes one of the reasons for getting rid of septic systems is to protect the groundwater. Representative Biggs said he has heard that may be a reason; however, cities and towns prefer a sewer system because of the cost-sharing mechanism. The bill requires that landowners with septic tanks who have been annexed must meet all federal, state and county health and environmental codes, so he does not think groundwater is a legitimate issue.

John Paladini, Deputy City Attorney, City of Glendale, testified in opposition H.B. 2131. He said the City is not sure what the intent of the bill is. The City has concerns about unintended consequences. With the proposed amendment that will be offered on the Floor, there are less concerns about the septic tank issue than the land-use issue. The bill states that cities or towns cannot change any land use without the permission of the owner now or in the future. The City

of Glendale sees this as being unnecessary because the law already says cities or towns must adopt a zoning classification that is relatively consistent with the county. In addition, this does not distinguish between zoning, land uses and grandfathered rights. If a use was established by the property owner, that use continues to be allowed for at least six months. He explained that under this bill, county regulations would have allowed a certain land use and a new property owner may disregard current city zoning and go back to the county zoning which allowed for that certain land use in residential areas. He listed other concerns: cities will be required to adopt consistent zoning classification, legal non-conforming uses, if established, are protected, and there will be inconsistency on land use and zoning since cities and counties have different uses. He thinks this legislation will create potential surprises in the future. He also said the City does not have as much of a concern with the septic tank issue because the cities do not have authority to shut down working septic use.

Chairman Gray said his understanding of the testimony is that the City of Glendale is okay with the sewer part of this bill; however, it is concerned about unintended consequences relating to land use. If a dairy farm is on the property and the city annexes the property, the city has to live with that fact. In the future, someone may decide to operate that dairy farm. Mr. Paladini agreed and stated it may be worse because there may not have been a dairy farm at all on the property but it was allowed by the county zoning code in the past. That is the City of Glendale's biggest issue on the land use issue. He urged Members to strike the land use language from the bill.

Barb Dolan, Legislative Associate, League of Arizona Cities and Towns, expressed opposition to H.B. 2131. She stated this legislation sets a dangerous precedent. It creates two different sets of property owners. Under the amendment passed by the Counties and Municipalities Committee, it further differentiates between two different sets of residential properties based on lot size. This bill would transfer problems with county islands to problems within a city.

Representative Biggs commented that part of the value of property is the use of the land. This legislation is a private property rights issue.

Mr. Pierce said it seems that cities like to annex county islands. He asked whether this change would see more property owners willing to annex into cities. Representative Biggs said he does not know.

Persons in opposition to H.B. 2131 who did not speak:

Dana Tranberg, Intergovernmental Programs Coordinator, City of Glendale

Bryan Ginter, representing himself

Stephanie Prybyl, Intergovernmental Affairs Manager, City of Avondale

Paul Barnes, Neighborhood Coalition of Greater Phoenix

Mark Mayer, Neighborhood Coalition of Greater Tucson

Sandra Junck Carpenter, representing City of Phoenix

Jerry Neill, Neighborhood Activists Inter-linked Empowerment Movement (NAILEM)

F. C. Slaght, Treasurer, Neighborhood Activists Inter-linked Empowerment Movement (NAILEM)

Donna Neill, Director, Neighborhood Activists Inter-linked Empowerment Movement (NAILEM)

Jim Huling, Assistant to the City Manager, City of Mesa  
Sandy Bahr, Conservation Director, Sierra Club – Grand Canyon Chapter

Person neutral on H.B. 2131 who did not speak:

Jim Buster, Legislative Liaison, Arizona Department of Environmental Quality (ADEQ)

Ginny Dickey, Arizona Department of Environmental Quality (ADEQ), testified that Representative Biggs addressed ADEQ's issue that will be amended on the Floor. It conforms with which code actually covers septic tanks.

Mr. Pierce asked whether septic tanks built today are built so well that there are no groundwater issues. Ms. Dickey said she does not know but will check on that. She advised that ADEQ is in favor of the orderly retirement of older septic tanks.

**Question was called for on Vice-Chairman Burges' motion that H.B. 2131 do pass.  
The motion carried with a roll call vote of 3-2-0-1 (Attachment 9)**

H.B. 2592, illegal aliens; work centers; prohibition – DO PASS

**Vice-Chairman Burges moved that H.B. 2592 do pass.**

Lace Collins, Majority Research Analyst, stated that H.B. 2592 prevents local governments from building or maintaining facilities that assist the hiring of illegal aliens (Attachment 10).

Representative Colette Rosati, sponsor, stated the intent of H.B. 2592 is to prohibit local governments from using public money to construct a work center where illegal aliens go to find work. She maintained that it is not right for money that is paid by taxpayers be used to foster illegal alien hiring halls. This legislation relates to the proper use of taxpayer dollars.

Mr. Pierce asked how an illegal alien can be distinguished from a U.S. citizen or a legal resident of the United States. He queried whether it would be okay to construct and maintain a building as long as the intent is not to facilitate the hiring of illegal aliens. Representative Rosati said the bill simply states that taxpayer dollars will not be used to construct these facilities that promote the hiring of illegal aliens. A Floor amendment will be offered to define "illegal alien." She said she thinks it is easy to prove whether a person is a citizen if the person has a birth certificate or a green card. She related that in Mexico she had to prove she was a U.S. citizen in order to come back into the United States. The burden of proof was on her.

Mr. Prezelski said he is confused about the language relating to any part of the facility being used to facilitate the hiring of illegal aliens. He said that sounds like there is some kind of design feature put in a building that encourages illegal aliens to congregate in a certain area. He said that does not make any sense to him. Representative Rosati said there were places throughout the Valley where illegal aliens went to congregate, and it went from open areas to building a shade structure. She reiterated that taxpayer dollars should not be spent to promote the undermining of both federal and state law. She maintained that it is wrong for the City of Phoenix to take

taxpayer dollars to build the centers that further promote an illegal activity which is the hiring of illegal aliens.

Mr. Prezelski said it seems that one's immigration status has nothing to do with whether these illegal aliens like to stand in the shade. He just does not understand how one determines that a facility is built specifically to service illegal aliens.

To that point, Mr. Pierce said the bottom line is it is a federal crime to hire an illegal alien. The fine to an employer is \$10,000 per worker. These facilities encourage employers to hire undocumented workers. He related that this legislation goes along with what the law is; however, his concern is he does not know how an illegal alien will be identified. He asked the sponsor if the purpose of this proposal is to abide by the federal law. Mrs. Rosati replied in the affirmative. She stated that legal taxpayers and legal citizens in Arizona deserve protection. They also do not want these centers built in their neighborhoods because they can decrease property values and increase the crime rate. She thinks it is unconscionable for cities and towns to take on this authority to spend taxpayer dollars for these centers. She believes people want their taxpayer dollars being used to benefit taxpayers and this is an egregious use of taxpayer dollars.

Mr. Prezelski said he is still having trouble determining how a facility is made for the express purpose of serving illegal aliens.

Chairman Gray noted that the bill states that a city or town shall not construct or maintain a work center if any part of the center is to facilitate the hiring of illegal aliens. The intent here is not to facilitate an illegal activity.

Mrs. Rosati maintained this is a small step in the right direction for the State and the federal government to crack down on the illegal alien problem.

Eleanor Eisenberg, Executive Director, Arizona Civil Liberties Union (ACLU), testified in opposition to H.B. 2592. She stated that the creation of the labor center by the City of Phoenix was actually a solution to a problem. She submitted that immigration is exclusively the problem of the federal government and agreed that immigration reform is needed. She wondered whether Americans will do these types of jobs, and said she does not believe they would. The country has become dependent on these people to provide day labor assistance. The creation of the day labor center was to cure the problem of a dangerous situation where undocumented workers were spread out throughout the city. There was no way to find them. There was no way to organize or regulate them. The day labor center solved that problem. She has not heard anything anecdotally that day labor centers have created any problems of crime or otherwise. She feels this legislation is ill-advised. It runs counter to human rights and human nature. She urged Members to reject this bill. It would take away a solution that works to take care of a problem.

Mr. Prezelski questioned whether people who run these facilities are obligated to check citizenship status. Ms. Eisenberg replied in the affirmative. To that point, Mr. Pierce questioned that. He said there is nothing in the bill that says citizenship status must be checked. The intent of this bill is to not use taxpayer dollars to construct these facilities. Ms. Eisenberg mentioned there are almost always unintended consequences.

Chairman Gray pointed out this proposal addresses the intent, not the use. Ms. Eisenberg said the intent of the bill is that undocumented workers cannot have labor centers.

Mr. Pierce asked whether the problem will be solved with an amendment specifying that signs be posted saying the facility is not to be used for the employment of undocumented workers, and noting the federal law. Ms. Eisenberg said she thinks it would be wise to not pass this bill at all. She said a postcard could be sent to the federal government urging them to engage in some meaningful immigration reform.

Regina Garza, Legislative Campaign Organizer, National Day Laborer Organizing Network, spoke in opposition to H.B. 2592. She explained the Network represents 29 organizations throughout the country in 11 different states. These work centers emerged out of communities where day laborers already existed. The centers are community-based initiatives that provide stability to the communities. They do not encourage or promote illegal acts. They are about providing community solutions to day laborers who already exist in the communities. This bill would restrict local governments from providing a response to the needs of the communities. She urged Members to vote against this legislation.

Mr. Pierce asked whether the National Day Laborer Organizing Network is there for undocumented workers as well as for documented workers. Ms. Garza replied that identification, proof of residency or immigration status is not checked. The idea of centers is to promote and facilitate day laborers who are congregating in cities and centralize them in one location.

Mr. Pierce referred to the comment that the Network does not promote illegal acts. He said that hiring an undocumented worker is an illegal act. Ms. Garza agreed that is the law.

Mr. Pierce noted that cities can build as many of these facilities as they want, even if this law passes. It seems the people in opposition to this legislation are here to protect those individuals who are classified as illegal.

Salvador Reza, representing himself, expressed opposition to H.B. 2592. He advised he operates a private work center. He related the center was initially built with money from the City of Phoenix but the center is now independent. He stated these work centers are not for illegal aliens. They are for the business community. He said the business community has benefited the most from these workers. After the work center was built, crime went down and property values went up. Work centers provide a solution that the federal, state and communities are not providing.

Mr. Pierce again stated the sponsor's intent with this legislation: that taxpayer dollars should not be spent for these facilities to provide work for undocumented workers. He does not think Arizona's cities should be nurturing an illegal activity.

Mr. Reza stated the work centers are not there to promote illegal immigration but to stabilize the communities.

Mrs. Rosati agreed with Mr. Pierce. This is about taxpayer dollars. Employers who hire these illegal aliens are paying them in cash, so they are not paying taxes.

Persons in support of H.B. 2592 who did not speak:

F. C. Slaght, Treasurer, Neighborhood Activists Inter-linked Empowerment Movement (NAILEM)

Donna Neill, Director, Neighborhood Activists Inter-linked Empowerment Movement (NAILEM)

Jerry Neill, Neighborhood Activists Inter-linked Empowerment Movement (NAILEM)

Persons in opposition to H.B. 2592 who did not speak:

Keenan Strand, representing himself

Antonio Laguna, representing himself

Patrick Lee James, representing himself

Rafael Martinez, representing himself

Bryan Ginter, representing himself

Marge Mead, representing herself

Amanda Sapir, representing herself

**Question was called for on Vice-Chairman Burges' motion that H.B. 2592 do pass. The motion carried with a roll call vote of 3-2-0-1 (Attachment 11).**

H.C.R. 2004, land use regulation; compensation

S/E: trust land; airport lease – DO PASS AMENDED S/E

**Vice-Chairman Burges moved that H.C.R. 2004 do pass.**

**Vice-Chairman Burges moved that the Burges three-page strike-everything amendment dated 2/23/05 to H.C.R. 2004 be adopted (Attachment 12).**

Josh Noble, Majority Intern, explained the three-page strike-everything amendment dated 2/23/05 (Attachment 12) to H.C.R. 2004 allows the State to lease trust land for the operation of an airport for a term of 25 to 50 years without advertisement, appraisal, auction or competitive bidding (Attachment 13). The bill specifies that this proposition is conditional upon approval by voters and an amendment by Congress to the Arizona-New Mexico Enabling Act on or before December 31, 2008.

**Question was called for on Vice-Chairman Burges' motion that the three-page strike-everything amendment dated 2/23/05 be adopted (Attachment 12). The motion carried.**

Vice-Chairman Burges advised that many of Arizona's airports which are located on state land will lose their leases in 2007.

Phil Corbell, representing himself, testified in support of H.C.R. 2004. He provided a handout with arguments in support of this non-partisan issue to protect airports throughout the State (Attachment 14). He advised there are 56 airports on State land. He stated these airports are needed for emergency purposes, fire fighting, ambulance flights, air patrol, military use, etc. The problem is that the Constitution reads that State lands cannot be leased for commercial purposes for a period longer than ten years. In order to get federal funding to develop and expand airports, the federal government requires a minimum of a 20-year lease. Arizona is missing out on millions of federal dollars. The solution is to pass this constitutional amendment which will allow the State Land Department to grant leases for a period of 25 to 50 years. That will give them time to apply for federal funds in order to develop and maintain the airports.

Chairman Gray queried who would get the funds. Mr. Corbell answered that the money would go to whoever applied for the funds. It could be a private leasee, a city or a county operating an airport on State land. The issue is to preserve these airports and air fields, and bring more federal funds back into the State.

Vice-Chairman Burges queried whether Luke Air Force Base is opposed to bill. Mr. Corbell does not think Luke has taken a stance on this bill. This is an opportunity for the State to receive federal funds.

Barry Goldwater, Jr., representing himself, spoke in support of H.C.R. 2004. He stated this legislation makes economic sense. These airports will not render an investment unless a longer lease is granted by the State Land Commission. Airports are important because they are an integral part of the State's transportation system. It is important to preserve the airports that are already here and to create new airports. He urged passage of this legislation.

Chairman Gray asked whether any other federal dollars could be drawn down if 20-year leases were granted for uses other than airports. Mr. Goldwater answered there are thousands of federal programs available but none that specifically come out of the Airport Trust Fund.

Arvin Schultz, President, Arizona Pilots Association, expressed support of H.C.R. 2004. He advised emergency fields and landing strips on State land are in danger of being closed. Some have been closed at the direction of the State Land Department. The State has come up with a requirement of providing \$5 million of liability insurance. If lease agreements are extended beyond the 10-year period, it would help achieve the goal of getting federal dollars to help with the liability dollars.

Richard Hubbard, Deputy Land Commissioner, State Land Department, testified in opposition to H.C.R. 2004. He stated that the Land Department's mission is to maximize the revenue generated from State Trust Land for the benefit of the beneficiaries. The Land Commissioner is charged with the ability to act as a fiduciary when making decisions to ensure the highest and best use of the property. This bill removes from the Commissioner's ability the fiduciary obligation when dealing with State Trust Land for the specific exception of airports. He referred to the comment of getting money into the State. He said that is not the mission of the State Trust Land Commission. The mission of the Commission is to generate revenue for its beneficiaries. The Land Department would like to preserve the flexibility to do whatever it likes on State Trust

lands. He said that once an exception is given, it opens the door to other uses. The Department is opposed to granting an exception for a single use.

Chairman Gray noted that the language of the bill is permissive. He wondered why the Department is objecting to this. Mr. Hubbard believes there is concern among Legislators about opening up the Arizona Constitution or the Enabling Act to change the mission of the Land Department. To carve out a single use in the Arizona Constitution and then ask Congress to amend the federal Enabling Act for a use that permits the Land Commissioner to waive his fiduciary duty is something the Land Department cannot support.

Chairman Gray advised one of the problems he has with the bill is that it would open up the Enabling Act. Mr. Hubbard said that is correct. Chairman Gray commented that once the Enabling Act is opened up, all the other states who have an interest in that Act would want to add amendments to the Act that address their issues.

Persons in support of H.C.R. 2004 who did not speak:

Roy Coulliette, Manager, Pleasant Valley Airport  
Bill Lince, representing himself  
Rip Wilson, representing himself

Persons opposed to H.C.R. 2004 who did not speak:

Bryan Ginter, representing himself  
Janice Palmer, Government Relations Analyst, Arizona School Boards Association

**Vice-Chairman Burges moved that H.C.R. 2004 as amended do pass. The motion carried with a roll call vote of 3-2-0-1 (Attachment 15).**

Without objection, the meeting adjourned at 4:40 p.m.

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Joanne Bell, Committee Secretary  
May 22, 2005

(Original minutes, attachments and tape on file in the Chief Clerk's Office)