

ARIZONA HOUSE OF REPRESENTATIVES
Forty-ninth Legislature – Second Regular Session

COMMITTEE ON JUDICIARY

Minutes of Meeting
Thursday, February 25, 2010
House Hearing Room 4 -- 9:00 a.m.

Chairman Driggs called the meeting to order at 9:13 a.m. and attendance was noted by the secretary.

Members Present

Mrs. Barto
Mr. Konopnicki
Mr. Miranda B

Mr. Montenegro
Ms. Sinema
Mrs. Tovar

Mr. Ash, Vice-Chairman
Mr. Driggs, Chairman

Members Absent

None

Committee Action

HB2342 – Held
HB2349 – Discussed and Held
HB2438 – DPA S/E (8-0-0-0)
HB2470 – DPA (8-0-0-0)
HB2569 – Discussed and Held
HB2673 – DP (7-0-0-1)
HB2687 – DP (7-0-0-1)

HB2710 – Discussed and Held
HB2772 – Held
HB2788 – DPA (8-0-0-0)
HCR2017 – DP (7-0-0-1)
HCR2029 – DP (5-2-0-1)
HCR2051 – ~~DP~~ FAILED (3-3-0-2)

CONSIDERATION OF BILLS:

HB2342 – municipal elections; recount threshold – HELD

Chairman Driggs announced that HB2342 will be held.

HB2772 – process servers; assault; traffic tickets – HELD

Chairman Driggs announced that HB2772 will be held.

HB2569 – sex offender registration; requirement – DISCUSSED AND HELD

Vice-Chairman Ash moved that HB2569 do pass.

Blake Edwards, Majority Intern, explained that HB2569 allows the court to terminate a person's duty to register as a sex offender after completion of probation if that person has had his or her civil rights restored, is not a danger to public safety and has received an absolute discharge from imprisonment (Attachment 1).

Vice-Chairman Ash, sponsor, queried whether this is the only section of law that deals with termination of registration from the sex offender registry. Mr. Edwards advised that there is one other provision in statute that allows a person to be removed from the sex offender list if the person was under the age of 18 when the offense was committed and if the person has completed probation.

Vice-Chairman Ash related that when he was a deputy public defender, he found that the system can be very harsh and in many cases very unjust. The reason he sponsored this legislation is because he has seen people who have turned their lives around and have become productive citizens; however, under the current system the mistakes of their youth seem to follow them for the rest of their lives. He believes that some consideration should be given to allowing those people who have changed their lives around to get off the sex offender registry. In some cases, those early mistakes have caused harsh and unjust punishment for individuals as well as their families.

Ken Bond, representing self, in support of HB2569, reviewed a handout "No Cure Theory" and said a group of judges and prosecutors in Maricopa County met and developed this theory (Attachment 2). He disputed that group's findings and contended that the group had no empirical data on which to base its findings because if there is no cure for these people, or if they cannot change, there would be a great deal more sex crimes than there is now. He said one study on recidivism shows that out of 9,691 sex crime offenders, only 5.3 percent were re-arrested for a sex crime in the three years following their release from prison. He asserted that some people who have been on the sexual offender registry for many years need to be removed from the registry.

In response to Chairman Driggs, Mr. Bond related some of the consequences of being on the registry: cannot find employment, lives in danger, etc.

Vice-Chairman Ash queried whether someone listed on the registry has to advise an employer that he is on the registry. Mr. Bond said employers check an applicant's background.

Jim Rensel, representing self, testified in support of HB2569. He directed Members' attention to a letter he wrote in defense of his position on this issue (Attachment 3). He stated that Arizona is one of 20 states that put low-risk sexual offenders on the registry for life along with the most vicious sexual predators. He contended that the state could save millions of taxpayer dollars each year by finding a way for these low-risk sexual offenders' names to be removed from the registry and allowing them to become productive members of society. He listed some of the consequences of being on the registry: most employment applications ask whether the individual has been convicted of a felony and most rental units will not accept registered sex offenders.

Chairman Driggs pointed out that if a person no longer on the registry applies for a job, he will be asked whether he has a criminal past, so this legislation is not a cure for that. Mr. Rensel agreed; he believes this is a partial solution.

Jan Kruska, representing self, spoke in favor of HB2569. She related her personal experience of being convicted of a misdemeanor for having consensual sex 18 years ago and being required to register as a sexual offender for life. She is now married and has three children but cannot get a job because her name is still on the registry. She has been characterized on the internet as a pedophile and has been harassed and physically threatened. She related that she always lives in fear that legislation will be passed that will affect her. Being on the registry has affected her whole life and that of her family. She said it is a life sentence and a social death sentence.

Courtney Nelson, representing self, in support of HB2569, related that she is Jan Kruska's 17 year-old daughter. She said her mother made a mistake 18 years ago but she and her family pay for it every day. She revealed that people have harassed her entire family because of her mother's name and address appearing on the internet.

Karen Gustafson, representing self, testified in support of HB2569. She advised that her sister is Jan Kruska who has been punished every day of her life since being convicted of this crime. She questioned whether lifetime registration is constitutional and humane.

Paul Ahler, Executive Director, Arizona Prosecuting Attorneys' Advisory Council, testified in opposition to HB2569. He said Arizona prosecutors are concerned about changes to the sex registration and notification statutes. Sexual offenders tend to be the most serious and dangerous offenders that prosecutors deal with, and members of the community have a right to know if a sex offender is in the neighborhood. He maintained that it is a public safety issue. He said he believes most sex offenders deserve to be on the registry for the rest of their life. The registry is an important tool for law enforcement, particularly in investigations relating to serial rapists and serial child molesters.

Mr. Miranda brought up grouping of sexual offenders. Mr. Ahler said he is willing to work with the sponsor on this issue; however, he believes that the vast majority of cases should remain as they are on the registry.

Vice-Chairman Ash referred to Mr. Ahler's comment about the vast majority and asked whether that implies there is a group that deserves to be treated differently. Mr. Ahler said it is possible there could be some situations where modifying the statute could be appropriate.

Vice-Chairman Ash asked whether there is any empirical evidence that the registry has accomplished anything. Mr. Ahler answered that he does not have that data but perhaps the Department of Public Safety (DPS) does.

Vice-Chairman Ash queried whether there are various levels of classifying sexual offenders. Mr. Ahler replied in the affirmative, dependent on the crime for which the person was convicted. He will get that information.

Mrs. Barto asked whether sex offenders are listed on the registry as being on different levels. Mr. Ahler answered that he does not have that information. Mrs. Barto said it would be helpful to know that.

In response to Mrs. Barto's question about monitoring, Mr. Ahler said that could better be answered by law enforcement.

Vice-Chairman Ash asked whether every plea bargain includes life-time registration for a sex offense. Mr. Ahler said he believes that is required under the statute.

Kathleen Mayer, Deputy Pima County Attorney, Pima County Attorney's Office, in opposition to HB2569, answered questions. She advised that the implementation of registration and notification was never intended to address issues of sex offender recidivism and that long-term monitoring is needed to determine the true rate of recidivism. She related that with reference to community notification, the registry differentiates by level: Level 1 is for the least-serious offenders and they are not subject to community notification, Level 2 and Level 3 offenders are rapists and child offenders who have offended outside of the family or have a repetitive criminal history or sexual criminal history. She said prosecutors are open to discussion on how to address the situation of young adults having consensual sex with 15, 16 and 17-year-olds and whether to limit their registration requirement or to look at defenses under statute. She maintained that the language of the bill is very broad and prosecutors cannot support this legislation in its current form.

Ann Malone, in opposition to this legislation, said she represents a grassroots organization consisting of 700 businesses and over 25,000 households in the City of Phoenix. The organization's mission is crime prevention and reduction. She said her organization is not opposing notification of instances of imprudent but consensual sex between teenagers but would like to go on record as vehemently opposing this bill because of the provision to eliminate registration of a previously-convicted sex offender that is outside that category. She asked Members to reject this bill as written.

Vice-Chairman Ash commented that it appears Ms. Malone is open to differentiating between consensual sex and sex that is predatory. Ms. Malone replied in the affirmative if it can be proven it was consensual sex, and said she considers that an opportunity for discussion.

Vice-Chairman Ash announced the names of those who signed up in support of HB2569 but did not speak:

Donna Hamm, Executive Director, Middle Ground Prison Reform
Christina Phillis, Public Defender, representing self

Vice-Chairman Ash announced the names of those who signed up in opposition to HB2569 but did not speak:

Rebecca Baker, Deputy County Attorney, Maricopa County Attorney's Office
Paul Barnes, designated lobbyist, Neighborhood Coalition of Greater Phoenix

Chairman Driggs announced that HB2569 will be held and asked the Vice-Chairman to withdraw his motion.

Vice-Chairman Ash withdrew his motion that HB2569 do pass.

HB2710 – satellite voting and registration locations – DISCUSSED AND HELD

Vice-Chairman Ash moved that HB2710 do pass.

Vice-Chairman Ash moved that the Konopnicki two-page strike-everything amendment dated 2/23/10 to HB2710 be adopted (Attachment 4).

Blake Edwards, Majority Intern, explained that the strike-everything amendment (Attachment 4) contains procedures which allow for the establishment of satellite voting locations at which residents of a county may register to vote and vote in general elections (Attachment 5).

**Question was called on the motion that the Konopnicki two-page strike-everything amendment dated 2/23/10 to HB2710 be adopted (Attachment 4).
The motion carried.**

Vice-Chairman Ash moved that HB2710 as amended do pass.

Representative Matt Heinz, sponsor, reviewed the 2008 General Election provisional ballot data (Attachment 6). He pointed out that of the 151,602 provisional ballots cast in that election, almost 15,000 votes were not counted because voters went to the wrong precinct. He said he is troubled about the number of provisional votes that were not counted because he believes people should exercise their right to vote. Attachment 7 provides voter turnout statistics by state; he noted that Arizona ranked 46 in turnout rate in the 2008 general election. He agreed to remove Section B of the strike-everything amendment because of concerns raised by stakeholders. He stated concern about additional costs to the counties and related that this legislation does not increase the burden on counties.

Ken Bennett, Arizona Secretary of State, neutral on HB2710, stated that he finds that much in the bill is in line with the vision he shares which is to continue to improve the number of people who are using the vote by mail process. He referred to Representative Heinz' handouts which identify areas of potential weakness that should be addressed. He related that in talking to county recorders around the state, a third are in support of this measure, a third are very much opposed and a third could go either way. He said he is committed to working with recorders to coalesce that group and to ensure that, when trying to solve the areas of weaknesses for those 15,000 voters whose vote did not count because they ended up at the wrong precinct, the two million people who successfully vote in elections around the state are not impacted.

Karen Osborne, Elections Director, Maricopa County, stated strong opposition to HB2710. She advised there are 670,000 people in Maricopa County who could register but have not. She related that Maricopa County is not technologically capable of accomplishing the requirements of this bill at this time. She expressed willingness to continue to work with the Secretary of State's Office and with Representative Heinz to make the process faster and better.

Jen Sweeney, Government Affairs Director, Arizona Association of Counties, testified that the Association is opposed to HB2710 as currently drafted. She advised that counties do not contract with outside vendors to process their early ballots; counties process their early ballots themselves. She said it is important to note that anyone who votes under the provisions of this bill will be voting a provisional ballot. Counties have to process all the early ballots before they can process any of the provisional ballots, so they will not be processed until after the election and after the early ballots are counted. In addition, there is some concern from the Department of Justice's perspective about access to these voting centers.

Vice-Chairman Ash announced the names of those who signed up in support of the strike-everything amendment to HB2710 but did not speak:

Seth Apfel, Volunteer, representing self

F. Ann Rodriguez, Pima County Recorder, representing self

Vice-Chairman Ash announced the names of those who signed up in opposition to the strike-everything amendment to HB2710 but did not speak:

Wendy John, Graham County Recorder

Suzie Sainz, Santa Cruz County Recorder

Judy Dickerson, Graham County Elections Director

Allen Tempert, Mohave County Elections Director

Donna Hale, La Paz County Elections Director

Shelly Baker, Arizona Association of County Recorders

Anna Wayman-Trujillo, Yavapai County Recorder

Lenora Johnson, Apache County Recorder

Linda Eastlick, Gila County Elections

Berta Manuz, Greenlee County Recorders Office

Elizabeth Hegedus-Berthold, Research Analyst, County Supervisors Association of Arizona

Chairman Driggs announced that HB2710 will be held and asked the Vice-Chairman to withdraw his motions.

Vice-Chairman Ash withdrew his motion that HB2710 as amended do pass.

Vice-Chairman Ash withdrew his motion that the Konopnicki two-page strike-everything amendment dated 2/23/10 to HB2710 be adopted (Attachment 4)

Vice-Chairman Ash withdrew his motion that HB2710 do pass.

HB2438 – competency; duration of order – DO PASS AMENDED S/E
S/E: ballot measures; numbering system

Vice-Chairman Ash moved that HB2438 do pass.

Vice-Chairman Ash moved that the Driggs three-page strike-everything amendment dated 2/23/10 to HB2438 be adopted (Attachment 8).

Stacy Weltsch, Majority Research Analyst, advised that the proposed strike-everything amendment (Attachment 8) requires individual numbering for proposed constitutional amendments to continue from the last number used in the previous election, and prohibits them from being repeated until all 100 numbers in that series have been used (Attachment 9).

**Question was called on the motion that the Driggs three-page strike-everything amendment dated 2/23/10 to HB2438 be adopted (Attachment 8).
The motion carried.**

Vice-Chairman Ash moved that HB2438 as amended do pass.

Vice-Chairman Ash announced the names of those who signed up in support of the strike-everything amendment to HB2438 but did not speak:

Jen Sweeney, Government Affairs Director, Arizona Association of Counties

Amy Bjelland, State Election Director, Arizona Secretary of State

Farrell Quinlan, State Director, National Federation of Independent Business – Arizona

Nick Simonetta, Government Affairs Consultant, Arizona Civil Rights Initiative

Rob Dalager, Government for Arizona's Second Century

Max McPhail, Arizona Civil Rights Initiative

Jim Drake, Assistant Secretary of State, Secretary of State's Office

Question was called on the motion that HB2438 as amended do pass. The motion carried by a roll call vote of 8-0-0-0 (Attachment 10).

HB2788 – campaign finance; independent expenditures – DO PASS AMENDED

Vice-Chairman Ash moved that HB2788 do pass.

Stacy Weltsch, Majority Research Analyst, advised that HB2788 allows corporations, limited liability companies (LLC) and labor organizations to make independent expenditures in an attempt to influence the outcome of a candidate election provided they register with the Secretary of State and follow the guidelines established in statute for making such expenditures (Attachment 11). Additionally, the bill holds a corporation, LLC or labor organization that violates this section liable in a civil action for a penalty up to three times the total amount of the expenditure, states that it is a Class 6 felony to knowingly make a false filing relating to an independent expenditure and contains an emergency clause.

Vice-Chairman Ash moved that the Driggs two-page amendment dated 2/24/10 to HB2788 be adopted (Attachment 12).

Ms. Weltsch explained that the two-page amendment conforms this bill to the Senate version, specifically striking the provision requiring an organization to notify the Secretary of State if it makes an expenditure of \$2,000 in any combination of city, town, county or other local race (Attachment 12). The amendment changes the timeframe from three to five days within which an organization must register after making an expenditure, clarifies that anyone who makes an independent expenditure who is not a corporation, LLC or labor organization is required to file as a political action committee and makes other technical corrections.

Mr. Konopnicki asked what this legislation is trying to fix.

Question was called on the motion that the Driggs two-page amendment dated 2/24/10 to HB2788 be adopted (Attachment 12). The motion carried.

Vice-Chairman Ash moved that HB2788 as amended do pass.

Jim Drake, Assistant Secretary of State, Secretary of State's Office, in support of HB2788, explained to Mr. Konopnicki that if nothing is put in place, corporations, LLCs and labor unions will have the ability to make independent expenditures to influence elections and no one will know about it. This legislation makes reporting requirements easy to understand so the

electorate and the candidates know who is making independent expenditures either on their behalf or against them. The Secretary of State's Office will have a database searchable by race, candidate, amount and medium for statewide candidates and legislative races. He advised this is a work in process and said that stakeholders will meet next week before this goes to the Floor. He related that this bill is a framework and provides intent and goal.

Ms. Sinema said she wants to ensure that work will continue on cumulative reporting. Mr. Drake said he is amenable to that. He related that is one of the topics to be discussed next week.

Vice-Chairman Ash announced the names of those who signed up in support of HB2788 but did not speak:

Allison Bell, Arizona Chamber of Commerce & Industry
Amy Bjelland, State Election Director, Arizona Secretary of State's Office
Molly McGovern, Service Employees International Union (SEIU) Arizona
Farrell Quinlan, State Director, National Federation of Independent Business – Arizona
Jen Sweeney, Government Affairs Director, Arizona Association of Counties
Janna Day, Lobbyist, representing self

Vice-Chairman Ash announced the names of those who signed up as neutral on HB2788 but did not speak:

Todd Lang, Executive Director, Citizens Clean Elections Commission

Question was called on the motion that HB2788 as amended do pass. The motion carried by a roll call vote of 8-0-0-0 (Attachment 13).

HB2349 – charity game pull-tab games – DISCUSSED AND HELD
S/E: same subject

Vice-Chairman Ash moved that HB2349 do pass.

Vice-Chairman Ash moved that the Driggs nine-page strike-everything amendment dated 2/23/10 to HB2349 be adopted (Attachment 14).

Stacy Weltsch, Majority Research Analyst, stated that the proposed strike-everything amendment (Attachment 14) requires the Arizona State Lottery Commission to establish special instant ticket games for use by charitable organizations that have been issued a Class B or Class C bingo license (Attachment 15). The bill contains an effective date of June 30, 2012.

Question was called on the motion that the Driggs nine-page strike-everything amendment dated 2/23/10 to HB2349 be adopted (Attachment 14). The motion carried.

Vice-Chairman Ash moved that HB2349 as amended do pass.

Representative Frank Antenori, sponsor, related that similar legislation passed out of the House last year. There was discussion about the potential impact on Indian Gaming compacts. He advised that concerns were raised that this proposal will “trigger the poison pill.” Several

attorneys, including the Attorney General's Office, reviewed this and disagreed that it will have an impact on the compacts. He expressed willingness to work with the Governor to address her concerns and try to work through the Lottery because of the exemption in the lottery mechanism to avoid the issue with regard to the poison pill piece. He related concerns he has with using the lottery including a smaller return for the charity as well as being limited to nonprofit charitable organizations. He stated that if the Lottery is not used, administrative and overhead costs will be dramatically lowered and the return to the charities will be dramatically higher. He asked Members to pass this out of Committee in order for the stakeholders to continue to work on compromise language.

Sam Whitlock, Charity First for Arizona, in support of HB2349, advised that this bill was initially introduced as a bill for bingo organizations only and had the support of the Tribes. When the poison pill issue was raised, the Tribes withdrew their support. He stated that the exemption is the reason for using the Lottery; however, he noted that it will mean less profit for the charity.

Jeff Hatch-Miller, Executive Director, Arizona Lottery, testified against HB2349. He advised that the Lottery does not oppose providing this product to charitable organizations but has two issues with the provisions: security of the product and impact on state revenue. He related that it is costly to ensure the security of the product because of the millions of dollars involved in this activity. The tickets are negotiable instruments. He maintained that the 15 percent commission charged by the Lottery for ensuring that the process is secure is fair. If the revenue from the product does not cover costs, it has to be subsidized from the profit of other games and that is money that eventually should go into the General Fund. He recommended support of the bill being worked on in the Senate in lieu of this proposal.

Chairman Driggs announced the names of those who signed up in support of HB2349 but did not speak:

Jason Isaak, Lobbyist, Charity First for Arizona

Don Isaacson, representing Arizona Licensed Beverage Association

James Henderson, Moose Administrator, Loyal Order of Moose, testified in support of HB2349. He advised that over the last 15 years, funds raised for charitable giving have decreased considerably and need has increased. He expressed willingness to work with the Lottery, if this bill passes, in order to continue to support charities and people in need.

Chairman Driggs announced that HB2349 will be held and asked the Vice Chairman to withdraw his motion.

Vice-Chairman Ash withdrew his motion that HB2349 do pass.

HB2687 – salvia divinorum; unlawful acts – DO PASS

Vice-Chairman Ash moved that HB2687 do pass.

Stacy Weltsch, Majority Research Analyst, stated that HB2687 creates a Class 2 misdemeanor for the sale or distribution of salvia divinorum to a person under the age of 21 (Attachment 16).

The bill provides an affirmative defense to prosecution if the person reasonably relied on fraudulent proof of age presented by the person who is under 21 years old.

Representative Eric Meyer, sponsor, advised that salvia divinorum is a hallucinogenic drug that has had increased usage among teens. This drug is either smoked or chewed and is a strong hallucinogen that lasts up to 30 minutes. The drug is easily accessible and many users are unaware of its dangers. He said this legislation is a first step in limiting its distribution and in raising awareness of its dangers.

Mr. Konopnicki asked how this drug is distributed. Representative Meyer revealed there are 70 different strains of salvia; this is the only strain that is an hallucinogenic. He said this is occasionally used as a landscape plant. People are not aware that it is an hallucinogen; they think it is an herb.

Chairman Driggs queried whether there are any other uses for it. Representative Meyer advised that some research is being done but there is no evidence of medical benefit.

In reply to Chairman Driggs, Representative Meyer disclosed this legislation will let retailers know the plant they are selling could potentially be used as an hallucinogen.

Vice-Chairman Ash referred to the penalty of a Class 2 misdemeanor and asked whether this is more or less dangerous than marijuana. Representative Meyer conveyed that marijuana is not an hallucinogen; salvia is more in the class of lysergic acid diethylamide (LSD). He related there are efforts to have national regulation and said other states have regulation similar to this legislation. He repeated that this is a first step in trying to stop the sale. If it does not help, he mentioned the possibility of putting stiffer penalties in place.

Vice-Chairman Ash queried the health impact and wondered whether this is more or less dangerous than marijuana. Representative Meyer answered that he cannot answer that because there are no long-term health studies of the use of this drug.

Stephanie Siete, Director of Public Relations for Community Bridges, in support of HB2687, stated that the general public is not aware of the danger of this drug, which is compared to LSD or mushroom use. When this drug is used, the person is out of control for up to 30 minutes. The state should be restricting its availability because users are getting an hallucinogenic response.

Vice-Chairman Ash announced the names of those who signed up in support of HB2687 but did not speak:

David Landrith, Vice President of Policy & Political Affairs, Arizona Medical Association

Jeff Gray, Legislative Liaison, Arizona Pharmacy Alliance

Paul Ahler, Executive Director, Arizona Prosecuting Attorneys' Council

Kathleen Mayer, Deputy Pima County Attorney, Pima County Attorney's Office

Question was called on the motion that HB2687 do pass. The motion carried by a roll call vote of 7-0-0-1 (Attachment 17).

HB2673 – human trafficking; definition. – DO PASS

Vice-Chairman Ash moved that HB2673 do pass.

Blake Edwards, Majority Intern, advised that HB2673 eliminates the requirement that a person be enticed, recruited, harbored, provided or otherwise obtained *for transport* for an offense to qualify as sex trafficking or trafficking of persons for forced labor or services (Attachment 18).

Ms. Sinema, sponsor, related that this legislation makes a change to the statute to allow law enforcement and officials to capture and prosecute those individuals who engage in human trafficking for sex or forced labor purposes.

Vice-Chairman Ash announced the names of those who signed up in support of HB2673 but did not speak:

Robin Quinn, representing self

Kathleen Mayer, Deputy Pima County Attorney, Pima County Attorney's Office

Paul Ahler, Executive Director, Arizona Prosecuting Attorneys' Council

Stephanie Mayer, Systems Advocate, Arizona Coalition Against Domestic Violence

Question was called on the motion that HB2673 do pass. The motion carried by a roll call vote of 7-0-0-1 (Attachment 19).

HB2470 – public defender; duties; reimbursement – DO PASS AMENDED

Vice-Chairman Ash moved that HB2470 do pass.

Stacy Weltsch, Majority Research Analyst, said that HB2470 allows a court to appoint a public defender as counsel to an indigent person in guardianship, conservatorship and involuntary quarantine proceedings (Attachment 20).

Vice-Chairman Ash moved that the Driggs four-line amendment dated 2/22/10 to HB2470 be adopted (Attachment 21).

Ms. Weltsch explained that the amendment makes a technical change (Attachment 21).

Question was called on the motion that the Driggs four-line amendment dated 2/22/10 to HB2470 be adopted (Attachment 21). The motion carried.

Vice-Chairman Ash moved that HB2470 as amended do pass.

Representative Doris Goodale, sponsor, stated that this is a collaborative effort brought to her by public defenders. She deferred explanation to Elizabeth Hegedus-Berthold, County Supervisors Association.

Elizabeth Hegedus-Berthold, Research Analyst, County Supervisors Association of Arizona, testified in support of HB2470. She advised that this bill was brought to the County Supervisors Association by Coconino County. The Association views this as a cost-savings measure because it expands the duties of the public defender so they can handle conservatorships, guardianships

and involuntary quarantine cases. Currently, counties cannot handle these cases but must contract with private attorneys.

In reply to Chairman Driggs about the potential for conflict of interest, Ms. Hegedus-Berthold said no concerns have been raised about that issue.

Elizabeth Archuleta, Supervisor, Coconino County Board of Supervisors, spoke in support of HB2470, saying that it provides local control to each individual county in determining the role of the public defender's office. This legislation affords counties, specifically the board of supervisors, flexibility to determine the appropriate mix of duties that a public defender may handle. She stated that a board of supervisors is in the best position to determine what is most cost effective. This legislation could also have a potential cost savings to counties. She appreciates support of this legislation.

Gary Pearlmutter, Coconino County Legal Defender, Coconino County, in support of HB2470, advised that the statute currently prescribes that the public defender's office provide legal representation to defendants in criminal cases, juveniles in delinquency matters, children and parents in dependency and parental termination cases and other types of actions; however, the public defender's office is not authorized to handle guardianship, conservatorship and involuntary quarantine proceedings. This legislation will permit a public defender to be appointed to these matters when approved by a board of supervisors instead of retaining private attorneys to handle them.

Chairman Driggs queried whether this could create a conflict of interest. Mr. Pearlmutter answered there is always the potential for a conflict of interest. He related that many counties now have a public defender's office and a legal defender's office. If there is a conflict with the public defender's office, the legal defender's office could step in. Chairman Driggs said another option is that the case could be assigned to a contract attorney if necessary. Mr. Pearlmutter concurred that private counsel could be retained to handle certain situations.

Vice-Chairman Ash announced the names of those who signed up in support of HB2470 but did not speak:

Joanne Keene, Government Relations Director, Coconino County

Vice-Chairman Ash announced the names of those who signed up in opposition to HB2470 but did not speak:

Seth Apfel, Volunteer, representing self

Question was called on the motion that HB2470 as amended do pass. The motion carried by a roll call vote of 8-0-0 (Attachment 22).

HCR2017 – term limits; four years – DO PASS

Vice-Chairman Ash moved that HCR2017 do pass.

Blake Edwards, Majority Intern, reviewed the provisions of HCR2017 which change the term limits for Members of the House of Representatives and the Senate (Attachment 23):

- States that beginning with the 50th Legislature in 2011, Members of the House of Representatives are eligible to serve no more than two consecutive terms of four years each, and Members of the Senate are eligible to serve no more than two consecutive terms of staggered four year-terms.
 - The provision is applicable only to terms of office that begin on or after January 1, 2011.
- Establishes the following provisions related to the change in term limits for Members of the Senate:
 - 15 of the senators elected to the 50th Legislature, randomly selected, will serve a four-year term.
 - The remaining 15 senators elected to the 50th Legislature will serve two-year terms until the election of the 51st Legislature in 2013.
 - Persons elected to fill the seats of those remaining 15 senate offices will then serve a four-year term.
 - A person who serves any portion of a two-year term in the 50th Legislature is eligible to serve two additional consecutive terms that begin in 2013 and 2017, but is not eligible for a fourth consecutive term.
 - A person who serves any portion of a four-year term in the 50th and 51st Legislatures is eligible to serve one additional consecutive term that begins in 2015, but is not eligible for a third consecutive term.
- Establishes the following provisions related to the change in term limits for Members of the House of Representatives:
 - A legislator who serves three consecutive terms in the House of Representatives and whose first term began in January 2005, is eligible to serve one additional consecutive term that begins in 2011, but is not eligible for a fifth consecutive term.
 - A legislator who serves two consecutive terms in the House of Representatives and whose first term began in January 2007, is eligible to serve one additional consecutive term that begins in 2011, but is not eligible for a fourth consecutive term.
 - A legislator who serves one term in the House of Representatives and whose first term began in 2009, is eligible to serve two additional consecutive terms that begin in 2011 and 2015, but is not eligible for a fourth consecutive term.
- Directs the Secretary of State to submit this proposition to the voters at the next general election.

Representative Andy Tobin, sponsor, advised that constituents in his district have expressed the desire to see turnover in the Legislature. He said he believes there will be better debate, better Legislators and more active bodies in the process if Members of the House serve no more than two consecutive terms of four years each and Members of the Senate serve no more than two consecutive terms of staggered four-year terms. This will help lawmakers do their job and give the voters an opportunity to vote on one seat at a time.

Vice-Chairman Ash announced the names of those who signed up in support of HCR2017 but did not speak:

Deb Gullett, Government for Arizona's Second Century

Question was called on the motion that HCR2017 do pass. The motion carried by a roll call vote of 7-0-0-1 (Attachment 24).

HCR2029 – legislature; term limits repeal. – DO PASS

Vice-Chairman Ash moved that HCR2029 do pass.

Blake Edwards, Majority Intern, stated that HCR2029 removes provisions that establish term limits for Members of the State Legislature (Attachment 25).

Representative Tom Chabin, sponsor, stated the bill is self-explanatory. He opined that eight years is too little time for Members to learn how the legislative process works and how changing a law affects different entities. He said he is following the recommendations of the Arizona Town Hall in submitting this Resolution for consideration and the numerous other organizations that have suggested that term limits in the long term do not serve public policy. He suggested that the public values experience. This legislation is asking the voters to reconsider term limits.

Vice-Chairman Ash announced the names of those who signed up in support of HCR2029 but did not speak:

Gini McGirr, Legislative Chair, League of Women Voters of Arizona

Doris N. Flax, Educational Director, League of Women Voters of Arizona, representing self

Deb Gullett, Government for Arizona's Second Century

Question was called on the motion that HCR2029 do pass. The motion carried by a roll call vote of 5-2-0-1 (Attachment 26).

HCR2051 – unicameral legislature; nonpartisan legislative elections – DO PASS FAILED

Vice-Chairman Ash moved that HCR2051 do pass.

Stacy Weltsch, Majority Research Analyst, reviewed the provisions of HCR2051 which eliminate the House of Representatives (Attachment 27):

- States that beginning with the 51st Legislature in 2013:
 - The legislature will consist only of the Senate, and the House of Representatives will be eliminated.
 - The Senate will consist of two members elected from each of the 30 legislative districts.
 - Senators will serve staggered four-year terms, not to exceed three consecutive terms.
 - 30 randomly selected senators elected to the 51st Legislature will serve a four-year term.
 - The remaining 30 senators will serve two-year terms until the election of the 52nd Legislature in 2015, and persons elected to fill the seats of those remaining 30 senate offices will then serve a four-year term.
 - A person who serves any portion of a two-year term in the 51st Legislature is eligible to serve three additional consecutive terms that begin in 2015, 2019 and 2023, but is not eligible for a fifth consecutive term.

- A person who serves any portion of a four-year term in the 51st and 52nd Legislatures is eligible to serve two additional consecutive terms that begin in 2015 and 2019, but is not eligible for a fourth consecutive term.
- Senate elections will be nonpartisan.
- Directs the Secretary of State to submit this proposition to the voters at the next general election.

Mr. Miranda, sponsor, described HCR2051 as very important legislation. He asked that Norm Moore, former Chief Clerk of the House of Representatives, explain how the unicameral system works in Nebraska.

Norm Moore, attorney, representing self, testifying as neutral on HCR2051, advised that he is testifying at the request of Mr. Miranda. He related that Nebraska has had a unicameral legislature since 1937 and is the only state in the country that has one legislative chamber. Members are elected on a nonpartisan basis and serve four-year staggered terms. The Lieutenant Governor presides over the Senate and is called the Speaker. He detailed the process of passing legislation in Nebraska. A criticism raised is that with only one chamber, there are no checks and balances as there are with two houses. He noted that almost all the provinces in Australia and Canada are unicameral as well as the individual states in Mexico; it is only at the national level that there are two houses.

Mr. Konopnicki said that Nebraska seems to have a high efficiency rating and a good financial rating. He wondered whether that is coincidental or because of its unicameral system. Mr. Moore replied that because of its nonpartisan status, people perceive that legislators are working together and believe there is more efficiency.

Ted Downing, professor and former State Representative, representing self, testified in favor of HCR2051. He related there is debate going on nationally on how to make government more responsive. This referendum puts before the voters the idea of downsizing and reorganizing its legislative branch of government to a single chamber, with 60 rather than 90 Members. He opined that this will simplify procedures and lower costs, and said a nonpartisan election will enfranchise everyone and increase respect for the institution.

Mr. Konopnicki referred to the comment about the Nebraska legislature being nonpartisan and asked whether a person can run as a Republican or a Democrat. Mr. Downing said it is a candidate's decision as to how they want to identify themselves.

James Nielsen, representing self, spoke in support of HCR2051 and a unicameral system because it raises awareness in the community. He said he believes the current system needs to be changed and maintained that the unicameral system is a progressive and positive move.

Mr. Miranda mentioned that he shared this concept with a number of people in the community and the response he received was unanimous that people want a change from the status quo. He said he realizes that changing the system of government that has been in place in Arizona for close to 100 years cannot be done overnight. He asked Members to move this to the Floor for continued discussion.

Vice-Chairman Ash said he believes this is a worthwhile discussion. He said he likes the idea of a nonpartisan election because there is less polarization of parties.

Mr. Konopnicki said he believes Vice-Chairman Ash makes an excellent point. He related that rural Arizona is disproportionately represented, and said it is time to think about some of these issues.

Vice-Chairman Ash announced the names of those who signed up in support of HCR2051 but did not speak:

Gini McGirr, Legislative Chair, League of Women Voters of Arizona, representing self

Doris N. Flax, Education Director, League of Women Voters of Arizona, representing self

David Wells, Faculty, ASU & Board Member, Arizona Citizen Action, representing self

Vice-Chairman Ash announced the names of those who signed up in opposition to HCR2051 but did not speak:

Rebekah Friend, Lobbyist, Arizona AFL-CIO

Question was called on the motion that HCR2051 do pass. The motion failed by a roll call vote of 3-3-0-2 (Attachment 28).

Without objection, the meeting adjourned at 12:45 p.m.

Joanne Bell, Committee Secretary
March 16, 2010

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