

ARIZONA HOUSE OF REPRESENTATIVES  
Fiftieth Legislature – Second Regular Session

**COMMITTEE ON ENERGY AND NATURAL RESOURCES**

Minutes of Meeting  
Monday, March 12, 2012  
House Hearing Room 4 -- 2:00 p.m.

Chairman Pratt called the meeting to order at 2:25 p.m. and attendance was noted by the secretary.

**Members Present**

Mrs. Barton	Miss Reeve	Mrs. Brophy McGee, Vice-Chairman
Ms. Fann	Mr. Saldate	Mr. Pratt, Chairman
Mrs. Judd	Mr. Wheeler	

**Members Absent**

None

**Committee Action**

SB1001 – DP (7-0-0-1)	SCM1004 – DP (4-2-0-2)
SB1075 – DP (6-0-0-2)	SCR1001 – DP (6-1-0-1)
SB1300 – DPA (5-0-0-3)	SCR1044 – DPA (4-1-0-3)
SB1521 – DPA (4-2-0-2)	

**SB1001 - military preservation; land exchanges – DO PASS**

**Vice-Chairman Brophy McGee moved that SB1001 do pass.**

Diana Clay, House Majority Staff Deputy Director of Research, explained that SB1001 modifies the process for review, evaluation and approval of proposed land exchanges of state trust lands for other public lands. The bill contains a conditional enactment clause, which requires an amendment to the Arizona Constitution at the next general election held in November 2012 in order for the provisions of the bill to become effective (Attachment 1). Ms. Clay informed Members that SB1001 and SCR1001 are companion bills.

**Mrs. Barton moved that the Barton 16-line amendment dated 3/9/12 (Attachment 2) be adopted.**

Mrs. Barton stated that the Barton 16-line amendment dated 3/9/12 (Attachment 2) maintains the existing property rights on leased trust lands for farming, ranching and mining lessees in state land exchanges.

Ms. Clay explained that the Barton 16-line amendment dated 3/9/12 (Attachment 2) states that the guidelines for an exchange transaction between the lessees and new owners of the land conveyed by the state do not diminish the rights and interests existing at the time of the exchange unless otherwise agreed upon in writing by the parties and the renewal terms and conditions remain substantially similar to the ones existing at the time of lease or before the exchange transaction.

Mrs. Barton answered Members' questions on the 16-line amendment regarding the legality of retaining the use rights on land that has been exchanged to a new owner.

Senator John Nelson, sponsor, explained his opposition to the Barton 16-line amendment dated 3/9/12 (Attachment 2) stating that the amendment negates the purpose of the bill. He explained that state land, once it has been sold or transferred, nullifies the existing leases. Senator Nelson expressed that the lessee does not control the land; the owner controls the land and cited examples of property rights.

Mrs. Barton expressed that the state land is being exchanged, not sold and the exchange could be conditional. In response, Senator Nelson agreed, but stated the land becomes valueless if the land contains a responsibility that is not conducive to the individual looking to acquire the land.

Senator Nelson addressed Members' questions regarding:

- Preservation of military bases
- Financial impact of the military bases to the state
- Land encroachment
- Impact to the agricultural industry
- Independent property analysis requirements
- Land hearing requirements
- Transparency of state land exchanges

Vanessa Hickman, Deputy State Land Commissioner, Arizona State Land Department, testified in support of SB1001 and in opposition to the Barton 16-line amendment dated 3/9/12 (Attachment 2). Ms. Hickman stated that the bill outlines the process for land exchanges and said she believes the amendment would complicate the process, remove land from contention and create an additional burden.

Ms. Hickman answered Members' questions regarding:

- Probability of a land exchange
- 1990 Arizona Supreme Court decision on state trust land exchanges
- Contiguous land in relation to military bases
- Encroachment of military bases
- Statistical amount of state land
- Impact of state land exchanges to communities
- Planning efforts for land use
- Military land use modifications

Mrs. Barton provided closing arguments on the Barton 16-line amendment dated 3/9/12 (Attachment 2) advising that the amendment ensures that farming, ranching and mining industries are unharmed in state land exchanges by allowing for conditional exchanges.

**Question was called on the motion that the Barton 16-line amendment dated 3/9/12 (Attachment 2) be adopted. The motion failed.**

**Mrs. Barton moved that the Barton 9-line amendment dated 3/9/12 (Attachment 3) be adopted.**

Ms. Clay explained that the Barton 9-line amendment dated 3/9/12 (Attachment 3) prohibits a land exchange if the exchange would result in a reduction of surface or groundwater available for public use and stipulates an exchange transaction shall not transfer such water rights to the new owner.

Mrs. Barton asked for clarification on reserving the rights of surface or groundwater in land exchanges. Ms. Clay deferred the question to Ms. Hickman.

Ms. Hickman returned to the podium and advised that provisions of SB1001 subject exchanges of state lands to an independent analysis which determines the physical, economic and natural resource impacts of a proposed land exchange. She stated that the Barton 9-line amendment dated 3/9/12 (Attachment 3) adds additional layers of complexity on exchanges.

Mr. Saldate questioned the opinion of the ranching and agricultural communities. Ms. Hickman deferred the inquiry to Patrick Bray.

Patrick Bray, Arizona Cattlemen's Association, testified as neutral on SB1001 and in support of the Barton 9-line amendment dated 3/9/12 (Attachment 3). He stated that the bill does not address the encroachment of private lands and that the majority of lands around the military bases are privately owned by ranchers. Mr. Bray cited his experience with the federal and state government in land leases and expressed the importance of maintaining the water rights.

Ms. Fann asked the position of the Cattlemen's Association without the amendments. Mr. Bray stated that the amendments enhance the legislation and without the amendments there are serious issues.

Discussion ensued regarding the stakeholder meetings and the Barton 9-line amendment.

Mrs. Barton stated the importance of water rights and requested a roll call vote on the Barton 9-line amendment dated 3/9/12 (Attachment 3).

**Question was called on the motion that the Barton 9-line amendment dated 3/9/12 (Attachment 3) be adopted. The motion failed by a roll call vote of 3-4-0-1 (Attachment 4).**

Sandy Bahr, Conservation Director, Sierra Club - Grand Canyon Chapter, testified in support of SB1001, stating that the bill creates transparency and accountability in the state trust land exchange process.

Miss Reeve announced the names of those who signed up in support of SB1001 but did not speak:

Lisa A. Atkins, Co-Chairman, Arizona Military Affairs Commission

Melissa Ramsey, representing self

John Schell, City of Peoria

Ben Alteneder, Sonoran Institute

Thomas Finnegan, Co-Chairman, Arizona Military Affairs Commission

Peter Bengtson, representing self

Karen Michael, representing self

Heather Bernacki, East Valley Chambers of Commerce Alliance

David Jones, President/CEO, Arizona Contractors Association

Rene Guillen, Legislative Associate, League of Arizona Cities and Towns

Michael Celaya, Intergovernmental Relations Director, City of Surprise

Rebecca Hudson, Environmental Policy Analyst, Arizona Chamber of Commerce and Industry

Tom Dorn, East Valley Chambers of Commerce Alliance/Arizona Planning Association

John Wayne Gonzales, Legislative Liaison, City of Phoenix

Eric Emmert, Arizona Planning Association

Miss Reeve announced the names of those who signed up as neutral on SB1001 but did not speak:

Amy Duffy, Member, Duffy Consulting, Marine Corps Air Station - Yuma

Janice Palmer, Governmental Relations Analyst, Arizona School Boards Association

**Question was called on the motion that SB1001 do pass. The motion carried by a roll call vote of 7-0-0-1 (Attachment 5).**

### **SCR1001 - military preservation; land exchanges – DO PASS**

**Miss Reeve moved that SCR1001 do pass.**

Diana Clay, House Majority Staff Deputy Director of Research, explained that SCR1001 refers to the voters, an amendment to the Arizona Constitution that authorizes the Legislature to enact a process to exchange trust land if the exchange is related to either protecting military installations or managing lands (Attachment 6). The bill prescribes the process and procedures for the exchange, which are codified in SB1001, and requires any exchange to have public hearings, independent analyses and be approved by an affirmative vote of the people.

Ms. Clay advised that the two-line Barton amendment dated 3/9/12 (Attachment 7) eliminates the provision that requires the land exchange to be for the proper management, protection and conversion of state lands for public use.

In response to a question, Ms. Clay explained that SCR1001 will go to the voters in the next General Election, which is in November 2012.

**Mrs. Barton moved that the Barton two-line amendment dated 3/9/12 (Attachment 7) be adopted.**

Mrs. Barton explained that the Barton two-line amendment dated 3/9/12 (Attachment 7) strikes text on the purpose of land exchanges for the protection, proper management and conversion of state lands for public use.

Miss Reeve requested clarification on the Barton two-line amendment dated 3/9/12 (Attachment 7). Mrs. Barton advised of her concern that SCR1001 will be a mechanism to use state trust lands for something other than the preservation of military bases.

Vanessa Hickman, Arizona State Land Department, testified in favor of SCR1001 and in opposition to the Barton two-line amendment dated 3/9/12 (Attachment 7). Ms. Hickman answered Members' questions regarding the following:

- The purpose of the ballot time frame
- The reason for the provisions within SCR1001
- The best interest of the trust and state
- The necessity for land exchange authority

Patrick Bray, Arizona Cattlemen's Association, testified as neutral on SCR1001 and in favor of the Barton two-line amendment. He stated concern with the "proper management and protection" portion of the bill and said that the language is vague and should be defined.

In response to Members' questions, Mr. Bray explained the position of neutral on SCR1001 and expressed an interest in working with the sponsor and the State Land Department to resolve concerns.

Ms. Hickman returned to the podium to clarify the language for proper management, protection and conversion of state lands. She advised that the language is structured to aid the Land Department to allow for exchange authority to properly manage state trust lands, which are not public lands.

Discussion ensued on preserving and protecting military bases, the 2010 ballot initiative regarding military preservation and the current language of SCR1001.

Mrs. Barton requested a roll call vote on the Barton two-line amendment dated 3/9/12 (Attachment 7).

**Question was called on the motion that the Barton two-line amendment dated 3/9/12 (Attachment 7) be adopted. The motion failed by a roll call vote of 2-5-0-1 (Attachment 8).**

Vice-Chairman Brophy McGee announced the names of those who signed up in support of SCR1001 but did not speak:

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

Lisa A. Atkins, Co-Chairman, Arizona Military Affairs Commission

Dr. Bonnie Saunders, representing self

Melissa Ramsey, representing self

John Schell, City of Peoria

Ben Alteneder, Sonoran Institute

Peter Bengtson, representing self

Karen Michael, representing self

Heather Bernacki, East Valley Chambers of Commerce Alliance

David Jones, President/CEO, Arizona Contractors Association

Rene Guillen, Legislative Associate, League of Arizona Cities and Towns

Michael Celaya, Intergovernmental Relations Director, City of Surprise

Rebecca Hudson, Environmental Policy Analyst, Arizona Chamber of Commerce and Industry

Tom Dorn, East Valley Chambers of Commerce Alliance/Arizona Planning Association

John Wayne Gonzales, Legislative Liaison, City of Phoenix

Eric Emmert, Arizona Planning Association

Vice-Chairman Brophy McGee announced the names of those who signed up as neutral on SCR1001 but did not speak:

Amy Duffy, Member, Duffy Consulting, Marine Corps Air Station - Yuma

Janice Palmer, Governmental Relations Analyst, Arizona School Boards Association

**Question was call on the motion that SCR1001 do pass. The motion carried by a roll call vote of 6-1-0-1 (Attachment 9).**

**SB1075 - state forester; wildfire resource deployment – DO PASS**

**Vice-Chairman Brophy McGee moved that SB1075 do pass.**

Kate Sommerville, House Majority Intern, explained that SB1075 requires the state forester to develop and implement a comprehensive wildfire deployment plan of statewide resources for wildfire suppression activities and to ensure training and certification for wild land firefighters, apparatus and equipment (Attachment 10).

John Flynn, Arizona Fire District Association, testified in support of SB1075 and provided a brief history of the current procedures for wildfire suppression and deployment. He stated that SB1075 requires the state forester to develop and implement a wildfire plan using statewide resources.

Scott Hunt, Arizona State Forester, testified as neutral on SB1075 and stated that the bill codifies the systems and procedures that are already in place or being put in place.

Vice-Chairman Brophy McGee announced the names of those who signed up in support of SB1075 but did not speak:

Elaine Arena, Rural/Metro Fire Department

**Question was called on the motion that SB1075 do pass. The motion carried by a roll call vote of 6-0-0-2 (Attachment 11).**

**SCM1004 - recycling spent nuclear fuel; management – DO PASS**

**Vice-Chairman Brophy McGee moved that SCM1004 do pass.**

Kate Sommerville, House Majority Intern, explained that SCM1004 urges the United States Congress to allow access to funds from the Nuclear Waste Fund to be used for the establishment of a new management enterprise with responsibility for the management of spent nuclear fuel (Attachment 12).

Senator Al Melvin, sponsor, explained that SCM1004 informs Congress that the State of Arizona has an interest in a nuclear waste recycling facility. He cited statistics on nuclear waste, expressed the necessity for a facility and described the economic impact to the community and the state.

Vince Leach, representing self, testified in support of SCM1004. Mr. Leach described in detail the processes of the Savannah River Facility in Georgia that presently recycles spent nuclear fuel. He stated that the salt mines in Arizona would serve as an optimal repository for nuclear waste due to the lack of seismic activity and explained how the salt encapsulates the waste.

Mr. Saldade asked for the locations of the salt mines; Mr. Leach responded with Holbrook, Kingman, Safford and West Picacho Peak.

Mr. Wheeler questioned if the communities involved are aware of the plans for a nuclear waste recycling facility. Mr. Leach stated that the communities have not been informed at this time because the state is only informing Congress of its need to act on the storage shortage of spent fuel waste.

Senator Melvin returned to the podium to explain that SCM1004 is a message to the federal government requesting that the state be considered for a nuclear waste recycling facility.

Vice-Chairman Brophy McGee announced the names of those who signed up in opposition to SCM1004 but did not speak:

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

Melissa Ramsey, representing self

Seth Apfel, representing self

Peter Bengtson, representing self

**Question was called on the motion that SCM1004 do pass. The motion carried by a roll call vote of 4-2-0-2 (Attachment 13).**

**SCR1044 - Red Rock Project; support – DO PASS AMENDED**

**Vice-Chairman Brophy McGee moved that SCR1044 do pass.**

Kate Sommerville, House Majority Intern, informed that SCR1044 shows support for the Red Rock Project (Attachment 14) and explained that the Pratt 14-line amendment dated 3/8/12 (Attachment 15) clarifies the purpose of the proposed project.

Senator Al Melvin, sponsor, gave history on the Union Pacific Red Rock Project and stated that SCR1044 expresses support for the construction of a new classification yard near Picacho Peak. He explained the necessity for an increased freight rail service in Arizona and advised of the benefits to Pinal County.

In response to Members' questions, Senator Melvin stated that the project relieves some of the pressure on the Long Beach, California area, where a large amount of freight is managed, and that the environmental impact is minimal.

Benjamin Bitter, Management Analyst, City of Casa Grande, testified in support of SCR1044, distributed a copy of a resolution passed by the City of Casa Grande (Attachment 16) and stated the economic impact to the community.

Allen Kanavel, Economic Development Manager, Pinal County, testified in favor of SCR1044, stating that for every railroad car that travels down the track, it takes the place of three semi trucks on the roadways. Mr. Kanavel explained the magnitude of the Red Rock Project and the potential opportunities for Pinal County.

Vince Leach, representing self, testified in support of SCR1044, stating current employment statistics and the importance of creating jobs in Pinal County for additional tax revenue.

Vice-Chairman Brophy McGee announced the names of those who signed up in support of SCR1044 but did not speak:

Anthony Smith, Mayor, City of Maricopa

Belinda Akes, Councilwoman, City of Eloy, and Secretary, Economic Development Group of Eloy (EDGE)

Brett Jones, Director of Government Affairs, Arizona Contractors Association

Vice-Chairman Brophy McGee announced the names of those who signed up in opposition to SCR1044 but did not speak:

Melissa Ramsey, representing self

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

Peter Bengtson, representing self

**Vice-Chairman Brophy McGee moved that the Pratt 14-line amendment dated 3/8/12 (Attachment 15) be adopted. The motion carried.**

**Vice-Chairman Brophy McGee moved that SCR1044 as amended do pass.  
The motion carried by a roll call vote of 4-1-0-3 (Attachment 17).**

**SB1300 - game and fish department; continuation – DO PASS AMENDED**

**Vice-Chairman Brophy McGee moved that SB1300 do pass.**

Kate Sommerville, House Majority Intern, explained that SB1300 continues the Arizona Game and Fish Department (AZGFD) and the AZGFD Commission for five years and requires the Auditor General to conduct and complete a performance audit of the AZGFD and Commission by December 31, 2013 (Attachment 18). Ms. Sommerville advised that the Pratt seven-line amendment dated 3/7/12 (Attachment 19) continues the AZGFD for ten years.

Bob Broscheid, Deputy Director, Arizona Game and Fish Department, testified in support of SB1300 and the Pratt seven-line amendment dated 3/7/12 (Attachment 19) and offered to answer any questions.

The names of those who signed up in support of SB1300 but did not speak:

Ben Alteneider, Arizona Wildlife Federation

Simone Westbrook-Hall, Associate Director of State Government Affairs, The Nature Conservancy

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

Peter Bengtson, representing self

Tony Guiles, Arizona Game and Fish Department

**Vice-Chairman Brophy McGee moved that the Pratt seven-line amendment dated 3/7/12 (Attachment 19) be adopted. The motion carried.**

**Vice-Chairman Brophy McGee moved that SB1300 as amended do pass.  
The motion carried by a roll call vote of 5-0-0-3 (Attachment 20).**

**SB1521 - heritage fund; audit; hearing – DO PASS AMENDED**

**Vice-Chairman Brophy McGee moved that SB521 do pass.**

Diana Clay, House Majority Staff Deputy Director of Research, explained that SB1521 requires the Senate and House of Representatives committees regarding natural resources and agriculture to hold at least one public hearing regarding the Game and Fish Heritage Fund performance audit (Attachment 21). Ms. Clay informed that the Pratt five-line amendment dated 3/9/12 (Attachment 22) requires the Auditor General to conduct a performance audit of the programs and expenditures of the Arizona Wildlife Conservation Fund every fifth year beginning in 2012.

**Vice-Chairman Brophy McGee moved that the Pratt five-line amendment dated 3/9/12 (Attachment 22) be adopted.**

Tony Guiles, Arizona Game and Fish Department (AZGFD), testified in support of SB1521 and opposed to the proposed amendment, stating that the amendment is redundant and burdensome to the AZGFD and their resources.

In response to Members' questions, Mr. Guiles explained the following:

- The associated costs with conducting a performance audit
- The self sustaining status of the AZGFD – no funding from the General Fund
- The strain on sportsmen's dollars
- The ability to request public records
- The recent sunset audit

Chairman Pratt stated that he believed the amendment was a "housekeeping" issue and was open to removing the amendment on the Floor.

**Question was called on the motion that the Pratt five-line amendment dated 3/9/12 (Attachment 22) be adopted. The motion carried.**

**Vice-Chairman Brophy McGee moved that SB1521 as amended do pass. The motion carried by a roll call vote of 4-2-0-2 (Attachment 23).**

Chairman Pratt expressed his appreciation for staff this legislative session and Mr. Wheeler concurred.

Without objection, the meeting adjourned at 5:43 p.m.

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Abby Selvey, Committee Secretary  
April 10, 2012

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