

ARIZONA HOUSE OF REPRESENTATIVES  
Fiftieth Legislature – Second Regular Session

**COMMITTEE ON JUDICIARY**

Minutes of Meeting  
Thursday, March 15, 2012  
House Hearing Room 4 -- 8:00 a.m.

Chairman Farnsworth called the meeting to order at 8:05 a.m. and attendance was noted by the secretary.

**Members Present**

Mr. Ash  
Mrs. Goodale  
Mr. Hale

Mr. Harper  
Mrs. Tovar  
Mr. Vogt

Mr. Smith D, Vice-Chairman  
Mr. Farnsworth, Chairman

**Members Absent**

Mr. Chabin

**Committee Action**

SB1087 - DP (7-1-0-1)	SB1336 - HELD
SB1138 - DP (8-0-0-1)	SB1359 - DP (6-2-0-1)
SB1146 - DP (8-0-0-1)	SB1384 - DISCUSSED AND HELD
SB1149 - DPA (8-0-0-1)	SB1449 - DP (5-2-0-2)
SB1151 - DP (8-0-0-1)	SB1507 - DPA (6-2-0-1)
SB1152 - DP (8-0-0-1)	SCR1021 - DP (5-2-0-2)
SB1311 - DP (6-2-0-1)	SCR1031 - HELD AT REQUEST OF SPONSOR
SB1332 - DP (5-2-0-2)	SCR1032 - DP (8-0-0-1)
SB1333 - DP (5-2-0-2)	SCR1035 - DP (5-1-1-2)

**CONSIDERATION OF BILLS**

**SB1336 - product liability actions; punitive damages - HELD**  
**S/E: product liability actions; collateral source**

Chairman Farnsworth announced that SB1336 will be held.

**SCR1031 - statewide initiatives; periodic reauthorization - HELD AT REQUEST OF SPONSOR**

Chairman Farnsworth announced that SCR1031 will be held at the request of the sponsor.

## **SCR1035 - repeal independent redistricting commission - DO PASS**

Magdalena Jorquez, Majority Research Analyst, advised that SCR1035 repeals the constitutional provisions related to the Independent Redistricting Commission (IRC) subject to voter approval (Attachment 1). The bill retains the existing language pertaining to the composition of the Senate and House of Representatives and the mechanism for calling a special session.

Senator Andy Biggs, sponsor, stated that a joint legislative committee was held to hear issues relating to the IRC process. He opined that the process seemed to be highly tainted and should be put to the voters to decide whether they want the IRC to continue. In response to Mr. Ash, Senator Biggs stated that this legislation will revert the redistricting process back to the 90 elected legislators who are accountable to the people, as opposed to decisions being made by a single individual who is accountable to no one.

Vice-Chairman Smith commented that someone needed to step up and address this issue. He thanked Senator Biggs for sponsoring this legislation.

Vice-Chairman Smith announced the names of those who signed up in support of SCR1035 but did not speak:

John Wentling, Vice President, Arizona Citizens Defense League, Inc., representing self

Vice-Chairman Smith announced the names of those who signed up in opposition to SCR1035 but did not speak:

Dr. Bonnie Saunders, President, League of Women Voters of Arizona

Jennifer Loreda, Arizona Education Association

Seth Apfel, representing self

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

Bart Turner, President, Clean Elections Institute, representing self

Sam Wercinski, representing self

Karen Michael, Animal Defense League of Arizona

Gini McGirr, League of Women Voters of Arizona

**Vice-Chairman Smith moved that SCR1035 do pass. The motion carried by a roll call vote of 5-1-1-2 (Attachment 2).**

## **SB1146 - indecent exposure; classification - DO PASS**

Yijee Jeong, Majority Intern, explained that SB1146 expands language to include felony classifications for repeat offenders of indecent exposure (Attachment 3). The bill classifies, as a Class 6 felony, indecent exposure violations by repeat offenders that have two or more prior convictions for indecent exposure or have one or more prior convictions for sexual assault. In addition, the bill adds a Class 3 felony, along with the term of imprisonment currently outlined in statute, for an indecent exposure violation where the person has two or more violations for indecent exposure or public sexual indecency involving a minor under 15 years of age.

Kimberly MacEachern, Staff Attorney, Arizona Prosecuting Attorneys' Advisory Council, testified in support of SB1146. This legislation addresses a serial indecent exposure offender;

currently, each time he offends, it is a Class 1 misdemeanor. This bill makes it a Class 6 felony if the person has two prior convictions.

Vice-Chairman Smith announced the names of those who signed up in support of SB1146 but did not speak:

Jen Sweeney, Government Affairs Director, Arizona Association of Counties

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

**Vice-Chairman Smith moved that SB1146 do pass. The motion carried by a roll call vote of 8-0-0-1 (Attachment 4).**

**SB1149 - trafficking; weapons or explosives; offense - DO PASS AMENDED**

MJ Bildner, Majority Assistant Research Analyst, related that SB1149 classifies trafficking in weapons or explosives for financial gain in order to assist, promote or further the interests of a criminal street gang, a criminal syndicate or a racketeering enterprise as a Class 3 felony (Attachment 5). The Farnsworth four-page amendment dated 3/14/12 defines the term *trafficking* (Attachment 6).

Kathleen Mayer, Deputy Pima County Attorney, Pima County Attorney's Office, advised that SB1149 was requested by the Attorney General's Office and her Office supports the bill. She offered to answer questions.

Art Harding, Legislative Affairs Director, Office of the Attorney General, deferred his time to Paula Alleman of the Attorney General's Office.

Paula Alleman, Section Chief Counsel, Drug and Racketeering Enforcement Section, Attorney General's Office, said she will check the definition of criminal syndicate to see whether it includes terrorist activities. The reason for proposing this bill is for cartel-related reasons and a gap in statute. The racketeering definition includes trafficking in weapons and explosives but there is no corresponding statute that criminalizes that act. In answer to Mrs. Goodale's query, she said she will check to see if there are statutes that deal with terrorist activities that would fall under this.

Mr. Ash commented that the definition of trafficking is very broad, and would seem to include the transaction of buying weapons. He asked whether all trafficking is prohibited. Ms. Alleman referred to the second part of the statute and said the definition of trafficking of weapons or explosives for financial gain to promote the interests of a criminal street gang, a criminal syndicate or a racketeering enterprise would alleviate that concern. Some trafficking is legal; trafficking that is done in violation of the second part of the statute would be illegal.

Chairman Farnsworth pointed out the three elements necessary: trafficking, doing it for gain and for the purpose of assisting.

Vice-Chairman Smith announced the names of those who signed up in support of SB1149 but did not speak:

Kimberly MacEachern, Staff Attorney, Arizona Prosecuting Attorneys' Advisory Council

Vice-Chairman Smith announced the names of those who signed up in opposition to SB1149 but did not speak:

Seth Apfel, representing self

**Vice-Chairman Smith moved that SB1149 do pass.**

**Vice-Chairman Smith moved that the Farnsworth four-page amendment dated 3/14/12 be adopted (Attachment 6). The motion carried.**

**Vice-Chairman Smith moved that SB1149 as amended do pass. The motion carried by a roll call vote of 8-0-0-1 (Attachment 7).**

### **SB1151 - sentencing; out-of-state convictions - DO PASS**

MJ Bildner, Majority Assistant Research Analyst, reviewed the provisions of SB1151 (Attachment 8):

- Expands the definition of *historical prior felony conviction* regarding out-of-state felony convictions to include the following:
  - any offense committed outside the jurisdiction of this state that was punishable as a felony in that jurisdiction and was committed within five years of the present offense; and
  - any offense committed outside this jurisdiction that was punishable as a felony in that jurisdiction that involved the use of a deadly weapon or dangerous instrument, or resulted in death or serious bodily injury, related to felony weapons possession outside the jurisdiction of this state.
- Stipulates that any time spent on absconder status while on probation, on escape status or incarcerated is excluded in calculating if the offense was committed within the five-year look back time frame.
- Exempts a person who was convicted of a felony weapons possession violation in another jurisdiction outside this state that would not be punishable as a felony under the laws of this state from the repetitive and dangerous offenders sentencing statutes regarding sentencing provisions for out-of-state felony convictions.
- Specifies that persons convicted in a court outside the jurisdiction of this state of an offense that is punishable *by that jurisdiction* as a felony, is subject to the repetitive and dangerous offender statutory sentencing provisions in this state.
- Makes technical changes.

Kent Cattani, Division Chief Counsel, Office of the Attorney General, in favor of SB1151, advised that the purpose of this legislation is to correct a flaw in the law. Previously, prior felony convictions were only held against someone if the precise crime in the other jurisdiction would also have been a crime in Arizona. He said it makes sense to treat a felony committed in another state that same as if it were a felony in this state.

Mr. Ash wondered whether a crime would be considered a prior felony conviction if it is a felony in Arizona but treated as a misdemeanor in another state. Mr. Cattani answered that the way the legislation is drafted, the felony is only considered if the crime was a felony in the other state.

In response to Mrs. Tovar, Mr. Cattani advised that gun possession offenses would not be a part of this legislation; that is the exception to this law. Merely possessing a firearm is not a crime.

Vice-Chairman Smith said his concern relates to the dangerous weapons language that refers to "punishable" rather than "convicted" of a felony. Mr. Cattani agreed the language could be clearer but it only applies if it is a felony conviction.

Mr. Hale asked how federal court convictions play into this. Mr. Cattani related that the same rules apply.

Vice-Chairman Smith announced the names of those who signed up in support of SB1151 but did not speak:

Rebecca Baker, Deputy County Attorney, Maricopa County Attorney's Office  
Art Harding, Legislative Affairs Director, Office of the Attorney General  
Kimberly MacEachern, Staff Attorney, Arizona Prosecuting Attorneys' Advisory Council  
Kathleen Mayer, Deputy Pima County Attorney, Pima County Attorney's Office  
Daniel Seiden, Special Assistant for Legislation and Policy, representing self  
Trey Williams, Legislative Liaison, Arizona Association of Counties

Vice-Chairman Smith announced the names of those who signed up as neutral on SB1151 but did not speak:

John Wentling, Vice President, Arizona Citizens Defense League, Inc.

**Vice-Chairman Smith moved that SB1151 do pass. The motion carried by a roll call vote of 8-0-0-1 (Attachment 9).**

**SB1152 - homeless court; establishment; jurisdiction. - DO PASS**

Magdalena Jorquez, Majority Research Analyst, stated that SB1152 permits the presiding judge of the superior court in each county to establish a homeless court as well as the eligibility criteria for referral to the homeless court (Attachment 10).

Jerry Landau, Legislative Liaison, Arizona Supreme Court, Arizona Judicial Council, testified in support of SB1152. The bill allows the presiding judge of a county to appoint a judge, usually from a municipal or justice court, to sit in a homeless court. The court is already operating in Maricopa County as well as other jurisdictions throughout the country. The court will deal with warrants, outstanding fines, driver license issues, etc. The reason for the bill is that the defendants generally are transients and are often cited into multiple courts.

Vice-Chairman Smith announced the names of those who signed up in support of SB1152 but did not speak:

Lester Pearce, Presiding Justice of the Peace, Maricopa County  
Kimberly MacEachern, Staff Attorney, Arizona Prosecuting Attorneys' Advisory Council, representing self  
Kevin Kane, Judge, Phoenix Municipal Court  
Richard Bohan, Director of Government Relations, Maricopa County Board of Supervisors

Vice-Chairman Smith announced the names of those who signed up in opposition to SB1152 but did not speak:

Seth Apfel, representing self

**Vice-Chairman Smith moved that SB1152 do pass. The motion carried by a roll call vote of 8-0-0-1 (Attachment 11).**

**SB1507 - unemployment insurance; technical correction(now: United Nations Rio declaration; prohibition) - DO PASS AMENDED**

Yijee Jeong, Majority Intern, explained that SB1507 prohibits the state and its political subdivisions from adopting or implementing the United Nations Rio Declaration on Environment and Development and the Statement of Principles for Sustainable Development adopted by the United Nations Conference on Environment and Development (UNED) or any other international law that contravenes the United States Constitution or the Constitution of Arizona (Attachment 12). The Farnsworth four-line amendment dated 3/13/12 includes the White House Rural Council to the list of International Council for Local Environment Initiatives (ICLEI) related organizations (Attachment 13).

Senator Judy Burges, sponsor, advised that in 1993, President Bill Clinton signed an Executive Order which created the President's Council on Sustainable Development and became the implementation for Agenda 21. She said the primary goal of Agenda 21 is to create social engineering of citizens and it will impact every aspect of daily life.

Wesley Harris, Chair, North Phoenix Tea Party, representing self, in support of SB1507, said he finds Agenda 21 to be the most insidious attempt on attacking the sovereignty of this nation and this state and must be stopped. He claimed that Agenda 21 is an attempt to implement a one-world order. He urged passage of this bill.

In response to Mr. Smith, Mr. Harris opined that this is not about the environment; the real issue is subversion.

Vice-Chairman Smith announced the names of those who signed up in opposition to SB1507 but did not speak:

Seth Apfel, representing self

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

**Vice-Chairman Smith moved that SB1507 do pass.**

**Vice-Chairman Smith moved that the Farnsworth four-line amendment dated 3/13/12 be adopted (Attachment 13). The motion carried.**

**Vice-Chairman Smith moved that SB1507 as amended do pass. The motion carried by a roll call vote of 6-2-0-1 (Attachment 14).**

## **SB1311 - civil actions; justice courts; jurisdiction - DO PASS**

MJ Bildner, Majority Assistant Research Analyst, stated that SB1311 increases the jurisdictional limit over civil actions in justice of the peace courts from \$10,000 to \$15,000 (Attachment 15). The bill contains a legislative intent section and a conditional enactment clause that requires a vote of the people to amend the Arizona Constitution at the next general election to increase the civil jurisdictional limit of justice courts. The bill stipulates that if the conditional enactment clause is met, the bill will have a delayed effective date from June 30, 2013. The Harper three-page amendment dated 3/14/12 requires the county board of supervisors to adjust the compensation for each justice of the peace in the amount equal to the percent of change in the Average Price Index as published by the U.S. Department of Labor, Bureau of Labor Statistics (Attachment 16).

Senator Frank Antenori, sponsor, related that this proposal was brought to him by a constituent who had a situation he thought would be better dealt with in the lower court instead of superior court because it would cost less money, time and effort. This legislation raises the jurisdictional limits which have not been raised since 1998. He said the limit is set in the Arizona Constitution and, in order to implement this, the voters will have to approve it, so there is a delayed enactment in the bill based on approval by the voters to raise the constitutional threshold. He stated that he agrees with the concept of Mr. Harper's amendment that ties the increase to the Average Price Index. He said he does not want to create additional problems for the courts and advised that he is willing to discuss the issue further with the courts.

To that point, Mr. Harper said he will not offer the Harper three-page amendment.

Mr. Ash asked whether there is concern that justice court judges are not necessarily attorneys. Senator Antenori disclosed that these cases involve low dollar amounts. Mr. Ash noted that the Justice of the Peace Association opposes the bill without proper funding.

Discussion ensued on adequate funding and judicial credits.

Ryan Denke, representing self, testified that he supports SB1311 because it gives choices. Expanding the limit does not prohibit an individual from choosing a higher court. He pointed out that hiring an attorney for superior court is extremely costly. The limits need to be consistent with what lawyers' fees are if the parties end up having to go to superior court. He said that Arizona is one of only four states that have a limit of \$2,500 or less in small claims court. Ten states allow citizens to sue for \$10,000 or more in small claims court. He believes the proposed increase is very reasonable.

Vice-Chairman Smith announced the names of those who signed up in support of SB1311 but did not speak:

Seth Apfel, representing self

Janice Goldstein, Arizona Trial Lawyers Association

Vice-Chairman Smith announced the names of those who signed up in opposition to SB1311 but did not speak:

Ellen Katz, Litigation Director, William E. Morris Institute for Justice

Lester Pearce, Presiding Justice of the Peace, Maricopa County

Kristin Cipolla, Legislative Liaison, County Supervisors Association  
Lee Miller, Lobbyist, Maricopa County  
Trey Williams, Legislative Liaison, Arizona Association of Counties

**Vice-Chairman Smith moved that SB1311 do pass. The motion carried by a roll call vote of 6-2-0-1 (Attachment 17).**

**SCR1032 - justice courts; civil actions; jurisdiction - DO PASS**

MJ Bildner, Majority Assistant Research Analyst, stated that SCR1032 increases the civil jurisdictional limit of courts inferior to the superior court from \$10,000 to \$25,000 and requires the Secretary of State to submit the proposition to the voters at the next general election (Attachment 18).

Senator Frank Antenori, sponsor, said he appreciates Members' support.

Names of those who signed up in support of SCR1031 but did not speak:

Seth Apfel, representing self  
Ryan Denke, representing self

Names of those who signed up in opposition to SB1311 but did not speak:

Ellen Katz, Litigation Director, William E. Morris Institute for Justice  
Lee Miller, Lobbyist, Maricopa County  
Trey Williams, Legislative Liaison, Arizona Association of Counties

**Vice-Chairman Smith moved that SCR1032 do pass. The motion carried by a roll call vote of 8-0-0-1 (Attachment 19).**

**SB1087 - firearms; state preemption - DO PASS**

Yijee Jeong, Majority Intern, said that SB1087 makes technical and conforming changes in statutes related to firearms (Attachment 20). The bill transfers statutory language regarding political subdivisions enacting or enforcing certain ordinances or rules related to firearms from the state preemption statute to a new section regarding permissible firearms-related ordinances and rules statute.

Senator Ron Gould, sponsor, advised that SB1087 cleans up language in the firearms statute

Vice-Chairman Smith announced the names of those who signed up in support of SB1087 but did not speak:

Ben Altender, Arizona Wildlife Federation

Vice-Chairman Smith announced the names of those who signed up in opposition to SB1087 but did not speak:

Ryan Harper, Gila Community College  
Dale Wiebusch, Legislative Associate, League of Arizona Cities and Towns  
David Carey, representing self  
Seth Apfel, representing self

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

John Wentling, Vice President, Arizona Citizens Defense League, Inc.

**Vice-Chairman Smith moved that SB1087 do pass. The motion carried by a roll call vote of 7-1-0-1 (Attachment 21).**

**SB1359 - civil liability; wrongful life; birth - DO PASS**

Magdalena Jorquez, Majority Research Analyst, advised that SB1359 establishes that a person is not liable for damages in any civil action on a claim that, but for an act or omission of the defendant, specified individuals would not or should not have been born (Attachment 22). The bill asserts that this section applies to any claim regardless of whether the child is born healthy or with a birth defect or other adverse medical condition, and exempts civil actions for damages for an intentional or grossly negligent act or omission.

Senator Nancy Barto, sponsor, related that a number of lawsuits have been brought in recent years in which patients sue their doctors. They argue that they would have aborted the child if the doctor had correctly diagnosed a birth defect or fetal anomaly. SB1359 adds Arizona to the list of states that specifically prohibit such a claim from being brought. This proposal does not protect medical providers who intentionally withhold information from patients or are negligent in providing the proper standard of care during prenatal treatment. She encouraged Members to support the bill.

In response to Mrs. Tovar, Senator Barto said she is not sure how many lawsuits have been brought. Mrs. Tovar wondered how it can be determined that the doctor intentionally withheld information. Senator Barto answered that is an issue to be determined in a court of law.

Josh Kredit, Legislative Counsel, Center for Arizona Policy, expressed support for SB1359. He said he can provide information on the technical aspects of the bill. He answered questions about pending lawsuits, doctors intentionally withholding information and withholding information based on personal religious beliefs. He pointed out that this bill does not cover any intentional negligent action. He said he is not aware of sanctions for intentionally withholding information other than a civil lawsuit; he opined that it might be a standard of care issue.

Vice-Chairman Smith announced the names of those who signed up in support of SB1359 but did not speak:

Ron Johnson, Executive Director, Arizona Catholic Conference

Peri Jude Radecic, Director of Public Advocacy, Arizona Center for Disability Law

Debi Vandenboom, representing self

Vice-Chairman Smith announced the names of those who signed up in opposition to SB1359 but did not speak:

Kendra Waddell, representing self

Emily Mazur, representing self

Michelle Steinberg, Director of Public Affairs, Planned Parenthood Arizona

Seth Apfel, representing self

Theresa Ulmer, Consultant, Planned Parenthood Arizona

Pat VanMaanen, representing self

**Vice-Chairman Smith moved that SB1359 do pass. The motion carried by a roll call vote of 6-2-0-1 (Attachment 23).**

**SB1384 - health care charges; public availability - DISCUSSED AND HELD**

Magdalena Jorquez, Majority Research Analyst, explained that SB1384 requires a health care professional and facility to make available, on request, the direct pay price for a specified number of their most common services (Attachment 24). The bill limits direct pay price to a standard diagnosis for the service and does not include any complications or exceptional treatment.

In response to Mr. Ash's query, Ms. Jorquez related that *health care professional* is defined on page 1, line 36 of the bill.

Senator Nancy Barto, sponsor, stated that if health insurance is involved, procedures cost more. She claimed that cash or debit card payment by the patient at the time of service is the key to discovering the true value of health care, especially for non-emergency, non-catastrophic health care. SB1384 will ensure patients can get a direct cash price for their most common health care services when they are paying for those services. She said prices for common services should be available when they are requested; however, those prices are not readily available at the present time. She related that many insurers have objected to the contracting provision included in the bill. She said she is prepared to amend that section of the bill since it is not a necessary part of the bill and address any other concerns the Department of Insurance and others have raised. She urged support of SB1384.

Chairman Farnsworth commented that he appreciates the sponsor's willingness to remove the contract provision. He said he will offer an amendment on the Floor to remove that language from the bill.

Mr. Ash agreed that the high cost of health care is a concern, caused in part by advances in science and technology. He said he understands that some of the provisions of this bill are also required by the Affordable Care Act. Senator Barto replied that this legislation is addressing cash payment by a patient. Patients having insurance coverage will handle all the paperwork, thus saving the health care provider a lot of the costs and related regulation.

Mr. Ash asked whether hospitals that have charity care policies will be required to display information regarding their policies. Senator Barto advised that posting prices does not lock in any health care professional to that price. This legislation provides the opportunity for a patient to get a cash price. The health care provider or hospital is free to explain their charitable care options to any patients. This bill will not impact those opportunities and different options they currently have. It provides more transparent pricing so consumers will have a part in making decisions about their own health care.

Mr. Ash brought up the following issues: oversight; mandates; providing information at one location, such as the Department of Health Services; government intrusion on businesses, etc.

Vice-Chairman Smith disagreed with the premise of the bill and noted that every patient is different; exceptional treatment and complications can arise. He said everyone he contacted is opposed to this legislation. Senator Barto reiterated that patients can get a basic price if they want to pay the provider directly.

Mr. Ash concurred that medical procedures are unique. He said there are many potential scenarios that apply that may vary the cost.

Mr. Vogt commented that secrecy breeds confusion, misunderstanding and distrust in the system. Transparency is needed in this industry as well as in other industries; it strengthens the system.

Mr. Hale queried how this bill helps rural communities. He noted the lack of providers and hospitals in rural communities. Senator Barto opined that it will positively impact rural communities. She said it will be easier to obtain information. Mr. Hale disagreed and brought up the lack of comparison if there is only one provider.

Vice-Chairman Smith stated his preference for a patient taking responsibility and asking the physician for the cost of treatment rather than mandating hospitals and health care providers to disclose the information.

Names of those who signed up in support of SB1384 but did not speak:

Mike Espinoza, representing self  
Byron Schlomach, Economist, Goldwater Institute  
Meghaen Duger, US Health Coalition  
Kevin Herring, representing self  
Jeff Deiley, representing self

Names of those who signed up in opposition to SB1384 but did not speak:

David Childers, Lobbyist, America's Health Insurance Plans  
Kelsey Lundy, United HealthCare of Arizona  
Steve Barclay, Lobbyist, Mayo Clinic, Blue Cross Blue Shield of Arizona  
Amanda Weaver, Executive Director, Arizona Osteopathic Medical Association  
Sue Braga, Arizona Chapter of the American Academy of Pediatrics  
David Landrith, Vice President of Policy & Political Affairs, Arizona Medical Association  
Karlene Wenz, Government Affairs Specialist, America's Health Insurance Plans  
Jaime Molera, Lobbyist, Aetna  
Laura Hahn, Executive Vice President, Arizona Academy of Family Physicians  
Barry Aarons, Lobbyist, Arizona Association of Chiropractic  
Debbie Johnston, Vice President, Advocacy, Arizona Hospital and Healthcare Association  
Michelle Pabis, Assistant Government Relations Director, Scottsdale Healthcare  
Stuart Goodman, Lobbyist, Dignity Health, United Surgical Partners  
Seth Apfel, representing self  
Michelle Bolton, Vice President of Public Affairs, Greater Phoenix Chamber of Commerce  
Jerry Boehm, Director of Operations, Arizona Council of Human Service Providers  
Robert Gorman, Physician/Consultant, Mayo Clinic  
Richard Bitner, Legislative Counsel, Arizona College of Emergency Physicians  
Wendy Briggs, Lobbyist, Cigna  
Jason Bezozo, Senior Program Director, Government Relations, Banner Health

Gretchen Conger, Director of Government Relations, Arizona Chamber of Commerce and Industry

Genevra Richardson, United HealthCare of Arizona

Ryan Harper, Abrazo Health Care, Vanguard Health Systems

Names of those who signed up as neutral on SB1384 but did not speak:

Andrew Carlson, Executive Assistant for Policy Affairs, Arizona Department of Insurance

Chairman Farnsworth announced that, with the sponsor's approval, SB1384 will be held.

### **SCR1021 - public funds; political candidates; ban - DO PASS**

Magdalena Jorquez, Majority Research Analyst, stated that SCR1021 creates a ballot measure that prohibits the state or its political subdivisions from using public funds for political campaigns (Attachment 25). She reviewed the provisions of the bill:

- Prohibits the state and its political subdivisions from spending public funds to provide campaign support to candidates running for public office.
- Prohibits the state and its political subdivisions from providing any tax credits or deductions that allow public funds to support candidates running for public office.
- Stipulates that no taxes, fees or surcharges can be assessed if they are used to support a candidate running for public office.
- Defines *public funds* as any monies received by the state or its political subdivisions from taxes, fees, penalties, surcharges, payments or receipts of any kind.
- Asserts that the measure shall be known as the "No Taxpayer Subsidies for Political Campaigns Act."

Senator John McComish, sponsor, reminded Members that the Citizens Clean Election Act was approved by the voters in 1998. The reason for bringing SCR1021 forward is because he believes it is time for the people to reconsider the "No Taxpayer Subsidies for Political Campaigns Act." He said that negotiations continue with those who are supportive of the Clean Elections program in order to address concerns with the current program. He asked Members to move this bill along so negotiations can continue.

Marc Osborn, Arizona Chamber of Commerce and Industry, in favor of SCR1021, advised that work is continuing with the sponsor on a Clean Elections reform act. If efforts are successful, this bill will no longer be necessary.

Mike Williams, Arizona Clean Elections Commission, spoke in opposition to SCR1021. He said he appreciates the discussions held by the sponsor to arrive at a compromise on this issue.

Vice-Chairman Smith announced the names of those who signed up in support of SCR1021 but did not speak:

Farrell Quinlan, State Director, National Federation of Independent Business

John Wentling, Vice President, Arizona Citizens Defense League, Inc., representing self

Heather Bernacki, Government Relations Associate, East Valley Chambers of Commerce Alliance

Garrick Taylor, Vice President, Government Relations & Communications, Arizona Chamber of Commerce and Industry

Vice-Chairman Smith announced the names of those who signed up in opposition to SCR1021 but did not speak:

Dr. Bonnie Saunders, President, League of Women Voters of Arizona, representing self

Jennifer Loreda, Arizona Education Association

Barbara Klein, First Vice President, League of Women Voters of Arizona

Michael Sawicky, representing self

Bonnie Boyce-Wilson, Lobbyist, American Association of University Women, representing self

Michelle Steinberg, Director of Public Affairs, representing self

Seth Apfel, representing self

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

Sam Wercinski, Arizona Advocacy Network

Bart Turner, President, Clean Elections Institute

Eric Ehst, representing self

Todd Lang, Executive Director, Citizens Clean Elections Commission

**Vice-Chairman Smith moved that SCR1021 do pass. The motion carried by a roll call vote of 5-2-0-2 (Attachment 26).**

### **SB1332 - federal lands; conveyance and taxation - DO PASS**

Yijee Jeong, Majority Intern, stated that SB1332 requires the United States to extinguish title to all public lands in Arizona and transfer title of those lands to the state (Attachment 27). The bill requires that if the state sells the public lands, it must deposit five percent of the net proceeds in the permanent state school fund and pay 95 percent of the net proceeds to the United States. Furthermore, the bill stipulates that all public lands which the United States has not extinguished and transferred title to the state beginning in 2015 are subject to assessment, levy and taxation.

Senator Al Melvin, sponsor, advised that 95 percent of the land in the eastern part of the country is private property; however, that is not the case in the west. In Arizona, private property is below 20 percent, whereas federal land is close to 50 percent. He said there is an effort underway to take back federal lands, and that is the intent of this bill. Similar legislation is being considered in several western states. He asked for support of the bill.

Vice-Chairman Smith disclosed that he is in favor of this proposal but he wondered how it will be accomplished. Senator Melvin stated his understanding that there is a strong constitutional and legal basis for this action. He noted that in recent years the State of Hawaii had all of its federal land ceded back to the state. SB1332 puts the federal government on notice that Arizona wants the land ceded back to the state.

Mr. Hale pointed out that prior to statehood, all the lands in Arizona were owned by the federal government so, in that sense, the federal government owns the lands. He noted that even Indian land was given by the federal government. Senator Melvin commented that all 50 states need to be on an equal footing.

Vice-Chairman Smith announced the names of those who signed up in opposition to SB1332 but did not speak:

Seth Apfel, representing self

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

**Vice-Chairman Smith moved that SB1332 do pass. The motion carried by a roll call vote of 5-2-0-2 (Attachment 28).**

**SB1333 - evaluation; response; federal law - DO PASS**

MJ Bildner, Majority Assistant Research Analyst, explained that SB1333 establishes the Evaluation of Federal Law Advisory Council whose purpose is to evaluate federal law and policy (Attachment 29). The bill creates a Constitutional Defense Fund, administered by the Council and subject to legislative appropriation. The Council will assist the Governor and the Legislature on issues, including the following:

- the constitutionality of federal mandates
- the rationale for and effectiveness of federal mandates or regulations being challenged
- the advisability, feasibility, estimated cost and likelihood of success when challenging federal court rulings

Senator Al Melvin, sponsor, related that similar groups are being organized in Idaho, Wyoming, Utah, Colorado, and New Mexico to establish Evaluation of Federal Law Advisory Councils to review federal law to see whether it exceeds federalism and the U.S. Constitution. The purpose of forming these Councils is to protect states' rights.

Mr. Hale said he would support this legislation if an amendment was added to include a provision to review the relationship of the federal government to Indian Nations and the relationship of the state to Indian Nations. Senator Melvin disclosed that this bill and SB1332 were drafted to not address the issue of Indian lands. He stated that if the bills are successful, they could be expanded to address Indian Nations.

Vice-Chairman Smith announced the names of those who signed up in opposition to SB1333 but did not speak:

Seth Apfel, representing self

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

**Vice-Chairman Smith moved that SB1333 do pass. The motion carried by a roll call vote of 5-2-0-2 (Attachment 30).**

**SB1449 - recall; primary; general election - DO PASS**

Yijee Jeong, Majority Intern, reviewed SB1449 which divides recall elections into a primary and general election (Attachment 31). The bill includes the following provisions:

- Requires the officer calling a recall election to call for a recall primary election and, if necessary, a recall general election for the office that is subject to the recall.

- Requires that if the office is regularly subject to a partisan primary election, the recall primary election must also be held as a partisan primary election.
- States that if there is only one candidate remaining for the office that is subject to the recall after the recall primary election, the recall general election must not be held and the winner of the recall primary election must be declared elected.
- Specifies that a nomination petition must be signed by the number of qualified electors that was required for nomination for the office at the last election for that office.
- Specifies that the title and body of the nomination petition must be substantially in the form otherwise used for nomination petitions for that office.
- Removes the provision that prohibits party designation on the recall ballot.
- Makes technical and conforming changes.
- Contains a conforming legislation clause.
- Contains a retroactivity clause.

Mr. Harper wondered whether this bill also requires a ballot initiative to change the Constitution or whether it can be done in statute. Ms. Jeong replied that she does not believe it does.

Senator Steve Smith, sponsor, in answer to Mr. Harper, stated that the Constitution calls for a recall election, but does not specify the type of election, so this is completely constitutional and statutorily legal. This is just codifying what type of election is going on. He said SB1449 specifies that the way a person gets into office is the way the individual gets into a recall position.

Vice-Chairman Smith announced the names of those who signed up in support of SB1449 but did not speak:

John Wentling, Vice President, Arizona Citizens Defense League, Inc., representing self

Vice-Chairman Smith announced the names of those who signed up in opposition to SB1449 but did not speak:

Trey Williams, Legislative Liaison, Arizona Association of Counties

Bart Turner, President, Clean Elections Institute, representing self

**Vice-Chairman Smith moved that SB1449 do pass. The motion carried by a roll call vote of 5-2-0-2 (Attachment 32).**

### **SB1138 - clean elections; trigger reports; repeal - DO PASS**

Magdalena Jorquez, Majority Research Analyst, advised that SB1138 removes the provision of law that requires nonparticipating candidates to file financial reports whenever their spending or contribution amounts are triggered by specified dollar amounts (Attachment 33).

Senator Michelle Reagan, sponsor, stated that since matching funds are no longer available in the Clean Elections system, traditional candidates need not file all the trigger reports.

In answer to Mr. Harper, Senator Reagan said she does not know when the first trigger report is due. She believes the trigger reports are due about three weeks before the end of a primary election, so she does not think an emergency measure is needed. She pointed out that the bill will require a supermajority vote in the House because it deals with Clean Elections. The bill is predicated on the premise that matching funds do not exist.

Mr. Harper again voiced concern about the bill not containing an emergency clause. He said he is worried because if it is a long legislative session, the general effective date may be an issue. Senator Reagan clarified that the bill only refers to the reports that trigger matching funds.

Chairman Farnsworth commented that without matching funds, trigger reports are unnecessary.

Vice-Chairman Smith announced the names of those who signed up in opposition to SB1138 but did not speak:

Seth Apfel, representing self

Sam Wercinski, Arizona Advocacy Network

Todd Lang, Executive Director, Citizens Clean Elections Commission

**Vice-Chairman Smith moved that SB1138 do pass. The motion carried by a roll call vote of 8-0-0-1 (Attachment 34).**

Without objection, the meeting adjourned at 11:25 a.m.

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Joanne Bell, Committee Secretary  
April 20, 2012

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