

ARIZONA HOUSE OF REPRESENTATIVES
Fifty-first Legislature – Second Regular Session

COMMITTEE ON WAYS AND MEANS

Minutes of Meeting
Monday, February 17, 2014
House Hearing Room 1 -- 2:00 p.m.

Chairman Lesko called the meeting to order at 2:42 p.m. and attendance was noted by the secretary.

Members Present

Mr. Cardenas
Mr. Gallego
Mr. Mesnard

Mr. Olson
Mr. Petersen
Mr. Wheeler

Mr. Kwasman, Vice-Chairman
Mrs. Lesko, Chairman

Members Absent

None

Committee Action

HB2115 – DPA S/E (7-1-0-0)

HB2116 – HELD BY CHAIRMAN

HB2141 – DPA S/E (5-0-0-3)

HB2272 – DPA (4-2-0-2)

HB2283 – DPA (6-0-0-2)

HB2379 – DPA S/E (5-3-0-0)

HB2381 – DPA (6-0-0-2)

HB2389 – DPA S/E (5-0-0-3)

HB2413 – DP (7-1-0-0)

HB2540 – DP (5-0-0-3)

HB2586 – DPA (5-0-0-3)

HB2595 – DISCUSSION ONLY

HB2664 – DP (6-0-0-2)

HB2701 – DP (5-0-0-3)

CONSIDERATION OF BILLS

HB2116 – technical correction; DUI; blood test – HELD BY CHAIRMAN

Chairman Lesko announced that HB2116 will be held.

**HB2115 – technical correction; benefits; aliens; athletes – DO PASS AMENDED S/E
S/E: unemployed; severance pay; definition**

Vice-Chairman Kwasman moved that HB2115 do pass.

Chairman Lesko moved that the Lesko two-page strike-everything amendment dated 02/13/14 to HB2115 be adopted (Attachment 1).

Kyle Heitmann, Majority Research Intern, explained that the Lesko two-page strike-everything amendment dated 02/13/14 to HB2115 (Attachment 1) defines *severance pay* to include all amounts that an employer pays to an employee who is ending service with the employer (Attachment 2).

Mr. Gallego said he understands that the strike-everything amendment precludes an employee who is laid off and receives \$1,000 in severance pay from collecting unemployment insurance benefits. Mr. Heitmann said that is not correct; he told Mr. Gallego that he will provide the answer as to why it will not prevent the employee from receiving benefits.

Representative Karen Fann, sponsor, said this bill was brought to her by the Arizona Chamber of Commerce and Industry. Because of the high unemployment rate over the past two years, Arizona's Unemployment Insurance Trust Fund was depleted and the state was forced to borrow money from the federal government. An issue came up during this time: some individuals applying for benefits were getting severance packages from their employers and then would file for unemployment insurance benefits. She stated that was not the reason unemployment insurance was created; it was set up to assist employees who lost their jobs and had no income to bridge them until they found other employment. This legislation clarifies that someone who receives income in the form of severance pay will be ineligible to receive unemployment insurance benefits while receiving that pay. Once the amount of the severance pay is used up, they will be able to apply for benefits while they are looking for other work.

Garrick Taylor, Arizona Chamber of Commerce and Industry, testified in support of the strike-everything amendment to HB2115. He introduced Eric Witt, Cavanagh Law Firm, who helped draft this bill. He said he was apprised of a situation where an employee was laid off, received a severance package which equaled a year's salary and was denied unemployment insurance benefits by the Arizona Department of Economic Security (DES). An appeals court ruled against DES. He said that unemployment insurance was designed to cushion the blow of lost income; but, in this case, there was no lost income. In order to ensure a solvent Unemployment Insurance Trust Fund, the Chamber supports the strike-everything amendment to HB2115.

Eric Witt, Attorney, Cavanagh Law Firm, in support of the strike-everything amendment to HB2115, answered questions relating to severance pay and unemployment insurance benefits.

Mr. Wheeler commented that this appears to be a clean-up bill. It makes a technical correction to provide that once severance pay is used up, an employee may apply for and receive unemployment insurance benefits.

In answer to Mr. Wheeler, Mr. Witt explained that the Court of Appeals ruling against DES referenced in Mr. Taylor's testimony took into consideration that the severance package included severance pay as well as a payment for release of claims. This legislation clarifies that the entire severance package should be considered severance pay under the law.

Ellen Katz, William E. Morris Institute for Justice, in opposition to the strike-everything amendment to HB2115, stated that this legislation expands the definition of severance pay. She referenced the aforementioned case and said that almost all severance cases include a payment for release of claim. This bill disregards what the employer wants; it treats that release of claim as severance pay. She maintained that payment for release of claims is not comparable to wages.

She asked Members to vote against this bill; it goes beyond the situation of severance pay where an employee is paid to leave.

Chairman Lesko announced the names of those who signed up in support of the strike-everything amendment to HB2115 but did not speak:

Farrell Quinlan, State Director, National Federation of Independent Business

Jeff Gray, Lobbyist, Arizona Chamber of Commerce and Industry

Vice-Chairman Kwasman announced the names of those who signed up in opposition to the strike-everything amendment to HB2115 but did not speak:

Rebekah Friend, Arizona State AFL-CIO

Joseph Seelye, representing self

Question was called on the motion that the Lesko two-page strike-everything amendment dated 02/13/14 be adopted (Attachment 1). The motion carried.

Vice-Chairman Kwasman moved that HB2115 as amended do pass. The motion carried by a roll call vote of 7-1-0-0 (Attachment 3).

HB2413 – schools; bonding level increase; repeal – DO PASSS

Vice-Chairman Kwasman moved that HB2413 do pass.

Jeanine Jones, Majority Research Analyst, stated that HB2413 repeals Laws 2011, chapter 344, section 24, which temporarily increased the school district class B bonding capacity limit (Attachment 4).

Representative David Stevens, sponsor, advised that this is a clean-up bill.

Vice-Chairman Kwasman announced the names of those who signed up in support of HB2413 but did not speak:

Jose Borrajero, representing self

Cynthia Dorfsmith, representing self

Lynne Weaver, representing self

Vice-Chairman Kwasman announced the names of those who signed up as neutral on HB2413 but did not speak:

Mark Lane, representing self

Vice-Chairman Kwasman announced the names of those who signed up in opposition to HB2413 but did not speak:

Linda Polito, Tucson Area Schools

Question was called on the motion that HB2413 do pass. The motion carried by a roll call vote of 7-1-0-0 (Attachment 5).

HB2379 – special districts; secondary levy limits – DO PASS AMENDED S/E
S/E: special districts; truth in taxation

Vice-Chairman Kwasman moved that HB2379 do pass.

Mr. Olson moved that the Olson three-page strike-everything amendment dated 02/13/14 to HB2379 be adopted (Attachment 6).

Michael Madden, Majority Research Assistant Analyst, advised that the Olson three-page strike-everything amendment dated 02/13/14 to HB2379 (Attachment 6) subjects increased secondary property tax levies by county free library, county jail, and public health services districts to Truth in Taxation requirements (Attachment 7). The bill contains a delayed effective date of January 1, 2015 and makes a conforming change.

Mr. Olson, sponsor, related that it was believed that the bill as introduced with the levy limits in place would result in budget cuts; however, he said it would not lead to cuts but would restrict the rate of growth. The strike-everything amendment will leave it up to local control to determine how much they want their special district levies to grow. Notice will be required to inform the public of a property tax increase and the public will have the opportunity to provide input on the increase. This same requirement is already in place in many local jurisdictions. It will be left to local governments to decide whether they want to increase their property taxes by rates that would exceed the levy limit.

Kevin McCarthy, Arizona Tax Research Association, expressed support of the strike-everything amendment to HB2379. He offered to answer questions.

Vice-Chairman Kwasman announced the names of those who signed up in support of the strike-everything amendment to HB2379 but did not speak:

Jeff Sandquist, Arizona NAIOP Commercial Real Estate Development Association; Tucson Electric Power Company
Farrell Quinlan, State Director, National Federation of Independent Business
Steve Barela, Lobbyist, Arizona Public Service Company
Chad Heinrich, Lobbyist, Greater Phoenix Chamber of Commerce
Garrick Taylor, Arizona Chamber of Commerce and Industry
Bill Fathauer, Americans for Prosperity, Arizona
Gretchen Kitchel, Lobbyist, Salt River Project
Michael DiMaria, CenturyLink

Vice-Chairman Kwasman announced the names of those who signed up in opposition to the strike-everything amendment to HB2379 but did not speak:

Lea Marquez Peterson, representing self; Tucson Hispanic Chamber of Commerce
Leeann Wieser, Lobbyist, Arizona Federation of Teachers Union
Sofia Blue, representing self
Maya Castillo, representing self
Art Mendoza, representing self
Edwina Vogan, representing self
Howard Druan, representing self

Vice-Chairman Kwasman announced the names of those who signed up as neutral on the strike-everything amendment to HB2379 but did not speak:

Jessica Rainbow, Lobbyist, Arizona Library Association

Richard Bohan, Lobbyist, Maricopa County

Barry Aarons, Lobbyist, Apache County; Greenlee County

Question was called on the motion that the Olson three-page strike-everything amendment dated 02/13/14 be adopted (Attachment 6). The motion carried.

Vice-Chairman Kwasman moved that HB2379 as amended do pass. The motion carried by a roll call vote of 5-3-0-0 (Attachment 8).

HB2381 – assignment of tax liens – DO PASS AMENDED

Vice-Chairman Kwasman moved that HB2381 do pass.

Mr. Olson moved that the Olson 23-line amendment dated 02/14/14 be adopted (Attachment 9).

Michael Madden, Majority Research Assistant Analyst, stated that HB2381 authorizes a real property owner to assign a tax lien to an assignee in a county with a population greater than 900,000 people (Attachment 10). The Olson 23-line amendment dated 02/14/14 establishes and limits the types of fees and penalties that may be incurred by the assignee (Attachment 9). The amendment also stipulates that the payment agreement may not include a fee for late payment.

Mr. Olson, sponsor, advised that a similar bill passed this Committee last session but was then held to make improvements to the bill. The proposed amendment restricts the fees that could be applied and prohibits a late payment fee. This legislation gives an option to property taxpayers who are delinquent on their property tax to enter into a more favorable agreement. He pointed out that this is entirely optional.

Vice-Chairman Kwasman assumed the Chair.

Jana Day, representing Propel Financial Services, spoke in favor of HB2381. She thanked the sponsor for his time and efforts to make this bill responsive to the needs of the stakeholders. She introduced Lisa Hough, Propel Financial Services, who was instrumental in passing a similar bill last year in Nevada which had the support of the county tax collector, with no opposition from the banker's association.

Lisa Hough, representing Propel Financial Services, in support of HB2381, read a statement on HB2381 which gives property owners an option when it comes to paying property taxes. The bill will not supplant the direct payment of delinquent taxes to the county or the use of certificate of purchase options. It focuses on taxpayer choice, consumer protection, mitigating government burden and respecting the rights of other lienholders. A lienholder will not be liable for any foreclosure-related fees within 30 days of receiving notice and the bill contains a new requirement for companies who want to operate in Arizona to have a \$500,000 surety bond to

protect property owners and other lienholders. She maintained that this is a great choice for Arizona.

Mr. Wheeler commented that this is highly technical and complex. He asked Ms. Hough to further explain the bill. Ms. Hough said that this proposal lets the property owner decide who they want to manage their lien. It changes from a government-led lien transfer to a property owner-led lien transfer. A lot of protections have been built into the bill in addition to a simple transfer. She reiterated that this is a choice for property owners who owe delinquent taxes.

Chairman Lesko resumed the Chair.

Ms. Hough responded to questions relating to opposition by the banker's association as well as foreclosures and third-party costs.

Trey Williams, Legislative Liaison, Arizona Association of Counties, against HB2381, said that the Association believes the bill provides an unnecessary and unviable alternative for taxpayers because the current system works well. Since the foreclosure rate in Maricopa and Pima Counties is less than one percent and the current process does a good job in allowing the taxpayers to redeem their tax liens, this proposal is not warranted. The Association is also concerned that this could place additional costs on the taxpayer if the taxpayer elects to take this choice. He maintained that the current system works well for taxpayers. He advised that the protections in the amendment alleviate some of the Association's concerns.

Mr. Williams replied to Members' questions about options currently available to homeowners and additional costs to homeowners.

Charles 'Hos' Hoskins, Maricopa County Treasurer, testified in opposition to HB2381. He stated that this proposal is unnecessary because the current system works well. In addition, this legislation is not needed because a few changes to existing statute will accomplish the same goal as the proposed legislation. The foreclosure rate in Maricopa County is less than one percent (Attachment 11) and he does not believe this bill will reduce the foreclosure rate. He said he believes it will create problems that do not currently exist.

Larry Phelps, Chairman, Legislative Committee, Land Title Association of Arizona, spoke in opposition to HB2381. The Association's concern with this proposal is that it will add an additional party to the system that is already very difficult for Association members. He does not know whether this legislation will help the taxpayer in any meaningful way. The current system is working and this legislation will not help the problems with the current process.

Jack Evans, representing self, testified against HB2381. He related that he has been investing in tax liens for 25 years. He initially invested in other states as well as in Arizona but eventually limited his investments to Arizona because the other states' statutes were too complex, resulting in legal problems making the investments less attractive. He opined that the proposed legislation will result in a loss in revenue to the county and will impose additional burdens on the county treasurers and recorders. The current system is not broken and does not need to be changed. He submitted that implementing this proposal will result in delays, snags and litigation.

Jay Kaprosy, representing Arizona Bankers Association, testified against HB2381. He concurred with others who stated that the current system works and is not broken. The proposed legislation creates a new lending model in Arizona and impacts a small number of individuals in foreclosure. He referred to handouts distributed relating to the predatory nature of this lending practice in Texas and Oregon (Attachments 12 and 13) and a breakdown of the true annual percentage rate (APR) of some of these loans in certain circumstances (Attachment 14). If the real issue is to provide options to homeowners and businesses, he recommended addressing some of the issues in the system, such as reducing the statutory rate of interest on delinquent taxes. He listed the Association's concerns:

- this is a lending product but proponents do not want it regulated like other lenders in the state
- commercial properties do not have the same protections that the bill gives to residential properties

Mr. Kaprosy concluded his testimony by stating that this is not a good solution for property owners and will have unintended consequences. He pointed out that these are very low risk loans but have very high rates of interest as well as the addition of higher fees. He opined that more simple, effective reforms to the system should be looked at.

In reply to Mr. Petersen's query, Mr. Kaprosy stated that these liens would take priority over deeds of trust, so banks would fall behind a private entity that has provided a tax loan to the property owner.

Barry Aarons, representing self, against HB2381, concurred with comments made by the opponents of the bill. He said his biggest concern is that this is a new business model in the state that could unnecessarily supplant the existing system. In addition, he believes this proposal will increase costs. He urged Members to vote against this legislation.

Beth Ford, Treasurer, Pima County, stated opposition to HB2381 because it tries to resolve a nonexistent problem and will cause additional problems. In Pima County, only a quarter of one percent of the tax liens go to auction and, of that, less than one percent of the properties are foreclosed. She listed concerns with this bill:

- will impede her ability to sell tax liens and collect delinquent tax revenues, resulting in loss of revenue to the county
- her office will have to maintain two different classes of tax liens with different rules and different procedures
- no oversight for these lenders

Mark Manoil, representing Propel Financial Services, stated support of HB2381. He acknowledged that the existing system is good, with a few exceptions, and responded to concerns raised by the opponents of this legislation relating to increased interest rates, fees, changes in priority, etc. This proposed approach actually benefits lenders, junior lien holders and property owners and he believes the concerns of the existing investor community may be somewhat exaggerated. He opined that it is important to have a vibrant, flexible property tax lien collection

system in Arizona and this proposal offers an opportunity to help Arizona respond to future economic problems.

Chairman Lesko announced the names of those who signed up in support of HB2381 but did not speak:

Farrell Quinlan, State Director, National Federation of Independent Business
Ryan O'Daniel, Lobbyist, Propel Financial Services
Michael Green, Lobbyist, Propel Financial Services
Watus Cooper, representing self

Chairman Lesko announced the names of those who signed up in opposition to HB2381 but did not speak:

Wendy Briggs, Arizona Bankers Association
Brett Jones, representing self
Lee Miller, Lobbyist, Arizona Trustee Association
Jen Sweeney Marson, Lobbyist, Arizona Association of Counties
Paul Hickman, Lobbyist, Arizona Bankers Association
Greg Patterson, representing self

Question was called on the motion that the Olson 23-line amendment dated 02/14/14 be adopted (Attachment 9). The motion carried.

Mr. Olson moved that HB2381 as amended do pass. The motion carried by a roll call vote of 6-0-0-2 (Attachment 15).

**HB2141 – technical correction; tax refund account – DO PASS AMENDED S/E
S/E: county assessor; common area consolidation**

Mr. Petersen moved that HB2141 do pass.

Mr. Petersen moved that the Petersen 19-line strike-everything amendment dated 02/07/14 to HB2141 be adopted (Attachment 16).

Mr. Petersen moved that the Petersen 10-line amendment dated 02/14/14 to the 19-line strike-everything amendment be adopted (Attachment 17).

Kyle Heitmann, Majority Research Intern, explained that the Petersen 19-line strike-everything amendment dated 02/07/14 to HB2141 (Attachment 16) requires the county assessor to automatically consolidate common area parcel combinations within the same taxing district (Attachment 18). The Petersen 10-line amendment dated 02/14/14 to the strike-everything amendment specifies that the county assessor will automatically consolidate the common area parcel combinations within the same taxing district only if improvements have been made to the common area (Attachment 17).

Mr. Petersen, sponsor, related that several homeowner associations (HOA) have been paying hundreds of thousands of dollars in property taxes because they are not aware of the law about common areas that allows them to pay up to \$500 per year. The purpose of this bill is to ensure that all HOAs are treated equally and are not paying outrageous property taxes because they did

not ask for the lower rate. The amendment addresses a concern raised by Maricopa County to close a loophole in law.

Robert Pizorno, Maricopa County Assessor's Office, neutral on the strike-everything amendment to HB2141, advised that the Assessor's Office has a concern with *automatically*. Maricopa County has 1.6 million parcels to keep track of and requiring the Office to automatically consolidate the parcel combinations puts pressure on them. He answered questions about when parcels are created: numbering, classifying, determining the square footage, etc.

Chairman Lesko announced the names of those who signed up as neutral on the strike-everything amendment to HB2141 but did not speak:

Michael Combrink, Maricopa County Assessor's Office

Mr. Peterson noted that removing the word *automatically* brings the statute back to its current form which requires an HOA to request consolidation of common area parcel combinations. He explained that when a plat is recorded, it clearly delineates all the common areas, so an assessor's office will be apprised of these common areas.

Question was called on the motion that the Petersen 10-line amendment dated 02/14/14 to the 19-line strike-everything amendment be adopted (Attachment 17). The motion carried.

Mr. Petersen moved that the 19-line strike-everything amendment dated 02/07/14 as amended be adopted (Attachment 16). The motion carried.

Chairman Lesko moved that HB2141 as amended do pass. The motion carried by a roll call vote of 5-0-0-3 (Attachment 19).

HB2283 – TPT; postmark; filing by mail – DO PASS AMENDED

Chairman Lesko moved that HB2283 do pass.

Chairman Lesko moved that the Lesko four-page amendment dated 02/14/14 be adopted (Attachment 20).

Kyle Heitmann, Majority Research Intern, advised that HB2283 considers property tax mailings, excluding petitions or notices of appeal, to be timely if they are received or mailed within five days of the deadline (Attachment 21). The bill contains an effective date of January 1, 2015. The Lesko four-page amendment dated 02/14/14 specifies that tax filings are to be given a five-day grace period only if said mailing does not contain an official postmark of the United States Post Office (Attachment 20). The amendment also extends this grace period to all tax filings rather than just property tax filings.

Chairman Lesko, sponsor, stated that HB2283 was brought to her by the county treasurers. In some cases, there is no postmark on the mail, causing a problem for tax payments because many tax payments are due by a postmark date. This bill gives the taxpayer a five-day grace period only if the postmark date is missing. The amendment will save the state some money and help

the Arizona Department of Revenue (DOR) by removing unnecessary language in current statute that requires DOR staff to scan postmark dates.

Sean Laux, Chief Legislative Liaison and Public Information Officer, Arizona Department of Revenue (DOR), neutral on HB2283, said that transaction privilege tax (TPT) filing dates are complicated. He related that the TPT is due on the 20th of the month following when the gross receipts are received but the due date depends on when the filing is done. In a stakeholder meeting, DOR recommended eliminating the postmark date of the 25th, either filing in person or by mail, requiring a receipt by the second to the last business day of the month.

Chairman Lesko announced the names of those who signed up as neutral on HB2283 but did not speak:

Charles 'Hos' Hoskins, Maricopa County Treasurer

Chairman Lesko announced the names of those who signed up in support of HB2283 but did not speak:

Kevin McCarthy, Arizona Tax Research Association

Chad Heinrich, Lobbyist, Greater Phoenix Chamber of Commerce

Ryan Peters, League of Arizona Cities and Towns

Steve Trussell, Lobbyist, Arizona Rock Products Association

Chairman Lesko mentioned that the postmark date of the 25th is being eliminated; however, the payment is not late if it is received on the last business day of the month if it is filed electronically, and the second to the last business day of the month if it is not filed electronically.

Mr. Olson queried whether the change is just for the TPT filing and not for property tax filings. Chairman Lesko said that is correct.

Question was called on the motion that the Lesko four-page amendment dated 02/14/14 be adopted (Attachment 20). The motion carried.

Chairman Lesko moved that HB2283 as amended do pass. The motion carried by a roll call vote of 6-0-0-2 (Attachment 22).

HB2389 – technical correction; TPT – DO PASS AMENDED S/E
S/E: transaction privilege tax changes

Chairman Lesko moved that HB2389 do pass.

Chairman Lesko moved that the Lesko six-page strike-everything amendment dated 02/13/14 to HB2389 be adopted (Attachment 23).

Chairman Lesko moved that the Lesko 52-page amendment dated 02/14/14 to the 6-page strike-everything amendment be adopted (Attachment 24).

Jeanine Jones, Majority Research Analyst, related that in 2013, the Governor signed HB2111 into law which made numerous changes regarding TPT administration. The Lesko six-page strike-everything amendment dated 02/13/14 to HB2389 (Attachment 23) and the Lesko 52-page

amendment dated 02/14/14 to the six-page strike-everything amendment (Attachment 24) make further changes under the TPT statute. The bill as amended will establish licensing and renewal fees and procedures for state TPT and municipal TPT, revise language under the prime contracting classification regarding the service contractor exemption, exemption certificate and definition of modification. It requires nonprogram cities to self-administer residential rentals, and makes other administrative changes regarding the implementation of HB2111 (Laws 2013, chapter 255).

Chairman Lesko, sponsor, mentioned that DOR has been meeting with the cities since last year on the TPT reform bill and some corrections are still needed. One substantive change in this legislation allows businesses to purchase their TPT business licenses in one location.

Kevin McCarthy, President, Arizona Tax Research Association, testified in support of the strike-everything amendment to HB2389. He stated that this is not a finished product; there are issues that still remain that the cities might have concerns with. The Association believes the parts of the bill that deal with consolidated licensing at the state level are absolutely necessary and the change to prime contracting is an attempt to allow DOR to implement last year's change. He said that the Association looks forward to working with DOR and the cities as this bill proceeds.

Tom Belshe, Deputy Director, League of Arizona Cities and Towns, neutral on the strike-everything amendment to HB2389, testified that the League considers this legislation a huge improvement over last year's bill. The League still has an issue with residential rental. Another concern is about licensing, although the proposed changes have helped with the licensing provision. The League is supportive of most of the provisions of the bill and looks forward to working on the technical issues it still has.

Chairman Lesko announced the names of those who signed up in support of the strike-everything amendment to HB2389 but did not speak:

Gretchen Kitchel, Lobbyist, Salt River Project

Matt Derr, Lobbyist, Southwest Gas Corporation

Steve Barela, Lobbyist, Arizona Public Service Company

Spencer Kamps, Lobbyist, Home Builders Association of Central Arizona

Question was called on the motion that the Lesko 52-page amendment dated 02/14/14 to the Lesko six-page strike-everything amendment be adopted (Attachment 24).

Chairman Lesko moved that the Lesko six-page strike-everything amendment dated 02/13/14 as amended be adopted (Attachment 23). The motion carried.

Chairman Lesko moved that HB2389 as amended do pass. The motion carried by a roll call vote of 5-0-0-3 (Attachment 26).

HB2701 – TPT; health sciences institutions; exemption – DO PASS

Mr. Olson moved that HB2701 do pass.

Kyle Heitmann, Majority Research Intern, stated that HB2701 exempts personal property that is sold to a qualified health sciences institution from retail, publication and job printing transaction privilege tax (TPT) as well as from state and municipal use tax (Attachment 27). The bill defines *qualified health sciences institution* and sets the effective date from and after December 31, 2014.

Mr. Olson, sponsor, related that currently, the expenses of qualifying nonprofit health care organizations who invest at least 80 percent of all monies received from all sources only for health- and medical-related educational and charitable services are exempt from the TPT. The Arizona Department of Revenue has excluded from the TPT any laptops not being used solely for the purpose of medical instruction which includes two nonprofit medical schools in the state providing this education. This legislation extends that exemption to these schools.

Chairman Lesko announced the names of those who signed up in support of HB2701 but did not speak:

Kelsey Lundy, Lobbyist, Midwestern University
James Norton, Lobbyist, Midwestern University
Susie Stevens, A.T. Still University

Chairman Lesko announced the names of those who signed up as neutral on HB2701 but did not speak:

Sean Laux, Lobbyist, Arizona Department of Revenue

Mr. Petersen asked whether there is a fiscal note on this bill. Mr. Olson replied that he does not believe a fiscal note has been requested at this time. Chairman Lesko advised that a fiscal note has been requested but it has not been received.

Question was called on the motion that HB2701 do pass. The motion carried by a roll call vote of 5-0-0-3 (Attachment 28).

HB2586 – corporate tax credits; annual reporting – DO PASS AMENDED

Chairman Lesko moved that HB2586 do pass.

Chairman Lesko moved that the Lesko 10-line amendment dated 02/14/14 be adopted (Attachment 29).

Michael Madden, Majority Research Assistant Analyst, explained that HB2586 requires the Arizona Department of Revenue (DOR) to submit an annual report regarding information relating to the Quality Jobs Tax Credit, the Qualified Facility Tax Credit and the Research and Development Tax Credit claimed by any corporation whose total credits in any tax year are equal to or greater than \$10,000 (Attachment 30). The Lesko 10-line amendment dated 02/14/14 strikes language stipulating that the report must be submitted if a corporation's aggregate credit equals \$10,000 or more and specifies that the report must be submitted if a corporation's credit is more than \$5,000 for any individual tax credit specified in the bill (Attachment 29). The amendment also requires any information relating to a corporation claiming the credit for the renewable energy industry or the renewable energy production tax credit be included in the report.

Representative Darin Mitchell, sponsor, stated that HB2586 is a tax credit transparency bill that allows DOR to track and publicize tax credit information.

Kevin McCarthy, Arizona Tax Research Association, spoke in opposition to HB2586. This bill provides for the publication of a corporation's tax credit information and could be detrimental to corporations taking advantage of the state's tax credits. He cautioned against shaming corporations for taking advantage of tax credits provided by the state unless that corporation is aware beforehand that the information will be publicized.

Scot Mussi, representing Arizona Free Enterprise Club, expressed support of HB2586. The bill sets up a process to track economic development tax credits and the amendment cleans up language that was asked for by DOR. He pointed out that the bill is prospective. Several other states have similar economic development tax credit programs to determine whether these tax credits are providing any value.

Sean Laux, Lobbyist, Arizona Department of Revenue, neutral on HB2586, related that one reason why taxpayer information is held confidential is if it is released, it could be a deterrent to filing taxes, and the Department prefers that people voluntarily comply. He said DOR has yet to look at the amendment, so it may have some suggested changes as the bill moves forward.

Chairman Lesko announced the names of those who signed up in support of HB2586 but did not speak:

Karen McLaughlin, Director of Budget and Research, Children's Action Alliance
Dave Kopp, Manager, Americans for Prosperity, Arizona
Serena Unrein, Lobbyist, Arizona Public Interest Research Group

Chairman Lesko announced the names of those who signed up in opposition to HB2586 but did not speak:

Chad Heinrich, Lobbyist, Greater Phoenix Chamber of Commerce
Amanda Rusing, Lobbyist, East Valley Chamber of Commerce Alliance
Tom Dorn, Lobbyist, East Valley Chamber of Commerce Alliance
Ronald Joseph Schott, representing self
Steven Zylstra, representing self

Question was called on the motion that the Lesko 10-line amendment dated 02/14/14 be adopted (Attachment 29). The motion carried.

Chairman Lesko moved that HB2586 as amended do pass. The motion carried by a roll call vote of 5-0-0-3 (Attachment 31).

HB2540 – TPT; commercial photography services – DO PASS

Chairman Lesko moved that HB2540 do pass.

Kyle Heitmann, Majority Research Intern, advised that HB2540 exempts all commercial photography services from retail transaction privilege tax (Attachment 32).

Representative Michelle Ugenti, sponsor, stated that the bill exempts services but not the final tangible product, such as wedding albums, prints, etc.

Chairman Lesko announced the names of those who signed up in support of HB2540 but did not speak:

Walter Dudley, representing self

Chairman Lesko announced the names of those who signed up as neutral on HB2540 but did not speak:

Sean Laux, Lobbyist, Arizona Department of Revenue

Question was called on the motion that HB2540 do pass. The motion carried by a roll call vote of 5-0-0-3 (Attachment 33).

HB2272 – tax credits; capital investments; employment – DO PASS AMENDED

Chairman Lesko moved that HB2272 do pass.

Chairman Lesko moved that the Mesnard 16-line amendment dated 02/14/14 be adopted (Attachment 34).

Michael Madden, Majority Research Assistant Analyst, related that HB2272 makes various changes to the Quality Jobs Tax Credit and the Angel Investment Incentive Program (Attachment 35). The Mesnard 16-line amendment dated 02/14/14 clarifies that the Arizona Commerce Authority (ACA) may certify \$20 million in addition to the \$20 million already certified (Attachment 34).

Mr. Mesnard stated that the 16-line amendment clarifies that the tax credit program is not expanded; it continues the program under a \$20 million threshold that has reset.

Sandra Watson, President and CEO, Arizona Commerce Authority, expressed support of HB2272. She stated that the purpose of the Angel Investment Incentive Program is to expand early-stage investment in Arizona and encourage and create more innovative and entrepreneurial activity to help small businesses start up within the State of Arizona. Several states are advancing new programs to help early-stage technology companies to increase funding that goes into those companies in order for them to continue to expand their operations. Legislation to implement Arizona's program was passed in 2005 and has created a revenue source of approximately \$72 million to the state.

Scot Mussi, representing Arizona Free Enterprise Club, against HB2272, spoke about the lack of transparency in the bill. The issue is whether this benefits the state and the taxpayers paying for the program. This is not fair to small businesses whose competitors are receiving Angel Investment tax credits. He said he would like to see a more broad-based level playing field associated with any of these programs and more transparency.

Discussion ensued on the criteria for investors to be eligible for the tax credit. Ms. Watson explained that the criteria for qualified investors are in statute. Mr. Olson expressed concern about the eligibility of a qualified investor who must have a salary of at least \$200,000 or a net

worth of \$1 million, which limits many from participating in the program. Ms. Watson said the ACA's part in this is to ensure that there is an available funding source for these companies. Mr. Mesnard mentioned that, at the federal level, companies who solicit investors must meet certain requirements to be an accredited investor, not a qualified investor. The threshold for an accredited investor is extremely high. The issue is whether technology companies are only accepting accredited investors who will end up qualifying for this tax credit. Ms. Watson stated that all investors who meet the criteria of the state program are eligible for the program. The ACA lists all of the qualified small businesses that have been certified on its website, so investors who want to invest can see the companies that have been certified.

James Goulka, Managing Director, Arizona Technology Investor Forum (ATIF), expressed support of HB2272. ATIF is a group of 75 individuals who invest their own funds in early-stage technology companies. He also represents Desert Angels of Tucson. The two groups are the most active investors in technology in Arizona. When companies fail, investors lose 100 percent of the capital they invest in the companies. The Arizona Angel tax credit changes that; it helps moderate the risk investors take when they invest in new companies and brings new investors to the table. More investors mean more companies can get capital they need to grow and prosper.

Steven Zylstra, Arizona Technology Council, in support of HB2272, advised that many of the technology companies he represents have successfully raised Angel capital because of the mitigation of risk that the Angel Investment tax credit provides in Arizona. The program is hailed as one of the best by tax-based economic developers around the country and has done a great job in Arizona. He hopes Members will support this legislation.

Clayton Mask, CEO, Infusionsoft, representing self, stated support of HB2272. He advised that Infusionsoft was one of the first recipients of Angel Investment capital and he is grateful for the opportunity to have received the venture capital. This program is very important because investing in or lending to technology companies is small in Arizona compared to investing in other types of companies. He said it would be a shame not to continue this program.

Mr. Petersen asked whether there is an opportunity for investors or a successful company to pay back the tax credits to the ACA in the future. Mr. Mask said he pays back by hiring more people. The most corporate responsible thing to do is to hire and build a fantastic economy. He opined this legislation is the best thing entrepreneurs have in Arizona because its success attracts other venture capital to the state.

Thomas Curzon, Senior Partner, Osborn Maledon, representing self, testified in favor of HB2272. He said he has been involved in the Arizona entrepreneurial system for more than 30 years, including many technology start-up companies. As an Angel investor, he has personally invested in more than 25 start-up and small-growth companies. The state is making a shift from a real estate economy to high-risk technology-based investments. The Angel tax credit is making a difference in the quantity of investments as well as on individuals being able to make investments.

Sean Laux, Lobbyist, Arizona Department of Revenue, neutral on HB2272, spoke about the Quality Jobs Tax Credit which needs some technical corrections. He recommended that the bill contain an effective date to let DOR know when it must be implemented.

Chairman Lesko announced the names of those who signed up in support of HB2272 but did not speak:

Ronald Joseph Schott, representing self
Garrick Taylor, Arizona Chamber of Commerce and Industry
Ed Sanchez, Lobbyist, Arizona Commerce Authority
Meghaen Dell'Artino, Lobbyist, Arizona Technology Council
Paul Winandy, representing self
Brett Jones, Vice President of Operation, Arizona Construction Association
Dianne McCallister, Lobbyist, Arizona Technology Council
James Norton, Lobbyist, Arizona Manufacturers Council
Michael Haener, Partner, Arizona BioIndustry Association
Joan Koerber-Walker, representing self

Chairman Lesko announced the names of those who signed up in opposition to HB2272 but did not speak:

William Cleaveland, Lobbyist, Gilbert Small Business Alliance
Serena Unrein, Lobbyist, Arizona Public Interest Research Group
Lisa Rigler, Lobbyist, Gilbert Small Business Alliance
Khyl Powell, Lobbyist, Gilbert Small Business Alliance
Dow Rigler, Lobbyist, Gilbert Small Business Alliance
Aimee Rigler, Lobbyist, Gilbert Small Business Alliance

Question was called on the motion that the Mesnard 16-line amendment dated 02/14/14 be adopted (Attachment 34). The motion carried.

Chairman Lesko moved that HB2272 as amended do pass. The motion carried by a roll call vote of 4-2-0-2 (Attachment 36).

HB2664 – income tax revisions – DO PASS

Mr. Mesnard moved that HB2664 do pass.

Jeanine Jones, Majority Research Analyst, advised that during the 2013 Interim, the Joint Task Force on Income Tax Reform was tasked with making recommendations to simplify Arizona's individual income tax system. The Task Force issued its final report on December 20, 2013 and many of the recommendations are contained in HB2664. This legislation makes statutory changes with the legislative intent of increasing simplicity, fairness, neutrality, competitiveness and stability within the Arizona individual income tax (IIT) system (Attachment 37).

Mr. Mesnard, sponsor, thanked Chairman Lesko and Mr. Wheeler for being a part of the Task Force which worked to find ways to improve Arizona's income tax system.

Walter Dudley, representing self, in favor of HB2664, stated that this legislation is a great beginning to simplify the income tax system.

Stephen Slivinski, Senior Economist, Goldwater Institute, in support of HB2664, advised that he was also a member of the Task Force and spoke of the important aspects of the Task Force's

report which make the tax code less punitive and encourages more investment and more job creation. He strongly encouraged passage of this bill.

Chairman Lesko announced the names of those who signed up in support of HB2664 but did not speak:

Farrell Quinlan, State Director, National Federation of Independent Business
Khyl Powell, Lobbyist, Gilbert Small Business Alliance
Lisa Rigler, Lobbyist, Gilbert Small Business Alliance
Aimee Rigler, Lobbyist, Gilbert Small Business Alliance
Dow Rigler, Lobbyist, Gilbert Small Business Alliance
Becky Cholewka, Lobbyist, Gilbert Small Business Alliance
Scot Mussi, Arizona Free Enterprise Club
William Cleaveland, Lobbyist, Gilbert Small Business Alliance

Chairman Lesko announced the names of those who signed up as neutral on HB2664 but did not speak:

Ryan Peters, League of Arizona Cities and Towns
Sean Laux, Lobbyist, Arizona Department of Revenue

Question was called on the motion that HB2664 do pass. The motion carried by a roll call vote of 6-0-0-2 (Attachment 38).

HB2595 – tax; renewable energy; on-site consumption – DISCUSSION ONLY

Michael Madden, Majority Research Assistant Analyst, explained that HB2595 specifies that solar energy devices, grid-tied photovoltaic systems and any other device or system used for producing solar energy owned by a homeowner, for their own use, adds no value to the property on which the device is installed (Attachment 39).

Marc Osborn, representing Arizona Prosperity Alliance, in favor of HB2595, related that the Arizona Department of Revenue (DOR) has ruled that leased residential solar units will not be centrally assessed. This proposal codifies that ruling and provides some equity between those types of renewal energy producers who are selling into the grid and those owned by homeowners for their own consumption. It is important to note that since leased power providers sell power on the grid, they should be treated more like a centrally-assessed property. He said that leased power providers who own and operate these solar devices on individual homes act like utility companies when they sell the power to homeowners and that distinguishes them from homeowners who own their own solar panels.

Chairman Lesko said she understands that legislation passed in 2006 provided that there would be no property tax if the owner self-consumes the electricity from solar panels on the roof. Mr. Osborn replied in the affirmative. He said he does not believe it was envisioned at the time there would be a type of business model where a third party would own and lease solar energy devices where the leased solar energy would be sold back to the homeowners. Chairman Lesko said she assumes that DOR made this opinion because if the solar panels are still owned by the solar company, the energy is not being self-consumed. Mr. Osborn said that is correct.

Representative John Allen, sponsor, said this relates to business models that come out of new schemes to promote certain activities. This legislation is about companies acting as electric companies by leasing back the power and using homeowners to avoid paying the standard tax.

Jeff Hodgkinson, representing self, spoke in opposition to HB2595. He said he strongly supports rooftop solar and enjoys the benefits of lower monthly utility bills and protecting the environment. For over a year, there have been various campaigns by Arizona Public Service Company to attack the solar industry in Arizona. As an advocate of solar energy, he wants to convey the many benefits of rooftop solar: creates jobs, helps environmental quality, promotes economic growth, attracts new industry and is good for all Arizonans. He asked Members to reject any solar property taxes and seek more tax revenues by promoting initiatives that create jobs and opportunities for more working Arizonans.

Chris Wahl, Regional Sales Director, SolarCity Corporation, expressed opposition to HB2595. He said he is a customer of leased solar on his rooftop. As an industry, SolarCity has created over 8,500 jobs in the state. He clarified that residential solar equals self-consumption. He advised that the power that is produced on a leased solar system is never touched by the company; it is the responsibility of the homeowner to keep the rewards. The only difference between an owned solar system and a leased solar system is the mechanism of payment and the actual financing.

Court Rich, SolarCity Corporation, against HB2595, said this legislation is about levying a tax that would destroy the rooftop solar industry and would change the rules by implementing a tax on 40,000 to 50,000 customers in the State of Arizona that have already gone solar. He opined that Mr. Osborn incorrectly related how rooftop solar works, that when a homeowner leases a solar device, the leasing companies sell that power into the grid. He believes that a homeowner who chooses to lease solar equipment should not be taxed.

Albert Gervenack, representing self, spoke against HB2595. He advised that he is a board member of the Property Owners and Residents Association of Sun City West. About 10,000 out of the 19,000 homes in the retirement community already have solar on the roof, of which 80 percent are leased. In a retirement community, most of the residents do not have the resources to purchase their system outright. He hopes that leased systems will be treated the same as purchased systems.

Kevin Brownsey, representing self, testified in opposition to HB2595. He related that he is employed by SolarCity Corporation and has solar panels on his home. He opined that taxing someone who uses a different financial vehicle to obtain a system as opposed to someone who has the means to purchase a system outright is ridiculous. The solar industry has created a means for everyone to obtain solar. He believes the real issue is carbon which should be taxed, not solar.

Jay Cavrell, representing self, against HB2595, advised that he has been a solar customer since 2009 and is now employed by SolarCity Corporation. He could not afford to purchase a solar system at a cost of \$30,000 to \$40,000, so he leased a system and is now helping many people in the state go solar because they can lease a system. A lot of people who want to help the environment now have the means to do so; however, imposing a tax on residents who lease solar systems will kill the leasing industry.

Thomas McPherson, representing self, against HB2595, said the bill will impose a tax on residents at a time when tax incentives, rebates and tax credits are being given to the power-producing industry. The sun is a resource in this state and should be taken advantage of instead of putting people at a disadvantage for using the sun's energy.

Mark Holohan, President, Arizona Solar Energy Industries Association, testified in opposition to HB2595. He advised that he is the Solar Division Manager of Wilson Electric, one of the largest electrical contractors. This bill will affect schools, governments, not-for-profit organizations as well as for-profit firms; many of which have agreements where the cost of the tax may be imposed on the users of the electricity. He asked Members to vote against this proposal because he said it does not seem appropriate to penalize the users.

Kimberly Sanders, Public Policy Manager, SunRun Company, stated opposition to HB2595. The solar bill passed in 2006 became law before residential leasing was conceived and was intended to ensure that all systems used for on-site energy consumption would add no value to property for tax purposes. Leasing now counts for 80 percent of the residential solar market in Arizona. She pointed out that no state in the country with an active solar market levies property taxes on solar systems. The State of Florida installed 10 percent of the solar that Arizona did last year despite three times the population and she opined that can be attributed solely to property taxes.

John MacDonald, Solar Energy Industries Association, spoke in opposition to HB2595. This bill represents a major change by changing the fundamental nature of how taxation is determined. He said the Legislature clearly intended in the 2006 and the 2009 legislation that the on-site consumption for personal use was the determining factor in whether the tax would be levied. This proposal makes the method of acquisition of the unit itself the determining factor and would cause major damage to this industry.

Thomas Leander, representing self, against HB2595, related that he installed a modest solar system last year. In the year that it has been operating, it has reduced the carbon output in the air by 20,000 pounds. His utility bill has been lowered about 40 percent and he locked in a rate for the next 20 years, without putting any money down on the system. He has been able to put in a solar system, help the environment and reduce costs at the same time. He urged Members to vote against this measure.

Meghaen Dell'Artino, Recreation Centers of Sun City Inc., testified against HB2595. Solar has been installed on the recreational centers to help with the cost of electricity. This legislation would be a massive tax increase for the residents who pay into those recreation centers who are on a fixed income. She noted that under their contract, they will own the lease after five years. The centers are self-consuming the electricity regardless of whether they are leasing now or owning it in five years.

Rip Wilson, Lobbyist, Arizona Prosperity Alliance, in support of HB2595, said the Alliance believes DOR was correct: that the issue is ownership and not the location of the panels. He said that commercial enterprises should all be treated the same.

Chairman Lesko announced the names of those who signed up in support of HB2595 but did not speak:

Scot Mussi, Arizona Free Enterprise Club

Chairman Lesko announced the names of those who signed up in opposition to HB2595 but did not speak:

Sandy Bahr, Lobbyist, Sierra Club-Grand Canyon Chapter

Dana Paschke, Lobbyist, NRG Energy Inc.

Becky Hill, Lobbyist, Scottsdale Unified School District

Jeff Hodgkinson, representing self

Doyle Dreesen, representing self

David Leeper, representing self

Casey Kelley, Lobbyist, Exelon Generation Company

Nicolle Doyle, representing self

Thomas Leander, representing self

Andrew Manusharow, representing self

Stan Barnes, Lobbyist, Sunpower Corporation

Chairman Lesko announced the names of those who signed up as neutral on HB2595 but did not speak:

Sean Laux, Lobbyist, Arizona Department of Revenue

Michael Combrink, Maricopa County Assessor's Office

Robert Pizorno, Maricopa County

Without objection, the meeting adjourned at 7:07 p.m.

Joanne Bell, Committee Secretary

April 30, 2014

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