

ARIZONA STATE LEGISLATURE  
Forty-ninth Legislature – Second Regular Session

**LEGISLATIVE COUNCIL**

Minutes of Meeting  
Wednesday, June 23, 2010  
House Hearing Room 4 -- 10:00 a.m.

Chairman Adams called the meeting to order at 10:13 a.m. and attendance was noted by the secretary.

**Members Present**

President Robert Burns  
Senator Jorge Luis Garcia  
Senator Linda Gray  
Senator Chuck Gray  
Senator Richard Miranda  
Senator Thayer Verschoor

Speaker Kirk Adams, Chairman  
Representative Chad Campbell  
Representative Steve Farley  
Representative David Lujan  
Representative John McComish  
Representative Andrew Tobin  
Representative Steven Yarbrough

**Members Absent**

Senator Linda Lopez

**APPROVAL OF PRELIMINARY CAPITOL RENOVATION PLAN**

**President Burns moved that the Legislative Council authorize the Executive Director to work cooperatively with the Arizona Capitol Centennial Committee to facilitate the development of a Master Plan for Renewal of the Capitol. The Master Plan shall be developed with private sector funds and shall be presented at a future meeting of the Council.**

John Driggs, Chairman, Arizona Capitol Centennial Committee, indicated that a brief presentation will be made about the work that needs to be done to develop the Master Plan. He introduced architects Akram Rosheidat and Don Ryden, as well as Patrick Panetta, Metro Chapter Chairman, American Institute of Architects.

Akram Rosheidat, Principal, MRT Design, referring to displayed diagrams, stated that the Capitol building has the potential to accommodate many of the functions that are in short supply in the Senate and House buildings. If the Master Plan is approved, meetings will be held with the museum staff, the House and the Senate to obtain input for moving forward. The first step will be code compliance and the second step will be upgrading the building to a Class A office building. A critical issue is connectivity, which will be accomplished by a skywalk on the

second floor that will be secure, air-conditioned and weatherproofed for fast and convenient access between the three buildings.

Don Ryden, Ryden Architects, stated that he specializes in historic preservation and all of the initial concepts of change have been discussed with James Garrison, the State Historic Preservation Officer. The first floor of the Capitol building will be used for hospitality and protocol (interpretation and tours for the public and a place for the media to interact with legislators). The second floor will contain a skybridge to the other two buildings and a link to the Executive Tower. The third floor will have limited access and be used for hearings and meetings, as well as offices for support staff for legislators. The fourth floor will be an open mix because it has the galleries looking down into the chamber, so there will also be interpretative areas for tours, museum and more support staff.

Mr. Driggs stated that a \$100,000 donation will be provided for the work to be done in the summer if the plan is approved by the Legislative Council.

In response to questions, Mr. Rosheidat added that the intent is to finish the Master Plan by September 2010, select one phase, which will probably be the code revisions, elevator renovation and some first floor renovations, and rededicate the Capitol building by February 14, 2012. He noted that the second page of a handout (Attachment 1) details how the \$100,000 will be spent to complete the Master Plan, adding that \$2 million to \$3 million will need to be raised to complete the construction and have the rededication on February 14, 2012. Mr. Driggs noted that the last page relates to fundraising methodology.

Mr. Ryden indicated that everything is open for evaluation, but the plan is to leave the Executive Branch in the Executive Tower because it is presently very secure; Executive staff will be able to attend meetings at the heart of the Capitol building.

Mr. Driggs conveyed that the facades of the House and Senate will not be changed to match the historical Capitol building because the beauty of the Capitol is its evolution. Senator Chuck Gray opined that the House and Senate buildings should reflect the history of Arizona and not some period of architecture; matching and beautifying those facades would improve the appearance of the Capitol.

Representative Tobin indicated that the Secretary of State's Office would like to be involved in the planning process.

**Representative Tobin moved that the motion be amended to include the Director of Legislative Council, the Secretary of State and other stakeholders in the planning process.**

Speaker Adams suggested their inclusion in an advisory role. Senator Chuck Gray suggested some kind of delineation for stakeholders, so Representative McComish suggested that stakeholders be identified by the Director.

Ken Bennett, Secretary of State, stated that he would like to be at the table in the planning process since the Secretary of State's Office, which includes the museum and the Library and Archives, is the largest occupant and user of the historic Capitol building.

Mr. Driggs noted that while this process has been going on for years, the Master Plan has only been envisioned within the last few months, but everyone with a stake in the process should be involved.

**Representative Tobin made a substitute motion to amend the motion to include the Director of Legislative Council, Secretary of State and stakeholders identified by the Director in the planning process in an advisory role. The motion carried.**

**President Burns moved that the original motion as amended be adopted. The motion carried.**

### **ADOPTION OF BALLOT ANALYSES PURSUANT TO SECTION 19-124**

#### **HCR2001 – early childhood development; health; repeal**

**President Burns moved that the Chairman’s draft for HCR2001 (Attachment 2) be adopted.**

Mike Braun, Executive Director, Legislative Council, conveyed the purpose of the meeting according to A.R.S. Section 19-124 and reviewed an example of a past publicity pamphlet. He opined that the Chairman’s draft analysis for HCR2001 complies with the statutory requirements and an amendment will be offered.

Rhian Evans Allvin, Executive Director, First Things First, noted that the analysis states that funds are to be used for specific purposes and requested removal of the wording on line 16 “*Funding central and field offices, employing staff and.*” In response to a question, she related that according to statute, no more than 10 percent of revenues received may go to administration.

President Burns noted that the language was included in the initiative, some of which he read. Mr. Braun stated that the three provisions read by President Burns are from A.R.S. Section 8-1195, which is the final statute added by the ballot measure in 2006.

Ms. Allvin remarked that the Chairman’s analysis states that the Board is required to do this, which she believes is inaccurate. She related that she fears voters will be given the impression that administration is funded first as a priority, rather than programs and services on which 90 percent of revenues received is spent. She noted that the original analysis by Legislative Council in 2006 delineates how programmatic funding will be spent and is not consistent with the current Chairman’s analysis.

Mr. Braun stated that the Chairman’s analysis does not fully describe what is already law. The previous analysis described something that was being created, so all of that language was not replicated in the present analysis to state what is being done away with.

**Representative Farley moved that the Farley amendment (Attachment 3) to the Chairman’s draft for HCR2001 (Attachment 2) be adopted.**

Representative Farley stated that the Farley amendment moves the background information to the beginning like other drafts to be considered, adds that the program was established by voter approval and shows that the Arizona Early Childhood Development and Health Initiative is widely known as First Things First, which the proposal will eliminate, in order for voters to make an informed decision.

President Burns submitted that the following language regarding the impact on the budget should then be included: “The FY1011 budget assumes that upon voter approval of this measure a total of \$325 million of unexpended funds will be transferred to support health and human services for children. In addition, the ongoing tobacco tax of \$60 million will be separately accounted for and appropriated for health and human services for children.”

Senator Garcia pointed out that First Things First offered a loan to the state because of the budget difficulties, which should also be included. He endorsed the Farley amendment.

**Question was called on the motion that the Farley amendment (Attachment 3) to the Chairman’s draft for HCR2001 (Attachment 2) be adopted. The motion failed by a roll call vote of 5-8-0-1 (Attachment 4).**

**Representative Chad Campbell moved that the Chairman’s draft for HCR2001 (Attachment 2) be amended as follows:**

**On the bottom portion, move Item 2 before Item 1.**

**Item 1 would begin with the language “Up to 10 percent of the fund may be used for funding central and field offices, employing staff”**

President Burns opposed the motion, stating that money cannot be disbursed before establishing a mechanism to do so.

**Question was called on Representative Chad Campbell’s verbal amendment to the Chairman’s draft analysis for HCR2001 (Attachment 2). The motion failed.**

Senator Garcia expressed concern that the Chairman’s analysis is drafted opposite to others under consideration and targeting one will not bode well for the process.

Mr. Braun remarked that the analyses can be done with the background first followed by substantive provisions, or the other way around; it is within the discretion of Legislative Council.

**Question was called on the motion that the Chairman’s draft for HCR2001 (Attachment 2) be adopted. The motion carried by a roll call vote of 8-5-0-1 (Attachment 5).**

**HCR2019 – discrimination; preferential treatment; prohibition**

**President Burns moved that the Chairman’s draft for HCR2019 (Attachment 6) be adopted**

Mr. Braun stated that he believes the Chairman's draft of HCR2019 meets the statutory requirement; one amendment was distributed.

Senator Linda Gray stated that she is withdrawing the L. Gray amendment (Attachment 7) because she learned from organizers of the referendum that the language in the Chairman's draft analysis has withstood court challenges.

In response to Representative Farley's statement that the term *affirmative action* is not listed in statute, Mr. Braun said it does not appear in the constitutional referendum. One dictate to the Council is to avoid technical terms whenever possible, so in the past colloquial terms have been used. For example, two years ago a measure was on the ballot to regulate preferred presentment businesses, which Legislative Council chose to describe as payday loan businesses. Payday loan businesses does not appear in statute, but the reasoning was that it would be better understood by the voters. That is the justification for using the term *affirmative action* as opposed to replicating the language of the referendum.

Mr. Braun acknowledged that the term was not used in the analysis for the initiative two years ago. He is not aware of anything that has changed legally in the last two years. Other members are free to offer substitutes, but this is a starting point under the Chairman's name, and it is up to Legislative Council to decide what to adopt.

**Senator Miranda moved that the L. Gray amendment (Attachment 7) be adopted as a substitute to the Chairman's draft analysis for HCR2019 (Attachment 6).**

Nick Simonetta, Government Affairs Consultant, Arizona Civil Rights Initiative, indicated that Jennifer Gratz, American Civil Rights Coalition, is present to answer questions.

Jennifer Gratz, American Civil Rights Coalition, advised that in 2006 an initiative appeared on the ballot in the State of Michigan with substantially identical language as the Arizona initiative, and a similar body adopted language with the phrase *affirmative action* because it is a term that the general public more readily understands than *preferences* or *discrimination*. That followed from numerous lawsuits during the signature collection days of that effort where the American Civil Liberties Union and other similar organizations claimed that not having *affirmative action* in the language would be biased, so *affirmative action* is a fair representation as long as it is qualified by the remaining language.

Representative Chad Campbell stated that affirmative action is banned in Arizona so he is not sure why it is included in the Chairman's draft. Ms. Gratz responded that she does not believe it is banned in Arizona and this will not ban all affirmative action; it is qualified as banning affirmative action programs that give preferential treatment or discriminate against based on certain qualities and characteristics in specific areas.

Senator Chuck Gray asked if excluding the term *affirmative action* in the Chairman's draft could engender lawsuits, to which Ms. Gratz agreed.

Representative Chad Campbell submitted that affirmative action does not exist in Arizona, which is explicit in the State Constitution (Article II, Section 13). He endorsed the L. Gray amendment.

Speaker Adams opposed the L. Gray amendment, noting that testimony from Mr. Braun is clear that the use of the term is within the statutory authority of the Legislative Council in describing this referral.

**Question was called on the motion that the L. Gray amendment (Attachment 7) be adopted as a substitute to the Chairman's draft analysis for HCR2019. The motion failed.**

**Question was called on the motion that the Chairman's draft for HCR2019 (Attachment 6) be adopted. The motion carried by a roll call vote of 8-4-0-2 (Attachment 8).**

### **HCR2002 – land conservation fund; reversion**

**President Burns moved that the Legislative Council approve the Chairman's draft for HCR2002 (Attachment 9).**

Mr. Braun related that the Chairman's draft analysis for HCR2002 meets the statutory requirement and one amendment will be offered.

**Representative Farley moved that the Farley 12-line amendment (Attachment 10) and the Farley 15-line amendment (Attachment 11) be substituted for the Chairman's draft analysis for HCR2002 (Attachment 9).**

Representative Farley noted that the Land Conservation Fund is known as the Growing Smarter Act that was voter approved, which is explained in the Farley 12-line amendment so voters can make the best possible informed decision. The Farley 15-line amendment replaces the explanation in the Chairman's draft with language from the 1998 Legislative Council analysis, which he sees no reason to change since it was approved by voters in 1998.

Mr. Braun responded that the new information in the Farley 12-line amendment is accurate and it is up to the Legislative Council to decide if it should be included in the Chairman's analysis. As to the Farley 15-line amendment, the statute that contains the Land Conservation Fund was amended post-enactment, so he needs a few minutes to review it.

Sandy Bahr, Conservation Director, Sierra Club-Grand Canyon Chapter, submitted that it is important for the Legislative Council to be clear (about what it is proposing to take, why it is referred to the ballot and where the money would go if it is not diverted), consistent and impartial, which she does not believe is true of the Chairman's draft analysis. It does not even mention the trust or trust beneficiaries and does not state that the dollars were voter approved. She said she does not understand why the analysis of Growing Smarter dollars from 1998 cannot be used for a description of the measure and opined that the Chairman's draft has the appearance of being partial.

Mr. Braun submitted that he believes the Chairman's draft analysis is accurate and not misleading, as well as clear and impartial. He stated that the original description was of a much larger act whereas what is being dealt with in the current measure is narrower. He said he did

not look at the 1998 language when the Chairman's analysis was drafted. The language in current statute was used to describe what would be done away with if this measure passes. He does not believe it is critical to differentiate between voter-approved measures, legislative-approved measures or court-overturned measures unless it is a referral of a state statute that was passed.

**Question was called on the motion that the Farley 12-line amendment (Attachment 10) be substituted for the Chairman's draft analysis for HCR2002 (Attachment 9). The motion failed.**

Representative Farley asked if removing Growing Smarter from the Farley 15-line amendment would make it more acceptable, but Senator Chuck Gray indicated that it would not because of other terms that tilt the public one way or the other because of an emotional attachment to their school or children, and he believes the analysis should be absent those emotional pitches.

Representative Chad Campbell stated that there is no emotional language in the Farley 15-line amendment; it contains factual language about the money being used to support public schools, universities and other public institutions. Voters should be given as much information as possible and they are aware of Growing Smarter.

**Question was called on the motion that the 15-line amendment (Attachment 11) be substituted for the Chairman's draft analysis for HCR2002 (Attachment 9). The motion failed.**

**Question was called on the motion that the Legislative Council approve the Chairman's draft for HCR2002 (Attachment 9). The motion carried by a roll call vote of 8-4-0-2 (Attachment 12).**

### **HCR2008 – hunting and fishing; constitutional rights**

**President Burns moved that the Legislative Council adopt the Chairman's draft for HCR2008 (Attachment 13).**

Mr. Braun remarked that he believes the Chairman's draft analysis of HCR2008 meets statutory requirements and there are no proposed amendments.

Stephanie Nichols-Young, Animal Defense League of Arizona, made the following suggestions in relation to the Chairman's draft analysis of HCR2008:

- Addition of an opening paragraph about establishment of the Arizona Game and Fish Commission and current statutory language explaining its duties.
- Change "*the game and fish commission*" to "*a game and fish commission*" on Line 5.
- On line 5, state "*may but is not required to*" so it is clear that the voters understand this Game and Fish Commission will not have authority to continue all it has been doing, but only by authority of the Legislature.
- Since it says the Legislature has exclusive authority to enact laws and proponents said the intent is to take away initiative rights, then that should be specifically stated.

- It says harvesting of wildlife by traditional means of hunting and fishing is a preferred means, so it is necessary to make sure voters understand that laws for conservation and management of wildlife will be limited due to not having the same preferential treatment.
- The provisions may negate the voter-approved ban passed in 1996 on leghold traps, which voters need to understand.

Mr. Braun stated that if this measure is enacted by the people it may raise questions down the road that courts will have to settle, but Council staff was not comfortable expressing an estimation of how those items may be resolved. He was not aware of the special significance of *a game and fish commission*, but that is what the measure states; it would not necessarily have to be the current statutory Game and Fish Commission. In response to a question, Mr. Braun stated that he does not believe, without some guidance from the court, that this measure as it is drafted bars citizens from participating in the initiative process. Discussion followed.

In response to a question, Mr. Braun said he does not believe the Chairman’s analysis will repeal the leghold trap ban passed in 1996.

Ms. Nichols-Young submitted that the language in the Chairman’s analysis stating that a hunter or trapper has a fundamental right to trap could be used as an argument to overturn the trapping ban.

Senator Chuck Gray commented that the initiative says citizens of the state have the right to hunt, fish and harvest wildlife lawfully; leghold traps are against the law and would not be nullified by this measure.

**President Burns moved that the Chairman’s draft analysis for HCR2008 (Attachment 13) be amended as follows:**

**Line 5, strike “the” and insert “a”**

**The motion carried.**

**President Burns moved that the Legislative Council approve the Chairman’s draft for HCR2008 (Attachment 13) as amended. The motion carried by a roll call vote of 8-4-0-2 (Attachment 14).**

THE MEETING RECESSED AT 12:27 P.M. UNTIL 1:15 P.M.

THE MEETING RECONVENED AT 1:22 P.M. ALL MEMBERS WERE PRESENT EXCEPT SENATOR LOPEZ AND REPRESENTATIVE LUJAN.

**HCR2018 – initiatives; filing deadline**

**President Burns moved that the Legislative Council approve the Chairman’s draft for HCR2018 (Attachment 15).**

Mr. Braun stated that the Chairman’s draft analysis of HCR2018 complies with statutory provisions and he is not aware of any amendments.

**Question was called on the motion that the Legislative Council approve the Chairman's draft for HCR2018 (Attachment 15). The motion carried by a roll call vote of 11-0-0-3 (Attachment 16).**

**HCR2014 – health care services; direct purchase**

**President Burns moved that the Legislative Council adopt the Chairman's draft for HCR2014 (Attachment 17).**

Mr. Braun related that he believes the Chairman's draft analysis of HCR2014 complies with statutory requirement for ballot analyses and there is one proposed amendment.

Senator Linda Gray stated that proponents of the measure would like the paragraphs reversed.

Judy Connell, Arizonans for Health Care Freedom, stated that the request to reverse the paragraphs is to comply with HCR2014 in Section 2, Paragraph 1, which states that a law or rule shall not compel, directly or indirectly, any person, employer or health care provider to participate in any health care system. That is the number one issue in bringing HCR2014 to the voters to place in the Constitution. Secondly, a person or employer shall not be penalized or fined for opting out of any health care system.

Senator Chuck Gray stated that the initiative has the paragraphs reversed and questioned the reason for the order in the Chairman's draft.

Mr. Braun answered that there were a number of drafts of the measure and the order changed several times. There is no special significance to the order, but the amended version tracks the actual measure.

**Senator Linda Gray moved that the L. Gray proposed amendment (Attachment 18) to the Chairman's draft analysis for HCR2014 (Attachment 17) be adopted.**

**Senator Linda Gray withdrew the motion.**

**Senator Linda Gray moved that the L. Gray proposed amendment (Attachment 18) be adopted as a substitute draft to the Chairman's draft analysis for HCR2014 (Attachment 17). The motion carried.**

**President Burns moved that the Legislative Council adopt the Chairman's draft analysis to HCR2014 as amended. The motion carried by a roll call vote of 8-4-0-2 (Attachment 19).**

**SCR1013 – lieutenant governor; secretary of state**

**President Burns moved that the Legislative Council approve the Chairman's draft for SCR1013 (Attachment 20).**

Mr. Braun stated that he believes the Chairman's draft analysis of SCR1013 complies with the statutory directive. In response to a question, he indicated that the measure appears to contemplate that everyone runs as a member of a political party and does not address what happens if a person runs as an independent candidate for either of the offices. It would not be addressed in the analysis because it would be too speculative. If the measure passes, that would need to be addressed by the next Legislature. Also, if the measure passes, there will likely be a bill introduced for a series of conforming name changes in which that could be included. He added that he is not aware of amendments to the measure.

**Question was called on the motion that the Legislative Council approve the Chairman's draft for SCR1013 (Attachment 20). The motion carried by a roll call vote of 12-0-0-2 (Attachment 21).**

#### **SCR1026 – secret ballot; fundamental right**

**President Burns moved that the Legislative Council approve the Chairman's draft for SCR1026 (Attachment 22).**

Mr. Braun opined that the Chairman's draft analysis of SCR1026 complies with the statutory directive and he is not aware of any amendments.

**Question was called on the motion that the Legislative Council approve the Chairman's draft for SCR1026 (Attachment 22). The motion carried by a roll call vote of 8-4-0-2 (Attachment 23).**

#### **SCR1047 – state lands; military installation preservation**

**President Burns moved that the Legislative Council adopt the Chairman's draft for SCR1047 (Attachment 24).**

Mr. Braun stated that he believes the Chairman's draft analysis complies with the statutory directive. It begins with the opening two paragraph that are traditionally used every two years when a measure like this is on the ballot, followed by an explanation of what the measure does.

**Question was called on the motion that Legislative Council adopt the Chairman's draft for SCR1047 (Attachment 24). The motion carried by a roll call vote of 12-0-0-2 (Attachment 25).**

#### **C-07-2010 – Prop 13 Arizona**

Mr. Braun stated that his remarks pertain to C-07-2010 (Prop 13) and I-02-2010 (End Photo Radar Initiative). There is an odd circumstance in which the Legislative Council analysis must be forwarded to the Secretary of State's Office by Friday, June 25, 2010, but the deadline for submitting initiative petitions is not until July 1, 2010. The analyses could be pre-approved now, and if they qualify for the ballot, the Chairman's analyses will be in the publicity pamphlet. Another option is to meet after July 1, 2010 to approve the analyses.

Representative McComish asked the potential for an anti-SB1070 initiative and, if so, what will be done. Mr. Braun replied that has an even later filing deadline and he understands there may be more than one such measure. If any are filed, the Legislative Council will convene post-July 28, 2010 to adopt an analysis of that/those measures.

**President Burns moved that the Legislative Council approve the Chairman's draft for C-07-2010; Prop 13 Arizona (Attachment 26).**

Mr. Braun said he is confident that the Chairman's draft meets the statutory requirement. He noted that Senator Linda Gray distributed a proposed amendment, and during the lunch break he discovered a faxed letter from Lynne Weaver, Chairman of the Prop 13 Arizona campaign (Attachment 27).

Senator Linda Gray related that an analysis from Steve Schimpp, Joint Legislative Budget Committee, indicates that school district property tax revenues for items like desegregation programs, bonding and overrides would decrease by roughly 40 to 50 percent under the proposition. In addition, school districts would collect less K-12 qualifying tax rate and state equalization property taxes, which is projected to increase the general fund's share of the K-12 formula cost by approximately \$400 million. She opined that the public should be aware of this information. She said she is concerned that the Chairman's analysis states that additional legislation will be required to make conforming changes when these are conforming changes. Also, Prop 13 is unfair to young people who want to buy a house, military people who move to Arizona and seniors. Anyone who purchased a home after 2004 will pay higher property taxes than anyone who purchased a home before 2004.

Ken Behringer, General Counsel, Arizona Legislative Council, in response to a question about the accuracy of the information contained in the letter from Lynne Weaver, indicated that the L. Gray amendment describes what the proposition does. The first part states what the new system will be and the second part states what is repealed and the effect. The letter is not necessarily inaccurate, but describes more of the effects.

Discussion followed among the Members about whether or not to include the implications of the measure.

In response to a query about an initiative passed requiring an identified funding source for programs that impact the general fund, Mr. Behringer advised that the measure limits the way money is raised; it is not a new program for which a funding source must be identified.

Richard Stavneak, Director, Joint Legislative Budget Committee (JLBC), advised that voter referred initiatives require a fiscal impact statement. The state currently collects about \$7.5 billion in property tax levy statewide, which as a result of the rollback under Prop 13, would probably be reduced to \$4.3 billion. That is as far as JLBC staff can determine the impact because the measure states that if it passes, the Legislature will decide the distribution formula of those monies. If that was proportionally distributed now, the general fund cost would be about \$800 million. He acknowledged that the fiscal analysis that is required is included on the ballot measure.

In response to a question, Mr. Braun advised that Members of the Legislative Council are not prohibited from including a fiscal analysis in the Chairman's analysis; however, when it was done once before, the Supreme Court had it removed because it was viewed as too speculative. Further discussion followed about inclusion of implications of the measure.

**Senator Linda Gray moved that the L. Gray proposed amendment (Attachment 28) be adopted as a substitute to the Chairman's draft for C-07-2010; Prop 13 Arizona (Attachment 26).**

In response to a question, Mr. Braun stated that two items in the proposed amendment do not directly relate to the language in the initiative. The first is the statement that the implications of the measure cannot be accurately quantified and the second is that additional legislation will be required to make conforming changes to other laws besides the rewrite of the property tax law.

Mr. Stavneak advised that the JLBC fiscal analysis that is required will indicate that the amendment will reduce property tax levies statewide from \$7.5 billion to \$4.3 billion. It will not address the need for conforming changes, which is an aspect of the Legislative Council analysis. He surmised that the \$800 million would be viewed as speculative.

Senator Linda Gray wondered if the public should be advised that in order to enact a complete revision of property tax law in Arizona to take effect for the 2011 tax year, a three-fourths majority vote is needed and signature of the Governor. Mr. Braun said he does not believe the dictate in this measure that the Legislature redraft the tax statutes would invoke the Prop 105 clause.

Senator Linda Gray and Speaker Adams agreed to strike lines 23 through 25.

**Senator Linda Gray moved that the L. Gray substitute amendment (Attachment 28) to the Chairman's draft for C-07-2010; Prop 13 Arizona (Attachment 26) be amended as follows:**

**Line 23, reinsert the stricken language**

**Lines 23 through 25, delete the underlined language.**

**The motion carried.**

**Senator Linda Gray moved that the L. Gray substitute amendment (Attachment 28) to the Chairman's draft for C-07-2010; Prop 13 Arizona (Attachment 26) as amended be adopted.**

Discussion followed about inclusion of other taxing districts as shown in the initiative, Section 18(b). Mr. Braun related that the drafters of the underlying measure chose to show that full section of the Constitution in stricken language rather than repeal it. In the initial draft of the Chairman's analysis, the idea was that if someone reads the publicity pamphlet the first thing that would be seen is that stricken language, so the analysis would simply describe what is being done in the beginning.

**Question was called on the motion that the L. Gray substitute amendment (Attachment 28) to the Chairman's draft for C-07-2010; Prop 13 Arizona (Attachment 26) as amended be adopted. The motion carried.**

**President Burns moved that the Legislative Council approve the Chairman's draft to C-07-2010; Prop 13 Arizona as amended. The motion carried by a roll call vote of 9-2-0-3 (Attachment 29).**

#### **I-02-2010 – End Photo Radar Initiative**

**President Burns moved that the Legislative Council approve the Chairman's draft for I-02-2010; End Photo Radar Initiative (Attachment 30).**

Mr. Braun stated that this measure also has not yet qualified for the ballot, but if it does, the analysis adopted will appear in the publicity pamphlet. He added that the Chairman's draft complies with the statutory requirement for the analysis and a proposed amendment was distributed by Senator Linda Gray.

In response to questions, Mr. Braun advised that the initiative does not use the term *red light*, but clearly covers a photo enforcement system that involves speeding and red light enforcement, as well as infractions involving operation of a motor vehicle that are detected through photo enforcement. The measure does not prohibit using a photo system; it prohibits issuing a ticket, etc., for violations relating to the operation of a vehicle detected through the system, so technology used by law enforcement to detect stolen vehicles and during Amber Alerts would not be prohibited by this measure.

Senator Linda Gray noted that Driving Under the Influence laws state that if someone is sitting in a motor vehicle who is impaired, there is a presumption that the person is operating the motor vehicle.

**Senator Linda Gray moved that the L. Gray amendment (Attachment 31) be adopted as a substitute to the Chairman's draft for I-02-2010; End Photo Radar Initiative (Attachment 30). The motion failed.**

**Question was called on the motion that the Legislative Council approve the Chairman's draft to I-02-2010; End Photo Radar Initiative (Attachment 30). The motion carried by a roll call vote of 10-0-0-4 (Attachment 32).**

#### **I-04-2010 – Arizona Medical Marijuana Act**

**President Burns moved that the Legislative Council approve the Chairman's draft for I-04-2010; Arizona Medical Marijuana Act (Attachment 33).**

Mr. Braun stated that he believes the Chairman's draft complies with the statutory requirement. In response to a question, he indicated that there has been discussion in other states about endangering federal funds relative to federal drug laws. He cannot discount it as a possibility but he is not comfortable saying that it would cause that problem.

Senator Linda Gray referred to page 25, Subsection I, which states that no school, landlord or employer may be penalized or denied any benefit under state law for enrolling, leasing to or

employing a registered qualifying patient or a registered designated caregiver and questioned if a dispensary would be allowed in a school or within a certain distance of a school.

Mr. Braun responded that he views the measure as stating that unless it would cause the school to lose federal funding, the school could not take action against a person who has registered pursuant to this measure. There are provisions that prohibit use or possession of marijuana, such as the language on the second page of the initiative (lines 36 through 41). He surmised that a community college or university would qualify as a public place.

When asked if a pharmacy on a campus could distribute this medication, Mr. Braun answered that he does not believe it is specifically authorized or prohibited. It is consumption that is prohibited and the number of distribution points is limited by the measure.

Discussion followed about the language on lines 43 through 46 on the second page of the initiative concerning determination by a law enforcement officer that someone should not be considered under the influence of marijuana because of the presence of marijuana in the person's system that appears in a concentration insufficient to cause impairment.

**Question was called on the motion that Legislative Council approve the Chairman's draft for I-04-2010; Arizona Medical Marijuana Act (Attachment 33). The motion carried by a roll call vote of 9-1-0-4 (Attachment 34).**

#### **AUTHORIZATION; COUNCIL OF STATE GOVERNMENT DUES**

**President Burns moved that the Legislative Council refrain from paying Council of State Government dues for FY 2011.**

Mr. Braun explained that dues have been paid from the Legislative Council budget for the National Conference of State Legislatures (NCSL) and the Council of State Government (CSG), except in the late 1990s when members of the Legislative Council decided not to pay CSG dues for several years, which was resumed in 2000. CSG dues for the upcoming fiscal year amount to \$143,261. At President Burns' request, he advised that Legislative Council is currently not filling two positions in the Word Processing Department and has cut back as far as possible without suffering quality problems. Also, the Council had one fewer attorney this year, which he hopes will be remedied in January 2011, and employees are experiencing furloughs, etc.

President Burns remarked that he would like to continue funding CSG dues, but under the present circumstances, some reductions are necessary; this would probably hurt less than other reductions.

Mr. Braun acknowledged that Legislative Council's budget was approved with the implication that CSG dues would be paid.

Senator Verschoor opined that it would be more appropriate if this had been part of budget discussions in Appropriations Committees and on the Floor.

Mr. Braun acknowledged that it is within the statutory authority of Legislative Council to decide to refrain from paying these dues.

Senator Linda Gray pointed out that Members belong to the Education Commission of the State but dues have not been paid for the organization for the last few years; about \$100,000 was paid through the Arizona Department of Education.

Senator Verschoor asked what would happen to the funds that were appropriated for this purpose. Speaker Adams said the funds can be used by Legislative Council for personnel services, etc., to provide legal work at the Legislature. Mr. Braun agreed, adding that it can also be used for Information Technology Services provided to the Legislature and staff or directed to be used for something else in a subsequent meeting. He does not have any plans for the money.

Senator Verschoor indicated that NCSL dues could also be stopped. Mr. Braun responded that is possible, but it could not be done now because it is not on the agenda. If he had a sense that may happen in a future meeting, he would not authorize the NCSL check to be issued around July 1, 2010, which could be paid as late as August 2010. The amount for the upcoming fiscal year is \$206,924.

President Burns noted that different levels of service are provided by the two organizations. The research staff in Legislative Council, JLBC and in the House and Senate use NSCL much more than the other organizations.

Kent Briggs, Council of State Governments West, provided information on CSG (Attachment 35, on file in the Office of the Chief Clerk). He discussed the fact that CSG will be involved in some very ambitious projects on the border and Arizona is needed at the table. He added that rather than not paying the CSG dues, maybe some adjustments can be made. In response to questions, he related that Lieutenant Governors, Secretaries of State and Treasurers are separate members of the organization who pay dues to other associations, not to CSG. He indicated that he cannot authorize a discount, but it could be discussed. When asked if the dues can be paid with private funding, Mr. Briggs stated that public money would be preferable; private money becomes complicated.

Mr. Braun noted that by statute, Legislative Council is authorized to accept gifts, no matter the source, that can be directed for a purpose, and once the check is in the hands of Legislative Council it becomes public money.

Senator Linda Gray said she received an email from Richard Stavneak stating that Education for the State dues have not been paid for about five years.

Mr. Braun clarified that in 1998 and 1999 the CSG dues were not paid. In 2000, the dues were not paid timely, but halfway through the year one payment was made to get through the 2000 and 2001 fiscal years. Since 2002 the dues have been paid every year. There was no back payment of dues for the years in which the dues were not paid.

Mr. Briggs advised that Nevada is the only state that has not paid dues and CSG continues to provide services, the cost of which is borne by other members. The States of Colorado, Utah, and Washington pay discounted dues.

**Representative McComish made a substitute motion that Legislative Council be authorized to pay \$75,000 in state appropriated monies for CSG dues for FY2011.**

**Senator Verschoor moved to amend the substitute amendment to include the possibility of private funds to pay CSG dues. The motion carried.**

**President Burns moved an amendment to Representative McComish's substitute motion to reduce the payment amount from \$75,000 to \$25,000 and require a match of \$25,000 in private sector funds prior to the payment of the \$25,000. The motion carried.**

**Representative McComish moved that the substitute motion that Legislative Council be authorized to pay \$75,000 in state appropriated monies for CSG dues for FY 2011 as amended be adopted.**

Mr. Braun questioned if additional private sector money is received beyond the \$25,000 match monies, it can be accepted and used toward CSG dues, to which Speaker Adams agreed.

**Question was called that the substitute motion as amended be adopted. The motion carried.**

Without objection, the meeting adjourned at 3:36 p.m.

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Linda Taylor, Committee Secretary  
June 25, 2010

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