Chairman Gowan called the meeting to order at 9:16 a.m. and attendance was noted by the secretary.

**Members Present**

Mr. Dial  
Mr. Gallego  
Mr. Hale  
Mr. Harper  
Mr. Miranda R  
Mr. Smith D  
Mr. Stevens  
Ms. Proud, Vice-Chairman  
Mr. Gowan, Chairman

**Members Absent**

None

**Committee Action**

SB1134 - HELD  
SB1193 - HELD  
SB1291 - DP (9-0-0-0)  
SB1406 - DP (6-3-0-0)  
SB1424 - HELD  
SCR1056 - DP (7-2-0-0)

Chairman Gowan announced that special guests in the audience will be shadowing some of the Members today. He introduced David Oakley, an Army veteran.

Mr. Dial introduced Tony Gonzalez, a Marine veteran who served in the Pacific during World War II.

Mr. Harper introduced Debbie Striping, a Desert Storm veteran from New York who served in the Army.

Mr. Gallego introduced Reuben Castillo, an Army Korean War veteran, born in Eloy and currently residing in Casa Grande.

**CONSIDERATION OF BILLS:**

**SB1134 - adjutant general: annual report - HELD**

Chairman Gowan announced that SB1134 will be held.
SB1193 - reportable hazardous substance release; exception - HELD
Chairman Gowan announced that SB1193 will be held.

SB1424 - national guard; state active duty - HELD
Chairman Gowan announced that SB1424 will be held.

SCR1056 - inmate labor and services - DO PASS
Vice-Chairman Proud moved that SCR1056 do pass.

Joe DeMenna, Assistant Majority Research Analyst, advised that SCR1056 states that the Arizona Legislature supports inmate services and labor (Attachment 1). The bill specifies that the Arizona Department of Corrections (ADC) is prepared to enter into contractual agreements to provide inmate services and labor, and instructs the Secretary of State to send an electronic copy of this Resolution to each agency, department and political subdivision in Arizona.

Mr. Gallego asked whether this just goes to local jurisdictions and not to Congress. Mr. DeMenna replied that it will go to all municipalities and will also be transmitted to Congress.

Vice-Chairman Proud announced the names of those who signed up in support of SCR1056 but did not speak:
Charles Ryan, Director, Arizona Department of Corrections (ADC)

Question was called on the motion that SCR1056 do pass. The motion carried by a roll call vote of 7-2-0-0 (Attachment 2).

SB1291 - inmate credit for imprisonment(now: prisoners; credits for fines) - DO PASS
Vice-Chairman Proud moved that SB1291 do pass.

Justin Riches, Majority Research Analyst, stated that SB1291 increases the amount of credit a prisoner may receive per day in exchange for hard labor or imprisonment (Attachment 3). The bill specifies that a prisoner sentenced to pay a fine shall not be allowed to exceed $50 per day credit for the fine for each day he is employed at hard labor, and specifies that a person committed for nonpayment of a fine shall be given credit toward payment for each day of imprisonment at the rate specified in the commitment not to exceed $50 per day.

Mr. Smith noted that his abstract says $60 per day. Mr. Riches clarified that the amount is $50 per day.

Vice-Chairman Proud announced the names of those who signed up in support of SB1291 but did not speak:
Beth Lewallen, Maricopa County Board of Supervisors
Todd Madeksza, Director of Legislative Affairs, County Supervisors Association
Question was called on the motion that SB1291 do pass. The motion carried by a roll call vote of 9-0-0-0 (Attachment 4).

SB1406 - interstate compact; border fence - DO PASS

Vice-Chairman Proud moved that SB1406 do pass.

Jonathon Bates, Majority Intern, explained that SB1406 allows the Governor to enter into an interstate compact to create a border fence along the Arizona-Mexico border located on private property (Attachment 5). The bill outlines specific requirements for the interstate compact.

Senator Steve Smith, sponsor, advised that the intent of this legislation is to construct a border wall. A website will be created to collect private donations to construct the wall. The donations will go into a separate fund. Inmate labor will be used to build the fence, so this project will have very little impact to the General Fund. He asserted that this fence is long overdue.

Mr. Smith asked whether any other states have expressed interest in joining Arizona in the interstate compact. Senator Smith advised that he spoke to Members of the Texas Legislature. He pointed out that the interstate compact provision in the bill is optional. The compact language was included to address any suits brought by the federal government because the interstate compact will supersede federal objections. He said he is primarily focused on building the fence in the Tucson sector. Other states are welcome to join Arizona in this compact.

Mr. Gallego noted that the bill contains no language on oversight or auditing procedures. Senator Smith said that once this legislation passes, a committee will be formed and oversight will come from that committee. Mr. Gallego asked whether an amendment can be offered to have the donations go through the Treasurer’s Office. He said he thinks that will prevent potential abuse from occurring. Senator Smith advised that the Senate is currently working on an amendment that may include committee makeup, oversight, source of funds, etc. He added that inmate labor to build the fence is being considered which, he added, is extremely cost-effective.

Mr. Miranda revealed that two inmates escaped last year from work details, one from the Douglas area and one from the Marana area. He wondered whether it is the intent to deal with Department of Corrections’ inmates only or whether city/county inmates will be used. Senator Smith replied that the plan is to use inmates closest in proximity to the proposed fence. Mr. Miranda noted that construction will be very close to the border, and it will be easy for an inmate to cross the border. He pointed out that law enforcement does not have the authority to cross the border to apprehend them if they do escape into Mexico. Senator Smith stated that the fence might be constructed further away from the border on private property.

Mr. Miranda asked whether the Legislature will have any oversight on this group. Senator Smith replied that will be addressed in the proposed amendment.

Mr. Hale queried the need for an interstate compact on an Arizona issue. Senator Smith answered that an interstate compact is an option. He noted that other border states are also
involved in this issue, and he reiterated that the compact is a safety precaution if the federal government deems the project to be inappropriate.

In response to Mr. Hale, Senator Smith advised that the fence will be 360 miles long. He related that easement and private land are options. He again stated that this bill lays a foundation and details will be determined at a later date. He noted that a great deal of research needs to be done to determine where this fence will be. Mr. Hale commented that it appears that everything being legislated is optional. Senator Smith again said that the compact is optional.

Mr. Hale asked about the salary for inmate labor. Senator Smith advised that current inmate labor is 50 cents per hour. Mr. Hale commented that state resources will have to be used to transfer inmate labor. He also mentioned the gift law because the end result will be that private land will be improved. Chairman Gowan stated that the end result is that inmate labor will be utilized to build the fence which will protect the border.

Mr. Hale asked how Tohono O’odham Nation land along the border will be dealt with. Senator Smith answered that is an option that will be explored to determine whether a fence can be built on Nation land.

Mr. Dial commended Senator Smith for bringing this issue forward to address the border problem. He asked about the easement. Senator Smith said a 60-foot easement is a possibility to be explored. Mr. Dial asked about the height of the fence. Senator Smith explained that the engineers will determine how tall the fence will be. He noted that a triple fence was constructed in Yuma and that works. He said he would like to model the fence after the Yuma fence.

Mr. Gallego raised the following issues: the Yuma fence is a state, federal and local effort; the problem with a 60-foot easement because of federal land; tribal land, etc.

Mr. Gallego asked whether this legislation makes it binding that the donations collected will be used to construct the fence. Senator Smith replied in the affirmative. Mr. Gallego queried what happens to the money if there are insufficient donations. Senator Smith asserted that something must be done because the federal government clearly is not doing anything about this issue. He said he hopes that enough money is collected to start the project. Mr. Gallego stated that it is incumbent on the Legislature to protect the public.

Chairman Gowan asked whether the Governor will have oversight over the proposed committee. Senator Smith answered that will be determined by the proposed amendment.

Mr. Gallego stated that the Yuma fence was constructed by professionals. He wondered if any attempt was made to coordinate this with the Border Patrol or local law enforcement, and commented that this may hinder their job more than help them.

Mr. Miranda asked whether proposing an interstate compact implies that Arizona does not have to comply with federal law. Senator Smith replied in the negative. He stated that Arizona has the right to built on its own land. If the federal government deems that it is inappropriate, there
is the compact to strengthen the state’s position. He said he anticipates other states joining Arizona in this effort.

Mr. Miranda said the language of the bill is contingent on obtaining the consent of private property owners. Senator Smith related that every rancher he spoke to supports the fence.

In response to Mr. Miranda’s questions about state and federal land along the border, Senator Smith replied that there is enough private land close to the border to build a fence. The fence can be constructed around state, federal or tribal land. Mr. Miranda brought up wildlife. Senator Smith related that engineers will take that into consideration. He said his greatest concern is securing this nation’s border.

Mr. Miranda pointed out that about $2 billion was appropriated to build a fence in 2006 and he noted that the terrain made it impossible in some areas. He asked how long the project will take. Senator Smith expressed the hope that enough money will be raised quickly to start construction. He asserted that this is a national security problem, not just a Latin American issue.

Vice-Chairman Proud announced the names of those who signed up in support of SB1406 but did not speak:
Jose Borrajero, representing self

Jaime Farrant, Policy Director, Border Action Network, testified in opposition to SB1406. He advised that his organization is a human rights non-profit organization that works with border and migrant communities across the State of Arizona.

Mr. Harper asked whether the Border Action Network is a registered public body. Mr. Farrant replied in the affirmative. He said he is a registered lobbyist.

Mr. Farrant expressed concern about the cost to the state because of inmate labor, estimated to be about $6.5 million, as well as costs to maintain and repair the fence which will be a permanent cost to the taxpayers. Additionally, he said the federal fence has not served as an effective deterrent. He encouraged Members to look at other innovative and creative ways to come up with solutions to solve the immigration problem.

Mr. Harper commented that any type of barrier is important and helps slow down the wave of people crossing the border and becoming a burden on taxpayers.

Chairman Gowan agreed that fences deter and stated that there will always be repairs on anything that is built.

Chairman Gowan asked Mr. Farrant if he would like to see a fence that works. Mr. Farrant answered he would like an immigration system that works. He said that he does not want this legislation to pass as currently written because it will not work. He expressed the desire to look more comprehensively at the problem of immigration and at something that will work.

Mr. Dial asked what the penalties are now for destroying the federal fence. Mr. Farrant said he is not aware of the current penalties. He said he was told that the fence needs repairs every ten
days. Mr. Dial asked Mr. Farrant to comment on the kind of penalty that should be assessed if someone tampers with or damages the fence. Mr. Farrant said that since that does not apply to him, he cannot reply.

Mr. Miranda commented that people will find ways to abridge fences. He stated that the real problem in this country is the addiction for cheap labor, and this country continues to create an atmosphere for people to locate here. In addition, drug addiction contributes to the problem. He said he does not believe building a fence will address the labor or drug addiction problems in this country.

Mr. Farrant concurred. He said he does not believe another fence will solve the root causes and problems this country is facing.

Senator Smith submitted that a fence is vital; military, Border Patrol and law enforcement all agree that a fence is vital. He maintained that an impediment is needed and that fences work. The cost of building the fence will not be a burden to the state because inmate labor will be paid for by private donations. He asserted that this is important and bipartisan legislation. It is for the safety of the state and the country. He urged support of SB1406.

**Question was called on the motion that SB1406 do pass. The motion carried by a roll call vote of 6-3-0-0 (Attachment 6).**

Without objection, the meeting adjourned at 10:40 a.m.

Joanne Bell, Committee Secretary
March 17, 2011

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