



# SIERRA CLUB

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Grand Canyon Chapter

## **2006 Environmental Report Card** ***Arizona Legislature and Governor***

**Issued July 11, 2006**

*Sierra Club Mission: "To explore, enjoy, and protect the wild places of the earth; to practice and promote the responsible use of earth's ecosystems and resources; to educate and enlist humanity to protect and restore the quality of the natural and human environment; and to use all lawful means to carry out these objectives."*

# 2006 Environmental Report Card

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**"We must use time wisely and forever realize that the time is always ripe to do right." ~Nelson Mandela**

## **Forty-Seventh Legislature – Second Regular Session Overview 2006 Legislative Session — Mean and not so green**

### **SESSION HITS AND MISSES**

The most popular refrain at the Legislature this session was, “Will it ever end?” While there have been longer sessions, there have been few that have seemed as long—or as nasty. From day one, the tenor was mean. It started with the Speaker of the House making faces during the Governor’s State of the State speech and went downhill from there.

The major hits for the session included the passage of a pesticide notification measure that will require child care facilities to notify parents and guardians about when they are spraying pesticides and what they are using. This will help parents to make informed decisions that will protect their children.

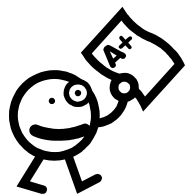
Another hit was the passage of the measure to limit the feeding of wildlife. While it was narrowed to apply to only Maricopa and Pima counties, it is a good start. It will help with efforts to educate people about the problems associated with feeding wildlife and will provide an additional tool for sanctioning those who do not understand that their actions are harming wildlife and potentially harming people.

Legislators finally passed some additional incentives on solar energy. With as much sunshine as we have, you would think that investing in solar energy would be a no-brainer. Instead, even with the Republican Party Chairman lobbying for solar energy, it was an enormous struggle to even get a modest measure through this Legislature.

On the downside, landscapers escaped regulation of their activities related to spraying herbicides. For some reason, legislators have this idea that chemicals potent enough to kill plants are somehow safe. The mines got one more exemption—counties now can’t regulate reclamation activities either. Jennifer Martin was nominated to the Arizona Game and Fish Commission, but was never confirmed. Thanks to the Governor, she has been nominated for the interim and can still be confirmed next year. The Legislature also decided to expedite freeway construction. The last thing Arizona needs is more freeways or more lanes of freeways. How about investing in some expedited transit? Trains?

In the near misses category, the Legislature passed a terrible bill on hazardous air pollutants, but luckily the Governor came through with a veto on that bill.

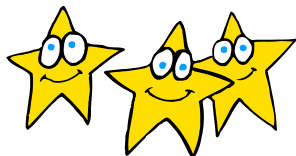
There were a lot of missed opportunities—nothing real on water, nothing real to improve land use requirements, nothing to address air quality in a positive way. As we all have seen, however, there are worse things than a “do nothing” legislature.



## HOW THE REPORT CARD WORKS

Each year since 1994 (and in 1991 and 1992) the Sierra Club's Grand Canyon Chapter has graded Arizona legislators on their performance relative to environmental legislation and since 2000 has included the governor. The Sierra Club does not include every bill on which we have worked and instead we try to include a representative sample, plus all the key bills. Legislators are graded only on bills where the Sierra Club has expressed an opinion to legislators, most often through a written memo. On the more important bills we provide written communication, meet with legislators, testify in committee hearings, and telephone legislators. The bills are weighted according to their environmental impact or their impact on processes we use to further environmental protection (e.g., the initiative and referendum process). In order to provide a more level playing field for legislators, the Sierra Club does not count committee votes and very seldom includes procedural votes. This means it is difficult to recognize some of the behind-the-scenes assistance and committee amendments that legislators offer.

This year we used 15 votes in the House and 15 votes in the Senate. The Governor was graded on ten bills. Everyone is graded on a curve.



## SESSION ALL STARS

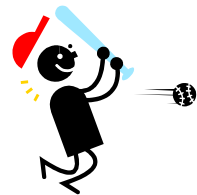
**Senators Paula Aboud** and **Jorge Garcia** and **Representatives Meg Burton Cahill** and **Martha Garcia** are this session's All Stars. They all earned a perfect score and therefore an "A+" on the Report Card. They voted pro-environment 100 percent of the time and also did not miss any of these votes.



## MOST VALUABLE PLAYERS

**Senator Toni Hellon** is recognized as one of the session's M.V.P.s for stepping up to the plate for environmental protection and for helping to move the wildlife feeding bill through the process. This was the second try for this Legislation, plus it was killed earlier in the session when

Representative Farnsworth refused to hear it in Committee. Senator Hellon found a way to revive it and get it to the Governor's desk. We also want to recognize **Representative Kyrsten Sinema** as being an M.V.P. She was a strong voice for conservation on both the House Environment and House Natural Resources and Agriculture committees. She sponsored bills to reinstate citizen suit provisions to hold government accountable for environmental protection laws and also a measure to help identify environmental injustice issues. Both of these were heard in committee, but did not move forward. Representative Sinema was successful in getting some behind-the-scenes amendments added to bills and was an important voice on the floor for environmental protection.



### **BEST PINCH HITTERS**

There was a lot of shifting about this session. It started with the resignation of Senator Giffords, just prior to the session, and the appointment of **Senator Aboud**. Senator Aboud hit the ground running and was very effective in raising important environmental issues. She was instrumental in helping to kill the bad agriculture bill, SCR1035, and also the bad off-road vehicle bill, SB1508. Senator Aboud also voted 100 percent pro-environment.

Senator Harry Mitchell also resigned this session to run for congress. **Senator Ableser** was appointed to his office. Senator Ableser has done very well, worked very hard and has been a good voice for conservation. He spoke up strongly on the floor on environmental and other important issues.

Special mention goes to **Representative Adams**, who replaced Representative Chuck Gray when Gray was appointed to the Senate to take the seat of the late Senator Marilyn Jarrett. While Representative Adams did not do well on the report card and does not agree with us on a number of conservation issues, he is respectful of people with differing opinions and is open to listening and discussing issues. It is refreshing and definitely should be more commonplace at the Legislature.



### **GREEN GLOVE**

The Green Glove recognition represents the efforts to defend against bad environmental bills. This year, we recognized **Governor Napolitano** for a couple of key vetoes including the veto of the Hazardous Air Pollutants bill and the veto of the measure that would have made it more difficult for cities to impose impact fees.



### **COMEBACK PLAYER OF THE YEAR AWARD**

This goes to **Senator Carolyn Allen**. She improved her grade this year, sponsored a key bill on pesticide notification and came back strong after sponsoring the bad hazardous air pollutants bill.

She went on to speak up for Jennifer Martin on the floor of the Senate and to work to defeat a bad state trust land measure being pushed to undermine a citizen initiative.



### **HALL OF FAME**

This year we would like to recognize **Senator Bill Brotherton** as an environmental “hall of famer” at the Legislature. Senator Brotherton has served with distinction for eight years and has helped fight many battles on behalf of environmental protection and good public policy. He has stood strongly for open and fair processes, for clean air, clean water, and protection of this great state for this and future generations. He will be missed at the Legislature.



### **POOR SPORTS**

It is hard to know where to start here, but we think that **Senate President Ken Bennett** should get this recognition for refusing to bring the nomination of Jennifer Martin to the Game and Fish Commission to the floor of the Senate. There was no good reason for him to do that. He said he thought there were more qualified candidates. While that may be true, it is also likely the Senate would not confirm them. Martin was attacked in the committee hearing for being a young mother who did not have a hunting license.

**“I am working for the time when unqualified blacks, browns, and women join the unqualified men in running our government.”**

~Cissy Farenthold, former Texas legislator

Speaker of the House, **Representative Jim Weiers**, also gets recognition for setting a really bad tone overall for the session. When you disagree, do you have to be so disagreeable?



### **BACK TO THE MINORS**

This goes to the legislators at the bottom of the barrel including **Representative Eddie Farnsworth** who failed to vote pro-environment on even one bill and **Representative Collette Rosati** who voted against environmental protection nearly every time. It also goes to **Senator Linda Gray** who came out at the bottom in the Senate. This was especially disappointing as she has been a champion on some toxic-related issues in the past.

## 2006 ENVIRONMENTAL REPORT CARD SENATE GRADES

<b>A+</b>	Aboud, J. Garcia
<b>A</b>	Ableser, L. Aguirre, Brotherton, R. Miranda
<b>B</b>	Hale, Hellon, R. Rios, Soltero
<b>C</b>	C. Allen, Arzberger, Cannell, Chevront
<b>D</b>	Waring
<b>F</b>	Bee, Bennett, Blendu, R. Burns, Flake, Gould, C. Gray, L. Gray, Harper, Huppenthal, Johnson, Leff, Martin, Tibshraeny, Verschoor

## 2006 ENVIRONMENTAL REPORT CARD HOUSE GRADES

<b>A+</b>	Burton Cahill, M. Garcia
<b>A</b>	Bradley, Cajero Bedford, Gallardo, Hershberger, Kirkpatrick, Landrum Taylor, Lopes, Lopez, Lujan, McCune Davis, B. Miranda, Meza, O'Halleran, Prezelski, P. Rios, Sinema, Tom
<b>B</b>	A. Aguirre, Alvarez, J. Burns, Chase, Downing, McClure, Reagan
<b>C</b>	Brown, Huffman, Jones, Konopnicki, Mason, Nelson, Paton, Quelland, James Weiers
<b>D</b>	Barnes, Boone, McLain, G. Pierce
<b>F</b>	Adams, J. Allen, Anderson, Barto, Biggs, Burges, Carpenter, Farnsworth, Gorman, Groe, Knaperek, McComish, Murphy, Nichols, Pearce, Robson, Rosati, Stump, Tully, Jerry Weiers, Yarbrough

# 2006 ENVIRONMENTAL REPORT CARD GOVERNOR GRADE

**A-**

**Governor Napolitano**

## 2006 Environmental Report Card Bill Summaries

**SB1221 structural pest control: licensure exemption (Leff: Harper)** exempts landscapers from licensure by the structural pest control board. They are exempt if they are using containers that hold 8 gallons or less and they are using herbicides that are not labeled for restricted use and that are commercially available to the public. Just because something is commercially available does not mean it is safe, however. People applying these chemicals should be properly trained and licensed in order to better protect themselves, the public health, the land, and our water resources.

Herbicides are not necessarily safer or less toxic than other pesticides. Endocrine and toxic effects in mammals of one of the most commonly used herbicides, glyphosate, commonly known as Roundup, have been indicated in recent research. There is also considerable research linking certain ailments in children to exposure to pesticides, and in particular, to herbicides. By not requiring the licensure and the training that accompanies it, this measure will put both those who work for landscapers and the people they serve at risk by potentially exposing them to these chemicals at harmful levels.

Herbicides also pose a threat to water quality. Recently, the U.S. Geological Survey released a report that found that most of our streams and rivers in the United States are contaminated with pesticides, including several herbicides. **OPPOSE.**

**This passed the Senate 21-7-2 and the House 31-21-8. The Governor signed it.**

**Senate Final Read - Yes vote -2, No vote +2**

**House Third Read - Yes vote -2, No vote +2**

**SB1350 pesticides; child care facilities; notifications (C. Allen)** requires that child care facilities use licensed applicators for pesticide application. Furthermore, it requires that a pesticide applicator notify a child care facility at least seventy-two hours in advance of any pesticide application. It requires that the Department of Health Services work with child care facilities, personnel and the pesticide applicators to develop a policy to notify parents, guardians, children, and personnel at least forty-eight hours in advance of any pesticide application. School notification requirements have been in place for over a decade. This measure expands that to include the youngest and most vulnerable children.

SB1350 requires that the licensees maintain written records for pesticide application notifications for at least three years after the application. This bill incorporates sensible exemptions that will encourage the application of reduced-risk pest management practices and reduce the burden of notification and posting.

Finally, SB1350 includes a \$100,000 appropriation and authorization for two full-time employees in order for the Structural Pesticide Control Commission to implement the program. The dollars are appropriated from their fund—they are a 90/10 board—and do not come from the General Fund.

When it comes to pesticides, children are clearly the most vulnerable population in our society. They are especially sensitive because for each pound of body weight, they have greater exposure to pesticides. They are also more vulnerable because young children tend to put their fingers in their mouth and spend more time on or near the floor where a lot of pesticides are applied. Their bodies are growing rapidly and are less able to detoxify and excrete pesticides and other toxic chemicals. Most importantly, infants and children have developing systems which are far more vulnerable.  
**SUPPORT.**

**This passed the Senate 28-0-2 and the House 41-12-7. The Governor signed it.**

**Senate Final Read - Yes vote +4, No vote -4**

**House Third Read - Yes vote +4, No vote -4**

**SB1356 hazardous air pollutants; de minimis (C. Allen)** would have made it more difficult to trigger regulation of existing facilities relative to their hazardous air pollutants (HAPs) emissions and required the Arizona Department of Environmental Quality (ADEQ) to scrap its recently adopted HAPs rule.

It took the ADEQ nearly 13 years to complete rule making to implement a law passed by the Arizona Legislature back in 1992. Previous attempts to develop a rule were derailed by industry lawyers and lobbyists. Both the current law and the rule to implement it are weak, but at least provide some level of regulation for new facilities, and in rare instances, when there is a significant modification, existing facilities. While the law and the rule are weak and inadequate, we opposed making them weaker and more inadequate via this bill.

The current HAPs statute contains one of the biggest grandfather provisions in our environmental statutes. In most areas, we require that facilities come under a program over time. The aquifer protection program is a good example of that. In the existing HAPs statute, it does not matter if a facility is emitting 1 ton or more per year of any hazardous air pollutant or 2.5 tons or more per year of a combination of hazardous air pollutants, the facility is not regulated by this program unless they make a change that results in an increase in HAPs emissions above a level defined in the rule. (The federal program is triggered by 10 tons and 25 tons respectively, so an existing facility can emit a lot without regulation.) That is just plain wrong. These are harmful chemicals, many of which are known carcinogens. All facilities that are emitting at these levels should be required to meet the program standards. That is the legislation that should have been on the table.

According to the ADEQ, the agency's new rule will likely affect as few as 46 existing facilities. That leaves hundreds that will continue to evade these regulations even without SB1356. With SB1356, these facilities and any new facilities would have continued to be unregulated in this area.

The chemicals regulated by this program are not benign. Benzene, for example, is a known carcinogen. Per EPA, "Chronic (long-term) inhalation exposure has caused various disorders in the blood, including reduced numbers of red blood cells and aplastic anemia, in occupational settings. Reproductive effects have been reported for women exposed by inhalation to high levels, and adverse effects on the developing fetus have been observed in animal tests. Increased incidence of leukemia has been observed in humans occupationally exposed to benzene."

Formaldehyde is used to produce resins that are used in the manufacturing of particleboard and also as an intermediate to synthesize other chemicals. According to EPA, it is a probable human carcinogen. EPA states, “Exposure to formaldehyde may occur by breathing contaminated indoor air, tobacco smoke, or ambient urban air. Acute (short-term) and chronic (long-term) inhalation exposure to formaldehyde in humans can result in respiratory symptoms, and eye, nose, and throat irritation. Limited human studies have reported an association between formaldehyde exposure and lung and nasopharyngeal cancer. Animal inhalation studies have reported an increased incidence of nasal squamous cell cancer.”

Ultimately, any hazardous air pollutant program should be protective of human health and environment. This measure would have made that impossible. **OPPOSE.**

**This passed in the Senate 17-13 and in the House 31-26-3. The Governor vetoed it.**

**Senate Final Read - Yes vote -4, No vote +4**

**House Third Read - Yes vote -4, No vote +4**

**SB1508 regulation of off-highway vehicles (Flake, Bennett)** would have established an off-highway vehicle (OHV) advisory commission that was totally stacked with OHV users. The commission was not balanced in the least nor did the bill require that the members have expertise in the areas for which it is responsible. It did not require expertise with OHV laws, mitigation of land damage, or necessary environmental, historical, and cultural clearance or compliance activities, yet says the commission members allocate the money for doing all of these. Worst of all, it swiped the OHV dollars from Arizona State Parks and would have risked the jobs of more than a dozen Parks’ employees. This agency is already underfunded and struggling—this was the last thing it needed. **OPPOSE.**

**This failed in the Senate 12-17-1.**

**Senate Third Read - Yes vote -2, No vote +2.**

**SB1550 copper state park (Flake, Brown, Chase, et al)** authorizes establishment of a state park near Kearny. We are not normally opposed to establishing state parks, but we believe this bill has a number of problems and is, at best, premature. The measure to facilitate the congressional land swap, which is part of this deal, has not been passed by the U.S. Congress. That land swap bill will allow a foreign-owned mining company, Resolution Copper Company (Rio Tinto—55% owner—headquartered in the United Kingdom, and Broken Hill Properties—45% owner—headquartered in Australia), which acquired the old Magma Mine near Superior, to also acquire Oak Flat Campground via a congressionally legislated land swap so that they can mine in the area.

**Oak Flat campground was recognized by President Eisenhower as an important area back in 1955, when he signed Public Land Order 1229 which specifically put this land off limits to future mining activity.** Oak Flat provides many recreational opportunities for Arizonans and others from around the country. Recreational activities in the area include hiking, camping, rock climbing, birding, bouldering and other recreational activities. The Oak Flat area is the largest outdoor climbing area in Arizona and home to the largest outdoor climbing competition in the world. Oak Flat is also a key birding area. Four of the bird species that have been sighted at Oak

Flat are on the National Audubon Society's watchlist of declining species that are of national conservation concern—the Black-chinned Sparrow, Costa's Hummingbird, Lewis's Woodpecker, and Gray Vireo. The Sierra Club is strongly opposed to this land swap.

**Cultural resources associated with the Apache are found at and near Oak Flat and it is a traditional tribal use area. For this reason, the San Carlos and White Mountain Apache Tribes are also opposing this proposed land swap.**

The second major issue with this bill is that it would allow the Copper State Park to be established despite the fact that it would contain private land owned by Asarco, a company that can mine the land and a company that is in bankruptcy. Who knows what they will do with this land in the future? What kind of state park has private land owned by a mining company in its midst? The Park is contingent on the conveyance of Bureau of Land Management lands and state trust lands, but not the private parcels.

The third issue with this bill is it directs the State Parks Board to ignore its purposes and objectives. Per 41-511.03., "The purposes and objectives of the board shall be to select, acquire, preserve, establish and maintain areas of natural features, scenic beauty, historical and scientific interest, and zoos and botanical gardens, for the education, pleasure, recreation, and health of the people, and for such other purposes as may be prescribed by law." Under Legislative Findings, it states:

"The legislature finds that areas in close proximity to the rock climbing state park authorized by this act have historically been or are currently the sites of past, present or potential future mining and mining related activities or operations, grazing and agriculture. The state park shall coexist with all the past, present and future uses in the area. The legislature does not intend that the establishment of the rock climbing state park authorized by this act will lead to the creation of protective perimeters or buffer zones around the park. The fact that nonpark related activities can be seen, heard or otherwise experienced in any way by visitors to the state park, whether from inside the state park, outside the state park or on the access road to it, or the fact that these activities might affect any environmental condition within the state park shall not, of itself, preclude these activities or uses up to the boundary of the state park."

How is that consistent with preserving and maintaining scenic beauty or natural features? In the past, such as some recent development issues in Benson, the Parks Board has weighed in when issues outside the parks affect the parks (in the case of Benson, Kartchner Caverns). They should not be precluded from doing so in this bill.

Finally, the State Parks budget is already a challenge and their fees are high relative to other states. If the state is going to help cut this deal, they should ask Resolution Copper Company to convey to the State Parks Board some royalties or fees from the mined copper in order to have funding for operation of this new park.

**This passed in the Senate 22-6-2 and in the House 48-8-4. The Governor signed it.**

**Senate Final Read - Yes vote -1, No vote +1**

**House Final Read - Yes vote -1, No vote +1**

**SCR1008 constitutional amendments; single subject (Huppenthal)** would have referred to the voters a measure to eliminate the separate-amendment provision of the Arizona Constitution and to

replace it with the much lower standard for statutes. Article 4, Part 2, Section 13 includes the provision relating to statutes. It states:

“Every Act shall embrace but one subject and matters properly connected therewith, which subject shall be expressed in the title; but if any subject shall be embraced in an Act which shall not be expressed in the title, such Act shall be void only as to so much thereof as shall not be embraced in the title.”

This provision has been interpreted very loosely and the courts have allowed considerable latitude in combining topics in legislation. There are many “Christmas tree” bills that move through the legislative process and become law every year.

On the other hand, the section of the Constitution which addresses proposed constitutional amendments, Article 21, Section 1, states:

“If more than one proposed amendment shall be submitted at any election, such proposed amendments shall be submitted in such manner that the electors may vote for or against such proposed amendments separately.”

This is written and interpreted more strictly — and for good reason. According to a recent Arizona Supreme Court decision, **“The clear import of this provision is that voters must be allowed to express their separate opinion as to each proposed constitutional amendment.”** The Arizona Constitution is the foundation for our laws. It and the U.S. Constitution are the law of the land and should be clear, concise, and easily understood by the citizens of this country and of this state. Proposed amendments to the Arizona Constitution should not be a jumble of loosely related matters.

**This passed the Senate 16-12-2 and was changed with a strike everything amendment in the House to become a totally different bill.**

**Senate Third Read - Yes vote -3, No vote +3**

**SCR1035 food and agricultural security (Flake, Arzberger, Jarrett, et al)** would have referred to the ballot a measure that said only some unnamed agency designated by the Legislature has the authority to enforce or adopt both laws and administrative rules that govern agriculture. This measure would have actually given legislative authority to an agency. The measure included a ban on any law or rule that would limit or restrict production of agricultural products except for those laws or rules that are for the protection of public health and safety, necessary to comply with federal law or laws or rules that relate to use of surface water, effluent or groundwater, laws that relate to wildlife which may be consumed as food, and those relating to state trust land grazing and agricultural leases. It was unclear how this might have affected environmental protections or what exactly would have been included in the exemptions. Irrespective of that, this measure was just plain bad and was merely there to try to undercut a citizen initiative, the Humane Farms measure, which the Sierra Club is supporting. These Concentrated Animal Feeding Operations (CAFOs) are inhumane, but also cause enormous environmental degradation and produce large amounts of pollution. **OPPOSE.**

**This failed in the Senate Committee of the Whole 12-15-2.**

**Senate Committee of the Whole Recorded Vote - Yes vote -3, No vote +3**

**HB2129 NOW: illegal hunting; penalties (JP Weiers, Mason: Biggs, et al)** provides higher penalties for poaching wildlife, including a stronger penalty for poaching “trophy animals.” These larger “trophy” animals are often targets for high rollers and involve huge amounts of money, so increasing the penalties and fines is an appropriate deterrent for this kind of illegal activity. The bill allows the Commission to double and triple civil assessments for multiple offenses of illegally killing or wounding wildlife.

The bill also includes a provision which relates to feeding of wildlife. It makes it a petty offense to feed wildlife intentionally in Pima and Maricopa Counties, thus targeting the more urban areas of our state. The bill excludes tree squirrels and birds and people who are in the process of hunting or fishing or people who are engaged in wildlife management activities. This bill focuses on the key problems with wildlife feeding and ensures that there is no confusion about hunting or fishing being affected by it.

***"Those who wish to pet and baby wildlife love them, but those who respect their natures and wish to let them live their natural lives, love them more."*** ~Edwin Way Teale, naturalist & author

We strongly supported this wildlife feeding ban measure because the feeding of wildlife promotes human-wildlife conflicts where both people and animals are at risk. Animals become habituated to humans and associate them with food resulting in some kind of conflict. As Arizona continues to urbanize and move our cities and towns farther and farther into important wildlife habitat, there are increasing conflicts between people and wildlife. Some of these conflicts can be avoided if people refrain from feeding animals.

Animals that are habituated to humans can literally bite the hand that feeds them. Supplemental feeding of wildlife can also result in an unnatural and unhealthy increase in some animal populations. Feeding wildlife disrupts their migration patterns and concentrates wildlife in a manner that negatively affects habitats and other wildlife species.

**This passed the Senate 20-9-1 and the House 43-8-9. The Governor signed it.**

**Senate Third Read - Yes vote +3, No vote -3**

**House Final Read - Yes vote +3, No vote -3**

**HB2291 chemical fire response; task force (Landrum Taylor: A. Aguirre, J. Allen, et al)** would have set up a response task force and required that the task force establish a hazardous material tracking process program for municipalities to identify buildings that use or have hazardous materials on site. It required coordination of public health and risks associated with a chemical or other toxic fire event. **SUPPORT.**

**This passed the House 53-2-5. It was heard in the Senate Natural Resources and Rural Affairs Committee and initially passed out of the Rules Committee, but was re-referred to Rules and Appropriations and never saw the light of day again.**

**House Third Read - Yes vote +2, No vote -2**

**HB2294 NOW: regional water planning (O'Halleran)** required cities and towns to include information about projected water demand for the next 10 years in the water resource element of their general plans. It required towns without general plans to do water use planning in coordination with other governing bodies in the same groundwater basin with regards to water supplies, conservation efforts, and drought management efforts. It also set up a process for the Arizona Department of Water Resources to establish priority regional planning areas. **SUPPORT.**

**It passed the House 53-2-5 and was never heard in the Senate Natural Resources and Rural Affairs (where all good water bills go to die).**

**House Third Read - Yes vote +2, No vote -2**

**HB2317 NOW: mining reclamation act (Barnes)** exempts mines from even more regulation by prohibiting the counties from regulating reclamation activities via ordinances. This applies to sand and gravel and hard rock mining. Just when you thought there was no place left in the statutes where the mines were not exempt, here it is. This bill makes a bad statute even worse—there are already major exemptions for mining (including sand and gravel) and significant limits on what a county can do in this area. Local government should be able to develop and implement ordinances that help to ensure there are fewer conflicts between mining activities and other land uses. That includes reclamation.

This is another bill that should have never made it to the Governor's desk. After dying without a hearing in the Natural Resources and Agriculture Committee, the measure was resurrected on a last minute strike everything amendment in a special Senate Government Committee hearing. It was never heard in committee in the House. All of this demonstrates the significant influence of the sand and gravel lobby at the Legislature. If it is such a great bill, why couldn't it go through the regular process? **OPPOSE.**

**This passed the Senate 20-7-3 and the House 34-23-3. The Governor signed it.**

**Senate Third Read - Yes vote -1, No vote +1**

**House Final Read - Yes vote -1, No vote +1**

**HB2381 NOW: development fee; capital improvements plan (Paton, Bee)** would have made it more difficult for cities to assess and collect municipal development impact fees and was yet another example of trying to limit local control and to further foist the development costs for sprawl development on existing tax payers.

If the framers of this legislation were seeking to clarify and simplify the process for determining and implementing development impacts fees, they really missed the mark on this one. Had it become law, it would have complicated and confused rather than clarified.

Development impact fees are an important tool to ensure that development is truly paying for itself. Fair development impact fees can help alleviate the burden on existing taxpayers and serve to limit urban sprawl and leapfrog development, by having the new development pay for the infrastructure needs of that development and the additional burdens it places on everything from parks to roads and even cultural facilities.

HB2381 prohibited development impact fees from being used for arts and cultural facilities or any part or equipment related to those facilities. Why limit their use on cultural facilities and the arts? Aren't they as important to our quality of life as other amenities that are partially funded through development impact fees? If a city thinks these are important, shouldn't it be able to include them in its impact fees? What will the developers seek to eliminate next? Parks?

Seldom does residential development pay for itself in Arizona. The costs of expanding freeways, the need for additional parks and open space, the added burdens on the schools, and certainly the negative impacts on air quality, are often not factored into these fees. We should not make the current situation worse.

**This passed the Senate 16-13-1 and the House 31-23-6. The Governor vetoed it.**

**Senate Third Read - Yes vote -2, No vote +2**

**House Final Read - Yes vote -2, No vote +2**

**HB2429 solar energy tax incentives (Mason, Boone, Chase, et al)** establishes commercial solar tax credits that allow a 10% credit for the installation of solar energy devices for commercial or industrial purposes in a trade or business located in Arizona, which is limited at \$25,000 with respect to the same building annually and \$50,000 annually per company. There is an annual overall cap of \$1 million on the commercial tax credit. It includes a full sales tax exemption for solar energy systems and a property tax exemption for property owners installing solar energy systems. **SUPPORT.**

**This passed the Senate 23-4-3 and the House 41-11-8. The Governor signed it.**

**Senate Third Read - Yes vote +2, No vote -2**

**House Final Read - Yes vote +2, No vote -2**

**HB2430 energy cost saving measures; requirements (Mason, Chase: Boone, et al)** cleans up several aspects of the statutes addressing energy efficiency and renewable energy and encourages state agencies and schools to utilize energy efficiency and renewable energy mechanisms. This is a modest measure to help clarify and encourage the use of these measures and to allow for state agencies to better pay for the investments over a reasonable period of time. **SUPPORT.**

**This passed the Senate 19-9-2 and the House 47-10-3. The Governor signed it.**

**Senate Third Read - Yes vote +1, No vote -1**

**House Third Read - Yes vote +1, No vote -1**

**HB2431 NOW: affidavit of disclosure; water service (Mason, J. Burns, Burton Cahill)** provides additional information on an affidavit of disclosure for a lot split that indicates if the property is served by a private water company, a well, or a municipal provider, and that the Department of Water Resources may not have determined the water adequacy. It also indicates whether or not the property is served by a water supply and whether transportation of water is required. This is a positive consumer protection measure. **SUPPORT.**

**This passed the Senate 25-4-1 and the House 56-0-4. The Governor signed it.**

**Senate Third Read - Yes vote +1, No vote -1**

**House Third Read - Yes vote +1, No vote -1**

**HB2843 tax credit; energy efficient products (Mason, O'Halleran, Bee, et al)**, as it passed out of the House, made it easier for consumers to buy products that save energy and consequently reduce pollution associated with our fossil-fuel dominated energy generation. The bill provided a tax credit applicable to tax years 2006 and 2007. The credit would have been awarded to taxpayers who purchased certain appliances for their residence:

- Central air conditioners or air source heat pumps that qualify for the federal tax credit - \$150
- Energy Star-certified washing machines - \$100
- Energy Star-certified ceiling fan - \$25

The Department of Energy and Environmental Protection Agency run Energy Star, a program that helps make homes and businesses more energy-efficient and thereby reduces greenhouse gas emissions.

Most of our electricity in Arizona comes from coal and nuclear power generation, both of which contribute to negative environmental and public health effects. Energy efficiency is a straightforward and cost-effective way to reduce our electricity consumption and the associated pollution.

If one person took advantage of the tax credits and replaced their old appliances with energy-efficient models, they would prevent 26 tons of carbon dioxide, a greenhouse gas, from entering the atmosphere:

- Central air conditioner – 23 tons
- Washing machine – 2 tons
- Ceiling fan – 1 ton

If only 1,000 people replaced all three of these appliances, **they would prevent a grand total of 2,600 tons of carbon dioxide from entering the atmosphere** and contribute to global warming. That's the same as removing 4,500 cars from the road for one year! **SUPPORT.**

**This passed the House 42-18. It got stuck in the Senate Rules Committee as part of the budget negotiations and did not make the cut in the budget.**

**House Third Read - Yes vote +2, No vote -2**

**HCR2002 NOW: Private Property Rights Protection Act (C. Gray, Burges, Pearce)** would have referred to the ballot a measure that required governments to compensate property owners for nearly every zoning or land use decision they made. If adopted, this measure would have either had a huge negative financial impact, draining funds from important public services, or, more likely resulted in no enforcement of land use protections. The current zoning in cities, towns and counties would have been effectively frozen, preventing government from responding to future community concerns, including possible re-zoning for protection of sensitive areas.

Examples of actions that could have been weakened or rendered unenforceable if HCR2002 was referred to the ballot and passed by the voters:

- Approval of wash or hillside protection ordinances.
- Approval or disapproval of historic overlay zoning.
- Enforcement or enactment of neighborhood or wildlife habitat preservation measures.
- Approval of buffer areas near preserves or important wildlife habitat areas.

This measure opened the door for anyone with the perception that there had been some reduction in property value to file a claim for compensation with their local government.

The Arizona Legislature has attempted to win passage of takings measures in the past; legislators have rejected most of these measures and the Arizona voters rejected the one that was referred to the ballot by the citizens. In 1992, the Legislature passed a takings measure that was referred by organizations opposed to it and then it was overwhelmingly rejected by the voters in 1994 (60% to 40%). **OPPOSE.**

**This passed the Senate 17-11-2 and was never brought to the floor of the House.**

**Senate Third Read - Yes vote -4, No vote +4**

**HCR2031 NOW: compensation; land use regulation (C. Gray)**, a measure being promoted by an out-of-state organization called Americans for Limited Government, was nearly identical to HCR2002. It would have referred to the ballot a measure that required governments to compensate property owners for nearly every zoning or land use decision. **OPPOSE.**

**This failed in the House 26-29-5.**

**House Third Read - Yes vote -4, No vote +4**

**HCR2045 state trust land reform (Nelson, Boone, Brown, et al)** was referred to the ballot by the Legislature to counter the *Conserving Arizona's Future* Initiative. While the Sierra Club is not supporting the initiative, we do not think it is appropriate for the Legislature to try and confuse voters in order to defeat it. It should pass or fail based on its merits, not on voter confusion. HCR2045 protects very little land and does not adequately protect the identified conservation lands as it keeps them open to mining activities and allows development on them to continue until 2009. Conservation lands are restricted against development after that, but development only precludes construction of buildings; it does not preclude the construction of roads, canals, power transmission lines, cell phone towers, fencing, trails, etc. It requires that any additional lands not already identified under the Arizona Preserve Initiative (42, 511 acres) be approved by the legislature and it even caps that at 400,000 acres. It gives away pre-1968 rights-of-way for roads. **OPPOSE.**

**This passed in the Senate 16-13-1 and the House 36-20-4. It will be on the November ballot.**

**Senate Third Read - Yes vote -3, No vote +3**

**House Final Read - Yes vote -3, No vote +3**

## RESOURCES

For more information on the legislation contained in this report card or on other bills, please go to <http://www.azleg.state.az.us/Bills.asp>.

The Arizona Legislature's main website is <http://www.azleg.state.az.us/>. For a complete list of Arizona legislators, go to <http://www.azleg.state.az.us/MemberRoster.asp>. To find out who represents you in the Arizona Legislature, please go to <http://www.vote-smart.org/index.htm>.

If you do not have access to the Internet and would like more information, you can call the House and Senate information desks. Outside the Phoenix area, you can call toll free at 1-800-352-8404. In the Phoenix area call (602) 542-3559 (Senate) or (602) 542-4221 (House). All correspondence goes to 1700 W. Washington Street, Phoenix, AZ 85007-2890.

The Governor's website is <http://www.governor.state.az.us/>. You can call her office at (602) 542-4331 or toll free 1-800-253-0883. To email her, go to <http://azgovernor.gov/Contact.asp> and paste in your message.

For more information on the Sierra Club's Grand Canyon Chapter and our conservation and legislative programs, please go to our website at [www.arizona.sierraclub.org](http://www.arizona.sierraclub.org) or call our office at (602) 253-8633. You can check out more information on some of the bills we tracked this session at [http://arizona.sierraclub.org/political\\_action/tracker/](http://arizona.sierraclub.org/political_action/tracker/).

For information on the Sierra Club Political Committee and how you can help elect environmentally friendly candidates, please contact Lynn DeMuth at [lmdeMuth@cox.net](mailto:lmdeMuth@cox.net) or the Grand Canyon Chapter office at (602) 253-8633 or [grand.canyon.chapter@sierraclub.org](mailto:grand.canyon.chapter@sierraclub.org).