

**1999 Environmental Report Card**  
**Bill Summaries and Points**

**Endangered Species**

**HB2028 cooperative agreements on endangered species** (Brimhall, Griffin) requires that any agreements between the federal government and Arizona or any entity of Arizona relating to resident threatened species of fish, wildlife, or plants be subject to legislative ratification and approval by the governor. This bill has been around for several years and was originally sponsored by the current House Speaker, Jeff Groskost. Fife Symington vetoed a similar bill when he was governor. The bill would not promote protection of threatened and endangered species, but would only serve to slow down the process of protection and interfere with some of the more progressive local efforts regarding habitat and species protection, such as the Sonoran Desert Protection plan being promoted in Pima County. It would further politicize a process that is already too political. The bill is probably unconstitutional, because of the separation of powers and federal supremacy issues. This passed the House 34-25-1, but was never heard in the Senate.

**House Third Read: Yes - 0 points, No - 4 points**

**HJR2001 endangered species act; reasonable application** (Flake and many others) makes many false assertions about the Endangered Species Act (ESA) and uses endangered species as scapegoats for the decline in the State's ranching, mining, and timber industries. It states that the ESA provides no accommodation of human activities. This is false. There are very few projects in the country and in Arizona that have been stopped because of concerns over an endangered species. What the act does require is some accommodation of the species. It also states that the ESA is based on dubious scientific research. This too is not accurate. Please see the 1995 study done by the National Research Council (members are drawn from the National Academy of Sciences, National Academy of Engineering, and the Institute of Medicine). The report reviewed scientific issues related to the ESA. The report says:

"The overall conclusion is that the ESA is based on sound scientific principles. Many scientific advances have been made since the ESA was passed in 1973, and they provide opportunities to improve the act's implementation, especially with respect to identifying species, subspecies, and distinct population segments, with respect to estimating risks of extinction, and economic and decision analyses. Although it is difficult to quantify the effectiveness of the act in preventing species extinction, there is no doubt that it has prevented the extinction of some species and slowed the declines of others. It is equally clear that the ESA by itself cannot prevent the loss of many species and their habitats. Instead the ESA is best viewed as one part of a comprehensive set of ways of protecting species and their habitats."

HJR2001 passed both Houses (41-18-1, 20-10) and was sent to the Secretary of State, who is then supposed to pass it along to Congress.

**House Third Read: Yes - 0 points, No - 1 point**

**Senate Third Read: Yes - 0 points, No - 1 point**

**Energy**

**HB2093 solar technology advisory council; continuation** (Gray) continues the solar technology advisory council until July 1, 2005. It passed both Houses (48-9-3, 27-3) and was signed by the Governor.

**House Third Read: Yes - 1 point, No - 0 points**

**Senate Third Read: Yes - 1 point, No - 0 points**

**HB 2527 NOW: tax subtraction; energy efficient homes** (Wong, Nichols, Anderson: Brotherton, Foster) extends the state 5% sales tax exemption for solar energy to installation contractors, who were inadvertently omitted when the original legislation was written; provides a 5% tax deduction for a new energy efficient home; and creates a commercial solar tax credit for solar energy devices — 25% of the cost, with a \$5,000 maximum. This passed the House 35-25, but was never allowed to come to the Floor of the Senate.

**House Third Read: Yes - 1 point, No - 0 points**

### **Environmental Quality**

**SB1194 voluntary remedial action** (Bowers) allows companies to use the Y2K issue as a defense in criminal and civil actions relative to environmental laws in Arizona. The Y2K issue would have become just another excuse for polluting our air, water, and soil. This passed the House 42-15-3, but thankfully senators said no to this "Y2K get out of jail free card" (12-17-1). Industry still has Y2K "protection" under SB1294, but does not have any criminal protection.

**House Third Read: Yes - 0 points, No - 4 points**

**Senate Final Read: Yes - 0 points, No - 4 points**

**SB1412 solid waste; amendments** (Bowers) exempts solid waste landfills that are not open to the public from fees. The fees from these landfills go to support recycling programs. This bill failed in the Senate 10-20, and later was resurrected and modified as SB1281 (that bill has fee cap of \$15,000 and some tighter provisions regarding dispersal of waste).

**Senate Third Read: Yes - 0 points, No - 2 points**

**HB2261 environment; voluntary remediation** (Allen, Carruthers, Freestone, et al) sets up a new remediation program that supposedly will encourage more clean up of our soil and groundwater. We did question whether this bill was necessary as the proponents of a new program never made a compelling case for it, but we did support the version that left the House. The industry representatives would not support the bill without an amendment to make it possible for polluters to avoid cleaning up to meet aquifer water quality standards (drinking water standards) and the Governor's office refused to agree to that, so the bill was never heard in the Senate. It passed the House 56-3-1.

**House Third Read: Yes - 1 point, No - 0 points**

**HB2594 (Emissions trading program - Kyle)** establishes an emissions bank for Arizona and allows trading of pollution without providing adequate protections for the public or ensuring that this program will result in cleaner air. It does not require overall emissions reductions or improvements in air quality. It does not limit the trading to like pollutants. It does not require full public notice, disclosure, participation, oversight, accountability, verification, and effective enforcement with rights of appeal for affected citizens. And finally, it does not provide for penalties for those who cheat on the emissions trading program. This passed both Houses (32-23-5, 23-6-1).

**House Final Read: Yes - 0 points, No - 3 points**

**Senate Third Read: Yes - 0 points, No - 3 points**

**HB2643 financial hardship; WQARF** (Weason, Griffin, McGrath, et al) shifts the costs for cleaning up contaminated sites to the public and away from the private entities that polluted the sites. HB2643 allows responsible parties to claim financial hardship and settle on an amount before the ADEQ has sufficient information on the site to determine the extent of the pollution or how much that particular party contributed to the polluted site. This bill will result in more

and/or larger orphan shares (the public pays for these) in the Water Quality Assurance Revolving Fund (WQARF) program. This passed both Houses (36-20-4, 18-12) and was signed by Governor Hull.

**House Third Read: Yes - 0 points, No - 3 points**

**Senate Third Read: Yes - 0 points, No - 3 points**

### **Heritage Fund**

**HB2459 (lottery revenue: education - Griffin)** sets up two new lottery games specifically for education. The problem with the bill was it put this in line in front of the other lottery beneficiaries and would have diverted money from the Heritage Fund. Already the Heritage Fund is likely to receive less than the \$20 million per year. This bill would have meant even less money for parks, habitat protection, trails, and environmental education. This failed in the House 17-41-2.

**House Third Read: Yes - 0 points, No - 3 points**

### **Land use, growth management and local control bills**

**SB1021 (private lands; designation - Arzberger, Bowers, Griffin, et al)** requires landowner consent to designate property as agriculture, open space, recreation or preserve on the general/comprehensive plan. This bill was unnecessary and if passed would have resulted in inconsistent and spotty zoning. If any city, town, or county designates property in such a way as to leave the landowner with no economically viable use of the property, that is a taking and the government entity must provide compensation anyway. The bill unduly restricted the ability of local government to engage in proper land use planning and made it impossible for them to consider what is in the best interest of the community as a whole relative to preservation of open space. While the Sierra Club did not support last year's "Growing Smarter" bills, we did think this bill significantly weakened that law and would have negated much of the positive that could come out of the Growing Smarter Commission's work. This passed both Houses (35-22-3, 26-4), but was vetoed by Governor Hull.

**House Third Read: Yes - 0 points, No - 3 points**

**Senate Final Read: Yes - 0 points, No - 3 points**

**SB1054 (lot splits - Petersen)** excludes from the definition of subdivision, land that is divided into parcels of at least 2 1/2 acres. The current acreage exclusion is 36 acres. This bill would have resulted in even more wildcat subdivisions, allowing people to subdivide and evade important subdivision regulations such as providing an assured water supply, legal access, etc. This failed in the Senate 11-18-1.

**Senate Third Read: Yes - 0 points, No - 3 points**

**SB1364 (Municipal; Downzoning - B. Burns)** originally required written consent of landowners for any regulation that reduced the value or restricted the use of property. It was amended in a conference committee and in order to avoid doing a strike everything amendment, which they are not supposed to do in conference committees, they left the following sentence in the bill: "THE LEGISLATURE FINDS THAT A CHANGE IN LAND USE REGULATION MADE BY THE GOVERNING BODY OR THE ZONING BODY THAT REDUCES THE VALUE OF THE LAND IS A MATTER OF MAJOR CONCERN." It was unclear what impact that sentence would have had, but it is clear that it was unnecessary. And speaking of unnecessary, it also created another study committee to make recommendations to the legislature, and submit a report of its findings and recommendations, including those to protect the value of private property when rezoning occurs. This passed the Senate 25-4-1, but failed in the House 28-26-6.

**House Final Read: Yes - 0 points, No - 2 points**  
**Senate Final Read: Yes - 0 points, No - 2 points**

**HB2373 real estate; acting in concert** (Jarrett, Groscoast, Cooley, et al) would have encouraged more wildcat subdivisions and more commercial activities (time-shares) in residential areas. The current definition of "acting in concert" requires that there be evidence of collaborating to pursue a concerted plan. This bill changed the definition to make it extremely difficult to prove someone was acting to avoid the subdivision regulations by requiring proof of the state of mind of the parties involved, rather than focusing on the actions themselves. This passed the House 31-27-2, but did not come to the Senate Floor because they did not have the votes for passage.

**House Third Read: Yes - 0 points, No - 3 points**

**HB2444 cities; eminent domain; limitations** (McGrath and McGibbon) limited the eminent domain authority of cities for redevelopment. This failed in the House 24-36.

**House Third Read: Yes - 0 points, No - 2 points**

**HB2671 municipal zoning; nonconforming use** (Hart, McGrath, Overton) would have allowed illegal and nonconforming billboards to remain in place indefinitely by making citations that are more than two years old unenforceable. Tucson voters approved banning most billboards by a 2 to 1 margin back in 1985. This bill would have undercut local authority and denied the wishes of Tucson voters. It passed the House 35-21-4 and failed in the Senate 15-14-1.

**House Final Read: Yes - 0 points, No - 2 points**

**Senate Final Read: Yes - 0 points, No - 2 points**

### **Land Preservation**

**SB1074 (Spur Cross Ranch - B. Burns)** requires the Arizona State Parks Board to establish Spur Cross Ranch State Park, subject to several conditions, including requiring the purchase agreement for Spur Cross Ranch to be executed between the Parks Board and at least one owner, limiting the purchase price of the Ranch to no greater than the appraised value of the property, and requiring Maricopa County to provide one-half of the purchase price of the Ranch. This passed both Houses (45-13-2, 28-1-1) and was signed by the Governor.

**House Final Read: Yes - 3 points, No - 0 points**

**Senate Final Read: Yes - 3 points, No - 0 points**

**HB2016 (suitable land; Arizona preserve initiative - Gleason)** designates lands eligible to be nominated for reclassification for conservation to include specified lands in the vicinity of the San Tan Mountains and specified lands in the Flagstaff area open space and greenway plan. It allows the State Land Department to charge \$1000 for each bond for conservation leases or sales, rather than determining the bond amount by estimating rent or a percentage of land value, advertising, appraisal, and other costs. This passed both Houses (42-17-1, 28-0-2).

**House Final Read: Yes - 1 point, No - 0 points**

**Senate Third Read: Yes - 1 point, No - 0 points**

### **Streambeds**

**SB1133 nonnavigable streams; disclaimer of title** (Bowers, Brown, Bee, et al) ratifies recommendations from the Arizona Navigable Streambed Adjudication Commission that the Gila, San Pedro, Santa Cruz, Puerco, Bill Williams, San Francisco, and portions of the Salt River were non-navigable at the time of Statehood. It means the State gives away these streambeds for sand and gravel and other mining, agriculture, etc. We believe that constitutionally the State

must hold them in trust for the public and that a more appropriate means for determining navigability and property ownership should be found. This bill passed both Houses (32-25-3, 24-6) and will become law without the Governor's signature. The Arizona Center for Law in the Public Interest is litigating this issue, so hopefully SB1133 will never be enacted.

**House Third Read: Yes - 0 points, No - 4 points**

**Senate Final Read: Yes - 0 points, No - 4 points**