ATRA'S 2017 LEGISLATIVE REVIEW

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The ATRA Legislative Policy Committee meets every Friday during the legislative session to review the impact of all proposed legislation on taxpayers and Arizona's public finance system. ATRA coordinates its advocacy efforts in the Legislature on important public finance and tax bills. Through testimony in committees and dissemination of information to legislators, ATRA serves as the only statewide taxpayer advocate at the Legislature.

The ATRA staff would like to express our gratitude to the members of ATRA's Legislative Policy Committee and Chairman Gretchen Kitchel for their guidance and hard work during the 2017 legislative session. Special appreciation also goes out to members of ATRA's Tax Policy Committee whose knowledge, under the leadership of Chairman Bill Molina, has consistently proven to be indispensable to this organization's success during the legislative session and throughout the year.

During the First Regular Session of the 53rd Legislature, 1,180 bills and resolutions were introduced. Of the 1,079 bills introduced, 11 of the 353 that passed were vetoed by the Governor. Forty-two of the 101 resolutions introduced were adopted by the Legislature. This document summarizes key legislation ATRA supported, opposed, and monitored.

Additionally, ATRA would like to thank ATRA board member Steve Trussell, Executive Director of Arizona Rock Products Association, and his staff for graciously hosting the Legislative Policy Committee meetings.

HIGHLIGHTS OF THE 2017 LEGISLATIVE SESSION

This document summarizes key legislation ATRA actively supported, opposed or monitored during the First Regular Session of Arizona's 53rd Legislature. The 2017 session proved very successful for ATRA on a variety of fronts. ATRA's top-priority bills passed and were signed by the Governor while all legislation ATRA opposed failed.

ATRA staff advocated for several significant legislative reforms that strengthened transparency and taxpayer equity and opposed many legislative proposals that would have been damaging to the state's public finance system.

The major legislative issues where ATRA played a key role included the following measures:

- ATRA led a significant reform of the troubled economic development mechanism, Government Property Lease Excise Tax (GPLET) in HB2213. The bill prospectively limited the length of these deals involving property tax abatement to eight years from twenty five. Several other reforms including oversight of grandfathering provisions and improvements to collection and remittance of tax were included.
- In response to several municipalities that have continually levied more in secondary property taxes for debt service for bonds than what was required to make debt payments, ATRA advocated for clarifying language in HB2011. The bill clarified that the annual levy for debt service must be net of all cash in excess of 10% remaining in the debt service account from the previous year.
- ATRA was successful in advocating for expanding the oversight and clarification of Arizona's Truth-in-Taxation (TNT) law in HB2286. The improved language will state exactly how much a taxpayer would pay with and without the proposed tax increase.
- ATRA continued to pursue legislation reforming Desegregation and Office of Civil Rights funding in SB1174. The bill, which would have made these tax levies voter approved, passed the Senate Appropriations Committee but lacked the votes to pass the full Senate.

All bills ATRA actively opposed during the legislative session failed to pass and the following are a couple of examples:

- ATRA led an effort to oppose SB1242, which would have allowed municipalities to contract with private vendors to access confidential taxpayer information at the Department of Revenue. ATRA will continue to oppose bills which expand access to private taxpayer information.
- ATRA opposed several efforts to create new Tax Increment Financing (TIF) mechanisms in state law. HB2177 was designed for municipalities to use pay-as-you-go sales TIF called "reimbursement zones" and SB1149, a vehicle to create a mechanism to publicly fund a new arena for the Arizona Coyotes did not pass out of their house of origin.
- ATRA successfully opposed two proposals that would have negatively impacted Arizona's property tax system. HB2516 was the third attempt by the county assessors to dramatically collapse the current property tax calendar. ATRA also opposed HB2526, a bill advanced by some in the property tax consulting industry, by questioning the constitutionality of a statutory change that would have allowed a reduction of the Limited Property Value (LPV) as a result of a successful reduction in the Full Cash Value (FCV) under appeal.

LEGISLATION LISTED BY BILL NUMBER

LEGEND FOR ATRA'S POSITION:

S = Supported O = Opposed FA = Favorably Amended M = Monitored

BILL NUMBER	SHORT TITLE, AND PRIMARY SPONSOR	POSITION	FINAL STATUS/ CHAPTER #	PAGE
HB2001	school district tax levy; retention (Carter)	O	Held House Rules	6
HB2011	bonds; levy; net cash (Ugenti-Rita)	S	Chapter 212	5
HB2019	community college bonds; voter approval (Leach)	S	Held House COW	8
HB2064	municipal jet fuel excise tax (Ugenti-Rita)	S	Chapter 50	5
HB2083	schools; overrides; ballot language (Rubalcava)	O	Held House Rules	6
HB2156	county transportation excise tax; rates (Shope)	O	Held House Rules	6
HB2177	municipalities; development; reimbursement zones (Coleman)	O	Held House Rules	6
HB2213	GPLET reforms; K-12 taxes (Leach)	S	Chapter 120	5
HB2219	school capital finance revisions (Norgaard)	FA	Chapter 320	10
HB2248	JTEDs; adults (Bowers)	M	Chapter 37	11
HB2280	department of revenue; electronic filing (Shooter)	FA	Chapter 60	10
HB2286	truth in taxation; increase; notice (Barton)	S	Chapter 198	5
HB2326	fire districts; creation; merger; consolidation (Coleman)	M	Chapter 46	11
HB2332	property tax valuation appeals (Campbell)	O	Held House Rules	7
HB2355	TPT; internet video (Livingston)	M	Held Senate Rules	11
HB2404	initiatives; circulators; signature collection; contests (Leach)	S	Chapter 52	5
HB2432	JTEDs; ninth graders; funding (Clodfelter)	M	Held House Ed	12
HB2516	one-year property tax assessments (Mitchell)	O	Failed House Approps	7
HB2521	TPT reform; contractors (Cobb)	S	Held House COW	9
HB2526	property tax; reducing limited valuation (Grantham)	O	Failed House Approps	7
SB1041	transfer credits; Arizona online instruction (Allen S)	FA	Held House Ed	11
SB1144	TPT exemptions and deductions; sunset (Farley)	M	Held House Rules	12
SB1146	registration fees; VLT; gas tax (Worsley)	O	Held Senate 3rd Read	7
SB1147	county election; motor fuel taxes (Worsley)	M	Held House WM	12
SB1149	community engagement district (Worsley)	O	Held Senate COW	8
SB1174	schools; desegregation funding; voter approval (Lesko)	S	Held Senate COW	9
SB1212	tax credit cap; angel investor (Fann)	M	Held House COW	12
SB1242	tax information; disclosure; municipal auditors (Kavanagh)	O	Held House Rules	8
SB1270	reauthorization; county transportation excise tax (Worsley)	M	Failed House WM	13
SB1316	jail districts; maintenance of effort (S. Allen)	FA	Chapter 181	11
SB1326	telecomm; broadband; accelerated depreciation (Lesko)	S	Chapter 220	6
SB1371	hotel and motel ownership; prohibition (Petersen)	M	Failed House 3rd Read	13
SB1416	jobs; incentives; credits; grants (Pratt)	M	Chapter 340	13
SB1431	empowerment scholarships; expansion; phase-in (Lesko)	M	Chapter 139	13
SB1480	revisions; community facilities districts (Smith)	M	Chapter 208	14

PASSED LEGISLATION ATRA SUPPORTED

HB2011 bonds; levy; net cash (Ugenti-Rita) **Chapter 212**

HB2011 requires the annual secondary property tax levy for the debt service on General Obligation (G.O.) bonds be net of all cash in excess of 10% of the amount required to pay the principal and interest payment in the current year. Cities with population of 500,000 or more may return the excess reserves to taxpayers over six years and all other cities must refund the surplus in equal installments in fiscal years 2018 and 2019. *See ATRA position paper in Appendix.*

HB2064 municipal jet fuel excise tax (Ugenti-Rita) **Chapter 50**

HB2064 aligns the state limitation on jet fuel tax to cities. The bill annually limits the tax to the first ten million gallons of jet fuel purchased— the current limit for state excise taxes. Beginning December 1, 2017, the revenues must be used exclusively for airport capital or operating costs, as is being mandated by the Federal Aviation Administration.

HB2213 GPLET reforms; K-12 taxes (Leach) **Chapter 120**

ATRA pursued legislation to reform the Government Property Lease Excise Tax (GPLET) following a scathing report from the Arizona Auditor General on the many problems associated with GPLET. GPLET is a mechanism to "reach through" a property-tax exempt parcel and charge the business an "excise" tax in lieu of a property tax. The audit report on GPLET found several deficiencies in the mechanism, most notably that the 2010 reforms had little effect. Some businesses were either not paying or paying incorrectly. A stakeholder process resulted in significant changes from the underlying bill, which required GPLET deals receiving tax abatement begin immediately paying the K-12 GPLET amount. As amended, HB2213 limits— on a prospective basis, the length of GPLET deals for those receiving property tax abatement to a total of eight years. This means in year nine, all jurisdictions including K-12 school districts receive the benefit of an added taxpayer and do not have to manage the complications of GPLET payments. It also includes several reforms as recommended by the Auditor General such as making the government lessor responsible for calculating the correct GPLET payment. *See ATRA position paper in Appendix.*

HB2286 truth in taxation; increase; notice (Barton) **Chapter 198**

Simplifies the truth-in-taxation (TNT) notice that taxing entities are required to publish when proposing a tax increase. Additionally, the bill extends the same oversight of the TNT requirements by the Property Tax Oversight Commission that currently apply to the primary levies of counties, community colleges, cities and towns to the secondary operating levies of the countywide special taxing districts for public health services, flood control, library, and jail.

HB2404 initiatives; circulators; signature collection; contests (Leach) **Chapter 52**

Taxpayers have long borne the brunt of hastily crafted initiatives which avoid the legislative process and leave a legacy of unforeseen consequences. HB2404 brings accountability and rigor to the initiative process in several ways. The bill prohibits paying circulators per signature and makes the act a class 1 misdemeanor. It doubles the length of time whereby a challenge of a circulators lawful registration from 5 to 10 business days after petition filings are due. Proponents or challengers of a proposed initiative or referendum may submit the text to JLBC for a review of the proposed law. The bill allows any person to contest the validity of an initiative or referendum and also requires multiple contests be consolidated before being heard in superior court, among other technical changes.

SB1326 telecommunications; broadband; accelerated depreciation (Lesko) Chapter 220
Extends accelerated depreciation to qualifying broadband infrastructure of centrally assessed telecommunications property that is first placed in service on or after January 1, 2017. "Qualified broadband infrastructure" is defined to mean cable, telecommunications equipment and other tangible personal property capable of being used for or in connection with the transmission of data at a rate that is at least equal to four megabits per second in at least one direction, including multiplexers, routers, servers, fiber optics, coaxial cable and equipment supporting the transmission function. The floor value for qualified broadband infrastructure is changed from 10% to 2.5% of cost.

FAILED LEGISLATION ATRA OPPOSED

HB2001 school district tax levy; retention (Carter) Held in House Rules
HB2001, like HB2686 in 2016, was an attempt to redirect state General Fund dollars levied from a Minimum Qualifying Tax Rate (MQTR) property tax to a school district without a budget override. This narrow legislation created a complex formula where a district that pays the MQTR as a result of having above-average Net Assessed Value (NAV) or low student count and also does not have an M&O budget override to redirect some of the MQTR dollars back to the school district and increase its budget limits by a like amount. The amount to be redirected would be the average of the per-pupil amount received by adjacent districts whose voters approved a budget override or the amount of the MQTR, whichever is less. This bill has become an annual exercise to direct a nonvoter approved override to Cave Creek Unified, who argue their voters believe the MQTR is an additional school tax the district benefits from and adversely affects the district's ability to seek a budget override, among other arguments.

HB2083 schools; overrides; ballot language (Rubalcava) Held in House Rules
An exercise in ballot obfuscation, HB2083 was an attempt to change the language as it appears on ballots and ballot explanation inserts for K-12 school district override elections (M&O and capital). For new overrides only, the ballot and insert would strike the words "budget increase Yes/No" in all circumstances and replace it with "locally controlled funding Yes/No," a non sequitur considering all school district monies are locally controlled. Testimony in support of the bill advanced the idea that an override is too difficult to achieve with the language "budget increase," The language for continuation override elections was to be unchanged at "budget override continuation, Yes/No."

HB2156 county transportation excise tax; rates (Shope) Held in House Rules
With the approval of voters, a county transportation excise tax could be collected at different rates among tax classifications, including rates of zero for transactions above stated dollar values. ATRA opposed this measure since it attempted to further complicate Arizona's transaction privilege tax (TPT) system. One of those complications is the existence of a bifurcated tax code in which the cities abide by a code that is independent and separate from the tax code in state statute for the state and counties. HB2156 would have further complicated the system by allowing counties the authority to levy a different tax rate not expressly stated in statute.

HB2177 municipalities; development; reimbursement zones (Coleman) Held in House Rules
One of several bills advancing Tax Increment Financing (TIF) schemes, HB2177 was advocated for by the City of Surprise. The bill would have established an "Economic Development Reimbursement Authority" (EDRA) whereby a city can capture the incremental property taxes inside the district from valuation growth to reimburse private developers for various projects inside the district. This pay-as-you-go property TIF avoided debt-financed property TIF, which was deemed unconstitutional. As proposed, each EDRA would

have a maximum existence of 20 years from adoption. All jurisdictions within the district except the state would need to approve the EDRA and its general plan before creation. A determination of what percentage of incremented property taxes from each district to be allocated to the EDRA would be decided in advance. There were several other formation requirements. Incremented property tax revenues would be used to staff the new district, pay for infrastructure, facilities and improvements (nonresidential), or utility infrastructure. In committee the bill was verbally amended to limit EDRAs to 10 year programs.

HB2332 property tax valuation appeals (Campbell) **Held in House Rules**
For an appeal to tax court or superior court that asserts the taxing authority's valuation is excessive for a property whose full cash value exceeds $4 million, the appellant would be required to serve one or more preliminary expert opinion affidavits with the initial disclosures required by the Arizona rules of civil procedure. The opinions of value introduced at trial by the appellant could be expressed on appeal only by individuals whose preliminary affidavits include the expert's qualifications to express an opinion of value, the expert's opinion of market value as of the valuation date, the specific facts that form the basis for the opinion of value, and an explanation of the expert's application of standard appraisal methods and techniques used to formulate the opinion of value. Allowed a party to use a preliminary expert opinion affidavit for any purpose, including impeachment. The court would be required to dismiss the appeal if the appellant fails to provide a preliminary expert opinion affidavit. ATRA opposed this measure as it would place an unjust burden and cost on taxpayers.

HB2516 one-year property tax assessments (Allen) **Failed House Approps**
HB2516 would have dramatically collapsed the current property valuation and tax calendar for only locally assessed property. This measure was the third attempt by Arizona's county assessors that, among many other problems, would have required state and local governments to develop and adopt budgets using preliminary property values that have not completed the appeals process. The current calendar that properly aligns the valuation process before the budgeting process and provides final values to all state and local governments on February 10th each year has been consistently ignored in the assessor's proposals. *See ATRA position paper in Appendix.*

HB2526 property tax; reducing limited valuation (Grantham) **Failed House Approps**
HB2526 required that if the full cash value (FCV) of property is reduced through the appeals process, the limited property value (LPV) must be reduced by the same percentage. ATRA opposed the bill by questioning the constitutionality of allowing the LPV to be statutorily reduced as the result of an appeal despite the clear constitutional requirement that LPV grow annually by 5%. *See ATRA position paper in Appendix.*

SB1146 registration fees; VLT; gas tax (Worsley) **Held in Senate**
A complex bill with several features, SB1146 was a combination of tax increases for transportation funding and a property tax TIF designed to support transportation funding. The bill incorporated some of the ideas emanating from an interim study session which examined options to raise taxes and fees for transportation, such as imposing equivalent taxes on natural gas used for vehicles and alternative fuel vehicles to match the gas taxes on motor fuel vehicles, as determined by ADOT. As amended on the Senate floor, ADOT would annually determine the vehicle license tax (VLT) and raise it to an amount to fully fund Arizona Highway Patrol and Patrol Reserve, while also applying VLT to alternative fuel vehicles. Placing the tax increases in the control of ADOT was an attempt to avoid the two-thirds vote requirement of Prop 108. Finally, the bill attempted to create property TIF for transportation, called Transportation Reinvestment Zones (TRZ). This was not an idea from the interim study session. A city or county may designate an area or areas as "unproductive" and establish a TRZ whereby incremental property tax revenue would be directed

to the TRZ for transportation funding. School district revenue would be exempt unless their governing board opts in, making the potential capture rather small, particularly in rural Arizona. There was considerable debate whether directing ADOT to raise fees released the Legislature from the constitutional Prop 108 provisions.

SB1149 community engagement district (Worsley) **Held in Senate COW**

SB1149 proposed that a "community engagement district" which builds an arena or community facility be allowed to keep half of the TPT revenues generated inside the district that would otherwise go to the state. The other half would be split by the state and the amount shared with local governments. These "recaptured" revenues would be leveraged for debt service which would repay municipal bonds sold to pay for the facility over 30 years. The bill was advertised as a vehicle to build the Arizona Coyotes a new arena, although the language was neither site nor project specific, although the district must be established before 2019 by petition of all owners of real property where the public facility would be located. Board membership included appointees by the Governor, President of the Senate, Speaker of the House, and two members appointed by the governing body of the city where the district is located. The district may avoid competitive bidding and conduct a design-build delivery method for construction. The board may levy an additional excise tax on top of all TPT of up to 2% to add to district revenues. The bonds sold by the district to fund the public facility may fund one-quarter of the amount of square footage for retail space, not including concession sales. Finally, the bill had the same TRZ property TIF language which was added to SB1146 (discussed earlier). *See ATRA position paper in Appendix.*

SB1242 tax information; disclosure; municipal auditors (Kavanagh) **Held in House Rules**

The introduced version of SB1242 would have allowed a county, city or town to hire contract auditors. Furthermore, the bill would have required the Department of Revenue (DOR) to disclose confidential taxpayer information to the contract auditor. SB1242 was amended in the House Ways & Means Committee to allow an independent third party that contracts with a city or town to review, analyze, forecast and otherwise evaluate the collection and administration of one or more of its municipal taxes. However, the city or town, not DOR, would be responsible for ensuring the confidential use, preservation and disposal of the disclosed information. The third party would be prohibited from auditing any taxpayer on behalf of the city or town, identifying or reporting any tax return information or any underpayment or overpayment of any tax by any taxpayer to any taxing jurisdiction, and from contacting or identifying any taxpayer except as necessary to verify a taxpayer's name, address, class of business or allocation of the taxpayer's payments among taxing jurisdictions. ATRA has consistently expressed its opposition to state and local governments providing confidential tax information to third party vendors without guarantee that confidential taxpayer information remain secure. ATRA questioned the timing and need for this legislation since Arizona policymakers passed historic reforms to Arizona's TPT system in 2013 to make DOR the single point of administration and collection for all TPT. After a two-year implementation delay and millions invested to improve DOR's IT systems, the Department is in the early stages of operation. Injecting third party vendors into this process is not only a waste of taxpayer resources, it adds unnecessary complexity to a system that state lawmakers have worked desperately to simplify.

FAILED LEGISLATION ATRA SUPPORTED

HB2019 community college bonds; voter approval (Leach) **Held in House COW**

In response to the growing aversion to voter-approved general obligation (G.O.) bonds for community college debt-financing, lawmakers have grown concerned that districts which rely on the property tax may leverage debt which ultimately burdens taxpayers in the same manner as a G.O. bond without the benefit

of a community discussion and voter approval. HB2019 would have required all debt mechanisms for community college districts be voter approved at an election conducted similarly to G.O. bond elections. Community college districts are unique in that most of their revenue comes from local property taxes, with tuition and state aid typically providing smaller amounts. Districts can leverage tuition for revenue bonds, which leaves the district vulnerable in the event student counts decline. This incidence leaves local property taxpayers responsible for the debt as the district supplants unrestricted funds to make debt service payments in the face of declining revenues from other sources like tuition. All community college districts opposed the bill and it did not receive a floor vote in its house of origin.

HB2521 TPT reform; contractors (Cobb) **Held in the House**

HB2521 was the 2017 vehicle for reform of Arizona's prime contracting tax. This tax was the subject of considerable change in the 2013 and 2014 legislative sessions. Those changes carved out prime contracting activities associated with maintenance, repair, replacement, and alteration (MRRA), which proved to be administratively challenging for both taxpayers and state and local government tax agencies. Following months of stakeholder meetings with effected parties, Rep. Regina Cobb introduced HB2521. The introduced version of the bill provided that the TPT contracting classification applied only to businesses primarily involved in surface or subsurface improvements to land (public highways) and all other construction activities would now be subject to tax on materials at retail. Created a Municipal Revenue Sharing Pool (MRSP) consisting of a portion of municipal TPT revenues levied and collected each month from municipal taxpayers engaged in retail business. Monthly during calendar year 2018, DOR would be required to deposit 4% of the retail collections for each city and town into the MRSP. Beginning January 1, 2019, DOR would be required to adjust the monthly percentage by the GDP for construction in Arizona. Each city and town would be required to file a monthly report to DOR stating the value of building permits issued and cancelled during the preceding month. DOR would be required to compile the net value of the building permits for each city and town, averaged over the preceding 36 months. Monies from the pool would be allocated among the cities and town in proportion to each city's and town's 36-month average net value of building permits. After clearing the House Ways and Means Committee, the measure failed to secure the necessary votes to clear the House.

SB1174 schools; desegregation funding; voter approval (Lesko) **Held in Senate COW**

After two years of unsuccessful attempts to ask the Legislature to phase out Desegregation and Office of Civil Rights nonformula spending, SB1174 was an attempt to ask that these property tax levies be voter approved going forward, as they are additional revenues in the same vein as overrides. Established in 1985, the monies are directed to remediate alleged or proven racial discrimination but are largely used by school districts to supplement and supplant routine district expenses. The provision presently allows just 19 districts to add an additional primary property tax amount on top of the qualifying tax rate, creating some of the most punitive tax rates in the state. The $211 million expended annually by these school districts presently represents some of the largest inequities in Arizona school finance. Making them voter approved would improve transparency surrounding the existence of these 30 year old programs. Moreover, it would move them to the secondary property tax, which would save the state in the circumstances where the primary tax rate exceeds the constitutional 1% cap. The measure included an exception for any school district currently under a Federal court order to desegregate and to begin their voter-approved status the year after being declared unitary (Tucson Unified). Interestingly, while most school organizations opposed the bill, they did not testify in committee. Public testimony came mostly from parents of pupils who were told their school would close if the bill passed. The bill did not have the votes to pass the Senate floor. Several unsupportive Senators told ATRA staff their time would be better spent suing the state over the issue on equity grounds instead of advancing reforms at the Capitol.

LEGISLATION ATRA FAVORABLY AMENDED

HB2219 school capital finance revisions (Norgaard) **Chapter 320**

An omnibus bill related to K-12 capital finance, ATRA secured several changes through discussions with stakeholders and the sponsor to remove concerns for taxpayers. As introduced, the bill changed the timeline for the School Facilities Board (SFB) to purchase land for a qualifying district to 10 years out from the current year of qualification. Further, SFB could approve new school construction three years out from the current year of qualification. Both changes were amended out. Several reporting requirements to the SFB related to energy savings plans were removed. The bill clarified that SFB must approve or deny Adjacent Ways projects within 60 days after receipt of the filing of the project proposal. The law adopted the year prior did not provide what happened after 60 days of no board action. The bill directs schools to use litigation recoveries to reimburse SFB if SFB awarded a grant related to the project under litigation. The bill codifies session law from the FY2016 budget allowing districts to pay for new school construction up front with local monies and be reimbursed from SFB. Of note, the K-12 Budget Reconciliation Bill HB2545 clarifies that districts may qualify in the current year for new school construction based on 40-day enrollment counts instead of "most recent data available," which was unclear.

HB2280 department of revenue; electronic filing (Shooter) **Chapter 60**

Requires all taxes, except individual income tax, to be paid by a taxpayer through electronic funds transfer according to the following schedule: $20,000 or more in tax year 2018; $10,000 or more in tax year 2019; $5,000 or more in tax year 2020; and $500 or more in any taxable period thereafter. An individual income tax preparer who prepares more than ten original income tax returns beginning in tax year 2018 must file electronically. Annual fiduciary returns, partnership returns and corporate returns must be filed electronically for taxable years beginning 2020.

As amended to address concerns communicated by members of ATRA's Tax Policy Committee, a "nonaudit adjustment" includes only objective matters. These circumstances are limited to: mathematical error; failure to properly compute the tax liability based on the taxable income reported; incorrect usage or selection of information from tax tables, schedules or similar documents provided; entry on a return is inconsistent with an entry on a schedule, form statement, list or other document filed with the return; omission of information required on the return; entry on a return of a deduction or credit in an amount that exceeds a statutory limit, including claiming a deduction or credit that is not authorized by statute for the taxable period; missing or incorrect taxpayer identification numbers for purpose of claiming personal exemptions, dependents or credits; entry of a credit or deduction that requires preapproval if not preapproved or more than the preapproved amount; entry of a credit or deduction amount carried forward that is outside the statutory period or that is inconsistent with the taxpayer's prior year returns.

Also amended to address ATRA's concerns, a letter sent by the Department is not considered to trigger an audit or review if only one or more of the following is requested: the required filing of a tax return; a copy of the taxpayer's federal return; required documents the taxpayer failed to include with the return; documentation to resolve an inconsistency within the return or a discrepancy between the return and other information that is received from a third party or that is otherwise already in the department's possession, if the adjustment of the return due to the inconsistency or discrepancy would be considered a nonaudit adjustment; information that was left out of the taxpayer's return because a submitted form was incomplete; replacements for documents that are not legible. The accounting credit for TPT taxpayers that file electronically is 1.2% of the amount of tax due, not to exceed $12,000 in any calendar year.

SB1041 transfer credits; Arizona online instruction (Allen S) **Held in House Education**

Amidst growing controversy between traditional schools and online providers, several unsuccessful bills appeared during the session. At issue is when a traditional public school educates a pupil full time and subsequently the pupil takes an online course from a different provider, which then "splits" the ADM (per pupil money). Furthermore, there is controversy related to the district or charter accepting the online provider's credit towards their graduation requirement. As introduced, SB1041 was an attempt to bridge the divide by increasing the amount of funding provided for the same student who made the decision to take more classes with an online provider and forcing credit acceptance. ATRA has long opposed efforts to expand funding to the same student by counting ADM by more than 1.0 and successfully sought an amendment removing this provision.

SB1316 jail districts; maintenance of effort (Allen S) **Chapter 181**

ATRA worked with Navajo County on SB1316 to establish an alternate maintenance of effort (MOE) payment of 25% for a county jail district under specific circumstances. Creation of a jail district with an alternate MOE is limited to a county with population of 500,000 or less that experienced negative net new construction after 2015 and the district is created within three years immediately preceding the imposition of a $0.33-cent sales tax rate (in lieu of the existing $0.50-cent tax rate) to support the district. The MOE payment is annually adjusted by the lesser of the percentage change in the county's primary levy limit or the change in the GDP price deflator.

SELECTED LEGISLATION ATRA MONITORED

HB2248 JTEDs; adults (Bowers) **Chapter 37**

Requires for JTED enrollment that adult students have graduated high school or obtained a GED. Allows JTEDs to offer vocational programs for adults beyond secondary education, qualifying them for financial assistance by Title IV of the federal Higher Education Act provided the program does not offer college credit unless authorized through a dual credit program with a college. Allows secondary students to take postsecondary classes at a JTED for college credit and qualify those credits for high school credit. The bill allows any person to file a complaint with the State Board of Vocational Education regarding an alleged violation by a JTED of federal or state law. Expands the allowance for adults over the age of 22 to attend courses with available capacity at campuses leased by a JTED instead of just centrally owned campuses during regular school hours.

HB2326 fire districts; creation; merger; consolidation (Coleman) **Chapter 46**

The scope of services that must be provided in the district impact statement for the creation of a fire, sanitary, community park maintenance or hospital district may described "general" in nature. The county assessor's parcel map and the latest assessed valuation of property as of February 10th that is submitted with the impact statement for district creation or district boundary changes is deemed sufficient for determining the assessed valuation requirements throughout the entire process. For boundary changes and mergers, the notices mailed to each property owner must contain the purpose of the public hearing and describe where a copy of the boundary change impact statement may be obtained and reviewed. Any challenge to a merger must be filed within 30 days after adoption of a resolution to merge and the merger is stayed until the expiration of any time for appeal after the issuance of a final order denying the challenge.

HB2355 TPT; internet video (Livingston) **Held in Senate Rules**

As amended by a strike everything in the Senate, HB2355 would have exempted for municipal transaction privilege tax (TPT) the sale of "over-the-top" online streaming video or audio services in state law. This

excluded pay-per-view programming where the purchaser pays separately for each program viewed. Further, the bill established the taxable situs for all other internet delivered audio or video programming to either the customer's residential street address or, if they are a business, the customer's primary business street address or their billing address. For bundled services, the provider must establish by reasonable and verifiable standards which portion of the price is nontaxable, otherwise the entire price is taxable. It is not considered a bundled service if the taxable products is de minimis, which is defined as 10% or less of the total purchase or sales price of the bundled products.

HB2432 JTEDs; ninth graders; funding (Clodfelter). Held in House Education
HB2355 would have counted ninth graders in JTED programming towards the Average Daily Membership (ADM) for purposes of funding. Presently, pupils in grades K-9 may take JTED courses but are not counted in the funding formula. Only pupils in grades 10-12 who are under 21 years of age qualify for ADM except that 8th or 9th graders may be funded with monies generated from the local five-cent JTED property qualifying tax rate; a provision that would only be relevant for a non-state aid JTED. No fiscal note was created and the bill did not advance out of a committee hearing.

SB1144 TPT exemptions and deductions; sunset (Farley) Held in House Rules
SB1144 would have required the Joint Legislative Tax Expenditure Committee (currently named the "Joint Legislative Income Tax Credit Review Committee") to review income, TPT and use tax expenditures for recommendation to the Legislature and the Governor whether to amend, retain or repeal the tax expenditure (defined) by December 15th of the year the tax expenditure is reviewed. A ten-year review schedule would be created for all tax expenditures.

SB1147 county election; motor fuel taxes (Worsley) Held in House Ways & Means
As amended in the Senate, SB1147 would allow counties or a regional transportation authority to refer to their voters in a countywide election a county motor fuel tax of up to ten cents per gallon for up to twenty years, which would be used exclusively for highway or street infrastructure purposes. The bill passed the Senate but was held in the House Ways and Means committee after passing the House Transportation committee.

SB1212 rural development tax credits (Fann) Held in the House
SB1212 would have established premium insurance and income tax credits for credit-eligible capital contributions to a rural growth fund certified by the Arizona Commerce Authority (ACA). Beginning in tax year 2018, a qualified investment company could apply to the ACA for approval as a rural growth fund. The information provided in the application would need to include specific information such as evidence that the applicant invested at least $25 million in nonpublic companies located in nonmetropolitan counties as of the application date, a business plan that includes an estimate of the number of full-time employment positions that will be created or retained in this state as a result of the applicant's investments and a projection of state and local tax revenue to be generated by the applicant's proposed rural growth investments. The amount of credit-eligible capital contributions would be limited to 60% of the total rural growth fund investment authority sought by the applicant. ACA could approve up to $50 million in investment authority but not more than $30 million in credit-eligible capital contributions. Not more than $20 million of investment authority could be approved for any individual rural growth fund. The taxpayer could claim and apply for up to 25% of the aggregate amount of the credit for each taxable year that includes the third through sixth anniversaries of the closing date stated on the certificate, exclusive of any amount carried forward from preceding taxable years. Tax credits could be carried forward for ten consecutive years and the taxpayer could transfer the certificate and any carryforward amount to any single affiliate of the taxpayer.

SB1270 reauthorization; county transportation excise tax (Worsley) Failed Ways & Means
SB1270 would have permitted the reauthorization of Maricopa County's transportation excise tax at its current maximum rate. The bill allowed a reauthorization election between at least 6 but not more than 63 months before the current tax expires. The reauthorization could last between 120 and 240 months. The distribution of the revenues would be in accordance with current state laws.

SB1371 hotel and motel ownership; prohibition (Petersen) Failed House 3rd Read
As amended in the House Ways and Means committee, SB1371 would have prospectively outlawed political subdivisions from constructing, developing or entering into a lease for the operation of a hotel or motel. On the House floor, this provision was removed and the underlying bill was amended back on to the bill, related to tax liens against residential common areas owned by homeowner's associations. The bill as amended on the House floor would have made clear that the property tax owed on a residential common area is the corporate liability of the homeowner's association; and further that the tax lien is satisfied on payment by the purchaser of the amount of delinquent taxes, interest and penalties for which the lien was sold. The redemption and foreclosure provisions do not apply to common areas. Finally, a separate floor amendment clarified that counties may not destroy tax lien notices and prohibited the secretary of state from charging a fee for filing campaign contribution and expenses reports to a county elections officer.

SB1416 quality jobs incentives; tax credits (Weninger) Chapter 340
Extends the quality jobs premium insurance and income tax credits that were scheduled to expire July 2017 for net increases in full-time employees to July 2025. To qualify, a business in an urban location (city population of 50,000 or more located in a county with population of 800,000 or more) must hire at least 25 net new positions with the following capital investments and employee compensation levels: at least $5 million capital investment and employee compensation at least 100% of the county median wage; $2.5 million investment with compensation at least 125% of county median wage; $1 million investment with compensation at least 150% of median wage; and $500,000 investment with compensation at least 200% of the median wage. In rural locations, hire at least five net new positions with the following capital investment and wage requirements: $1 million investment with compensation at least 100% of county median wage; $500,000 investment with compensation at least 125% of median wage; and $100,000 investment with compensation at least 150% of median wage.

Increases the income tax credits for increased research activities beginning in tax year 2018 through 2021 as follows: if the excess of the qualified research expenses is $2.5 million or less, the tax credit is increased from the current 20% to 24% of the qualified expenses; if the excess is greater than $2.5 million, the credit is increased from $500,000 plus 11% of expenses to $600,000 plus 15%. Accelerated deprecation is expanded to include personal property located in a foreign trade or military reuse zone that is acquired during or after tax year 2017. Reduces the capital investment requirement by manufacturing facilities from 25% to 10% that must be made prior to the TPT reimbursement by the state treasurer to a city, town or county for infrastructure improvements. Additionally, creates a TPT exemption for fractional ownership of aircraft.

SB1431 empowerment scholarships; expansion; phase-in (Lesko) Chapter 139
SB1431 phases in a universal empowerment scholarship account (ESA) program for public school "switchers" and makes several changes to the program. Beginning in FY 2018, any child eligible for Kindergarten or grades one, six and nine is eligible for an ESA. The remaining grades are added over the next three years. Kindergartners, naturally, do not need to switch from a public school to apply for an ESA. All other new program applicants must have completed 100 school days in a public school to qualify for an ESA. New Kindergartners and those switching from a district school will receive 90% of the district per-

pupil formulaic amount. Switchers from charters receive the charter formulaic amount. Low income pupils, which are defined as wards of the juvenile court and pupils from families with federally adjusted gross incomes of 250% or less of the federal poverty guidelines, receive 100% of their respective per-pupil amount. The bill eliminates the ability of an ESA user to contribute payments to a Coverdale 530 college savings plan. For a pupil enrolled full time in a qualified school, they are required to annually take a nationally standardized achievement exam, an AP exam for reading or math, or the AZMerit (unless the pupil has a disability). For qualified schools with more than 49 students using an ESA, their test scores must be made public. A private school may complete the ESA application on behalf of the pupil. ADE will make monthly— instead of quarterly, payments to ESA holders. The number of new ESA users each year continues to be a half percent of total statewide ADM but the total cap on enrollment is frozen in FY 2023 at the FY 2022 usage amount. Other changes.

SB1480 revisions; community facilities districts (Smith) **Chapter 208**

On presentation of a petition signed by the owners of at least 25% of the land area proposed to be included in a community facilities district as submitted by an individual or entity (defined), the governing body of a municipality or county within 60 days after submission must hold a public hearing to consider formation of the district. Immediately following the hearing, the governing body may adopt a resolution declaring its intention to form the district, otherwise the governing body must provide a written basis for not adopting the resolution and identify the specific changes needed for approval.

In addition to the current five members appointed as the governing body, two additional members are designated by the owner with the largest amount of privately owned acreage in the proposed district. A seller of property in the district is required to disclose to a prospective purchaser the existence of the district, the purpose the district was formed, and the estimated tax rate and annual tax amount for a hypothetical residential property. The fees associated with submitting an application for district formation is limited to $15,000 and no other fees may be charged if a similar application is submitted within one year following a denial.

The governing body of the jurisdiction in which the district is to be located may not require the petitioner to increase the infrastructure elements, debt limit or duration of the district beyond the levels and limits set out in the petition. The District must establish and maintain an official website that is electronically searchable by the public and that contains a comprehensive database of district documents that must be legally maintained.

APPENDIX OF ATRA'S POSITION PAPERS

ATRA SUPPORTED

ATRA OPPOSED

2017 LEGISLATIVE PROGRAM

Introduction/State Budget

ATRA's legislative program is developed each year with recognition that the Legislature and Governor's highest priority for the session should be passing a state budget that is not only balanced but is sustainable. The preeminent challenge facing state policymakers is ensuring that the FY2018 budget is structurally balanced – meaning ongoing spending does not exceed ongoing revenue and that one-time revenue (rainy day fund and cash balance) is not appropriated for ongoing spending.

ATRA will provide state budget recommendations to the Legislature after the Joint Legislative Budget Committee (JLBC) and the Office of Strategic Planning and Budgeting (OSPB) have submitted their recommendations for the FY 2018 budget.

Taxation

Property Tax

Arizona property taxpayers have ridden a historic roller coaster over the last 13 years. Following record increases in net assessed values (NAV) from 2003 to 2008, statewide NAV plummeted between tax years 2009 and 2013. Largely as a result of Prop 117, statewide property values have been stabilized with NAV growth up only 5.7% over the last two years.

However, Arizona's statewide average tax rate for 2016 of $12.95 is the second highest in state history and has climbed 41% over the last seven years.

Regrettably, despite recent policy changes aimed at reducing Arizona's very high business property tax burden, the collapse of the residential real estate market during the Great Recession had a particularly negative effect on business property taxes. In fact, the reduction in residential values resulted in a 22% increase in effective tax rates on business property from 2009 to 2015.

Prevent greater access to the property tax. For the 2017 session, ATRA will oppose efforts on the part of Arizona local governments and special districts to increase access to the property tax base. Despite widespread recognition that Arizona's business property taxes are a major impediment to economic development, there is considerable pressure at the

Capitol to increase access to the property tax. In recent years, Arizona Fire Districts have sought increased access to the property tax base through a removal of the current $3.25 rate cap.

In addition, ATRA will advocate for the continued compliance with the state's Truth-in-Taxation law. Since its passage in 1998, the state has consistently complied with the TNT law. For the last three years, the Qualifying Tax Rate and the State Equalization Tax Rate have fallen as a result of the TNT law. While that rate has both risen and fallen with the fluctuations in the real estate market, ATRA believes adherence to the TNT law is an important principle that will benefit taxpayers over time.

Property Tax Reform vs. Targeted Property Tax Breaks. ATRA has led the effort to reform Arizona's property tax system and reduce the disparity in tax treatment between business and residential property. As a result of previous ATRA-backed legislation passed in 2005, 2007, and 2011, steady progress has been made in reforming the underlying policies that result in Arizona's high business property taxes. That progress is the direct result of policymakers addressing the root cause of that problem: the shift of taxes from residential property to business through higher assessment ratios on business property. To their credit, over the last decade, policymakers largely rejected calls to address the problem through rifle-shot tax breaks to specific industries. ATRA continues to support policies that provide for equitable treatment among property taxpayers and will oppose efforts that undermine that important policy principle. Along with other organizations that oppose targeted tax breaks for specific industries, ATRA has been successful in recent sessions in defeating legislation to expand class six (5% assessment ratio) to targeted industries.

For the 2017 session, ATRA will pursue the following property tax legislation:

Require Voter Approval for Desegregation/Office of Civil Rights (OCR) Levies (Senator Lesko)

ATRA will pursue legislation require the 19 Arizona school districts, beginning in FY2020, to receive voter approval for continued property tax levies to fund their desegregation/OCR expenditures. These voter approved property taxes would be levied as secondary property taxes like all other K12 school district overrides. These Desegregation/OCR override levies would be capped at the existing levels for each of the 19 districts.

Districts that remain under a federal court order to desegregate would be required to secure voter approval for their property tax levies beginning the year following being declared unitary. (Sen. Lesko)

Reform the Government Property Lease Excise Tax (Representative Leach)

The Government Property Lease Excise Tax (GPLET) remains an extraordinarily controversial feature of Arizona's public finance structure. Enacted in 1996 to replace the possessory interest tax, GPLET is mechanism to tax private concerns on certain government properties. ATRA participated in a major GPLET reform effort in 2010. A recent Auditor

General report analyzed the impact of the 2010 reforms and noted that they have been largely side stepped by city government.

ATRA will pursue prospective reforms to GPLET in the following areas:

- All properties would be required to pay the K12 school districts GPLET during the 8-year abatement period.
- Future GPLET projects would be prohibited from using the grandfathering provision that allows the use of pre-2010 GPLET rates.
- All state and local governments would be added to the Lessor definition – not just cities, counties, and county stadium districts.
- Require the government lessor to calculate the GPLET tax – not the lessee. Lessor would be required to pay for any underreporting.

1% Cap Reform (Senator Farnsworth)

In recent years state policymakers have struggled with the myriad of negative impacts associated with the 1% constitutional cap on homeowner primary property taxes. Pima County successfully challenged the 2015 legislation that shifted the state's responsibility to subsidize the 1% cap back to local governments. As a result, the state's taxpayers are back on the hook for subsidizing the high tax rates of many local governments. In addition, the subsidy continues to incentivize those local governments to raise rates on non-residential taxpayers that are not protected by the cap.

ATRA will support legislation to protect the state's taxpayers from this unfair subsidy as well as protect local taxpayers from spiraling tax rates in jurisdictions with homeowners at the 1% cap.

General Obligation Bond Levies (Representative Ugenti-Rita)

In 2013 ATRA successfully advocated for legislation limiting the annual secondary property tax levy for General Obligation bond debt service to the amount necessary to pay the annual debt service, including a reasonable amount for delinquency. In 2016, ATRA discovered some local governments were ignoring the 2013 law that clearly required the final levy to be netted.

ATRA will pursue legislation to make clear that the annual debt service levy shall be net of the cash balance from the prior year.

Sales Tax

Prime Contracting Reform (Representative Cobb)

For decades, Arizona's prime contracting tax has arguably been the most complicated, inefficient and controversial area of the sales tax code. The 2013 TPT reforms carved out

service contractors doing maintenance, repair, and replacement on existing property. Those reforms were modified in 2015 in an attempt to create greater certainty for contractors and tax agencies regarding the line between maintenance, repair, replacement, and alteration (MRRA) projects and prime contacting. Those reforms continue to present major compliance challenges for both contractors and tax agencies.

ATRA will support continued efforts to eliminate the prime contracting tax in favor of a tax on construction materials at retail in order to reduce the tax compliance burden on businesses and state and local governments.

Taxation of Digital Goods/Services

ATRA will pursue a study committee to provide clarity on the taxation of sales, leasing, or licensing of digital goods and services transferred electronically to customers.

Public Finance

Truth-in-Taxation (Representative Barton)

ATRA will pursue legislation to expand the Property Tax Oversight Commission (PTOC) review of truth-in-taxation calculations to county special districts. In addition, the legislation will simplify current truth-in-taxation public notices.

ATRA SUPPORTS HB2011

General Obligation (G.O.) Bond "Net" Levies

Background

General Obligation (G.O.) bonds are backed by the "full faith and credit" of the government issuer's taxing power and therefore require voter approval. G.O. bonds are secured through the pledge of secondary property taxes and typically carry the lowest rates of interest of all debt instruments since they are the most stable form of government debt.

State statute limits the amount that may be levied in secondary property taxes to the amount necessary to make the annual debt service payment, and as expanded by legislation passed in 2013, an amount to fund a reasonable delinquency factor and to correct prior year errors. Additional legislation was passed in 2016 to clarify that the annual levy may also include amounts necessary for projected payments on new debt planned for the ensuing year.

Prior to the 2013 legislation, ATRA found many taxing jurisdictions had accrued cash reserves in their debt service funds well in excess of the amount required to make their annual debt service payments. Much of the cash-stockpiling occurred during the real estate boom years when certain jurisdictions neglected to adjust their tax rates to offset the growth in values, which prompted ATRA to advance legislation to prevent further abuse. However, despite the 2013 legislative clarification, several taxing jurisdictions continue to ignore the law and levy taxes in excess of the amount required by ignoring their cash reserves.

Basis for ATRA's Support

The publicity pamphlet that government submits to voters for approval of G.O. bonds outlines an estimate of the annual levy and tax rate necessary to fund the debt service over the term of the bonds. There is no financial justification to stockpile massive sums of taxpayer dollars in a G.O. debt reserve account that is funded annually by the levy of property taxes.

As amended in the House, HB2011 will put an end to this abuse by requiring the annual secondary property tax levy to be net of all cash in excess of 10% of the amount required to make the principal and interest debt service payment in the current year. To address the excess reserves that have been levied over the amount required to make debt service payments, session law provides a city with population over 500,000 or more six years to refund the excess to taxpayers. All other cities must refund the excess in equal amounts over fiscal years 2018 and 2019.

ATRA SUPPORTS HB2213

GPLET Deals Should Pay School Taxes; Not Shift Cost to State

Background:

Government Property Lease Excise Tax (GPLET) is a mechanism to tax private business residing on certain government properties. Essentially, it is a mechanism to "reach through" a property-tax exempt parcel and charge the business an "excise" tax in lieu of a property tax. In 2010, lawmakers made several reforms to GPLET including higher excise tax rates which align closer to property tax rates and limiting deals to 25 years. The 1996 rates were fractional amounts which decreased 20% every 10 years until zeroing out entirely after 50 years. Regrettably, a 10 year grandfather window was provided and the 1996 rates continue to be used in deals today.

A December 2015 Auditor General report on GPLET found several deficiencies in the mechanism, most notably that the 2010 reforms had little effect. Some businesses were either not paying or paying incorrectly. In a survey of just 12 GPLET leases, $236,119 in tax revenue was not collected over four years due to incorrect calculations. Of the more than 268 leases identified, just 16 were subject to the 2010 rates.

Basis for ATRA's Support:

GPLET and specifically the abatement was created to revitalize "slum and blight" areas in business districts. Instead, abatement has been used to subsidize developers for deals on Mill Avenue, build luxury condos in downtown Phoenix and hasten urban sprawl in Queen Creek. Areas leveraging tax abatement such as downtown Phoenix and Tempe are home to some of the most expensive and sought after areas in the state. Deals which can exist for several decades shift property taxes to their neighbors and pit competitive businesses against each other.

Worse, cities have found ways to deny tax revenue for every entity but themselves. Cities have instituted special fees on developers in the development deals which offset what they would lose in property taxes. So while the county, state, community college and school districts do without, municipal government is held harmless.

A stakeholder process resulted in significant changes from the underlying bill. Several changes were applied based on recommendations from municipalities and developers. As amended, HB2213 limits- on a prospective basis, the length of GPLET deals for those receiving full property tax abatement to a total of eight years. This means in year nine, all jurisdictions including the K-12 school districts receive the benefit of an added taxpayer and do not have to manage the complications of GPLET payments. It also includes several reforms as recommended by the Auditor General such as making the government lessor responsible for calculating the correct GPLET payment.

ATRA SUPPORTS SB1174

Make Deseg/OCR Overrides Voter Approved

Background:

As the state continues to discuss K-12 education finance overhauls, it has become clear that the largest sources of inequity may not be phased out until the state can redirect new dollars to ease the financial pain of removing old programs. Nowhere is that issue more clear than with desegregation/Office of Civil Rights (OCR). Despite admissions from all sides that the program is outdated and outmoded, it is unlikely to go away until the state can afford an expensive overhaul.

In the meantime, Deseg/OCR continues to represent a significant problem for taxpayers. The program lacks accountability and transparency; Deseg/OCR rates are buried within primary property tax rates and do not appear on tax bills. Not only are citizens unaware they are paying for them, the Auditor General has found on several occasions the program(s) "has lost its clear link with the District's original desegregation court order and appears mainly to be funding programs that have little or nothing to do with the order."

Furthermore, as a primary property tax levied on top of the qualifying tax rate (QTR), Deseg/OCR is a key contributor to tax rates busting the constitutional limitation on homeowner property taxes, commonly referred to as the "1% Cap." The state General Fund pays for these 1% Cap overages, meaning taxpayers around the state subsidize local Deseg/OCR taxes.

Basis for ATRA's Support:

If Deseg/OCR spending is to continue unabated until a major overhaul is complete, it ought to at least have the benefit of voter approval and not be subsidized by taxpayers outside the district. School district representatives from the remaining districts with Deseg/OCR taxes insist they enjoy widespread community support for these programs. They ought to demonstrate that with an up or down vote.

The Auditor General has revealed that Deseg/OCR spending is highly unrestrictive and is spent on programs most districts have- similar to an M&O override. Arizona public finance traditionally has demanded overrides be voter approved. SB1174 simply asks that these programs be approved by their district voters. By moving the levies to the secondary property tax, it **ultimately saves the State General Fund $15 million annually**.

SB1174 provides a five year phase-out for any amount not approved and contains a unique provision which holds Tucson Unified harmless until the second year following a federal court declaring them unitary. Like an M&O override, the Deseg/OCR override lasts seven years with renewal options.

Deseg/OCR funding creates massive inequities for school districts and taxpayers. The average per-pupil increase from this levy is $760 per pupil. This fairness issue is exacerbated in Arizona's competitive environment where students have a variety of public options. These 19 districts can pay their teachers more,

have smaller class sizes or offer more services. It would certainly fail the constitutional test of "general and uniform" and leaves the state exposed to litigation.

Over $4 billion coming from local property taxpayers has exclusively benefitted 19 school districts over the last 30 years. The question is: For how much longer will lawmakers keep a program that inequitably drives $211 million per year to a few school districts, 97% of which goes to metro Phoenix and Tucson?

Funding for desegregation and Office of Civil Rights (OCR) agreements began in 1985 as short-term remedies for "alleged or proven racial discrimination." However, these "short-term" remedies have endured for decades and exploded by 2100% over time, supplanting general fund budgets. They are not subject to the scrutiny of voter approval and are not in any way tied to pupils, poverty, or demographics. The few grandfathered school districts continue to benefit from significant spending advantages.

Arizona's school finance formula attempts to reduce the impacts of disparities in property wealth by applying a qualifying tax rate (QTR) so all taxpayers pay roughly the same rate for K-12. Deseg/OCR levies distort that concept heavily because the levy is on top of the formulaic amount and is not equalized by the state. Taxpayers in these districts sometimes pay Deseg/OCR levies at both the elementary level *AND* the high school level, creating some of the highest tax rates and most difficult business climates in the state. Finally, Deseg/OCR is a key contributor to tax rates busting the constitutional limitation on homeowner property taxes, commonly referred to as the "1% Cap."

ATRA OPPOSES HB2516

Assessor's Tax Bill Damages and Undermines Transparency in Arizona's Budget and Tax Laws

In 1994 the Arizona Legislature passed landmark property tax reform legislation (SB1362) that, for the first time, aligned the property valuation calendar with the state and local budgeting calendar. This legislation was necessary because, prior to 1994, the **final equalized value** (net assessed value) of each jurisdiction was not available until early August – over a month into the new fiscal year. (Arizona state and local budgets operate on a **fiscal year** that begins on July 1st.)

Subsequent to the passage of SB1362, several important pieces of legislation were passed that changed the timing of the publication and distribution of the constitutional levy limits of local governments as well as instituting Truth-in-Taxation (TNT) laws in 1996 to create transparency in the tax rate setting process for state and local governments. These laws, and the key dates for their publications, were not possible under the single-year calendar process that existed prior to 1994.

The following is a list of some of the important budget/property tax statutes and formulas that rely on the **final net assessed values** for their calculation:

- ARS 42-17051 Levy Limit on County, Municipal and Community College Primary Levies

This statute provides the implementation for the constitutional levy limits. The methodology and formula for these levy limits is the same that is used for the state TNT statute as well as the TNT laws that apply to counties, cities, and community colleges. Most notable, these values, which are required to be published by February 10th of the current tax year, are required to be calculated using the "**finally equalized values of all property.**"

- ARS 41-1276 State Truth-in-Taxation Calculation for Qualifying Tax Rate (QTR) and the State Equalization Assistance Tax Rate

This statute requires on or before **February 15th** of each year, the JLBC to compute and transmit the TNT rates for all K-12 school districts to the Legislature for use in calculating state aid to schools. The law provides for a public hearing and notice in the newspaper if the Legislature decides to levy rates higher than the TNT rates calculated by JLBC. A two-thirds vote is required of the Legislature to adopt rates higher than the TNT rates.

- ARS 42-17107 County and City or Town Truth-in-Taxation Formula and Procedures

Using the values provided by the county assessor in ARS 42-17051 (the **final equalized values** required to be published on February 10th) each county and city or town is required to calculate its TNT rate for the upcoming fiscal year. If the governing body elects to exceed the TNT rate it must publish a notice in the newspaper and hold a public hearing to vote to exceed the TNT rate. The deadline to adopt the final budget and conduct a TNT hearing is 14 days **before** taxes are levied (third Monday in August). The public notice and public hearing process of this statute requires counties and cities and towns to calculate the **exact** tax rate that they propose to levy. They are also required to calculate the impact of that proposed tax increase on residential property taxpayers.

- ARS 15-905.01 K-12 School District TNT Procedures

This statute requires each school district that proposes to increase property taxes over its TNT limit to publish the impact of that tax increase in a newspaper of general circulation. The statute specifically directs the district to calculate the tax rate increase using values provided by the county assessor on February 10th.

- ARS 15-995 K-12 School District Levy for Adjacent Ways

This statute requires a school district levying for a one-time adjacent ways expenditure to comply with the TNT provisions in ARS 15-905. ARS 15-905 requires the use of the February 10th values published by the county assessor.

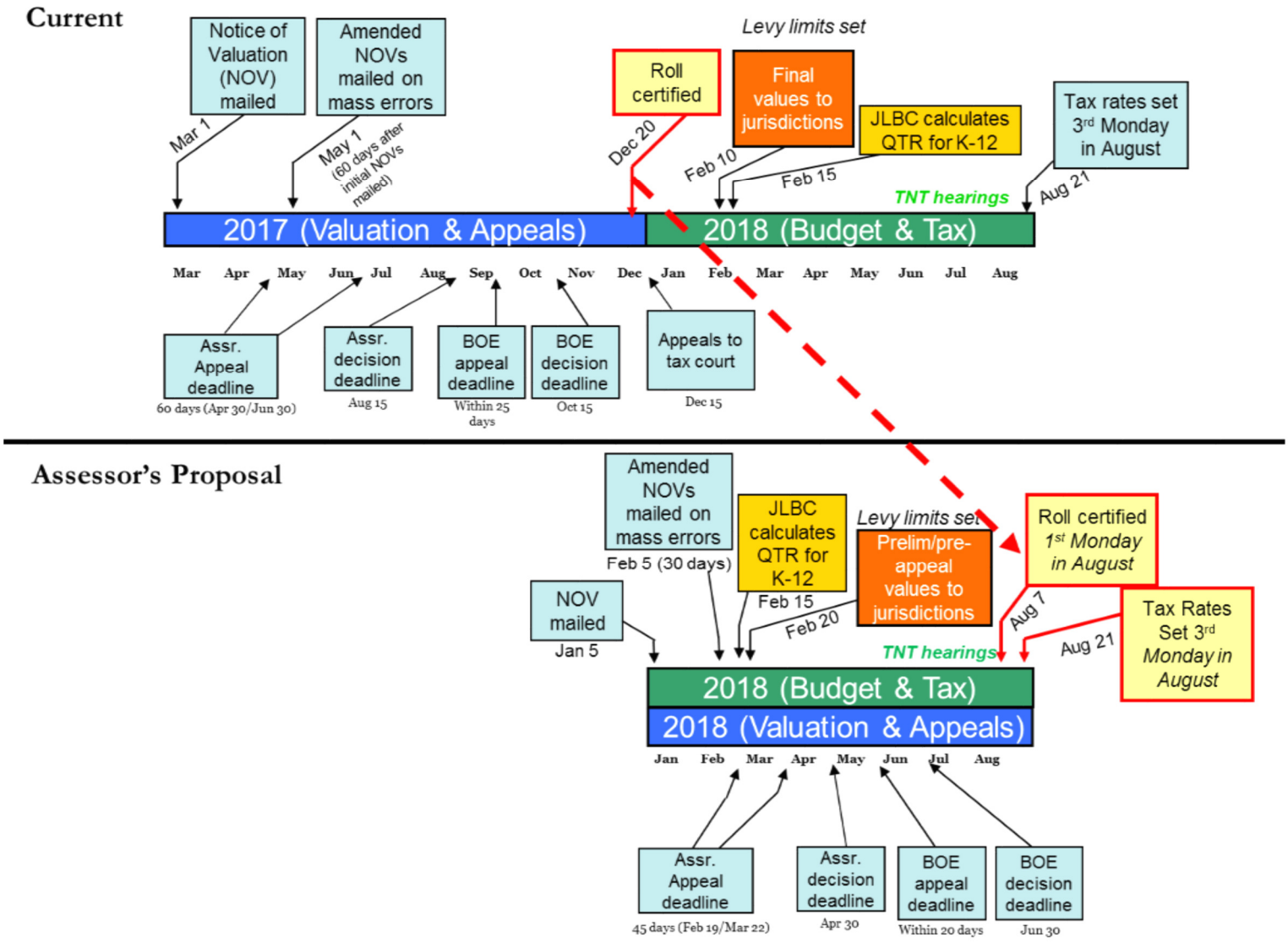
- ARS 15-1461.01 Community College Truth-in-Taxation Formula and Procedures

Using the values provided by the assessor in ARS 42-17051 (the **final equalized values** required to be published on February 10th), each community college district is required to calculate its TNT rate for the upcoming fiscal year. If the governing body elects to exceed the TNT rate it must publish a notice in the newspaper and hold a public hearing to vote to exceed the TNT rate.

Arizona uses an ad valorem property tax system that allows state and local elected officials to establish property tax rates within a constitutional and statutory framework that has been developed for over thirty years. In most instances, elected officials are allowed some discretion in determining the property tax rate of their jurisdictions. The annual process of establishing the tax burdens that will be imposed on Arizona property taxpayers demands a level of transparency that allows property taxpayers to engage elected officials in those decisions.

Simply put, a transparent budgeting and tax rate setting process requires public information that both elected officials and taxpayers can rely on. Establishing constitutional levy limits and Truth-in-Tax rates on preliminary values that will always change through the administrative appeals process will create chaos in every effected taxing jurisdiction. Whatever benefits might be achieved through using a more updated (and usually higher) property valuation are dramatically offset by the damage done to a state and local budgeting process that has been developed and fine-tuned over the last several decades.

HB2516-COLLAPSED PROPERTY CALENDAR TIMELINE



ATRA OPPOSES HB2526

Statutory Change Conflicts with Constitutional Provision

Background

Arizona has one of the most complicated property tax systems in the country. One of those complications is that property in Arizona receives two valuations: full cash value (FCV) and limited property value (LPV). Arizona courts have ruled that the FCV of property should represent the property's market value. Since the FCV fluctuates with the market, there is no limit as to how much it can increase each year. On the other hand, the Constitution limits the annual growth in LPV to a mathematical calculation. Prior to the passage of Prop 117 in 2012, the annual growth in LPV was the greater of 10% over the previous year or 25% of the difference between the current year's FCV and the previous year's LPV. As passed by the voters, Prop 117 limited the annual growth in LPV to 5% or the FCV and made the LPV the only taxable value for both primary and secondary property taxes.

Due to its subjective nature, taxpayers have always had the ability to appeal the FCV of property. The LPV on the other hand, since it is a mathematical calculation, has never been an appealable value. The only exception to the annual 5% growth limit is in situations of new construction. Based on authorization provided by the Constitution, a statutory provision exists that directs the LPV on newly constructed property to be calculated as a percentage of the FCV that reflects the FCV/LPV relationship of similar properties, which is referred to as the "Rule B" calculation.

The number of appeals filed with county assessors across the state have dropped dramatically since the passage of Prop 117. The decrease in appeals is likely associated with the obvious benefit of 117 in that the annual growth in property taxes are no longer tied to sharp swings in the real estate market. As anticipated, the reasonable 5% limit in the annual growth in property values has created stability in Arizona's property tax system and greater predictability for both government and taxpayers.

ATRA's Opposition

During the 2016 legislative session, ATRA opposed a statutory amendment that would have allowed taxpayer's to appeal the LPV based on the "equity" approach. ATRA questioned how a change in state statute would allow a different calculation of the LPV in contrast to the constitutional provision that clearly mandates the annual growth in LPV to 5%.

HB2526 would provide that if the FCV is reduced through an appeal on property, that the LPV be reduced by the same percentage. Proponents of the bill argue that since the FCV is no longer a taxable value and the annual increase in the LPV is minimal because of Prop 117 that taxpayers' desire to file an appeal has essentially been eliminated. The proponents also compare this new change to the existing Rule B calculation for new construction. On the contrary, the current Rule B percentage is calculated by the assessor each year and the same percentage applies to all property that is added to the tax rolls in that year. There is no rationale that the LPV be reduced by the same percentage as the reduction in the FCV that was based on market value. Lawmakers should question the *unconstitutionality* and *motivation* behind this proposal. HB2526 will certainly reverse any of the benefits that resulted from the passage of Prop 117 by increasing the number of appeals filed.

ATRA OPPOSES SB1149

Sales TIF for Professional Sports Teams Combines Two Bad Ideas

While ATRA has long opposed the public subsidy of stadiums and arenas for private sports clubs, Tax Increment Financing (TIF) makes the idea worse by using one of the riskiest and least transparent mechanisms. SB1149 proposes that a *community engagement district* which builds an arena or community facility be allowed to keep half of the TPT revenues generated inside the district that would otherwise go to the state. The other half would be split by the state and the amount shared with local governments. These "recaptured" revenues would be leveraged for debt service which would repay the municipal bonds sold to pay for the facility over more than 30 years.

The fundamental problem with TIF is it becomes the first draw on the state general fund before any other priority is considered. It skips the appropriations process altogether and diverts state resources for decades. All of the State's many requests for funding should compete in the budget process, not receive special carve outs before the debate begins.

The public subsidy of stadiums and arenas for the use of private franchises is always contentious. To the extent taxpayer funding occurs, it should be as transparent and straightforward as possible with local voters determining how much they will participate. Using this TIF mechanism to require the state's taxpayers pay for local projects is the equivalent of the scorned "pork barrel spending" at the Federal level.

The State of Arizona should not ask taxpayers in Yuma or Flagstaff to use their state tax dollars to offset a public subsidy in Maricopa County. The simplest reason is these special TIF districts only beget more districts, creating a "path dependency" as other jurisdictions rightly ask when it will be their turn to leverage the state for a local project. This is not an abstract slippery slope argument: past sales tax TIF measures in Maricopa County resulted in Pima County demanding similar treatment which led to the maligned Rio Nuevo project.

The notion that a private entity has claim to the TPT taxes generated by their business is a curious one— a treatment all businesses could certainly use. Further, the claim that a new stadium and surrounding retail would substantially alter the disposable income in Maricopa County and all money spent there would be foregone revenue or brand new money is entirely unsupported.

Finally, as is often the case in TIF districts, there is the potential that the concept could fail and taxpayers would be left holding the bag. Rosy revenue projections do not always come to fruition. The bill calls for financial backing from a municipality, meaning it's their taxpayers credit on the line if the bonds go unpaid. No jurisdiction could allow that to happen— just as Glendale cannot stop paying the debt service on their current arena for the Arizona Coyotes. State Taxpayers cannot know the exact odds of this gamble and shouldn't be asked to participate.