

# ATRA’S 2016 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 2016 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 Second Regular Session of the 52<sup>nd</sup> Legislature, 1,361 bills and resolutions were introduced. Of the 1,247 bills introduced, 14 of the 388 that passed were vetoed by the Governor. Thirty-six of the 114 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.**

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## HIGHLIGHTS OF THE 2016 LEGISLATIVE SESSION

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This document summarizes key legislation ATRA actively supported, opposed or monitored during the Second Regular Session of Arizona's 52<sup>nd</sup> Legislature. The 2016 session proved rather successful for ATRA despite many unique challenges. As per usual, most of ATRA's top-priority tax legislation passed and most legislation ATRA opposed failed.

ATRA staff advocated for several significant legislative reforms and opposed many legislative proposals deleterious to taxpayers.

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

- ATRA authored and advocated for SB1117, which brings oversight to an obscure and long-abused local property tax known as Adjacent Ways. In order to expend dollars from this fund, schools must now seek approval from the state School Facilities Board.
- In HB2481, ATRA crafted a complete overhaul of the primary property tax calculation for K-12 school districts and persuaded lawmakers to implement it beginning in FY2018. No longer will school tax rates swing sharply based on incomplete and often inaccurate cash balances. Schools will annually receive all legal appropriations and taxes and spend them in the year of their choice, like charter schools.
- In response to a decades old problem, ATRA supported Rep. Norgaard's goal to simplify the use of proceeds from the sale and lease of K-12 school property, ATRA authored and successfully advocated for HB2476 which makes clear how districts are to use sale and lease proceeds. The bill properly protects taxpayer investments and encourages efficient use of school property.
- ATRA was successful in advocating for the codification of an Auditor General opinion clarifying that local debt limits will continue to be calculated using the net assessed of full cash values, protecting taxpayers from a viewpoint that debt limits could be exponentially expanded.
- ATRA continued to pursue phase-out legislation in SB1125 for Desegregation and Office of Civil Rights funding over 10 and 5 years, respectively. The bill passed the Senate Finance Committee and the mirror bill HB2480 passed the House Ways & Means Committee but neither were voted on in their respective Committees of the Whole.
- ATRA pursued legislation in HB2126 to address the longstanding issue of community college districts exaggerating student count estimates to boost expenditure limits. This compromise legislation was held in the House Government, Higher Education Committee.

All but two of the 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 SB1402, which sought to expand class six property to include Grand Canyon University. ATRA will continue to oppose targeted tax breaks that create greater inequities in the property tax system.
- ATRA opposed HB2531, which would have removed the statutory tax rate cap of \$3.25 for fire districts to the effect of substantial tax increases across rural Arizona. ATRA negotiated with Fire District representatives resulting in SB1244, which reformed the Fire District Assistance Tax and allows districts to seek a voter-approved, temporary \$.25 property tax override.

## LEGISLATION LISTED BY BILL NUMBER

### LEGEND FOR ATRA'S POSITION:

S = Supported	O = Opposed	FA = Favorably Amended	M = Monitored			
				BILLS	FINAL STATUS/ CHAPTER #	PAGE
BILL NUMBER, SHORT TITLE, AND PRIMARY SPONSOR				ATRA'S POSITION		
HB2018 optional individual flat income tax (Stevens)				M	Held in Senate Finance	13
HB2029 S/E: small school district adjustment (Borrelli)				O	Held in Senate Rules	9
HB2054 debt limitations; net assessed value (Mitchell)				S	Chapter 177	6
HB2055 class six property; elderly homeowners (Cardenas)				O	Held in Senate Finance	9
HB2126 expenditure limitations; community colleges (Shope)				S	Held in House GHE	11
HB2133 TPT; exemption; aerial applicators (Shope)				S	Chapter 181	6
HB2197 fire districts; merger; consolidation (Coleman)				FA	Chapter 183	13
HB2244 community colleges; administrative tasks; reduction (Thorpe)				O	Held in House Approps	9
HB2332 property tax levy; community colleges (Barton)				O	Held in House W&M	9
HB2356 gifted pupils; group B weight (Carter)				M	Held in House Approps	13
HB2402 bonds; disclosure; notice (Leach)				M	Held in House 3 <sup>rd</sup> Read	14
HB2439 property tax valuation (Petersen)				O	Held in House Rules	10
HB2440 municipal improvement districts; formation election (Petersen)				S	Chapter 9	6
HB2476 school property; sales; leases; use (Norgaard)				S	Chapter 242	6
HB2480 S/E: additional state aid; maximum amount (Olson)				S	Failed in Senate	11
HB2481 schools; primary property tax rates (Olson)				S	Chapter 264	6
HB2484 estimates; state budget; notice (Olson)				S	Vetoed	11
HB2486 telecommunications utilities; relocation; reimbursement (Olson)				S	Chapter 259	7
HB2492 DOR; costs; penalties; recovery (Bowers)				M	Held in Senate Gov	14
HB2495 sporting event tax revenue; tourism (Livingston)				M	Chapter 366	14
HB2499 truth in taxation; detailed notice (Barton)				O	Held in House W&M	10
HB2512 pension contributions; expenditure limit exemption (Coleman)				O	Held in Senate COW	10
HB2525 counties; annual audits (Thorpe)				O	Held in House CMA	10
HB2531 fire districts; district assistance tax (Bowers)				O	Held in House W&M	10
HB2533 charter aircraft; tax exemption (Shope)				M	Chapter 367	14
HB2538 municipal bonds; tax levy (Mesnard)				FA	Chapter 334	12

## 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				ATRA'S POSITION	FINAL STATUS/ CHAPTER #	PAGE
HB2568 community facilities districts; formation; governance (Gowan)				FA	Vetoed	13
HB2598 TPT; municipalities; customer refund claims (Olson)				S	Held in House W&M	12
HB2676 S/E: utilities; manufacturing; smelting; TPT (Rivero)				S	Chapter 374	7
HB2686 school district tax levy; retention (Carter)				O	Held in House Approps	10
SB1117 school districts; adjacent ways; verification (Dial)				S	Chapter 48	7
SB1125 schools; desegregation funding; phase-down (Lesko)				S	Held in Senate COW	12
SB1244 fire districts; wildland fires; budgets (Allen)				FA	Chapter 219	13
SB1279 S/E: empowerment scholarships; expansion; phase-in (Lesko)				M	Held in House	14
SB1288 internal revenue code conformity (Lesko)				S	Chapter 155	7
SB1322 community colleges; expenditure limitations (Allen)				O	Chapter 58	8
SB1351 schools; elections; ballot arguments; exclusion (Lesko)				S	Held in House	12
SB1402 class six property; higher education (Yarbrough)				O	Failed in House	11
SB1428 PSPRS modifications (Lesko)				O	Chapter 2	8
SB1490 transportation funding; task force (Worsley)				S	Chapter 228	8
SB1493 state highway construction; tax credits (Worsley)				S	Held in Senate Finance	14
SB1523 truth in taxation; levy increases (Smith)				S	Chapter 173	8

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## PASSED LEGISLATION ATRA SUPPORTED

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### **HB2054 debt limitations; net assessed value (Mitchell)**

**Chapter 177**

The passage of Proposition 117 in 2012 and subsequent statutory updates removed all references to secondary net assessed values, which were previously used to determine the debt limits for local governments. HB2054 enshrines a recent Attorney General opinion by clarifying the calculation of local government debt limitations will continue to be based on the net assessed of full cash values (debt limit value), as they have for many decades. The ‘debt limit value’ replaces the secondary net assessed value but does not materially change debt capacity. This was an important clarification because the elimination of the secondary net assessed value caused some in the bond financing community to claim jurisdictions should now be able to use total full cash value- not the values after appropriate assessment ratios are applied, to determine their debt limitation. Without this clarification, use of the full cash value as the base for calculating the constitutional debt limits would have exponentially increased local government’s access to debt and taxpayers’ exposure to repaying it.

### **HB2133 TPT; exemption; aerial applicators (Shope)**

**Chapter 181**

Following a change in policy at DOR to charge TPT on crop dusters, HB2133 clarifies that crop dusters are exempt from TPT at purchase by adding them to the list of exempt agricultural equipment under the TPT Retail classification. Defines “agricultural aircraft” as one built for agricultural use for the aerial application of pesticides, fertilizer or aerial seeding. Retroactive to April 17, 1985 and refunds are capped at \$10,000 which must be submitted before December 31, 2016.

### **HB2440 municipal improvement districts; formation election (Petersen)**

**Chapter 9**

Following considerable controversy surrounding the creation of the Roosevelt Municipal Improvement District in downtown Phoenix, lawmakers conformed the formation process to that of other improvement districts in HB2440. Prior to HB2440, a municipality could form these special districts and the burden to oppose them fell on a majority of owners within the district to formally protest the district in writing. HB2440 provides that if a municipality seeks to form a municipal or general improvement district, it is required to circulate a petition signed by landowners. The petition must be signed by owners of more than one-half of the taxable property units and by owners collectively representing more than one-half the total assessed valuation of the proposed district. Owners not subject to property taxation in the district are no longer eligible to sign the petition. Retroactive to districts who had yet to adopt a boundary map by January 1, 2016.

### **HB2476 school property; sales; leases; use (Norgaard)**

**Chapter 242**

Responding to a request by Rep. Norgaard to fix the use of proceeds from the sale and lease of school property, ATRA helped craft legislation to make sense of a confusing area of school finance. The bill creates a new materiality test whereby all sales of items less than \$100,000 can be expended without restriction. It frees up all existing school plant funds for use on capital projects by creating prospective rules for the use of sale proceeds beginning July 1, 2016. The bill ensures that “high-debt” school districts use a specific percentage of large sale proceeds to pay down bonded indebtedness. Low-debt school districts may expend all sale proceeds for capital. The bill creates new financial incentives for school districts to sell and lease school property to other schools by placing those monies in less restrictive funds. The bill maintains the high and low debt delineation at a 50/50 split of a district’s constitutional limit. *See ATRA position paper in Appendix.*

**HB2481 schools; primary property tax rates (Olson) Chapter 364**

HB2481 changes the mechanism for setting K-12 primary school property tax rates from a floating rate that adjusts based on cash balances to a statutory formula. It explicitly states school districts will annually levy the lesser of the Qualifying Tax Rate or the amount to fund the equalization base plus any legal non-formulaic amounts. This ensures districts annually receive the precise cash to match their legal budget authority for that budget year. The bill makes equitable the cash management policies for school districts by removing the four percent budget balance carryforward limitation. Charter schools already have such authority. The bill also removes the requirement to net cash against the following years primary property tax rate, which means districts keep all legally acquired cash. *See ATRA position paper in Appendix.*

**HB2486 telecommunications utilities; relocation; reimbursement (Olson) Chapter 259**

HB2486 requires a county or municipality to reimburse the cost of relocating telecommunications utility facilities for any construction project that is undertaken individually or jointly by an intergovernmental contract that is funded in whole or in part by voter-approved bond proceeds. The bill also sets parameters regarding existing land rights and right-of-ways. Does not apply to bond proceeds approved before January 1, 2017.

**HB2676 S/E: utilities; manufacturing; smelting; TPT (Rivero) Chapter 374**

HB2676 states that in order to qualify for the TPT exemption for electricity or natural gas, a business must meet one of the following in order to be considered a “qualified manufacturing or smelting business:” 1) manufactures or smelts tangible products in this state, of which at least 51% of the products will be exported out-of-state for incorporation into another product or sold out-of-state for final sale; 2) derives at least 51% of its gross income from the sale of manufactured or smelted products that are manufactured or smelted by the business; 3) uses at least 51% of its square footage in this state for manufacturing or smelting and business activities directly related to manufacturing or smelting; 4) employs at least 51% of its workforce in this state in manufacturing or smelting and business activities directly related to manufacturing or smelting; 5) uses at least 51% of the value of its capitalized assets in this state, as reflected on the business’s books and records, for manufacturing or smelting and business activities directly related to manufacturing or smelting. Additionally, the definition of “manufacturing” now includes “processing” and “fabricating” but excludes “publishing” and “packaging.” The measure also clarifies the vendor’s responsibilities related to accepting the exemption certificates. Effective January 1, 2017.

**SB1117 school districts; adjacent ways; verification (Dial) Chapter 48**

The Adjacent Ways property tax levy represents unfettered access to the property tax and because it lacks any serious outside review or taxable limit, it has historically been rife with abuse. Adjacent Ways is a special property tax authority school districts have for “public way” projects adjacent to schools such as sewers, gutters and sidewalks. The Adjacent Ways tax is levied by local school districts and is in addition to K-12 tax rates for operating budgets. SB1117 creates a process to ensure a legal Adjacent Ways project exist before a school district makes an expenditure from this fund. It further adds the Adjacent Ways fund to the annual audit requirement. School districts must first submit projects costing over \$50,000 to the School Facilities Board (SFB) for validation. The education omnibus bill, HB2190, further amended this section of law to limit SFB review to a period of 60 days. *See ATRA position paper in Appendix.*

**SB1288 internal revenue code conformity (Lesko) Chapter 155**

The bill conforms to the Internal Revenue Code (IRC) in effect as of January 1, 2016 including those provisions of the Slain Officer Family Support Act of 2016, the Don't Tax Our Fallen Safety Heroes Act, the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015, and the consolidated Appropriations Act, 2016. A new section is added that requires a partnership that is audited

by the IRS and assessed an imputed underpayment as added by the Bipartisan Budget Act of 2015 to file a return with the Department of Revenue for the reviewed year. This new section provides parameters for the partnership to file regarding a net increase and net reduction in Arizona taxable income, if the partnership fails to file the return, and how the tax is to be paid out depending on the taxable outcome.

**SB1490 transportation funding; task force (Worsley)**

**Chapter 228**

Creates a nine member task force to meet monthly and issue reports every three months through June 2017 to study revenue sources for roads and highways. The task force is required to work with ADOA to conduct a statewide survey to identify vacant or underused buildings for which the use of proceeds from the sale or lease could be used for transportation infrastructure. The Governor will appoint three from the trucking industry, a highway user group and from a statewide business organization. Two each will be appointed by the Senate President, House Speaker and Governor who meet the following requirements: must have at least 10 years' experience in one of five related fields and cannot be a member of a transportation planning agency or hold public office. The five related fields are state and local taxation, revenue forecasting, economic forecasting, municipal debt issuance and state or local government finances in Arizona.

**SB1523 truth in taxation; levy increases (Smith)**

**Chapter 173**

In response to Pinal Community College District's contested 21% tax increase last year, the Legislature enacted a new taxpayer protection for large property tax increases. SB1523 requires a jurisdiction that intends to increase taxes 15% or more above the truth in taxation (TNT) levy receive a unanimous vote of the board. TNT requires the governing body of a county, community college district, city, town, and school district to hold a public hearing and publish notice in a newspaper of the governing body's intent to increase primary property taxes, exclusive of growth associated with new construction. *See ATRA position paper in Appendix.*

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**PASSED LEGISLATION ATRA OPPOSED**

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**SB1322 community colleges; expenditure limitations (Allen)**

**Chapter 58**

Following an interim study committee on community college expenditure limits, district lobbyists developed SB1322 which attempted to address some taxpayer concerns while creating significant expenditure limit authority with statutory changes. For the purposes of calculating full time student equivalents (FTSE), the bill allows for a 10 year student-count averaging for the next three years and following that a five-year averaging of audited actuals. The bill assigns a 30% weight to the FTSE calculation for all Career and Technical Education (CTE) students for the purposes of determining the expenditure limit (and not state aid). The bill also allows districts to engage in any entrepreneurial or commercial activity and excludes for the purposes of the expenditure limits revenues derived from these sources. Finally, the bill allows community college governing boards to refer to their voters a permanent change to their base spending limit used to determine their expenditure limitation at a November election.

**SB1428 PSPRS modifications (Lesko)**

**Chapter 2**

Sold as a major reform to address the overwhelming unfunded liability in the Public Safety Personnel Retirement System (PSPRS), ATRA opposed the measure on the grounds that it actually increased benefits for the majority of the new employees entering PSPRS after July 1, 2017. Non-social security employees, which make up the majority of PSPRS membership, will receive almost the identical defined benefit retirement currently provided (2.5% multiplier) along with a new, employer funded defined contribution of 6%. This change actually increases the normal costs for these employees from 20.85% of payroll to 21.06%.

Proponents of the measure pointed primarily to changes they argued would make the new Tier 3 modestly less expensive than the current system. According to the actuary, the most significant cost savings was a new pensionable pay cap of \$110,000. While it will take 25 years to find out whether this provision actually provides the estimated dramatic savings, ATRA argued the methodology used by the actuary significantly exaggerated the number of retirees that will be impacted by the cap. The other major cost savings was attributed to a new 18% defined contribution option that Tier 3 employees can opt into. Despite the platinum combined DB/DC retirement offered to new employees after July 1, 2017, the proponents estimated that 5% of the new employees will pick the DC-only option.

At a May special election, voters approved Prop 124 which changed the pension permanent benefit increase (PBI) formula to an annual COLA increase up to 2% for all active employees and retirees amongst other changes. This was referred to the voters by the Legislature as part of the larger reform effort. Instead of using half of all fund gains above 9% for a PBI for retirees, they will annually receive a COLA regardless of fund performance. While this was sold as cost saving and much needed reform the actuary indicated that the new mandated 2% COLA is more expensive than the existing requirement.

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## **FAILED LEGISLATION ATRA OPPOSED**

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### **HB2029 S/E: small school district adjustment (Borrelli)**

**Held in Senate Rules**

As introduced, HB2029 would have expanded the small school adjustment from school districts with 100 or fewer to 125 for pupils in grades 9-12. Presently a district can access the small school adjustment if they have fewer than 125 pupils in grades K-8 or 100 pupils in grades 9-12. Several school districts qualify because they have fewer than 100 pupils in grades 9-12 though they have more than 125 in K-8. This law would have expanded the number of qualifying school districts allowed unfettered property tax access. The bill was amended in the Senate to grant a one-year reprieve for such school districts who have grown out of the category; however, HB2029 was ultimately held in Senate Rules.

### **HB2055 class six property; elderly homeowners (Cardenas)**

**Held in Senate Fin**

HB2055 was an attempt to expand the types of properties which qualify as class 6 (assessed at 5%) to include the primary residence of an owner that qualifies for the Senior Valuation Freeze under the state Constitution. To qualify, the individual may not own or have any legal, equitable, beneficial or security interest in any other real property, wherever it may be located. ATRA has consistently opposed measures to expand class six property and increase inequities in Arizona's property tax system.

### **HB2244 community colleges; administrative tasks; reduction (Thorpe)**

**Held in House Approps**

HB2244 sought to remove and reduce several administrative tasks for community college districts that were initially created to replicate functions previously conducted by the dissolved State Board of Community Colleges. The measure would have also removed the annual requirement to report to the Governor and Legislature on courses of study, number of employees, number of students, receipts and expenditures, dual enrollment data, etc. The bill removed the 15-year limitation and all financial caps on lease-purchase (LP) agreements, as well as all reporting for LP agreements. Additionally, HB2244 would have removed the workforce development reporting requirement for colleges on Indian reservations and the JCCR review requirement for nonvoter approved bonds.

### **HB2332 property tax levy; community colleges (Barton)**

**Held in House WM**

An idea which has resurfaced several times at the request of Coconino Community College district, HB2332 would have created a special voter-approved increase to a constitutional levy limit on the

primary property tax for Coconino College. The bill allowed a district who initially approved a primary property tax at least 20 but not more than 35 years ago to refer to district voters a levy limit increase up to double their current limit.

**HB2439 property tax valuation (Petersen)**

**Held in House Rules**

Arizona's property tax system is based on a dual-valuation system: full cash value (FCV) and limited property value (LPV). The FCV should reflect market value of the property and is the only value that can be appealed by taxpayers. Following the passage of Prop 117 in 2012, the LPV is now the only taxable value and it is limited to an annual growth of 5%, not to exceed the FCV. HB2439 would have allowed the LPV to be appealed based on the "equity approach." ATRA strongly opposed the measure since the calculation of the LPV is a function of the formula that is mandated by Article IX, Section 18 of the Constitution, and as such, cannot be overridden by statute.

**HB2499 truth in taxation; detailed notice (Barton)**

**Held in House WM**

Truth-in-Taxation (TNT) laws were created in 1996 to create transparency in the tax rate setting process for state and local governments. TNT requires the governing body of a county, community college district, city, town, and school district to hold a public hearing and publish notice in a newspaper of the governing body's intent to increase primary property taxes, exclusive of growth associated with new construction. HB2499 was an attempt to undermine the intent of TNT by dramatically expanding the TNT notice with up to five new paragraphs in an effort to justify a tax increase. ATRA believed that this change would have created additional confusion for taxpayers.

**HB2512 pension contributions; expenditure limit exemption (Coleman)**

**Held in Senate**

As amended, HB2512 would have created significant expenditure limit relief for jurisdictions who pay into the Public Safety Pension Retirement System (PSPRS). ATRA originally supported the underlying version of the bill, which was designed to allow jurisdictions to make lump-sum cash payments on existing PSPRS unfunded liability debt by excluding that payment from their constitutional expenditure limit. The bill was amended at the request of Maricopa County to include any payment associated with unfunded liability, which was written to the effect of excluding current year payments as well. This was beyond the intent of the underlying bill and raised constitutional concerns. While the underlying bill had the effect of providing relief for both taxpayers and local governments, the amended version simply provided unwarranted, nonvoter approved expenditure limit relief. *See ATRA position paper in Appendix.*

**HB2525 counties; annual audits (Thorpe)**

**Held in House CMA**

Current law requires the Auditor General (AG) to conduct, or cause to be conducted, an annual financial audit for all counties. HB2525 would have taken the decision-making process away from the AG by authorizing the counties the option to hire their own auditor to conduct the audit.

**HB2531 fire districts; district assistance tax (Bowers)**

**Held in House WM**

HB2531 would have removed the property tax rate cap of \$3.25 per \$100 of assessed value for fire districts; however, fire district levies would continue to be limited to 8% annual growth. ATRA was strongly opposed to removing the tax rate cap altogether but worked with fire district representatives to favorably amend other legislation (See SB1244).

**HB2686 school district tax levy; retention (Carter)**

**Held in House Approps**

HB2686 attempted to redirect state General Fund dollars levied from a minimum Qualifying Tax Rate (minQTR) property tax to a school district without a budget override. This narrow legislation created a complex formula where a district that pays the minQTR 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 minQTR dollars back to the school district and increase its budget limits by a like amount. The amount to be redirected would be the lowest average of the per-pupil amount received by adjacent districts whose voters approved a budget override or the amount of the minQTR, whichever is less. This bill was in response to criticism from Cave Creek Unified that voters believe the minQTR is an additional school tax the district benefits from and adversely affects the district's ability to seek a budget override.

**SB1402 class six property; higher education (Yarbrough)**

**Failed in House**

SB1402 was an effort to expand class six property classification- which ATRA has long opposed, to include all regionally and nationally accredited institutions of higher education. This would have changed the classification of their property from Class 1 (businesses, corporations) to Class 6 (foreign trade zone, historic property), which is assessed at 5%. For-profit business property is normally classified under class 1 and is assessed at 18%. Grand Canyon University has advocated for this property tax break. *See ATRA position paper in Appendix.*

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## FAILED LEGISLATION ATRA SUPPORTED

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**HB2126 expenditure limitations; community colleges (Shope)**

**Held in House GHE**

Following the interim study committee on community college finance, ATRA developed a bill to address the various expenditure limit issues. HB2126 would have changed the process of determining the expenditure limitation of community college districts from an estimation of full time student equivalents (FTSE) to a formula. The bill provided districts three options they could annually choose from for their FTSE count for the purposes of setting the expenditure limitation. One option included the most recent audited FTSE count, another was to use the average of the last five years audited FTSE, and the final was to allow a JLBC-approved increase of the most recent audited FTSE up to five percent. The measure also created a new override option to permanently adjust the base spending level of a community colleges for the purposes of calculating the expenditure limitation if referred by the governing board and approved by district voters. Furthermore, the HB2126 would have excluded certain fees and auxiliary revenues derived from private sources, such as enterprise activities, from the expenditure limitations. The thrust of the bill was added to SB1322 which ATRA opposed because the bill added significant nonvoter approved expenditure limit capacity among other changes.

**HB2480 S/E: additional state aid; maximum amount (Olson)**

**Failed in Senate**

HB2480 was an attempt to provide improvements to the new manner in which the state manages the constitutional homeowner '1% Cap.' Arizona homeowners are limited to a \$10 primary property tax rate and when the combination of state and local government tax rates exceeds \$10 per \$100 of assessed value, a revenue gap is created. Before FY2016, the State General Fund (GF) simply paid this amount by providing additional state aid to K-12 school districts. In FY2016, the K-12 budget BRB included language which indicated the state GF would only subsidize each county up to \$1 million and mandated that certain districts pay the difference. HB2480 would have placed a tax rate cap on jurisdictions with a tax rate more than 150% higher than the statewide average (defined) and raised the state GF exposure to \$1.5 million per county. The bill clarified that all jurisdictions who contribute to a 1% Cap problem would participate in paying penalties, including school districts, whereas the current law limits penalty payments to municipalities, community college districts and counties with rates above their peer average. The bill also clarified methodology for calculation of penalty payments, amongst other technical reforms.

**HB2484 estimates; state budget; notice (Olson)**

**Vetoed**

HB2484 would have required the Director of JLBC to author a state "truth in spending" estimate by February 15 beginning in 2017 for the following fiscal year. The truth in spending estimate calculates the

total general fund appropriations for the current fiscal year and the total amount of all appropriations from all sources for the current fiscal year, adjusted for population growth and the change in cost-of-living based on GDP price deflator. The bill would have required the Legislature to issue a press release and hold a joint truth in spending hearing if the proposed budget exceeds the truth in spending estimate. In the veto message, the Governor expressed support for the concept but suggested there were technical issues with the bill and argued paying off debt should not be counted towards a spending increase.

**HB2598 TPT; municipalities; customer refund claims (Lesko)**

**Held in House WM**

HB2598 would have allowed a customer who paid TPT that was passed on by a vendor to file a claim for refund with the Department of Revenue (DOR) if the vendor assigns its right to claim the tax to the customer. Provided that if a vendor fails or refuses to properly assign its right to a claim within 60 days after the customer's written request or if the vendor is no longer in business, the customer may provide DOR with a statement explaining the efforts made to obtain an assignment from the vendor. In that case, DOR would be required to notify the vendor of the claim and continue processing the claim. On paying or crediting monies to the customer pursuant to the claim, DOR must amend the vendor's returns or account to reflect the amount paid or credited. DOR may disallow a claim filed by a customer if they already paid or credited a refund arising from the same transaction. DOR would be required to notify the customer and the vendor of any disallowed claim.

**SB1125 schools; desegregation funding; phase-down (Lesko)**

**Held in Senate COW**

Similar to the last year's effort, SB1125 would begin a five-year phase out of Office of Civil Rights (OCR) monies and a 10-year phase out of Desegregation monies for the 19 school districts currently using the authority. The measure included an exception for any school district currently under a Federal court order to desegregate and to begin their phase-out the year after being declared unitary (Tucson Unified). Established under A.R.S. 15-910.G 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 these few 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 19 school districts presently represents some of the largest inequities in Arizona school finance. The levied funds are not subject to voter scrutiny, are in no way tied to pupils, inflation, poverty, or demographics, and are not scheduled to phase out. A mirror bill, HB2401 (Leach) was held in House COW. *See ATRA position paper in Appendix.*

**SB1351 schools; elections; ballot arguments; exclusion (Lesko)**

**Held in House**

As amended in the Senate, SB1351 changed the format of school district election ballot argument to mandate that the school district governing board's position on the election be signed generally as the governing board of the district without listing any member's individual name. This allows minority positions to not be listed by name on the official board's position on the ballot publicity pamphlet.

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## LEGISLATION ATRA FAVORABLY AMENDED

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**HB2538 municipal bonds; tax levy (Mesnard)**

**Chapter 334**

Under current law, the annual secondary property tax levy for voter-approved bonds is limited to the amount necessary to make the annual debt service payment, plus a reasonable delinquency factor and any amount needed to correct prior year errors. As introduced, HB2538 would allow a political subdivision to also levy for any projected payments on new debt planned for the ensuing year and for the early defeasance of existing debt. ATRA offered an amendment to require the current year levy to be net of any

cash that remains in the debt service fund from the previous year. In addition, the amendment would require the amount levied for the various amounts be separately stated in the public entity's budget. These amendments were rejected by the proponents of the bill. As a result, ATRA successfully added an amendment that struck the language allowing the levy for early defeasance of existing debt. In ATRA's opinion, the law merely codifies existing authority.

**SB1244 fire districts; wildland fires; budgets (Allen)**

**Chapter 219**

HB2197 and SB1244 were both favorably amended to address taxpayer concerns related to fire districts. In addition to local property tax levies, fire districts also receive Fire District Assistance Tax (FDAT). The tax is a countywide secondary property tax and the rate is limited to 10 cents per \$100 of assessed value per county. The FDAT revenues are distributed based on 20% of each fire district's levy, not to exceed \$400,000. In recent years, however, the \$400,000 cap has been an impediment for some districts to merge. As originally introduced, both measures would have removed the \$400,000 cap altogether for consolidated or merged fire districts. ATRA worked with fire district officials on an amendment that removes the cap for merger districts but requires the distribution to be based on a five-year average, in order to protect possible abuse of the FDAT. Additionally, the amendment included a retroactive clause for mergers that occurred on or after July 1, 2014. As part of the compromise agreement, SB1244 was amended to include a temporary five-year voter-approved override to be held on a November election in 2016 or 2017 to exceed the \$3.25 tax rate cap up to \$3.50. The underlying bill, which called for a voter approved override in any amount without a rate limit, was removed with the amendment.

**HB2568 community facilities districts; formation; governance (Gowan)**

**Vetoed**

HB2568 would have allowed a community facilities district (CFD) with land area in excess of 600 acres to be created without city or county approval with a petition signed by 100% of the land owners. As the bill moved through the process, stakeholders accepted an ATRA amendment which removed the maintenance and operations (M&O) 20-cent tax rate increase. The Governor's veto letter mentioned the bill lacked adequate taxpayer protections and accountability for these special districts.

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## SELECTED LEGISLATION ATRA MONITORED

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**HB2018 optional individual flat income tax (Stevens)**

**Held in Senate Fin**

In tax years 2017 through 2021, an individual filer with taxable income of \$25,000 or less could choose to pay a simplified income tax of 1% of income. The taxpayer could not add or claim any subtraction, exemption, deduction or credit but would still be eligible for a refund for overpayment.

**HB2356 gifted pupils; group B weight (Carter)**

**Held House Approps**

This bill recreated a 'Group B' weight in the K-12 school finance formula for gifted students (defined) at the support level of .115, conditional upon the passage of Prop 123. Gifted students score at or above the 97<sup>th</sup> percentile of national norms on a test adopted by the State Board of Education. Group B "weights" would be applied to all public school student counts if they meet the definition of one or more categories which drive increased funding to the Local Education Agency (LEA) the pupil attends. The funding increase would be added to the equalization base and the LEA would not be required to spend a specific amount on the pupil or the related program, as is the case for all formula weights. A JLBC fiscal note estimated the cost to the state General Fund for Basic State Aid would be \$21.7 million beginning in FY2017. As a result of increasing the formula, the amount owed would grow annually by inflation.

**HB2402 bonds; disclosure; notice (Leach)****Held in House**

HB2402 would have made several changes to bond ballot questions for all local governments seeking general obligation bonds. All bond elections secured by property taxes would be standardized using the new ballot language. The ballot question itself would include an estimated tax impact for the median home value in the district as well as the total cost over the term of the bonds. The ballot would be expanded to include a statement that the primary property tax rate may increase or other revenue sources may be used to pay the M&O cost to maintain projects funded by the bonds. The publicity pamphlet would be required to advertise the estimated interest rate based on market conditions as well as the maximum interest rate authorized by voters along with respective costs. Representative Allen had a similar bill (HB2570) which was combined with this one in conference committee.

**HB2492 DOR; costs; penalties; recovery (Bowers)****Held in Senate Gov**

The underlying version of HB2492 stated that if the Department of Revenue does not provide requested public or taxpayer records within 30 business days after receipt of the request, the taxpayer may notify the Director in writing of the failure of the Department to comply.

**HB2495 sporting event tax revenue; tourism (Livingston)****Chapter 366**

After several iterations involving various complex payment mechanisms, the final version of HB2495 created a simple annual appropriation from the state General Fund to the Office of Tourism of \$1.5 million for the promotion of the Phoenix International Raceway if the cost to host a special sporting event project (national auto racing series) is at least \$100 million. Appropriation is paid monthly after conditions are met and lasts through FY2051.

**HB2533 charter aircraft; tax exemption (Shope)****Chapter 367**

HB2533 exempts from the TPT retail classification the sale of specific aircraft and aircraft equipment. Aircraft and related accessories purchased with a federal certificate of public convenience and necessity for the purposes of transporting persons, property or mail are already exempt from TPT. Law expands and clarifies that aircraft purchased for operation for compensation or hire are also exempt. Retroactive to May 31, 1998 and total refund claims are limited to \$1,000.

**SB1279 S/E: empowerment scholarships; expansion; eligibility (Lesko)****Held in House COW**

The underlying version of SB1279 sought to phase in Empowerment Scholarship Account (ESA) eligibility to any pupil attending a public grade school (all “switchers”). Beginning in FY2017, all pupils in K-5 would be eligible, K-8 in FY2018 and K-12 in FY2019. The strike everything amendment offered in the House would scale back the eligibility expansion to all “switchers” who also qualify for the corporate school tuition organization (STO) scholarship, which is geared at lower income families.

**SB1493 state highway construction; tax credits (Worsley)****Held in Senate Fin**

SB1493 created an individual and corporate income tax credit for taxpayers who participate in financing the construction, reconstruction or renovation of eligible transportation facilities. ADOT would administer the credit and use the sale of the credits to finance the project. The tax credits would be awarded through a bidding process and the annual amount of tax credits would be prescribed in the annual state budget. All or part of any unclaimed amount of a credit could be sold or transferred. If the allowable credit exceeded taxes due, the unused amount could be carried forward for up to five consecutive tax years.

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## ARIZONA TAX RESEARCH ASSOCIATION

# 2016 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. State law now requires the Legislature, in conjunction with the passage of the General Appropriations Act, to also reflect revenues and expenditures for the following three years. The major issue facing state policymakers is ensuring one-time revenue (rainy day fund and cash balance) is not appropriated for on-going spending.

The development of the Fiscal Year (FY) 2017 budget will be somewhat clouded with the uncertainty surrounding the outcome of Proposition 123 on May 23<sup>rd</sup>. By all accounts, the state general fund is in a better structural position than in recent years. JLBC estimates, presuming the passage of Prop 123, that on-going revenue will meet the projected baseline spending for FY 2017. The base revenue forecast does not include one-time revenues of \$551 million that are estimated to be available for FY 2017 budget deliberations. Interestingly, the collapse of the Arizona state budget during the Great Recession was made considerably worse when, just prior to the downturn in FY 2008, state policymakers used a similar sized cash balance (\$529 million) to fund on-going spending. State policymakers need to resist the temptation to repeat that mistake in the FY 2017 budget.

ATRA will provide updated 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 2017 budget.

### **Taxation**

#### **Property Tax**

Arizona property taxpayers have experienced historic instability over the last 12 years. Following record increases in net assessed values (NAV) from 2003 to 2008, statewide NAV plummeted between tax years 2009 and 2013. However, despite statewide NAV's climbing 5.2% over the last two years, the statewide average tax rate still climbed 23 cents to \$12.77, the highest rate since 1999.

The statewide average tax rate is now up \$3.57 (39%) from the low point of \$9.20 in 2009. 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 2016 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. Among others, Arizona Fire Districts will be seeking 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. 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 2016 session, ATRA will pursue the following property tax legislation:

**1% Cap Reform** – ATRA will pursue legislation to protect all property taxpayers from spiraling property taxes in jurisdictions that have owner-occupied residential property at the constitutional 1% cap (HB2480/Rep. Olson).

**Phase Out Desegregation/Office of Civil Rights (OCR) Levies** – ATRA will pursue legislation to phase out, over five years, the OCR levies being imposed by 17 Arizona school districts. In addition, the proposal will impose a 10 year phase out of the Deseg levies of two Arizona school districts. Districts that remain under a federal court order to desegregate would begin the phase out the year following being declared unitary. (SB1125/Sen. Lesko & HB2401/Rep. Leach)

**K12 Primary Rate Reform** – ATRA will pursue legislation to simplify the calculation of the K12 primary rate. K12 districts that qualify for state aid would annually levy the Qualifying Tax Rate (QTR). Levies for expenditures outside the district budget limit would require a separate tax rate. (HB2481/Rep. Olson)

**Adjacent Ways Levy Approval** – ATRA will pursue legislation to require K12 districts to receive approval through the School Facilities Board prior to levying non-voter approved property taxes for an Adjacent Ways project (SB1117/Sen. Dial).

## **Sales Tax**

The 2013 legislative session was highlighted by the passage of HB2111, a historic measure that made significant progress towards reforming the administration of what is arguably the most complicated and chaotic sales tax system in the country. Legislation enacted in the following year required state level uniform licensing and filing. A key feature of the 2013 reforms, state level collections of all state and local sales taxes, was regrettably delayed until 1/1/16. That delay has now been extended again with no certainty regarding a new implementation date. A provision in the 2013 TPT reform legislation included a poison pill that indicated the state collection of all state and local sales taxes would go into effect once the Department of Revenue had captured data with sufficient specificity to meet the needs of Arizona cities. This provision has placed the cities in the position of being the sole arbiters for deciding when or if TPT reform becomes a reality.

For the 2016 session, ATRA will support the following sales tax legislation:

**TPT Customer Claims** – ATRA will support legislation to provide an alternative claims process for customers to file for a refund in an amount equal to the taxes paid by the vendor. This will provide customers with a remedy in situations when the vendor is either unwilling to pursue a refund or the vendor is no longer in business. (Rep. Olson)

## **Public Finance**

**Community College Expenditure Limitation Reform** – ATRA will pursue legislation to create accountability for the estimation of Full Time Student Equivalents (FTSE) for community college expenditure limitations. (HB2126/Rep. Shope)

**Sale of School Property** – ATRA will pursue legislation to reform the current laws associated with the use of proceeds from the sale and lease of school property. (HB2476/Rep. Norgaard)

**Local Debt Limit Values** – ATRA will pursue legislation to codify the recent Attorney General opinion that the constitutional debt limits for Arizona local governments are based on full cash net assessed value. (HB2054/Rep. Mitchell)



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## ARIZONA TAX RESEARCH ASSOCIATION

### **ATRA SUPPORTS HB2126** ***Community College Expenditure Limit Accountability***

#### **Background:**

One key component of the Arizona Constitution is the expenditure limitations on taxing jurisdictions. The state, cities, counties, community colleges and K-12 schools all abide by them. They grow based on population and inflation. Expenditure limits prevent sharp swings in spending, creating stability for government and predictability for taxpayers. However, the only jurisdictions that hold the keys to their own expenditure limit are community college districts, who can estimate their population or student counts.

For years, ATRA has tracked student count over-estimations by community college districts. For a time, the State Board of Community Colleges provided oversight for these student count estimates and was required to approve their inputs. However, that agency was cut fifteen years ago due to budget constraints and there remains no state-level oversight. College district officials have publicly conceded this process is untenable and requires reform.

#### **Basis for ATRA's Support:**

Allowing a district to establish its expenditure limit with an arbitrary estimate of its population makes a mockery of those constitutional limits. In the past four years, statewide estimations have exceeded actual student counts by an average of 19.4%. This bill proposes a three-option formula whereby annually a college governing board selects either an average of their last five audited students counts, last years audited student count or a JLBC-approved increase up to 5% of their most recent audited student count. This transparent formula allowing districts to choose between different growth models will both recognize the fluctuations in college enrollment and create adherence to the Constitution by leveraging audited student counts.

One concern broached by colleges during the interim was the only relief option available is a temporary expenditure limit override which sets the school up for a fiscal cliff when it expires after seven years. This bill addresses that concern by allowing districts to ask their voters for a permanent adjustment to the base year, similar to the authority retained by cities and counties. Finally, this compromise bill addresses another community college district concern by allowing districts to exclude royalty fees and other private revenues raised from entrepreneurial activity.



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**ARIZONA TAX RESEARCH ASSOCIATION**

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## **ATRA SUPPORTS HB2476**

### ***Improves the use of proceeds from the sale/lease K-12 property***

#### **Background:**

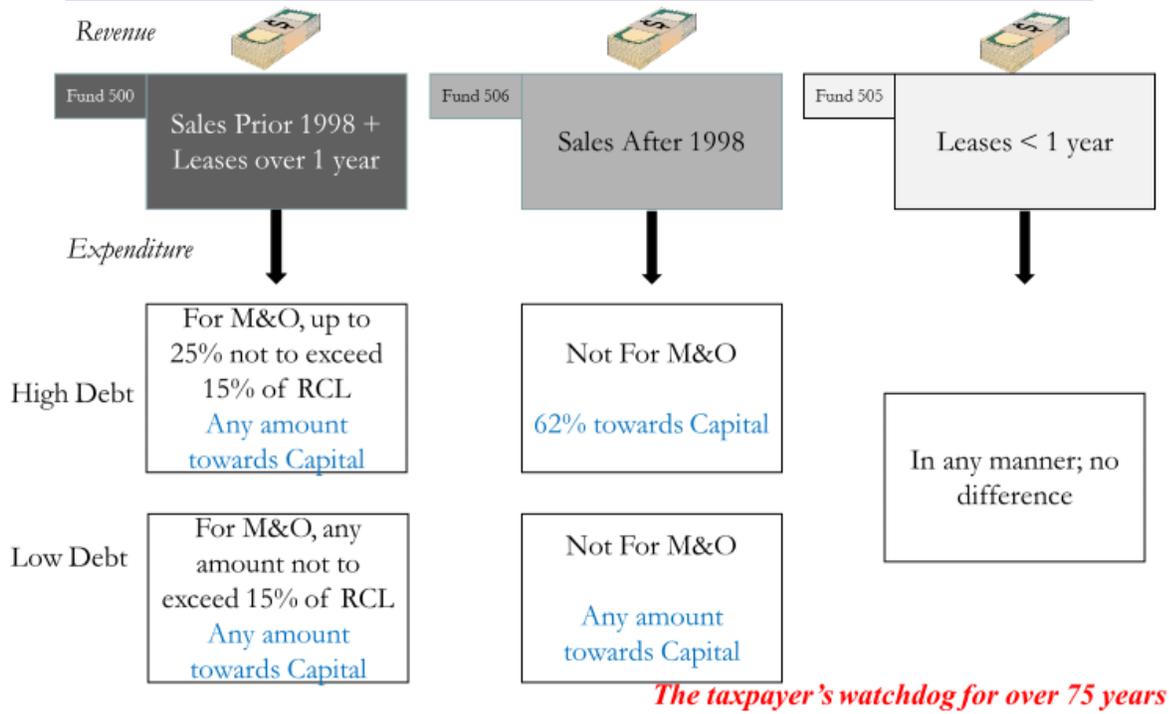
Arguably the most convoluted and clumsy statute in Title 15, A.R.S. §15-1102 attempts to govern how school districts may expend the proceeds from the sale and lease of school property. Because most school property was acquired with taxpayer money, this law attempts to reduce the ability of school districts to use one-time monies for ongoing spending. It also attempts to relieve taxpayers in highly indebted school districts by directing fractional amounts of sale proceeds towards paying off existing debt. For a variety of reasons, none of the intended outcomes are working as designed and the result is a surplus of funds simply sitting in school plant funds.

#### **Basis for ATRA's Support:**

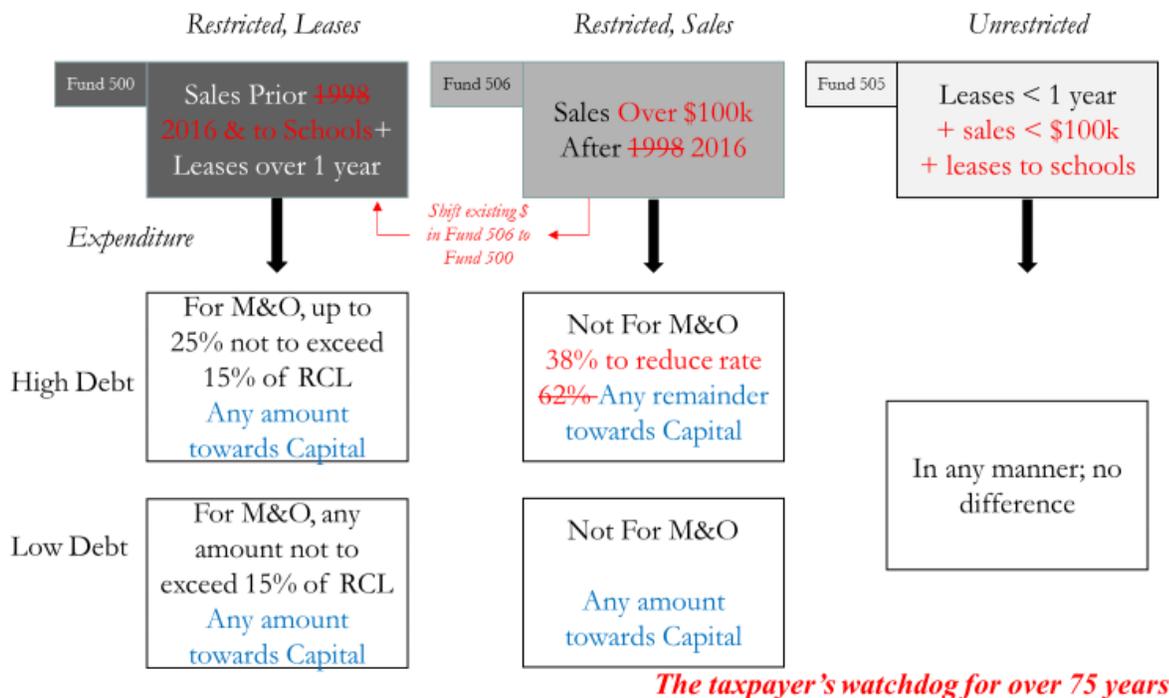
After deliberation with school business officials, ATRA agreed on several significant changes which both help schools and taxpayers. HB2476 creates a new provision whereby all sales of items less than \$100,000 can be expended at will, which will significantly reduce red tape and the administration of the sale of smaller items. In addition, the bill frees up all existing school plant funds for use on capital projects by creating prospective rules for the use of sale proceeds.

For taxpayers, HB2476 keeps the same definitions for high and low debt school districts, keeps one-time monies for one-time uses, and respects the Revenue Control Limit to ensure property wealth doesn't translate to inequitable spending. Additionally, the proposed measure reduces confusion by explicitly stating what a district will do when it sells property for more than \$100,000. Finally, the bill financially incentivizes school districts to sell and lease school property to other schools, which keeps taxpayer investments in the classroom and reduces redundant capital spending.

# A.R.S. §15-1102



# A.R.S. § 15-1102 Change





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# ARIZONA TAX RESEARCH ASSOCIATION

## **ATRA SUPPORTS HB2481 K-12 Primary Tax Rate Stabilization**

### **Background:**

One long standing frustration for Arizona taxpayers is the inability to predict primary property tax rates for K-12 education. For a system designed to have taxpayers pay roughly the Qualifying Tax Rate (QTR), rates often whiplash taxpayers with a “see-saw” effect year over year. The primary reason for this is school district cash balances reduce their primary tax rate, meaning that each year a district’s “cash on hand” will fluctuate their tax rate.

School districts have long asked for more cash management tools and an increase to their budget carryforward capacity. Because school districts have a large influence on their primary tax rate, lawmakers have been reluctant to agree to such provisions. Furthermore, school districts and county school superintendents acknowledge the administrative burden in determining precise cash positions including encumbrances, rollovers and debt notes. Historically, this process has been rife with errors, creating significant tax rate swings.

### **Basis for ATRA’s Support:**

HB2481 is a landmark change for the manner in which school district tax rates are set, bringing stability to taxpayers and new cash management tools for school districts. The bill proposes to annually set the primary tax rate at the QTR plus any legal non-formula amounts. For districts who do not qualify for state aid, they would levy the amounts necessary to fund their budget. No longer would districts adjust their tax rate to offset for cash balances. Stored cash balances would not create additional budget expenditure *capacity*, which is still determined by the school finance formula, but would create liquidity for the purposes of cash management.

In addition, this bill removes the current 4% budget carryforward limitation. With the understanding that districts will tax a statutory rate, a 4% budget carryforward limitation isn’t needed, meaning schools can expend their legal capacity in the year they choose. This new flexibility allows long-range planning for school districts, a provision only currently enjoyed by charter schools. This will also reduce the incentive to expend remaining budget capacity (use or lose) at the end of the fiscal year.

For taxpayers, the ability to predict their tax burden is a critical budgeting tool. Stabilized tax rates for the largest component of all property taxes will improve Arizona’s business climate. New cash management tools will reduce the need for school districts to use expensive debt instruments. In an era of rapid school choice and budgets based on current-year funding, it is important that all public schools share similar financial treatment. Importantly, the bill does not raise taxes or impact state coffers.



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# ARIZONA TAX RESEARCH ASSOCIATION

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## **ATRA SUPPORTS SB1117**

### *Adjacent Ways Reform*

#### **Background:**

Adjacent Ways is a special property tax authority school districts have for construction projects "...improving any public way adjacent to any parcel of land owned by the school district." State law limits the projects to "the construction of sidewalks, sewers, utility lines, roadways and other related improvements in or along such streets and intersections." However, there is no audit to ensure compliance with state law, no limit to the amount a district can levy and no requirement that an actual project even exist when the levy is set.

This tax is in addition to normal school district taxes and because of the differences in property values, taxpayers' ability to afford these projects can vary considerably. The same project that would be a negligible tax increase for one district could place an enormous burden on taxpayers in another district. The only requirement for a Governing Board to access the levy is a Truth-in-Taxation hearing which does not require they explain the nature of the project or provide a justification for the amount of the levy. While many districts use Adjacent Ways in accordance with state law, history is rife with abuses because of the lack of oversight.

#### **Basis for ATRA's Support:**

Every review of Arizona school finance including the ongoing Classrooms First Initiative Council has identified Adjacent Ways as a problem area. While state law clearly intends a very limited scope for Adjacent Ways, there is lack of oversight or limitation for this property tax levy. Historically, Adjacent Ways projects are often "baked in" as a component of a larger construction project, giving taxpayers little understanding of what the tax is funding.

Despite specific statutory limitations to the use of this levy, abuses continue. In recent years, one school district used at least \$6.4 million dollars of Adjacent Ways monies for lease payments on two middle schools; a clear violation of state law.

**A Senate floor amendment addressed concerns expressed by school districts in the Senate Education committee.** As amended, SB1117 creates a process to ensure a legal project exists before an expenditure occurs and adds the Adjacent Ways fund to the annual audit. School districts would submit projects costing over \$50,000 to the School Facilities Board (SFB) for validation. Oversight from SFB will curtail future abuses of the Adjacent Ways levy and bring transparency to taxpayers.



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## ARIZONA TAX RESEARCH ASSOCIATION

### **ATRA SUPPORTS SB1125/HB2401** *Deseg/OCR Phase Out*

#### **Background:**

If there is one point of agreement at the Capitol, it is that a major school finance overhaul is needed. That simply cannot be accomplished without addressing one of the biggest loopholes in school finance. 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.

#### **Basis for ATRA's Support:**

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.

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.”

If Deseg/OCR levies ever had a connection to the problems they were intended to fix, they certainly should not exist in perpetuity. A five year phase-out for OCR districts and ten years for Deseg districts after a year to plan is a fair way to slowly bring these districts to parity. SB1125/HB2401 contain a unique provision which starts Tucson Unified's phase out the year following a federal court declaring them unitary.



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# ARIZONA TAX RESEARCH ASSOCIATION

## **ATRA SUPPORTS SB1523**

### *Increased Taxpayer Protection from Large Tax Increases*

#### **Background:**

There are constitutional and statutory provisions that are intended to protect taxpayers from punitive tax increases. Since 1980, counties, community colleges, cities and towns have been subject to the constitutional levy limits of 2% plus growth and the levy limit capacity grows every year regardless of use. In 2006, the voters approved Prop 101, which rebased the 1980 levy limits by removing \$186 million in excess capacity from the system.

Arizona's first Truth in Taxation (TNT) law was enacted into statute in 1996. At that time, property values were growing dramatically yet local governments were not adjusting the tax rates downward to offset the growth in values. As a result, property taxes grew significantly, similar to the growth experienced a few short years ago. The TNT law requires counties, community colleges, cities and towns, and school districts to provide public notice of the intent to increase primary property taxes over the prior year, exclusive of new construction. Under current law, TNT requires an entity proposing to increase primary property taxes to publish a notice in a newspaper of general circulation twice prior to a public hearing. Irrespective of the magnitude of the tax increase, only a simple majority vote of the board or council is required.

Even with the constitutional and statutory limitations in place, there has been the occasional incidence in which a taxing jurisdiction raised taxes dramatically in one year. For example, in tax year 2015, the Town of Clifton increased primary property taxes 40% over its TNT limit. This was possible because although the town is subject to the 2% constitutional limit, enough capacity had been created to allow such an increase to occur with just a simple majority vote. Pinal Community College also raised taxes nearly 25% over TNT in tax year 2015, again, with a simple majority vote.

#### **Basis for ATRA's Support:**

SB1523 is a taxpayer protection measure that requires a unanimous vote of a governing body to approve a primary property tax increase of 15% or higher (exclusive of the taxes associated with new construction). Importantly, this measure only applies to primary property taxes and not to secondary taxes that fund voter-approved bonds.

Historically, few taxing jurisdictions have subjected taxpayers to such large tax increases. However, in that rare occurrence, those extraordinary tax increases should require more than just a simple majority vote of the governing body. Such dramatic tax increases should require the higher threshold of a unanimous vote of the governing body.



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## ARIZONA TAX RESEARCH ASSOCIATION

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### ATRA OPPOSES HB2512

Skyrocketing unfunded liabilities in the PSPRS system resulted in The League of Arizona Cities and Towns proposing that local governments, to the extent able, make cash payments towards those liabilities. The League made the following recommendation to employers: "Payoff Unfunded Liability (Debt) Earlier."

As a result, the following language was proposed under HB2512 by Rep. Coleman to exclude such payments from the expenditure limits:

A CONTRIBUTION MADE UNDER THIS SECTION BY A CITY, TOWN OR COUNTY IN EXCESS OF THE CITY'S, TOWN'S OR COUNTY'S REQUIRED CONTRIBUTION IS EXCLUDED FROM THE CITY'S, TOWN'S OR COUNTY'S EXPENDITURE LIMITATION ESTABLISHED PURSUANT TO ARTICLE IX, SECTION 20, CONSTITUTION OF ARIZONA.

ATRA agreed to the proposal as introduced because it would be a wise use of one-time monies and benefit both government and taxpayers. Regrettably, this idea was hijacked by entities simply looking for expenditure limit relief, such as Maricopa County. Instead of excluding only the lump-sum cash payments made against the cumulative unfunded liability from the expenditure limits, the bill as amended excludes all unfunded liability payments to PSPRS, including employer contributions required in the current budget year.

In its current form, HB2512 now allows all payments for unfunded liability to PSPRS, lump-sum and the annual employer contribution payments, to be excluded from the expenditure limits:

ANY PAYMENT MADE BY A CITY, TOWN OR COUNTY AGAINST THE CITY'S, TOWN'S OR COUNTY'S UNFUNDED ACCRUED LIABILITY UNDER THIS ARTICLE IS EXCLUDED FROM THE CITY'S, TOWN'S OR COUNTY'S EXPENDITURE LIMITATION ESTABLISHED PURSUANT TO ARTICLE IX, SECTION 20, CONSTITUTION OF ARIZONA.

**ATRA believes this is patently unconstitutional as well as violating the original agreement that was in the introduced version of HB2512.**



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# ARIZONA TAX RESEARCH ASSOCIATION

## ATRA OPPOSES HB2538

*Increases Property Taxes; Undermines Taxpayer Protections*

*Opposition Includes:*

**GOLDWATER**  
INSTITUTE

**NAIOP**  
COMMERCIAL REAL ESTATE  
DEVELOPMENT ASSOCIATION  
ARIZONA CHAPTER

**ARIZONA CHAMBER**  
OF COMMERCE & INDUSTRY

**NFIB**  
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ARIZONA

In 2013, the Arizona Legislature enacted legislation limiting annual secondary property taxes for voter-approved bonds to the required debt service payment in that fiscal year. The legislation was prompted by some local governments levying millions of dollars more than the required debt service payment and simply stockpiling cash.

Proposed by the Town of Gilbert, HB2538 would allow cities to levy for additional amounts related to any projected debt service payments on new debt planned for the ensuing year, any amounts for payment of the early defeasance of bonds, as well as any “shortages (undefined).”

These proposed changes completely eliminate any certainty that now exists for taxpayers to determine if the debt service levy is being inflated and property taxes are higher than necessary. More importantly, this proposed change was significantly complicated when, during negotiations on the bill, the City of Gilbert argued that the current law does not require them to recognize the cash balance before finalizing the annual debt service levy. This development means that other jurisdictions might also be interpreting the 2013 law in a manner that undermines and makes a mockery of its legislative intent.

Simply put, expanding access to these levies while local governments are abusing taxpayer protections in the current law is an extremely bad idea. ATRA encourages lawmakers to reject any changes to this statute until they are confident those taxpayer protections are being adhered to.



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## ARIZONA TAX RESEARCH ASSOCIATION

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### **ATRA OPPOSES SB1322**

#### *Sidesteps voters to create a 25% override*

##### **Background:**

There would be no reason to enshrine law in the constitution if a simple statutory change could dramatically alter what voters adopted. Since their passage in 1980, jurisdictions have grappled with the constitutional expenditure limitations and often asked their voters for overrides or “home rule” law, giving them increased expenditure capacity. The constitution made clear that any significant change in capacity would have to be approved by the voters- the ones who approved their creation.

In 2015, ATRA made the Legislature aware of significant over-estimations in the FTSE estimates which created significant expenditure limit capacity. In the past four years, statewide estimations have exceeded actual student counts by an average of 19.4%. After an interim study committee to examine the entire process, ATRA agreed to several reforms bringing clarity to the process and helping community college districts. However, SB1322 goes well beyond the compromise.

##### **Basis for ATRA's Opposition:**

Sensing lawmakers were willing to remove the estimation process and create accountability in FTSE counts, lobbyists for the community college districts reached for an opportunity to extract a nonvoter approved override by arguing that CTE is a newly expensive concept for community colleges. The truth is CTE courses were also more expensive than other courses in 1980 when the expenditure limits were approved by the voters. While it may be true that CTE courses are now even more expensive, it ignores the other FTSE that are less costly such as dual enrollment and online instruction.

This nonvoter approved override creates an estimated 25% statewide increase in expenditure limit authority, interestingly close to the FTSE overestimations in the last several years. Approval of this measure simply codifies the bad actors in the last several years.

This statutory change is quite likely unconstitutional. It adjusts the formula for counting students in a manner that arbitrarily inflates the value of students taking certain classes. Furthermore, it does not similarly adjust the measure of counting students in the 1980 base year, so the formulaic population factor is not an “apples to apples” comparison. Finally, it sets an extraordinarily bad precedent of the Legislature providing expenditure limit relief through creative accounting, signaling to other jurisdictions that they too can avoid public conversations and voter scrutiny by simply tinkering with population formulas.



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### **ATRA OPPOSES SB1402**

#### *Targeted property tax breaks are bad policy*

##### **Background:**

SB1402 provides a generous property tax break for all regionally and nationally accredited institutions of higher education. The real and personal property owned by the institution is classified under class 6, which is assessed at 5%, compared to other for-profit business property, which is classified under class 1 and is assessed at 18.5%. Grand Canyon University has long advocated for this property tax break and has expanded the bill this year to include all for-profit universities to avoid the threat of the bill being declared unconstitutional for creating a class of property which is arbitrary or specious.

##### **Basis for ATRA's Opposition:**

Arizona has considerably higher business property taxes compared to other states as a result of Arizona's longstanding policy to shift the burden from residential property (class 3), which is assessed at 10%, to business property (class 1), which is currently assessed at 18.5%. Based on a 2015 study published by the Minnesota Center for Fiscal Excellence, the property tax burden "shift" in Arizona from residential to commercial and industrial property ranks 9th in the nation. Back in 2005 when the assessment ratio for class 1 property was 25%, Arizona had the 4th highest business property tax burden. Since then, lawmakers have made considerable progress in reducing the assessment ratio and the "Jobs" bill that was signed into law in 2011 continues the reduction in the assessment ratio to 18% by 2016. Furthermore, Arizona statutes provide additional depreciation on business personal property, commonly referred to as "accelerated" depreciation, within the first five years of acquisition. The Legislature has enhanced the accelerated depreciation schedule several times over the last decade in an effort to encourage businesses to purchase new equipment.

To their credit, policymakers have mostly rejected calls over the last decade to address Arizona's high business property taxes 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. Arizona continues to make strides towards improving its tax climate for businesses. Providing targeted tax breaks for popular businesses discourages efforts to improve the system in an equitable manner for all.

Finally, the resulting tax impact that will occur in every district that has a for-profit college is currently unknown but certain to be significant. There are several qualifying colleges and the JLBC Fiscal Note only covers the state general fund impact resulting from the University of Phoenix and Grand Canyon University. At a minimum, lawmakers should weigh the total impact before advancing this bill.