# ATRA’S 2018 LEGISLATIVE REVIEW

## TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Topic</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Highlights of the 2018 Legislative Session</td>
<td>2</td>
</tr>
<tr>
<td>Legislation Listed by Bill Number</td>
<td>3</td>
</tr>
<tr>
<td>Passed Legislation ATRA Supported</td>
<td>4</td>
</tr>
<tr>
<td>Failed Legislation ATRA Opposed</td>
<td>5</td>
</tr>
<tr>
<td>Failed Legislation ATRA Supported</td>
<td>6</td>
</tr>
<tr>
<td>Legislation ATRA Favorably Amended</td>
<td>7</td>
</tr>
<tr>
<td>Selected Legislation ATRA Monitored</td>
<td>8</td>
</tr>
<tr>
<td>Passed Legislation ATRA Opposed</td>
<td>10</td>
</tr>
<tr>
<td>Appendix of Position Papers</td>
<td>11</td>
</tr>
</tbody>
</table>

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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 2018 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 53rd Legislature, 1,206 bills and resolutions were introduced. Of the 1,084 bills introduced, 346 passed and were signed while 23 were vetoed by the Governor. 10 vetoed bills ultimately were passed and signed by the Governor after the budget was complete. Twenty-eight of the 122 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.
This document summarizes key legislation ATRA actively supported, opposed or monitored during the Second Regular Session of Arizona’s 53rd Legislature. Several ATRA bills passed and were signed by the Governor while some did not pass and most legislation ATRA opposed failed.

ATRA staff advocated for several significant legislative reforms that improved taxpayer’s interaction with government 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 the second of a two-year effort to reform the Government Property Lease Excise Tax (GPLET) in HB2126. The law change requires slum and blight designations, which are the justification for abatement, to be updated every 10 years. Furthermore, the compactness of central business districts (where abatement may occur) is defined in a reasonable manner to prevent gerrymandering and their size further limited to 2.5% of the total land area of the city.

- Following a year long ad hoc study session, ATRA led a broad coalition of business groups to define in law the tax base for software and digital goods while exempting services provided digitally. The resulting bills (HB2479 and SB1392) ultimately did not make it to the finish line predominantly because lawmakers were concerned over exaggerated fiscal impacts crafted by city lobbyists.

- ATRA successfully pursued a law change in SB1385 which allows taxpayers to skip the Office of Administrative Hearings (OAH) in TPT refund claims and proceed directly to the State Board of Tax Appeals (BOTA) or tax court. This move streamlines the TPT appeals process and eliminates what can be an expensive and time consuming hurdle for taxpayers.

- ATRA advocated for two reforms in K-12 finance that improve the functioning of G.O. bond elections (HB2115) and the calculation of the primary property tax rates (HB2185).

- ATRA was unsuccessful in pursuing a reform which would have prospectively limited public universities ability to use lease-back financing (HB2280) to host corporate entities tax free on state land while harvesting the value of the property tax for the university.

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

- ATRA opposed two bills which expanded the Class 6 property tax classification that provides a significant tax break to certain property owners while shifting tax liability to all others. SB1268 expanded class 6 property to homeowners who qualify for the Senior Valuation Freeze. ATRA argued this change conflicts with the uniformity clause in the Constitution. SB1501 would have extended an existing temporary tax break for biodiesel fuel manufacturers for another five years.

- Finally, ATRA led an effort to oppose HB24526, which extended the Rio Nuevo Tax Increment Financing District through 2035. Though the bill passed, ATRA’s opposition led to new oversight as well as a trailer bill which further kept the district from issuing new debt obligations.
<table>
<thead>
<tr>
<th>BILL NUMBER, SHORT TITLE, AND PRIMARY SPONSOR</th>
<th>FINAL STATUS/POSITION</th>
<th>BILL NUMBER, SHORT TITLE, AND PRIMARY SPONSOR</th>
</tr>
</thead>
<tbody>
<tr>
<td>S = Supported</td>
<td>FA = Favorably Amended</td>
<td>M = Monitored</td>
</tr>
<tr>
<td>BILL NUMBER, SHORT TITLE, AND PRIMARY SPONSOR</td>
<td>POSITION</td>
<td>BILL NUMBER, SHORT TITLE, AND PRIMARY SPONSOR</td>
</tr>
<tr>
<td>HB2003 coal mining; TPT; repeal (Finchem)</td>
<td>M</td>
<td>Chapter 263 8</td>
</tr>
<tr>
<td>HB2115 bonds; ballot language; procedures (Mitchell)</td>
<td>S</td>
<td>Chapter 11 4</td>
</tr>
<tr>
<td>HB2126 government property; abatement; slum; blight (Leach)</td>
<td>S</td>
<td>Chapter 231 4</td>
</tr>
<tr>
<td>HB2166 vehicle fees; alternative fuel VLT (Campbell)</td>
<td>M</td>
<td>Chapter 265 8</td>
</tr>
<tr>
<td>HB2185 school districts; tax levy; calculation (Norgaard)</td>
<td>S</td>
<td>Chapter 68 4</td>
</tr>
<tr>
<td>HB2280 universities; lease-back financing (Leach)</td>
<td>S</td>
<td>Held House COW 6</td>
</tr>
<tr>
<td>HB2282 schools; transportation funding; calculation (Norgaard)</td>
<td>S</td>
<td>Held House Ed 7</td>
</tr>
<tr>
<td>HB2385 property tax appeals; court findings (Clodfelter)</td>
<td>S</td>
<td>Chapter 73 4</td>
</tr>
<tr>
<td>HB2416 appropriation; study; prime contracting classification (Cobb)</td>
<td>S</td>
<td>Chapter 305 4</td>
</tr>
<tr>
<td>HB2456 stadium district; extension; Rio Nuevo (Finchem)</td>
<td>O</td>
<td>Chapter 138 10</td>
</tr>
<tr>
<td>HB2460 charter schools; vacant buildings; equipment (Leach)</td>
<td>S</td>
<td>Chapter 85 5</td>
</tr>
<tr>
<td>HB2479 TPT; digital goods and services (Ugenti-Rita)</td>
<td>S</td>
<td>Held Sen Approps 7</td>
</tr>
<tr>
<td>HB2484 local food tax; equality (Shope)</td>
<td>S</td>
<td>Chapter 17 5</td>
</tr>
<tr>
<td>HB2653 expenditure limitation; waiver of penalties (Cobb)</td>
<td>M</td>
<td>Chapter 325 8</td>
</tr>
<tr>
<td>SB1091 Income tax pmts.; bitcoin; S/E: Real-time sales tax (Petersen)</td>
<td>O</td>
<td>Vetoed 5</td>
</tr>
<tr>
<td>SB1146 vehicle fees; alternative fuel VLT (Worsley)</td>
<td>M</td>
<td>Swapped for HB2166 8</td>
</tr>
<tr>
<td>SB1147 county excise tax for transportation (Worsley)</td>
<td>FA</td>
<td>Held House Rules 7</td>
</tr>
<tr>
<td>SB1248 taxation; improvements on possessory rights (Burges)</td>
<td>M</td>
<td>Held House WM 9</td>
</tr>
<tr>
<td>SB1268 elderly homeowners; class six property (Burges)</td>
<td>O</td>
<td>Failed House 3rd Read 6</td>
</tr>
<tr>
<td>SB1293 department of revenue; administrative efficiency (Farnsworth)</td>
<td>M</td>
<td>Chapter 338 9</td>
</tr>
<tr>
<td>SB1385 tax appeals; administrative hearings; confidentiality (Farnsworth)</td>
<td>S</td>
<td>Chapter 218 5</td>
</tr>
<tr>
<td>SB1386 high-tech tax fraud (Farnsworth)</td>
<td>M</td>
<td>Chapter 190 9</td>
</tr>
<tr>
<td>SB1390 TPT; additional rate; education (Brophy-McGee)</td>
<td>S</td>
<td>Chapter 74 5</td>
</tr>
<tr>
<td>SB1392 TPT; digital goods and services (Farnsworth)</td>
<td>S</td>
<td>Held Senate 7</td>
</tr>
<tr>
<td>SB1409 TPT; prime contracting; alteration; replacement (Fann)</td>
<td>FA</td>
<td>Chapter 341 8</td>
</tr>
<tr>
<td>SB1474 aquatics facility maintenance districts (Pratt)</td>
<td>M</td>
<td>Held in the House 9</td>
</tr>
<tr>
<td>SB1501 property tax classification; biodiesel; extension (Smith)</td>
<td>O</td>
<td>Disc/Struck in Sen FIN 6</td>
</tr>
</tbody>
</table>
In 2015, the Legislature passed HB2109 which standardized the “ballot question” for all General Obligation (G.O.) bond election ballots. That reform was placed in Title 35, which provides election guidance for all G.O. bond questions. Prior to the standardization, there was considerable leeway in the crafting of the “ballot question” (the statement which occurs just before a voter indicates a “Yes/No” mark). While most elections since the law change have occurred in accordance with the 2015 law, there remained confusion due to a lack of harmony between Title 35 and school district laws in Title 15. HB2115 makes clear that the language adopted in Title 35 applies to school district bond elections. Also, the bill cleans up Title 15 by standardizing language in law related to the pamphlet created for school elections, that it is called the “informational pamphlet” and not a publicity pamphlet or report. Additionally, the bill removes duplicative language in Title 15. See ATRA position paper in Appendix.

Following the successful passage of HB2113 in 2017, which provided several reforms to the Government Property Lease Excise Tax (GPLET), it was resolved by stakeholders to readdress concerns about the justification for the use of abatement in the 2018 session. The crux of the 2018 issue was municipal slum and blight declarations which justify the tax abatement offered in GPLET. The underlying bill created new slum and blight standards for abatement purposes. In its final form, the bill requires slum and blight designations to be renewed every 10 years. If a central business district is already more than 10 years old at bill passage, it has until October 2020 to renew or modify the district or it expires. A grandfather clause was added for expiring or modified districts if a resolution or development agreement is signed by the city council and the lease is executed within five years of the ordinance being signed. The size of central business districts is limited to the existing land area in 2017 or 2.5% of a city’s area or 960 acres. Previously it was 5% or 640 acres. Also, a definition of geographically compact, a current legal demand of central business districts, was provided to prevent substantial gerrymandering going forward. Specifically, geographically compact is defined as a form or shape that has a length that is not more than twice its width as measured from at least four points on the exterior boundary. See ATRA position paper in Appendix.

In 2016, the Legislature passed legislation to reform the calculation of the primary property tax rate for K-12 school districts in HB2481. The bill improved transparency in the setting of primary property tax rates so taxpayers would have greater ability to predict their tax liability while stabilizing rates. The inaugural implementation in FY 2018 revealed a few technical issues which required legislative changes. HB2185 resolves those issues with several changes to ensure the effective and accurate calculation of tax rates. The bill also removed several sections of law in Title 15 deemed unnecessary as a result of the reforms.

In cases when a county assessor files an appeal in Tax Court and it is decided that the valuation is insufficient, the Tax Court may increase the full cash value but not to exceed the value that was appealed by the taxpayer to the State Board of Equalization. Retroactive to December 31, 2016. The law does not apply to values that were set according to an appeal from the previous year.

The ongoing disagreement between the taxpaying community and state and local tax collectors regarding the level of noncompliance that exists under the TPT prime contracting classification has been one of the main obstacles to moving from prime contracting to paying sales tax on the purchase of materials at retail. As one of the legislators closely involved in the prime contracting reform process, Rep. Regina Cobb sponsored HB2416 that appropriates $75,000 from the Residential Contractors’ Recovery Fund in FY 2019
to the Department of Revenue (DOR) for an independent study of noncompliance under prime contracting. Determining the level of noncompliance under prime contracting has been a major obstacle to simplifying the system to one in which taxpayers pay tax at the point of sale. It is Rep. Cobb’s objective to get an unbiased study on this important tax issue.

HB2460 charter schools; vacant buildings; equipment (Leach) Chapter 85
Expands the prohibition against denying charter schools from buying or leasing school district buildings to private schools, if a school district decides to sell or lease a vacant and unused building (or a portion of one). Furthermore it clarifies that this prohibition also means a district cannot accept a lower offer from another potential buyer or lease that is less than an offer from a charter school or private school. A district may not withdraw a property from sale or lease solely because a charter or private school is the highest bidder.

HB2484 local food tax; equality (Shope) Chapter 17
Requires a municipal food tax to be uniformly applied to all food items, which in turn disallows municipalities from establishing a transaction privilege tax, franchise or similar tax or fee on specific food items. The bill essentially preempts cities from establishing ‘sugar’ taxes or a ‘soda’ tax or other similarly targeted taxes.

SB1385 TPT appeals; confidentiality (Farnsworth D) Chapter 218
A recommendation from ATRA’s Tax Policy Committee, SB1385 improves the efficiencies in the transaction privilege tax (TPT) appeals process. Specifically, SB1385 allows TPT taxpayers that are issued a proposed deficiency assessment or denial of a refund claim to skip the Office of Administrative Hearings (OAH) and appeal directly to the State Board of Tax Appeals (BOTA) or Tax Court. Prior to skipping OAH, a taxpayer must first request a “meet and confer” meeting with the Department of Revenue (DOR) to discuss any additional information that may assist DOR in resolving issues earlier in the process. DOR’s failure to schedule a taxpayer meeting within 45 days does not preclude the taxpayer from proceeding to the next level.

SB1385 also adds a definition for the existing statutory term of “principal officer” in which DOR may disclose confidential information to include a chief executive officer, president, secretary, treasurer, vice president of tax, chief financial officer, chief operating officer or chief tax officer or any other corporate officer who has the authority to bind the taxpayer on matters related to state taxes. See ATRA Position Paper in Appendix.

SB1390/HB2158 TPT; additional rate; education (Brophy-McGee/Coleman) Chapter 74
Statutorily extends the 0.6% transaction privilege tax for education initially approved by voters in Prop 301 in 2000. The bill extends the tax from FY 2022 through FY 2041, or twenty years and uses the same revenue distribution as the original Prop 301.

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**FAILED LEGISLATION ATRA OPPOSED**

**SB1091 S/E: Real-time sales tax (Petersen)** Governor Vetoed
As introduced, SB1091 would have provided taxpayers the option to pay their income tax liability with a payment gateway, such as bitcoin, or any other cryptocurrency recognized by the Department of Revenue (DOR). However, the original intent of the bill was completely gutted in the last week of session with a two-step striker on the House floor and in a conference committee. As finally enacted, SB1091 would have authorized DOR to contract with a private vendor to engage in a project to implement a real-time sales tax remittance and collection system at point of sale. Since the final version of the bill escaped the normal
public committee hearing process, any discussion associated with such a massive change to the administration of sales taxes wasn’t possible until after the Legislature had already concluded its work sine die. ATRA and many representatives of the financial and retail institutions came out in mass against the bill and successfully advocated for a Governor veto of SB1091. See ATRA Veto request in Appendix.

SB1268 Senior Valuation Freeze Class 6 (Burges) Failed House Third Read
SB1268 would have reclassified residential property that is currently classified under class 3 and assessed at 10% to class 6 at 5% for individuals that meet the age and income requirements under the “Senior Valuation Freeze (SVF).” To qualify for the SVF, individuals must be at least 65 years of age and the total income from all sources cannot exceed 400% ($36,000 for individuals) or 500% ($45,000 for two or more individuals) of the social security income benefit. There is no cap on the property’s value for individuals that qualify for the SVF. In fact, data provided by the Maricopa County Assessor’s office show that at least two properties that qualified under the program have values in excess of $1 million.

ATRA has consistently opposed attempts to expand the inequitable tax treatment provided under Class 6. In addition, ATRA argued SB1268 likely ran afoul of the uniformity clause as it would have required property to be classified according to a person’s age and income rather than the use or characteristics of the property. The House Rules Attorney shared ATRA’s constitutionality concerns and noted as much in the Rules Committee hearing on the last day of session and prior to the House floor vote, in which the bill failed 11-49. See ATRA Position Paper in Appendix.

SB1501 Biodiesel Class 6 Extension (Smith) Disc/Held in Senate Finance
SB1501 was a measure introduced by Senator Steve Smith to extend the class 6 tax break another five years for property used to manufacture biodiesel fuel. This tax break was initially enacted in 2006 and included a ten-year sunset date; however, this section of law was amended again in 2013 to extend the sunset another ten years to 2023. Extending the benefit another five years under SB1501 would have provided this industry with this unique tax break for a total of 22 years. ATRA testified in opposition to the bill in the Senate Finance Committee, which was held following committee discussion. Regrettably, the property tax classification system provides an ongoing temptation for policymakers to discriminate in allocating the property tax burden. Instead of creating greater disparities, ATRA has consistently encouraged policymakers to reduce disparities across the classification system.

FAIRED LEGISLATION ATRA SUPPORTED

HB2280 universities: lease-back financing (Leach) Held in House COW
HB2280 limits the ability of public universities to use their tax-exempt status for economic development. The bill was crafted in response to some public universities aggressive use of their land, which is state land not subject to property tax, for the purposes of commercial development and harvesting the property tax that would otherwise be owed to the underlying jurisdictions for the benefit of the university and the developer. By keeping the deed in the hands of the university instead of the developer, who signs a long-term lease, the Improvement on a Possessory Right (IPR) tax is evaded. The developer or the lease-hold interest who pays for the rights to use the building pays an in-lieu fee which is far lower than the property tax. HB2280 clarified that universities may use their land for development but prospectively may not abate property taxes except for academic or dormitory buildings. It further created reforms in designated research parks to ensure they prospectively meet their legislative intent of housing research associated with the university. See ATRA Position Paper in Appendix.
HB2282 schools; transportation funding; calculation (Norgaard) Disc/Held in House Education

HB2282 capped the local property tax which pays for the difference between the state formula for K-12 district transportation and the hold harmless formula amount, known as the “Transpo Delta,” at current levels. This local tax is levied on top of (or in addition to) normal K-12 property taxes. The K-12 finance formula equalizes the cost of general fund budgets so property taxpayers and the state general fund share the burden through an equalization system. For transportation, school districts are funded formulaically based on actual route miles driven for school and extracurricular activities. However, school districts may add an additional local property tax in order to spend at their historic high transportation budget. This currently costs taxpayers $79 million per year and has grown substantially in the last several years as school districts contract in size. It is a significant source of inequitable spending as older districts which have contracted more in size spend more per pupil than growing or younger districts as well as charter schools. The bill had the effect of “freezing” the hold harmless amount at current levels and would dictate in the future that districts receive more transportation funding as they grow and less as they contract. The bill received a hearing in House Education but was not voted on. See ATRA Position Paper in Appendix.

HB2479/SB1392 TPT; digital goods and services (Ugenti-Rita/Farnsworth) Held in Sen Approps

Following a 2017 legislative study committee which found the state lacks statutory authority to tax digital goods and services, HB2479 and SB1392 were crafted to provide the state the legal authority to tax digital goods and exempt digital services. Nationwide, states have added language to tell taxpayers which digital products will be taxable. It is a most difficult topic and states have exercised a wide variety of policy options. Arizona presently has no law and faces several lawsuits challenging the Department of Revenue’s current position which taxes some digital vendors without clear guidance or policy.

HB2479 and SB1392 used nationally accepted definitions for software, digital goods and digital services. Software delivered by any means and digital goods transferred electronically were made subject to retail and use transaction privilege tax (TPT). Licensed software and digital goods would be taxable if they are sold, rented, or licensed for any period of time. Services provided digitally (defined) were excluded from tax. The entire business community supported the bills.

Regrettably, The League of Cities and Towns produced a fiscal analysis which suggested the bill would result in a cut to state revenues of $118 million and $47 million to cities. The Department of Revenue refused to weigh in on the bill. The League later admitted their data included digital goods which the bill made taxable. Sensing the Legislature was unwilling to pass any bills late in the session that would be described as a tax cut, the League refused to negotiate in good faith and continues to say that the state needs no statutory authority to tax these goods. See ATRA Position Paper in Appendix.

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LEGISLATION ATRA FAVORABLY AMENDED

SB1147/HB2162 county excise tax for transportation (Worsley/Campbell) Held in House

As introduced, the Board of Supervisors of any county, on a majority vote, could ask its voters to approve a transportation plan funded by an additional half percent sales tax rate. If approved, the total sales tax rate, along with an existing one-half percent transportation sales tax, could not exceed one percent. Furthermore, if an existing transportation sales tax were to sunset, the new sales tax would automatically increase to one percent without further voter approval. More problematic, the question to voters could either set a termination date for the tax or provide that the tax be perpetual, subject to termination only by a subsequent countywide vote of the qualified electors. Following ATRA’s opposition in the Senate Transportation Committee, the stakeholders agreed to amend the Senate bill and the companion bill in the House to remove the perpetual nature of the tax question, the automatic increase in the rate when an existing tax sunsets, and
other clean-up language. Although both bills were eventually amended to remove ATRA’s opposition, the sponsors and advocates of the bill were unable to generate enough support for successful passage.

**SB1409 TPT; prime contracting; alteration; replacement (Fann)**

Chapter 341

ATRA opposed SB1409 as introduced since it would have eliminated all “alteration” contracts from being taxed on materials at retail under MRRA (maintenance, repair, replacement, and alteration) to paying tax under the TPT Prime Contracting Class. Furthermore, the definition of “replacement” was expanded to include definitions of a “component” and “system” that actually narrowed the use of replacement so that it wouldn’t apply to “multiple systems or an entire facility.” Throughout the legislative session, ATRA argued that the reversal of MRRA would result in a tax increase. Following the bill’s passage out of the Senate, a JLBC fiscal note was released that estimated an increase in state general fund revenue by as much as $21 million in FY 2019 and $50 million in FY 2020. Following its narrow passage out of the House Ways and Means Committee, the House Rules Attorney recommended the bill be amended to include a Prop 108 clause because of the increase in state general fund revenues. It was at that time that the bill sponsor brought all of the stakeholder’s together to work on an amendment to address taxpayer’s concerns and remove the Prop 108.

ATRA’s position changed to support once SB1409 was amended on the House floor since it removed two of the three thresholds for commercial alterations that qualify under MRRA— that the scope of work is limited to 40% or less of the existing square footage and expansion of square footage cannot exceed 10% of the existing square footage. By eliminating those two thresholds, all commercial alterations with a contract price of $750,000 or less qualify as MRRA projects without regard for how much of the area is being altered. See ATRA Position Paper in Appendix.

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**SELECTED LEGISLATION ATRA MONITORED**

**HB2003 coal mining; TPT; repeal (Finchem)**

Chapter 263

Based on a conditional enactment, the sale of coal is exempted from TPT at the state and municipal level. In order to become effective, on or before 2023, the Navajo Nation must approve the transfer of ownership of the Navajo generation station to a new owner. A county excise tax on mining for coal is also conditionally enacted. The county excise tax is at the rate of 0.5% on the base of gross proceeds or gross income derived from the business of operating a coal mine. The excise tax base only includes coal used in Arizona and not coal delivered out of state.

**HB2166/SB1146 vehicle fees; alternative fuel VLT**

Chapter 265

Establishes a new “Highway Safety Fee” to be paid by vehicle licensees at the time of vehicle registration. The fee is set by the ADOT Director to provide 110% of the monies required to fund the Arizona Highway Patrol Fund, which is the annual budget for the Department of Public Safety less any unencumbered balance that exceeds 10% of their budget. Increases the vehicle license taxes paid on alternative vehicles by increasing the valuation from 1% of base retail to 10% until 2020 when new cars will have a new valuation of 30% of their base retail value. Though the law was plainly a tax increase, it was written in a manner which avoided the Proposition 108 requirement of a two-thirds majority vote by allowing the ADOT Director to set the new fees.

**HB2653 expenditure limitation; waiver of penalties (Cobb)**

Chapter 325

HB2653 waives the penalties for excess expenditures by La Paz County in fiscal years (FY) 2014 through 2018. Requires that in FY 2019 through 2023 and within ten months after the close of each fiscal year, the county must submit its expenditure report, financial and compliance audit, and if applicable, its notice of pending financial statements to the Speaker of the House, Senate President, and the chairpersons of the
Senate Finance and House Ways and Means Committees. The chairperson of the Senate Finance or House Ways and Means Committee must hold a hearing to determine compliance in FY 2019 through 2023 if it’s determined that such a hearing is necessary. ATRA met with La Paz County officials early in the session to discuss their ongoing financial difficulties, much of which is attributed to the county falling behind on their financial audits for many years. ATRA did not oppose the bill since the county will be asking its voters for a permanent increase to its spending limit at the November 2018 general election.

SB1248 taxation; improvements on possessory rights (Burges)  Held in Ways and Means
Improvements on possessory rights (IPR) are privately-owned improvements located on unpatented land, a mining claim or state property that is not secured by the real property. IPRs are currently valued in the same way as all other real property except they are taxed the same as personal property. As such, an IPR is valued and taxed in the same year, and in contrast to real property, the taxable value of an IPR is its full cash value (FCV) instead of the limited property value (LPV). SB1248 would have required that all IPRs be taxed the same way as real property. Advocates of the bill believed this change would provide uniformity between the taxation of IPRs and all other real property. However, concerns arose from the mining industry regarding the unintended consequences the bill could have on the taxation of mining claims. As a result, the bill was ultimately held in House Ways and Means.

SB1293 department of revenue; administrative efficiency (Farnsworth D)  Chapter 338
Allows the Department of Revenue (DOR) to send specified notices through electronic means. Specifically, DOR may send a notice of deficiency assessment, except for individual income tax, by an electronic portal in lieu of mail for taxable periods from and after December 31, 2018 or when DOR establishes an electronic portal. The use of an electronic portal in lieu of mail is subject to certain requirements and conditions, including that the taxpayer must provide DOR with an email address, DOR must notify the taxpayer on the same day notice of determination is posted to the electronic portal, and the date of receipt for a notice provided by electronic portal is the later of the date the notice is posted to the portal or the date the notification is received by the taxpayer. Notification sent by email is considered to be received by the taxpayer on the day it is sent by DOR. Permits, rather than requires, DOR to impose civil penalties on a taxpayer who is required to make payments by electronic funds and fails to do so.

SB1386 high-tech tax fraud (Farnsworth D)  Chapter 190
Establishes the DOR Tax Fraud Interdiction Fund, consisting of fines collected for criminal violations. Specifies that it is a class 5 felony to purchase, install or use any automated sales suppression device, service, zapper or phantom-ware with the intent to defeat or evade tax. A person convicted of this violation is subject to a fine up to $100,000, or if a corporation, up to $500,000. Furthermore, all profits associated with the person’s sale, purchase or use of such service or device are forfeited. Monies in the fund are shared 50/50 between DOR for detecting tax fraud and enhancing tax fraud analytics and to the Attorney General for prosecuting tax fraud cases.

SB1474 aquatics facility maintenance districts (Pratt)  Held in the House
As amended in the Senate, an Aquatics Facility Maintenance District (AFMD) may be created in a county with population less than 100,000 and not later than September 1, 2022. To create the district, a majority of the property owners and owners with the majority of property value within the proposed district must sign a petition (same petition requirements as fire districts). Provided an option for property assessed by the Department of Revenue (centrally assessed) to be excluded from the district. If created, the district may call for an election to approve a secondary property tax rate of up to $1.80 per $100 of assessed value. The bill struggled for votes in the Senate, and as such, ultimately passed but with the understanding that an ad hoc committee would be created to study the issue over the interim. This legislation was advocated for by representatives from Globe who want to build an aquatics recreation center.
HB2456 Rio Nuevo TIF extension (Finchem)  
Chapter 138

Under current statute, the Rio Nuevo Tax Increment Financing (TIF) District had until January 1, 2009 to issue debt and the TIF is scheduled to sunset on the earlier of July 1, 2025 or when the current outstanding debt is paid off. HB2456 extends the TIF distribution to Rio Nuevo to the later of July 1, 2035 or when the debt is paid off, which was also extended to January 1, 2025. ATRA aggressively opposed the bill throughout the session and articulated the same concerns to the Governor’s office once the bill was transmitted. The Governor’s office shared some of the same concerns voiced by ATRA, and as a result, the Legislature was persuaded to eliminate the provision allowing Rio Nuevo to issue more debt beyond 2009 in an unrelated bill (SB1382). Lastly, the bill included transparency provisions that require the board of directors of the district to present to the Joint Legislative Committee on Capital Review each project for the construction or reconstruction of any facility, structure, infrastructure or other improvement to real property of any kind in an amount exceeding $500,000. On termination of the district, the board of directors must dispose of the district’s real property and improvements by providing the lessees the right to purchase the property at its appraised value and all proceeds are deposited in the Public Safety Personnel Retirement Fund to pay the unfunded accrued liability. If the property is not conveyed within six months, the property escheats to the State Land Trust for the benefit of the Permanent State School Fund. See ATRA Position Paper in Appendix.
APPENDIX OF ATRA’S POSITION PAPERS

ATRA 2018 Legislative Program .............................................................................................................. 12

ATRA SUPPORTED

SB1385 tax appeals; administrative hearings; confidentiality (D. Farnsworth) ................................. 17
SB1390 TPT; additional rate; education (Brophy-McGee) ................................................................. 19
HB2115 bonds; ballot language; procedures (Mitchell) ................................................................. 20
HB2126 government property; abatement; slum; blight (Leach) .................................................... 21
HB2185 school districts; tax levy; calculation (Norgaard) ............................................................. 22
HB2280 universities; lease-back financing (Leach) ....................................................................... 23
HB2282 schools; transportation funding; calculation (Norgaard) ................................................ 24
HB2479/SB1392 TPT; digital goods and services (Ugenti-Rita/D. Farnsworth) ...................... 25

ATRA OPPOSED

SB1268 elderly homeowners; class six property (Burges) ............................................................. 26
SB1409 TPT; prime contracting; alteration; replacement (Fann) Favorably Amended ............. 27
HB2456 stadium district; extension; Rio Nuevo (Finchem) ................................................................. 28
SB1091 income tax payments; bitcoin S/E: Real-time sales tax (Petersen) Veto Letter ............ 29
2018 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 the FY 2019 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 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 2019 budget.

Taxation
Property Tax Reform
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 drive 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.

Most legislative sessions include debates surrounding reforms to Arizona’s tax code. ATRA believes any effort to reform Arizona’s tax system should include further reductions to the class one assessment ratio with the ultimate goal of 15%.

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 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 efforts to limit the state’s exposure to 1% cap shifts from high tax jurisdictions while ensuring those changes do not result in spiraling tax rates in 1% cap jurisdictions.
Prevent greater access to the property tax. For the 2018 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 each year at the Capitol to increase access to the property tax.

In addition, ATRA will advocate for the continued compliance with the state’s Truth-in-Taxation (TNT) law. Since its passage in 1998, the state has consistently complied with the TNT law. For the last four 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.

Targeted Property Tax Breaks. For decades, ATRA has led the effort at the Capitol to oppose rifle-shot property tax breaks to specific industries. ATRA will continue to support policies that provide for equitable treatment among property taxpayers and oppose efforts that undermine that important policy principle.

For the 2018 session, ATRA will pursue the following property tax legislation:

Prospectively Close ABOR Tax-Free Zones (Representative Leach)

Private improvements on public land are taxed via the Improvements on Possessory Rights (IPR) tax. However if the improvement is “leased back” to a governmental entity, there is no mechanism in law to tax that possessory interest except for Government Property Lease Excise Tax (GPLET), which only applies to cities, counties and some special districts. The Arizona Board of Regents (ABOR) through the universities have begun aggressively using their tax-exempt status to enter the real-estate development business. For years this occurred primarily on university Research Parks, which were supposed to be areas where private business would work with the universities to bring research to market. For the most part, they have simply become a tax-free zone.

The most curious case has occurred at Arizona State, where normal university property was converted into the State Farm facility on Tempe Town Lake using a 99 year “lease back” arrangement. Instead of paying millions in property taxes to local governments including K-12 schools, the development pays a small tariff to ASU. Harvesting local government revenue to benefit university budgets is a policy which must be curbed.

The legislation will seek to prospectively deny development agreements for “lease back” deals on ABOR land except for legitimate university purposes. Private development may continue on campus, however they will be subject to tax like any other business. The bill will require legislative approval for increases in the footprint of the existing Research Parks.

Reform of the GPLET Slum and Blight Designation (Representative Leach)

Following the 2017 bill which made several reforms to GPLET, ATRA will seek legislation to reform the slum and blight provisions. These reforms were removed from the introduced version last session in an attempt to focus the debate and spend more time studying the issue. The 2018 effort will focus on bringing meaning to the public benefit of the property tax
abatement in GPLET, which is the entire justification for the taxpayer subsidized incentive. The legislation will require municipalities to revisit slum and blight designations every ten years (currently no limit). Each project will need to be publicly discussed by the governing body and appropriately linked to the resulting public benefit from blight reduction. Instead of relying solely on existing definitions of slum and blight which are specious and vague, newer and clearer standards will be added which jurisdictions must use to justify the public benefit of the incentive.

**Cap the K-12 Transportation Hold Harmless Tax** (Representative Norgaard)

The K-12 finance formula equalizes the cost of general fund budgets so property taxpayers and the state general fund share the burden. School districts are funded formulaically based on actual route miles driven for school and extracurricular activities. However, school districts may add an additional local property tax in order to spend at their historic high transportation budget. This currently costs taxpayers $79 million per year and has grown substantially in the last several years. It is a significant source of inequitable spending as older districts which have contracted in size spend more per pupil than growing or younger districts as well as charter schools. It was recognized in the Governor’s Classrooms First Council as one of the problem areas in school finance in need of reform.

The difference between the state formula and the hold harmless amount is known as the “Transpo Delta” which represents the amount local taxpayers pay in addition to normal K-12 taxes. This 2018 legislation proposes to cap that amount at current levels so the problem does not continue to exacerbate. Eventually the program ought to be phased out but a cap will limit the damage and improve the chances of larger reform efforts in the future.

**Refine the K-12 Primary Property Tax Calculation** (Representative Norgaard)

In 2016 the Legislature passed HB2481 which simplified the way primary property tax rates are calculated for general fund budgets for K-12 school districts. The implementation of that bill began for FY 2018 and demonstrated that school rates became far more predictable and easier to understand. While the change has been rather successful, the first year of implementation highlighted a few limitations of the initial bill.

This year’s proposal will ensure all nonformula programs are included in the additional tax rates to ensure the correct cash is levied by school districts. It will also clarify that K-8 and 9-12 budgets are calculated separately, which is the longstanding treatment. Finally it will provide County School Superintendents the ability to correct cash deficits which occurred legally by obtaining approval from the County Board of Supervisors.

**Sales Tax**

**Clarify Taxation of Digital Goods/Services** (Representative Michelle Ugenti-Rita and Senator David Farnsworth)

In recognition of the findings and recommendations of the Ad Hoc Joint Legislative Study Committee, ATRA will pursue legislation updating Arizona’s tax code related to the taxation of Digital Goods and Services (DGS). The primary thrust of the bill will be to codify longstanding TPT treatment on digital goods where a user takes control of software
or a digital good while halting the recent advance by the Department of Revenue to tax services provided digitally.

The legislation will define and clarify the difference between prewritten software and digital goods that have been taxable in administrative rule only versus DGS which are not and should not be taxable. The bill will make clear both nexus and sourcing rules to ensure taxpayer compliance is simple and understandable.

**Prime Contracting**

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 2014 and 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.

ATRA will support continued efforts to move toward the elimination of 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.

**TPT Audit Appeals** – Direct Appeal to Tax Court

A taxpayer that disagrees with a proposed audit assessment from DOR may appeal to the Office of Administrative Hearings (OAH). A taxpayer that is not satisfied with an OAH decision may appeal to the Director of the Department of Revenue, the Board of Tax Appeals (BOTA), or directly to Tax Court.

The current appeals process, which requires all taxpayers to appeal to OAH is broken. Very few appeals to OAH are decided in favor of taxpayers and the process is time consuming due to the lack of deadlines and the inability of taxpayers to schedule hearings with OAH directly. ATRA will pursue legislation that will allow taxpayers the option to skip OAH and appeal directly to BOTA or Tax Court.

**Public Finance**

**Reform the Certificates of Necessity (CON) Approval Process** (Representative Carter)

The Department of Health Services (DHS) is responsible for certifying public and private emergency medical service (EMS) providers through the CON process. It has been generally understood that entities seeking to either acquire a new or expand an existing CON area request approval from DHS through this process. However in recent years, fire districts have successfully argued to DHS that an expansion to their CON area should be automatic when they merge or consolidate.

During the 2017 session, legislation was advanced that ultimately resulted in the creation of an Ad Hoc study committee to evaluate the expansion of CON service areas. Following testimony from both public and private EMS providers, the study committee unanimously approved the recommendation that fire districts who merge or consolidate adhere to the
existing CON process. ATRA will support legislation that furthers the study committee’s recommendation, to include property that is annexed into fire district territory.
ATRA SUPPORTS SB1385

TPT Administrative Hearings; Confidentiality

This legislative proposal would allow taxpayers who are filing TPT appeals as a result of a deficiency assessment or refund denial issued by the Department of Revenue (DOR) to bypass the Office of Administrative Hearings (OAH) following a “meet and confer” with DOR and appeal directly to the State Board of Tax Appeals (BOTA) or Tax Court. Taxpayers will still have the option to appeal to OAH but they will have the ability to skip that level at any time. Additionally, SB1385 reforms the statute governing the Power of Attorney (POA).

Problem:
- Under the current system, TPT taxpayers have the option of requesting an informal conference with the auditor and auditor’s supervisor prior to filing an appeal with OAH. Outside of purely factual errors, there is little benefit for the taxpayer to continue to meet with the auditor that issued the deficiency assessment.
- The current lengthy process delays the inevitable hearing by a truly neutral forum (i.e. BOTA or Tax Court) and merely increases the overall cost to both the taxpayer and DOR.

Solution:
- A compromise agreement with DOR requires a taxpayer to “meet and confer” with a DOR appeals officer prior to skipping OAH. This step provides an opportunity for both sides to determine if the appeal can be resolved earlier in the process due to a factual dispute or if it makes sense to skip OAH because a legal interpretation is required to resolve the issue. ATRA and DOR agreed this step will serve to simplify and expedite the appeals process.
- After conferring with a DOR designated appeals officer, taxpayers have the option to skip OAH and appeal directly to BOTA and/or Tax Court.

Power of Attorney (POA)
Current statute authorizes DOR to disclose confidential taxpayer information to any principal officer, a person designated by a principal officer or any person designated in a resolution by the corporate board of directors. This narrow definition has been an obstacle for both DOR and taxpayers to discuss tax disputes in an efficient manner. ATRA worked with DOR to define a “principal officer” to include a chief executive officer, president, secretary, treasurer, vice president of tax, chief financial officer, chief operating officer, chief tax officer or any other corporate officer that has the authority to bind the taxpayer on matters related to state taxes.

ATRA ASKS LAWMAKERS TO SUPPORT SB1385!
TPT APPEALS PROCESS

DOR Issues Notice of Deficiency Assessment

Meet & Confer

Informal Conference

Taxpayer files petition with DOR w/in 45 days

Appeal to DOR for OAH decision review w/in 30 days of OAH decision

Appellate Courts

Appeal to Board of Tax Appeals (BOTA) w/in 60- days of OAH decision

Appeal to AZ Tax Court w/in 60 days of OAH decision

Appeal directly to BOTA

Appeal directly to Tax Court
HB2158 and SB1390 would legislatively extend the 0.6% transaction privilege tax (TPT) for education as originally approved by the voters in 2000 and implemented in June 2001. Through a distribution formula, the tax provided $667.4 million to education in FY2017, divided amongst K-12 schools, community colleges and universities. There are several advantages to legislatively continuing this tax.

A critical feature in public finance systems is stability for both taxpayers and government. Public education certainly depends on the significant revenues deriving from the Prop 301 tax. It is rather unimaginable that these dollars would not be appropriated in any scenario. Subjecting these dollars to a fiscal cliff with a referral vote in 2020 creates uncertainty for public education as well as taxpayers. If a ballot measure were to fail, it’s certain the Legislature would immediately begin looking for revenue from other sources in order to avoid a fiscal crisis. That is an untenable situation for both taxpayers and public schools.

As elected representatives of the people of Arizona, the Legislature is the primary decision maker on how taxes are imposed for public services. While Prop 108 certainly increases the difficulty for lawmakers to exercise their authority on taxation, it should not result in a scenario where every tax question, no matter how obvious, needs to be referred to the ballot. Removing the threat of these funds going away relieves tension and refocuses the ongoing discussion over public education funding to future issues.

ATRA ASKS LAWMAKERS TO VOTE YES ON HB2158 & SB1390!
ATRA SUPPORTS HB2115
Harmonize Bond Election Procedures

Background:

In 2015, the Legislature passed legislation to standardize the “ballot question” for all General Obligation (G.O.) bond election ballots. This reform was placed in Title 35, which provides election guidance for all G.O. bond questions. Prior to the standardization, there was considerable leeway in the crafting of the “ballot question” (the statement which occurs just before a voter indicates a “Yes/No” mark). While most elections since the law change have occurred in accordance with the 2015 law change, there remains some confusion due to a lack of harmony between Title 35 and school district laws in Title 15.

Basis for ATRA’s Support:

ATRA worked with legislative staff attorneys as well as bond stakeholders associated with K-12 school districts to ensure the bill provides clarity going forward. The bill does not make any substantive changes to elections procedures but rather makes clear in law exactly what is required to ensure a legal election. Finally, the opportunity was taken to remove unnecessary and redundant language.

What the Bill Does:

- Clarifies that G.O. bond election procedures for school districts, to include the ballot question, use the state standard in Title 35

- A.R.S. §15-492 is repealed because it is redundant; the informational pamphlet is covered in 15-491

- Reference to A.R.S. §15-492 are deleted

ATRA ASKS LAWMAKERS TO VOTE YES ON HB2115!
ATRA SUPPORTS HB2126

**GPLET Central Business District Reform**

HB2126 specifies that the maximum area of a central business district (CBD) is the greatest of the existing total land area of the CBD as of January 1, 2018, 2.5% of the total land area within the exterior boundaries of the city or town (down from 5%) or 960 acres. The designation of a redevelopment area in which a CBD is located must be redesignated every ten years. The existing statutory requirement that a CBD be "geographically compact" is defined to ensure that all new and extended CBD areas are designated in that manner.

As amended in House COW, HB2126 reflects the compromise agreement between ATRA, The League of Arizona Cities & Towns, and other stakeholders. There is an agreement to further amend the session law in the bill that addresses the grandfathering of existing deals when redevelopment areas within CBDs are redesignated.

**ATRA ASKS LAWMAKERS TO VOTE YES ON HB2126!**
ATRA SUPPORTS HB2185

Ensures accuracy in K-12 primary property taxes

Background:

In 2016, the Legislature passed bipartisan legislation to reform the calculation of the primary property tax rate for K-12 schools in HB2481. The bill improved transparency in the setting of tax rates so taxpayers would have greater ability to predict their tax liability while stabilizing rates.

The inaugural implementation this year revealed a few technical issues which require legislative changes.

A stakeholder group including ATRA, the County School Superintendents, and K-12 school district representatives crafted these technical changes to ensure the implementation is effective and does not create unintended consequences.

What the Bill Does:

- Uses the term “equalization base” instead of “district support level” which makes clear districts will continue to have their entire budget equalized to include district additional assistance, as has always been the case.

- Clarifies that tax rates are calculated independently for K-8 and 9-12, as has always been the case.

- Allows a district to levy less than their full “Transpo Delta” if they choose to budget less.

- Allows the few grandfathered districts who have access to “dropout prevention” program to continue the tax.

- The ability to adjust tax rates for cash corrections is clarified for its intended use, eliminating unnecessary steps while providing transparency to taxpayers.

- The changes in A.R.S. §15-991 remove reporting requirements that are no longer necessary.

- A.R.S. §15-993 is repealed because it is redundant and no longer necessary.

ATRA ASKS LAWMAKERS TO VOTE YES ON HB2185!
Background:
Arizona public universities have traditionally sought permission from the Legislature to use their land for new uses outside of their academic mission. This was true for University Research Parks, hosting non-profit hospitals, and Athletic Facilities Districts. Robust debate ensued and laws were crafted to enshrine those decisions. That process was skipped when Arizona State University (with the approval of ABOR) began aggressively using its land as a commercial tax-free zone in an effort to harvest the local property tax as a revenue source for its own purposes.

The only way a private enterprise can avoid real property taxes on university land is through a “lease-back” arrangement where ABOR takes deed to the building and agrees to lease it back to the private entity, denying taxes on the property. Otherwise buildings on state land like ABOR’s would be taxable like any other.

Lawmakers must address this issue as it is clear that the universities intend to aggressively use their tax-exempt status to pursue real estate development that negatively impacts K-12 schools, the state general fund, and shifts higher property taxes to homeowners and businesses.

Basis for ATRA’s Support:
Taxpayers share the burden of funding government via the property tax. Policymakers must vigilantly protect its uniform application and disallow attempts to escape the tax roll. The property tax shifts from the State Farm building alone is $67 per year to the average homeowner in Tempe and $488 to a small business. Policymakers should make clear in law that new businesses outside the University’s core mission (such as academic buildings and student housing) should prospectively pay property tax like any other taxpayer.

What the Bill Does:
- Prospectively limits the ability to use a “lease-back” deal on University property to deny property taxes.
- Limits the size of Research Parks to their existing size and closes the “regional headquarters” loophole which allows businesses without any academic connection to the university in the Park.
- Requires ABOR to publicly justify the academic connection to the university for all future leases in a Research Park.

ATRA ASKS LAWMAKERS TO VOTE YES ON HB2280!
ATRA SUPPORTS HB2282
Cap the Transpo Delta; Prevent Property Tax Increases

Background:

One of the most peculiar features of Arizona’s complex K-12 education finance system is a hold harmless tax called the “Transpo Delta” or TRCL-TSL. The tax is inequitably distributed and creates unfair tax rates, particularly in low-value areas. The transportation support level (TSL) formula is based on actual route miles driven and is equalized, meaning local taxpayers pay their share in the Qualifying Tax Rate (QTR) and the state pays for the remainder. The TRCL essentially is the highest amount the TSL ever was, representing the district’s high water mark. The difference between them is the “Transpo Delta” and is paid exclusively by the local property taxpayers.

\[
\text{TRCL} - \text{TSL} = \text{“Transpo Delta”}
\]

Collectively the total Transpo Delta amounts to $80 million statewide. It has increased roughly $20 million since 2009. Each time a district decreases their TSL, their local taxpayers are met with a tax increase. Importantly, these monies are all unrestricted, meaning they can be spent in any legal manner. This money does not “follow the student” and benefits declining districts at the expense of their taxpayers, disrupting the Constitutional demand for a “general and uniform” system.

Basis for ATRA’s Support:

Reforming the K-12 finance formula is a daunting task. The first step towards reform is often a sign of good faith from all parties; an acknowledgment of system flaws. This bill does not take away money from the system, but merely prevents local taxpayers from higher taxes in the future by capping the hold harmless amount at today’s levels.

If the Transpo Delta is not capped, the amount could be $100 million by the time a larger compromise is found in school finance, making an effort to bring equity among schools that much more difficult.

The bottom line is one’s property taxes shouldn’t increase because your school district is driving fewer route miles.

ATRA ASKS LAWMAKERS TO VOTE YES ON HB2282!
Make Clear in Law the Taxation of Digital Goods & Services

- Arizona presently lacks statutory clarity in its taxation of digital goods and services
- AZ only has one adopted rule, taxing prewritten software delivered by any means (R15-5-154B)
- AZ has no laws or rules related to Digital Goods or Digital Services, only private taxpayer rulings
- Lack of clarity is an economic impediment, creating uncertainty & restricting capital investment

**WHAT DOES THE BILL DO?**
- Codifies the 2005 rule taxing prewritten software delivered by any means
- Clarifies when digital goods will be taxable
- Excludes digital services from tax
- Makes the tax uniform between state & city level

**WHEN IS A DIGITAL GOOD TAXABLE?**
- When the sale or rental provides the customer the right for it to be “transferred electronically”
- User gains the right to a copy which can be transferred to their device
- Permanence of transfer not a factor

**Quick Reference Chart**

<table>
<thead>
<tr>
<th>Transfer method</th>
<th>Prewritten Software aka “Canned”, non-custom</th>
<th>Digital Goods i.e. digital music, movies, books</th>
<th>Digital Services i.e. SaaS, Cloud computing</th>
</tr>
</thead>
<tbody>
<tr>
<td>By Any Method</td>
<td>Taxable</td>
<td>Remotely Accessed</td>
<td></td>
</tr>
<tr>
<td>Transferred Electronically</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Remotey Accessed</td>
<td>Not Taxable</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
ATRA OPPOSES SB1268
Targeted property tax breaks are bad policy

Background

In 2000, the voters of Arizona approved the Property (Senior) Valuation Freeze that freezes the taxable value of property for individuals that are at least 65 years of age and the person’s total income from all sources that does not exceed 400% of the supplemental security income benefit. SB1268 reclassifies property for only those individuals that qualify for the Senior Valuation Freeze currently assessed under class 3, assessed at 10%, to be classified instead under class 6, which is assessed at 5%. All other residential property remains assessed under class 3 at 10%.

Basis for ATRA’s Opposition

The Arizona Constitution requires that all property in the same class be taxed uniformly. Arizona’s property tax system classifies property based on use and includes nine different classes. SB1268 would provide inequitable treatment among similarly situated properties by classifying and assessing residential property of owners that meet certain age and income requirements differently than the residential property of other owners that do not meet those specific thresholds.

Although the Arizona courts have given the Legislature broad authority to classify property, doing so in this manner blurs the lines between classifications and serves only to further fragment and complicate Arizona’s property tax system. Regrettably, the property tax classification system provides an ongoing temptation for policymakers to discriminate in allocating the property tax burden. Instead of creating greater disparities, ATRA encourages policymakers to reduce disparities through reductions in the number of classes.

2016 Effective Tax Rates

<table>
<thead>
<tr>
<th>Class</th>
<th>Type</th>
<th>Total Taxable Percent of</th>
<th>Percent of Total Yield</th>
<th>Percent of Effective Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Full Cash Value</td>
<td>Total</td>
<td>Total</td>
</tr>
<tr>
<td>1</td>
<td>Business, industrial, telecomm, utility, mines</td>
<td>122,447,516,032</td>
<td>21.11%</td>
<td>2,484,612,711</td>
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<tr>
<td>2</td>
<td>Agricultural, vacant land, golf courses, nonprofits</td>
<td>25,477,419,293</td>
<td>4.39%</td>
<td>360,648,744</td>
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<tr>
<td>3</td>
<td>Owner occupied residential</td>
<td>287,636,060,921</td>
<td>49.58%</td>
<td>2,536,572,803</td>
</tr>
<tr>
<td>4</td>
<td>Rental residential; nonprofit residential</td>
<td>135,291,866,106</td>
<td>23.32%</td>
<td>1,375,959,879</td>
</tr>
<tr>
<td>5</td>
<td>Railroads &amp; flight property</td>
<td>1,837,053,248</td>
<td>0.32%</td>
<td>30,622,616</td>
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<tr>
<td>6</td>
<td>Historic prop; FTZ; enviro tech; (more)</td>
<td>7,107,704,240</td>
<td>1.23%</td>
<td>43,034,526</td>
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<tr>
<td>7</td>
<td>Comm historic property</td>
<td>29,824,808</td>
<td>0.01%</td>
<td>540,988</td>
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<tr>
<td>8</td>
<td>Rental residential historic property</td>
<td>16,763,245</td>
<td>0.00%</td>
<td>108,562</td>
</tr>
<tr>
<td>9</td>
<td>Possessory interests; leased churches &amp; charters</td>
<td>328,904,821</td>
<td>0.06%</td>
<td>375,150</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>580,173,112,714</td>
<td>100.00%</td>
<td>6,832,475,980</td>
</tr>
</tbody>
</table>
ATRA OPPOSES SB1409
Reverses MRRA Reforms under TPT Prime Contracting

Background
In 2013, then Governor Brewer’s TPT Simplification Task Force adopted the aggressive recommendation to eliminate Arizona’s unique and complicated prime contracting tax. That provision in the TPT reform bill drew significant opposition from the cities and towns. The initially enacted legislation limited the prime contracting reform to only maintenance and repair contractors that would pay tax on materials at retail rather than prime contracting in which the tax is calculated based on 65% of the gross proceeds of the contract regardless of the amount of materials used in the project. In 2015, clarifying language was enacted to provide that contracts for maintenance, repair, replacement or alteration (MRRA) activities within specified thresholds would be subject to tax on materials at retail rather than the prime contracting classification.

For “alteration” projects to qualify under MRRA, the physical change to existing property would fall under specific thresholds. For residential property, the contract price for the alteration is 25% or less than the property’s full cash value and for commercial property if all of the following are true: 1) the contract amount is $750,000 or less; 2) scope of the work is 40% or less of the existing square footage; and 3) scope of the work includes an expansion of 10% or less of the existing square footage. For either a residential or commercial contract, a 25% cushion was provided to accommodate changes to contracts that may initially qualify under MRRA without being pulled back into prime contracting.

Reason for ATRA’s Opposition
SB1409 reverses any progress made with the enactment of MRRA by moving contract work for alterations back into prime contracting and dramatically changing the definition of replacement activities. These two major reversals of MRRA will definitely result in a tax increase. As the Legislature was originally contemplating the implementation of MRRA, the reduction in taxes had to be offset with increased revenues in other areas for the bill to remain revenue neutral. Certainly SB1409 will cause taxes to increase if MRRA is reversed.

MRRA provided simplification for small contractors by moving them from the complicated prime contracting structure to paying tax on materials at retail. If lawmakers want to simplify prime contracting, they should do so by either increasing or removing the alteration thresholds altogether.

SB1409 was favorably amended in the House to remove ATRA’s opposition. As finally enacted, SB1409 removed two out of three thresholds for commercial “alterations” to qualify as a MRRA project. As such, all commercial alterations with a contract price of $750,000 or less qualify as MRRA projects regardless of the area being altered.

ATRA ASKS LAWMAKERS TO VOTE NO ON SB1409!
Summary of HB2456
HB2456 extends the sunset date of the Rio Nuevo Tax Increment Financing (TIF) District from July 1, 2025 to July 1, 2035 or whenever all of the debt is paid off. This TIF district was created in 1999 and extending the sunset would increase the total number of years in which state sales tax revenues are redirected back to Rio Nuevo rather than the state general fund to a total of at least 35 years-if not longer. Through FY 2017, over $152 million in state revenue has been redirected to Rio Nuevo. In fact, during the Great Recession when the state lost 40% of its revenue, Rio Nuevo still pulled down over $75 million. A conservative estimate of how much more will be extracted from the state general fund and shifted to Rio Nuevo shows total revenues through the existing sunset date will reach $275 million. With a ten-year extension to the existing sunset date, revenues will reach a grand total of $460 million.

Basis for ATRA’s Opposition
The Arizona Tax Research Association is opposed to HB2456 for the following reasons:

1. Allowing local governments to use the state sales tax base to assist in the funding for local projects is not only dangerous precedent, but also bad tax policy.

2. Taxpayers in other communities around the state of Arizona, who are faced with funding their own projects, should not be asked to indirectly participate in the funding of these local projects. Diverting state sales tax receipts from the state general fund to finance local projects makes all the state’s taxpayers participate in the funding of what is typically a local project.

Attempting to tap state funds for financing local projects became very popular in the late 1990s and ATRA strongly argued against all of those measures. In fact, this form of pork barrel financing became so popular, the Legislature ultimately sunset all of the increment financing laws on the books.

Each of the TIF projects that have been debated over the years had one thing in common: they were extremely important to the communities working on them and each felt they were worthy of state assistance. The question is where do you draw the line? Are you prepared to allow TIF financing for the other cities that will most certainly demand similar treatment? At a minimum, if the state desires to assist in the funding of local projects, it should do so through the appropriations process where the projects compete for funding with all other requests for public funding.

The Rio Nuevo board has made arguments that the entity should be allowed to exist after 2025. That can be accomplished without a continuation of the sales tax TIF. The district would be allowed to continue to use very significant development tools like the Government Property Lease Excise Tax (GPLET).

ATRA ASKS LAWMAKERS TO VOTE NO ON HB2456!
May 8, 2018

The Honorable Doug A. Ducey  
Office of the Arizona Governor  
1700 West Washington Street  
Phoenix, Arizona  85007  

Dear Governor Ducey:

The Arizona Tax Research Association (ATRA) respectfully requests your veto of SB1091 (income tax payments; bitcoin). The final enacted version of SB1091 that authorizes “real-time” transaction privilege tax (TPT) remittance was never discussed or debated in a regular committee hearing since this major provision came courtesy of a two-step strike-everything amendment on the House floor and a conference committee. ATRA only became aware of the revisions to the bill just one hour before the bill was to be heard in conference committee on May 2. At a minimum, this policy should be before the Governor only after considerable deliberation and public debate.

ATRA does not believe there is a compelling problem that this proposal purports to solve. To that end, ATRA would appreciate the opportunity to work with all the affected stakeholders over the interim and consider potential legislation in 2019.

Thank you in advance for your consideration to veto SB1091. If you have any questions, please do not hesitate to contact me at (602) 253-9121.

Sincerely,

Kevin J. McCarthy  
President

cc: Gretchen Conger, Deputy Chief of Staff, Policy and Budget  
cc: Katie Fischer, Director, Legislative Affairs