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# ARIZONA TAX RESEARCH ASSOCIATION

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## NEWSLETTER

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## YES on 117 Committee In Full Swing

The campaign committee to advocate for the passage of Proposition 117 is up and running. Proposition 117 was referred to the General Election Ballot during the 2012 legislative session in the form of SCR 1025. The YES on 117 campaign will be Chaired by ATRA President Kevin McCarthy and Bas Aja of the Arizona Cattlemen's Association as the committee treasurer.

Prop 117 received bi-partisan support in the Legislature and the support of many trade associations and businesses as a reform that will both simplify and stabilize Arizona's property tax system in the following ways:

- ◆ Caps the annual growth in the limited property value (LPV) at 5%.

Under the current system, the calculation to determine a property's LPV is very complex, and therefore, difficult for taxpayers to understand. The assessor annually determines the LPV by taking the greater of 10% over the previous year's LPV or 25% of the difference between the current year's full cash value (FCV) and the previous year's LPV, and as is the case now, the LPV can not exceed the FCV. The calculation to limit the annual growth in the LPV, which has been in place since 1980, hasn't done much to limit the annual growth in values at all. The 5% annual growth cap proposed under Prop 117 will implement a reasonable limit that taxpayers can easily understand.

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## Sales Tax Increase Initiative Goes To Supreme Court

Secretary of State Ken Bennett appealed the decision of Maricopa County Superior Court Judge Robert Oberbillig to allow the so-called Quality Education and Jobs (QEJ) initiative to remain on the November General Election ballot. The QEJ campaign sued Secretary Bennett over his decision to deny the initiative a place on the November General Election ballot. After reviewing the petitions, Secretary Bennett determined that the QEJ campaign did not circulate the same initiative that it filed with the Secretary of State's (SOS) Office. Judge Oberbillig ruled from the bench on July 18<sup>th</sup> that the SOS had the flexibility to correct the error and should have exercised that discretion in approving the petitions.

The QEJ campaign circulated a statutory initiative that was significantly different than the official version filed with the SOS. According to the Joint Legislative Budget Committee (JLBC), there is a \$652 million difference between the funding levels in the two measures.

ATRA staff initially performed a detailed analysis of the QEJ initiative in early March from the

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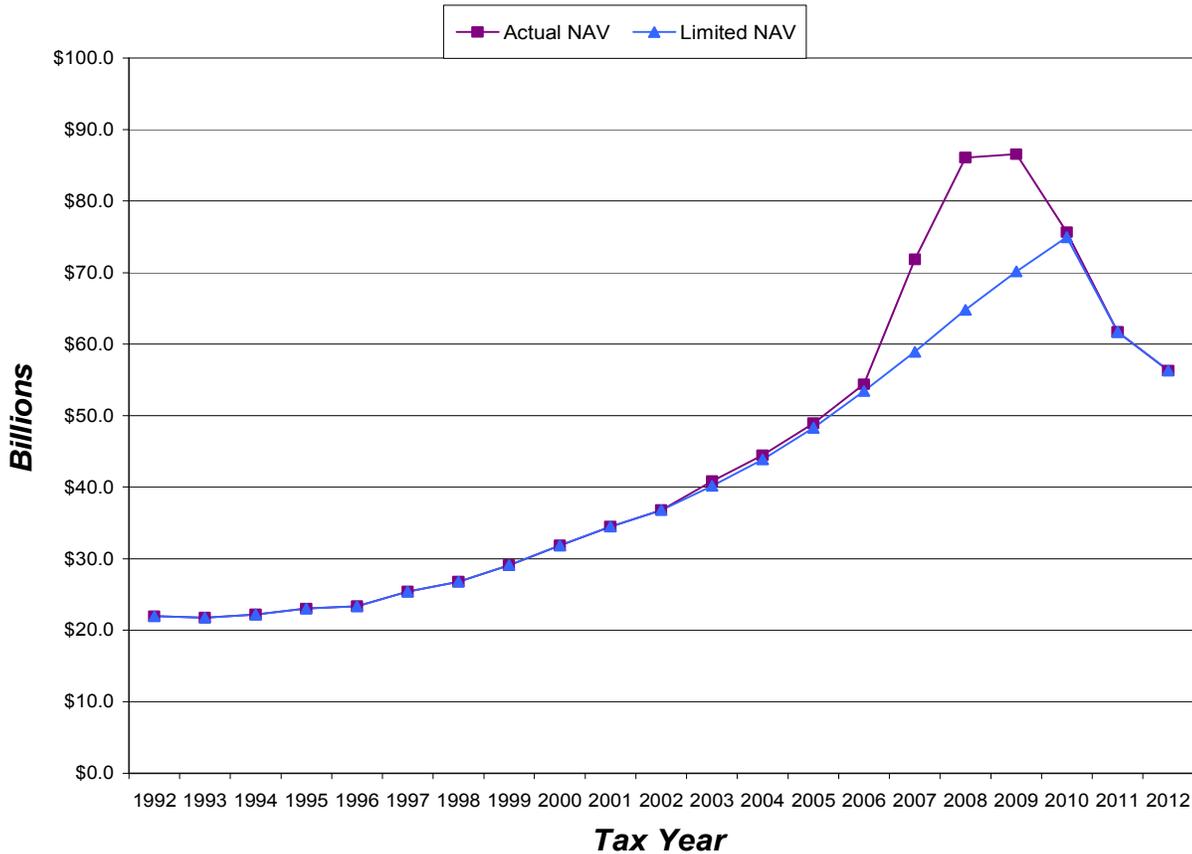
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An ATRA analysis shows that had Prop 117 been in effect over the last decade, it would have prevented \$33 billion in value from being added to the tax rolls that was ultimately removed following the collapse of the real estate market (see graph below).

**Actual Value Growth vs. 5% LPV Proposal**



- ◆ Limits the taxation of property to one value – the LPV.

Currently, property is taxed on two values: the FCV, which has no limit in annual growth since it is intended to reflect the property’s market value, and the LPV.

Although the FCV will no longer be taxable under Prop 117, the assessor will be required to continue to establish the property’s market value (FCV) for property tax appeal purposes. Since the LPV will continue to increase each year until it reaches the FCV, it will still be important for taxpayers to appeal their FCV if they believe that it exceeds the market value of the property.

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<p><b>ARIZONA TAX RESEARCH ASSOCIATION</b>                  Lyn White.....Chairman                  Kevin J. McCarthy.....President                  Jennifer Stielow.....Vice President                  Ben Nowicki.....Research Analyst                  Maria Travers.....Office Manager</p>	<p>Published 10 times annually by the Arizona Tax Research Association, a nonprofit organization whose purpose is to promote efficiency and economy in Arizona government and reductions at all levels. Permission to reprint is granted to all publications giving appropriate credit to the Arizona Tax Research Association.  <i>Serving Arizona's taxpayers since 1940.</i></p>	<p>1814 W. Washington Street                  Phoenix, Arizona 85007                  (602) 253-9121                  FAX (602) 253-6719                  www.arizonatax.org                  atra@arizonatax.org</p> 
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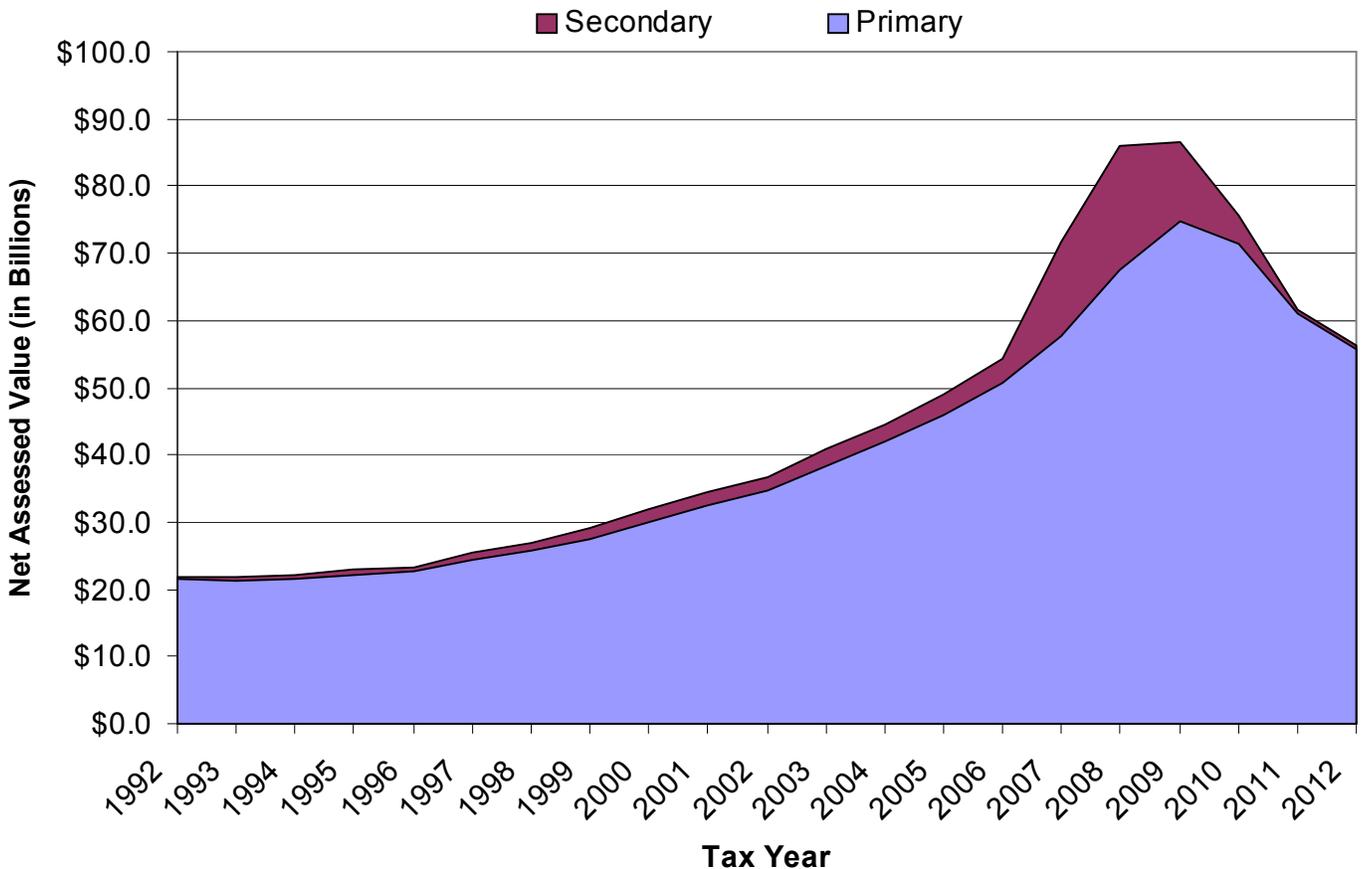
**YES on 117, Continued from Page 2**

Arizona has one of the most complicated property tax systems in the country. Limiting the property tax to only the LPV will simplify the system. This proposal would be difficult to accomplish in another environment, such as when the variance between statewide FCV and LPV was much greater in tax years 2007 through 2010 (see graph below). This is a window of opportunity to simplify the system as the gap between the two values have narrowed significantly to just a 0.76% difference in 2012.

With the passage of the July 11<sup>th</sup> deadline to submit Pro/Con statements for the publicity pamphlet, a total of 14 Pro statements were submitted on Prop 117. Most prominent among those that submitted statements in support included Senator Steve Yarbrough, the sponsor of the legislation. In his filed statement, Senator Yarbrough noted the bi-partisan support the measure received at the Legislature and that both political parties recognized the need to simplify and restrain Arizona’s property tax system. Yuma County Assessor Joe Wehrle also submitted a statement in support of Prop 117. Working in the Assessor’s Office for over three decades, Mr. Wehrle noted how flawed Arizona’s property tax system is and the importance of simplifying the system in order to create more predictability. The remaining statements in support of Prop 117 were submitted by multiple taxpayers and business groups that represent a cross-section of industries throughout Arizona.

*ATRA’s ballot statement in support of Prop 117 is on page 6.*

**FCV vs. LPV**



## **Sales Tax Increase, Continued from Page 1**

initiative on the QEJ campaign website. That analysis was provided to the ATRA Board of Directors at its March meeting. In addition, that analysis was made available to other groups interested in understanding the impacts of the initiative. By early April, it became apparent to ATRA staff that its original analysis was not based on the official version on the SOS website. By mid-April, ATRA staff had completed a new analysis of the QEJ initiative based on the official version on the SOS website and circulated the updated analysis.

ATRA's updated analysis, which includes an easy-to-read, full-color visual aid of the official "3-bucket version" of the QEJ initiative filed with the SOS, was widely circulated to a number of organizations. In doing so, ATRA made no secret about the fact that their initial analysis (based on the "4-bucket version") was based on the wrong version and instructed ATRA members and interested parties to discard that version and replace it with the updated analysis.

Two months after ATRA's very public analysis of the "3-bucket version" of the initiative, ATRA staff noticed that the QEJ website continued to reflect the "4-bucket" version of the initiative and then verified that the campaign was in fact circulating copies of that version of the initiative. At that point, ATRA staff notified Secretary Bennett that the QEJ campaign could be turning in at least some petitions that were different than the official version.

While the QEJ lawsuit argues that the differences between the two versions of their initiative are "minor" and attributes the discrepancy to a "clerical" error, ATRA's experience demonstrates the significance of actually having **one official** version that can be relied upon by the public. Not being the authors of the measure, ATRA could only rely on the official stamped version on the SOS website. ATRA's detailed analysis of the initiative was not only relied upon by ATRA members but by numerous other organizations attempting to understand a very complicated initiative.

The lawyers for QEJ campaign were able to convince Judge Oberbillig that because, in their opinion, the error was clerical and not done with the intent to deceive voters, it didn't matter. In a state where statutory initiatives are protected by the Voter Protection Act, and practically speaking, carry the weight of a constitutional amendment, the precedent set by this case is significant. Judge Oberbillig dismissed the argument by the Attorney General's office that allowing initiatives to be placed on the ballot that were different than the official version filed would create major problems for the SOS office in the future. Oberbillig emphatically stated that the only issue that mattered was the case before him.

As Secretary Bennett plainly noted, for the initiative process to maintain any semblance of reliability and integrity, citizens must be able to rely on the SOS office maintaining a full and correct version of the initiatives in circulation. An expeditious review of the case by the Supreme Court is expected.

***ATRA's ballot statement in opposition to the QEJ initiative is on page 6.***

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# GOVERNOR'S TRANSACTION PRIVILEGE TAX SIMPLIFICATION TASK FORCE CONVENES

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The Governor's TPT Simplification Task Force held its first meeting on July 23. The meeting included several presentations, including an overview of Arizona's current TPT system by Alan Maguire, a TPT 101 briefing by Elaine Smith and Christie Comanita of the Department of Revenue, and representing the Arizona League of Cities and Towns, Lee Grafstrom provided a brief presentation regarding the differences between the Model City Tax Code and state statutes.

The Task Force Members include the following:

Michael Hunter, Office of the Governor, Chair  
State Senator John McComish  
State Representative Rick Gray  
Kevin McCarthy, Arizona Tax Research Association  
Steve Barela, Arizona Public Service Company  
Keely Hitt, Circle K Stores, Inc.  
John Olsen, Town of Gilbert  
Miguel Teposte, City of Phoenix  
Tom Belshe, Arizona League of Cities and Towns  
Linda Stanfield, Benjamin Franklin Plumbing  
Lynne Herndon, BBVA Compass  
Vince Perez, Department of Revenue

In concluding the meeting, Chairman Michael Hunter announced that there will be three working groups that will perform research on behalf of the Task Force. Mr. Hunter named Pat Irvine from the law firm of Fennemore Craig to Chair the Tax Definitions (Uniformity) working group, which will concentrate on determining the differences between the Model City Tax Code and state statutes. Craig McPike from the law firm of Snell & Wilmer will be the Chairman of the Prime Contracting Class working group, and ASU Economist Dennis Hoffman will Chair the Online Retail working group. All three groups are expected to meet regularly and report their findings to the Task Force and all documents may be found on the Governor's website.

The remaining four scheduled Task Force meetings will be held on August 28, September 25, October 23, and November 27, at which time the Task Force will vote on recommendations to be included in its report by the December 31 deadline.

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## ATRA Ballot Arguments Submitted to the Secretary of State 2012 General Election Ballot

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### Vote YES on Prop 117 – Limit Growth in Property Valuations & Exposure to Tax Increases

The Arizona Tax Research Association (ATRA) urges your support of Prop 117 because it will protect property taxpayers from dramatic increases in property valuations that often lead to significant tax increases. **Prop 117 will limit annual assessed value growth to 5%.**

In addition, Prop 117 will simplify one of the most complicated property tax systems in the country. Currently, property in Arizona is taxed on two values: full cash, or market value (FCV) and the limited property value (LPV). The Constitution requires that FCV represent the market value, which is unlimited in the amount it can increase each year. In contrast, the LPV is required to annually increase by the greater of 10% or 25% of the difference between the current year FCV and the previous year's LPV. That doesn't just sound complicated – it is.

Prop 117 limits the taxation of property to the LPV and the FCV will no longer be taxable. **Eliminating the tax on market value will prevent a repeat of the dramatic increases in property taxes that occurred between 2004 and 2009 when real estate values skyrocketed.**

ATRA strongly believes that the 5% limit is fair for taxpayers and Arizona state and local governments. A reasonable limit will not only provide greater predictability for taxpayers, it will bring much needed stability to future local government budgets. Had the 5% limit been in place over the last decade, it would have prevented \$33 billion in value from being added to the tax rolls that was ultimately removed when the market collapsed.

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### Proposition XXX (1-16-2012) – Earmarking at its worst

The Arizona Tax Research Association (ATRA) encourages a NO vote on Proposition XXX (1-16-2012). ATRA has long opposed *ballot-box budgeting*, where special interests use the initiative process to earmark revenues outside the state's budgeting process. This initiative is arguably the most egregious earmarking effort ever placed before Arizona voters and it should be rejected.

This permanent sales tax increase locks in place an estimated \$25 billion in spending over the next 17 years that can never be changed. Regardless of one's perspective on the adequacy of education or transportation funding, putting spending for 12 different earmarks on auto-pilot is simply irresponsible. The Great Recession taught us a number of lessons regarding budgeting mistakes that aggravated Arizona's chronic budget deficits. The biggest lesson was to avoid making permanent budget decisions that tie up billions of taxpayer dollars on the belief that neither the economy nor the state's priorities will ever change.

In addition to a permanent sales tax rate increase in a state with the second highest combined rates in the nation, the initiative also takes the extraordinary step of freezing the current sales tax base. Freezing the sales tax base will undermine the growing momentum to reform Arizona's antiquated state and local sales tax code and demonstrates not even a modicum of consideration for the taxpayers saddled with complying with this tax increase.

Lastly, funding for K-12 schools has always been the largest state expenditure. K-12 appropriations are driven by many complicated formulas that account for differences across Arizona schools. Prop XXX (1-16-2012) handcuffs policymakers' ability to change these funding formulas. Presuming there will never be a legitimate reason to modify these statutes is shortsighted and an abuse of the initiative process.