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ARIZONA TAX RESEARCH ASSOCIATION

# ATRA OPPOSES HB2264

***Providing targeted property tax breaks is bad policy***

**Background**

HB2264 provides generous property tax breaks for businesses that have specific levels of investment between July 1, 2014 and June 30, 2019. To qualify for the property tax incentive, a business must make a capital investment of at least $25 million within three years and employ at least 125 new employees in a city or town with a population of 50,000 in a county with a population of 800,000 or more. For businesses located in any other area in the state, the capital investment requirement is $2 million and the business must employ at least 15 new employees. Upon meeting the requirements, the real and personal property of the qualified business is classified under class 6, which is assessed at 5% for up to ten years, compared to all other business property, which is classified under class 1 and is assessed at 20%.

**Basis for ATRA's Opposition:**

Arizona has considerably higher business property taxes compared to other states as a result of Arizona's long-standing 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 20%. Based on a 2011 study published by the Minnesota Taxpayer's Association, the property tax burden on Arizona industrial property ranks 13th highest compared to other states. 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 most recently, 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. Factoring in the benefits of accelerated depreciation for businesses dramatically improves Arizona's ranking compared to other states.

Proponents are correct that Arizona's high business property taxes are an impediment to economic development in Arizona. Those high business property taxes are the result of the inequities in Arizona's property tax system. However, their misguided approach to dealing with high business property taxes by creating targeted tax breaks actually creates more inequities in the property tax system and higher taxes on all other taxpayers, including existing businesses and homeowners. Arizona's high business property tax problem should not be solved by targeting relief to select businesses thereby making taxes even higher for other business taxpayers.

Additionally, the Arizona Constitution under Article 9, Section 1, states that "all taxes shall be uniform upon the same class of property within the territorial limits of the authority levying the tax." While the courts have given the Legislature broad discretion in creating different classes of property, they have also cautioned that those distinctions in use, purpose or industry must be "real" and not be "arbitrary, specious or fanciful." In addition to being bad policy, ATRA believes that creating such disparate tax treatment between identical companies in the same taxing jurisdiction based solely on the timing and size of the investment is unconstitutional (See Property Tax Inequity Chart).

The only thing worse than passing this legislation is to have the law pass and have businesses make the required level of investments with the anticipation of receiving huge tax incentives, only to have the law invalidated by the courts.

***ATRA believes that the property tax breaks provided in HB2264 are bad policy and serve to exacerbate problems in Arizona's property tax system.***