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ARIZONA TAX RESEARCH ASSOCIATION

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2024 ATRA Legislative Program Update

The following summaries include ATRA's top priorities of the session, along with some bad bills that ATRA is opposing.

ATRA SUPPORTS

HB2309 GPLET; agreement posting; abatement period (Grantham)

The Court's handed taxpayers two historic wins in recent years by striking down deals in which the taxpayer subsidies provided to the private entity/developer were ruled to be in violation of the State's Constitutional Gift Clause. HB2309 is ATRA's latest effort to reform deals under the Government Property Lease Excise Tax (GPLET) by decreasing the taxpayer subsidy from 8 years to 4 to reduce the potential for future litigation.

Arizona's Gift Clause states that a municipality may not "give or loan its credit in the aid of, or make any donation or grant, by subsidy or otherwise, to any individual, association, or corporation." In essence, the subsidy provided to a private entity/developer cannot be grossly disproportionate to the public benefit. In 2021, the Superior Court ruled under *Schires v. Carlat* that the City of Peoria violated the Gift Clause by promising to pay a private university \$2.6 million just to offer an undergraduate degree program in the City. Prior to *Schires*, the Court of Appeals ruled under *Engleborn v. Stanton* that the GPLET deal between the City of Phoenix and a developer was in violation of the Gift Clause because the

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U.S. Census Bureau State Tax Rankings

The United States Census Bureau annually publishes data on a variety of public finance and tax categories that allow for comparisons across the fifty states and the District of Columbia. ATRA has compiled the most recent data available from Fiscal Year 2021 showing Arizona's relative comparison to other states on the major state and local tax categories.

Arizona's tax collection ranking per capita and per \$1,000 of income are as follows:

Arizona Rankings State and Local Tax Collections				
Tax Type	Per Capita		Per \$1,000 of Income	
	Amount	Rank	Amount	Rank
Total Taxes	\$ 4,640.17	41	\$ 87.64	41
US Average	\$ 6,334.46		\$ 102.88	
Sales Taxes	\$ 1,834.90	10	\$ 34.66	8
US Average	\$ 1,437.05		\$ 23.34	
Property Taxes	\$ 1,253.39	36	\$ 23.67	37
US Average	\$ 1,898.04		\$ 30.83	
Income Taxes	\$ 899.22	38	\$ 16.98	39
US Average	\$ 1,641.84		\$ 26.67	

See pages 5 and 6 for detailed state ranking tables.

- Jack Moody

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amount provided to the developer was grossly disproportionate to the public benefit received in return. This was a historic decision since it was the first and most significant judicial review of the GPLET structure, with the Court calling into question the remaining usefulness of GPLET to incentivize development. *HB2309 passed the House 31-28-1.*

HB2380 TPT; municipalities; audits; guidelines (Carter)

The historic TPT Audit Reform legislation in 2013 provided the Department of Revenue (DOR) with central administrative authority over all state and local TPT audits. HB2380 addresses an attempt to undermine those reforms by reinforcing DOR’s oversight of the TPT audit process.

Arizona is one of a few states nationally that allows for an independent municipal sales tax structure where cities tax bases vary from the state, and cities are allowed to deploy their own auditors. The 2013 reforms limited city audits to single location taxpayers and only upon approval from DOR could a city or town audit a multi-jurisdictional taxpayer. However, a recent intergovernmental agreement between DOR and the cities would undermine DOR’s authority by allowing a non-statutory committee, in which half is designated for city personnel, to override DOR’s decision to deny a city’s request to audit a multi-jurisdictional taxpayer.

HB2380 reinforces DOR’s oversight and authority over multi-jurisdictional taxpayer audits. Furthermore, the responsibility of the existing statutory committee, the Unified Audit Committee (UAC) that is required to coordinate uniform audit functions, is bolstered to also establish and publish uniform audit guidelines. *HB2380 passed the House with bipartisan support with a vote of 54-4-2.*

HB2594 TPT; prime contracting; exemption; alterations (Carbone)

ATRA’s 2024 Legislative Program included a repeat effort to simplify residential MRRA (maintenance, repair, replacement, alteration) contracts under Arizona’s prime contracting classification. Identical to last year’s proposal, HB2594 would have simplified residential remodels by eliminating the 25% threshold for residential alteration projects, and instead, only tax contracts under prime contracting that add or expand the square footage beyond the existing roof. This year’s proposal was stalled prior to being heard in committee due to the flawed interpretation of the law that continues to be spread by city lobbyists that is contrary to DOR’s interpretation.

Under MRRA, all materials for maintenance, repair, and replacement activities are subject to tax at retail regardless of the contract price. Residential “alteration” activities, on the other hand, that involve modification activities (i.e. construction, demolition) in which the contract price exceeds 25% of the full cash value is subject to prime contracting. Where the cities confuse the debate is through the definition of “replacement” which is defined to mean “the removal from service of *one component or system* of existing property.” Current statute states that the Department’s interpretation is binding on cities and towns when the state statutes and the model city tax code are the same. Contrary to DOR’s published guidance and interpretation of the law, the cities incorrectly interpret “one component or system” in a residential remodel to mean “one room” rather than the “entire home.”

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The cities continued inaccurate interpretation of the law is of great concern for taxpayers as city auditors are taking this position in conflict with DOR.

SB1495 personal property exemption; increase (Mesnard)

For decades, ATRA has been a major advocate for reducing and simplifying compliance of the business personal property tax (BPP). In addition to discouraging capital investment, the compliance costs cause an undue administrative burden on small businesses who may or may not be aware that they are required to annually self-report. County government, specifically assessors and treasurers, also must bear the burden of administering the tax.

The Legislature has enacted several reforms over the last few decades in recognition of these complications and inefficiencies. In 1996, the Legislature referred to the ballot, and the voters approved, a constitutional amendment to exempt the first \$50k on each BPP taxpayer. The constitutional amendment was later enhanced by requiring an inflation adjustment to the exemption, which has increased to the current \$248k. In addition to implementing “accelerated depreciation” for new BPP, legislation was enacted in 2022 to limit the tax on all new locally assessed BPP to a valuation factor of 2.5%. Due to Prop 130's passage, the Legislature now has the authority and flexibility to make statutory changes to the BPP.

Under this year's proposal, the constitutional BPP exemption is increased from \$248,691 to \$500,000. *SB1495 passed the Senate 16-10-4 and House Ways and Means 5-4.*

HB2173 county aid; school districts; revisions (Pingerelli)

HB2173, introduced by Representative Pingerelli, caps the tax rate for type 03 schools at the lesser of the Qualifying Tax Rate (QTR) or a rate resulting in a levy equal to the countywide average per pupil equalization base for high school pupils multiplied by the number of resident high school pupils in the district during the previous school year. It would also redirect monies collected from the tax levied by the district from county aid for equalization assistance to the state general fund. HB2173 is effectively a cleanup bill to a major ATRA-backed reform from 2022 which aimed to simplify type 03 school district financing. Type 03 districts are K-8 elementary districts that tuition high school students to other districts. *HB2173 received unanimous support in the House.*

ATRA OPPOSES**HB2329 S/E: CORP; employee enrollment; membership; election (Payne)**

Per the adopted strike-everything amendment, HB2329, sponsored by Representative Payne, would allow Corrections Officers and other employees of a corrections facility to participate in either the Corrections Officer Retirement Plan (CORP) or the Public Safety Personnel Defined Contribution Retirement Plan (PSPDCP). ATRA supported the 2018 reform which did away with the defined benefit system and instead established a more portable defined contribution system that reduced taxpayer risk. ATRA opposes HB2329 because it resurrects the defined benefit system, which could expose taxpayers to significant future liability. *HB2329 and its amendment left House MAPS with a vote of 13-0-2 and is currently awaiting House Rules.*

Leg Program, *Continued from page 3***HB2330 fire districts; formation; county supervisors (Marshall)**

Under current statute, the property owners within the boundaries of a proposed fire district may approve its creation upon a petition signed by more than half the owners and the owners with more than half the taxable value. Once established, a fire district may levy a secondary property tax at a maximum tax rate of \$3.75 per \$100 of assessed value. Sponsored by Rep. David Marshall, HB2330 does an end-run around property taxpayers by approving a new property tax with only a public vote.

During the 2010 session, ATRA was supportive of legislation backed by the Arizona Fire District Association to remove the electors from the district creation petition process. Eliminating the electors from the petition process made sense since an elector may not necessarily be a property taxpayer but could approve a property tax. On the other hand, property owners may not be registered to vote in the area and would not have a say as to whether a property tax is approved. This is true particularly in rural areas of the state in which a property owner is not a full-time resident of the proposed district and therefore is not eligible to vote but would be required to pay the tax. In this case, a fire district could be created by a small number of electors, who may or may not be property owners, to enact a significant property tax.

This legislation is the result of a proposed fire district in northern Arizona that did not get the requisite number of signatures from its property owners during the one-year time frame. The proponents claim they couldn't get enough signatures because there is a high percentage of out-of-state property owners. However, there is no way of knowing how many property owners simply refused to sign the petition. The passage of HB2330 will expose the property taxpayers in the proposed district to a potential 60% increase in taxes. *HB2330 passed the House and has been transmitted to the Senate.*

SB1663 common school districts; tuition; expenditures (Gowan)

SB1663, introduced by Senator Gowan, reverses three years of work by ATRA, County School Superintendents, and the Arizona Association of School Business Officials to reform how type 03 school districts finance the education of their high school students. The bill, which ATRA opposes, undoes a great deal of the progress ATRA and others have achieved on this front in the last few years. *The bill left the Senate Education Committee with a vote of 4-3-1. The bill currently awaits action by the Committee of the Whole.*

SB1695 community colleges; dual enrollment; funding (Gonzales)

SB1695, sponsored by Senator Gonzalez, would eliminate the 50% reduction of state aid to community colleges for high school students who are enrolled in dual enrollment classes. Additionally, it would make a \$1 million one-time general fund appropriation to the community college districts to "fully fund" dual enrollment programs.

ATRA has long opposed the idea of community colleges and high schools "double counting" students for the same class. In 2009, the state reduced the colleges' double dip by 50%. A.R.S 15-1466.01 states that for a student enrolled in a dual enrollment course, "...the amount of state aid the community college would otherwise receive for that student shall be reduced by fifty percent". SB1695 strikes the 50% reduction currently in statute and prohibits any other reduction of state aid for these students. *SB1695 passed out of Senate Education with a vote of 4-2-2 and is currently awaiting action in the Senate Rules Committee.*

Rankings, *Continued from page 1*

Total Tax Collections- State and Local FY2021				
State	Per Capita		Per \$1,000 of Income	
	Amount	Rank	Amount	Rank
Alabama	\$4,237.08	50	\$89.83	39
Alaska	4,188.90	51	64.44	51
Arizona	4,640.17	41	87.64	41
Arkansas	4,856.64	36	98.52	27
California	9,217.05	4	123.89	5
Colorado	6,403.84	18	96.55	29
Connecticut	9,424.02	3	118.39	7
Delaware	6,716.67	14	117.42	8
D.C.	13,298.63	1	139.41	1
Florida	4,380.95	48	75.23	49
Georgia	4,577.64	44	85.12	44
Hawaii	7,756.29	7	132.70	3
Idaho	4,582.47	43	92.87	34
Illinois	7,350.33	10	112.67	11
Indiana	5,361.10	27	98.91	26
Iowa	5,927.63	23	107.13	15
Kansas	5,944.01	22	103.12	20
Kentucky	4,674.45	39	95.50	32
Louisiana	4,835.17	37	91.58	36
Maine	6,790.84	13	123.10	6
Maryland	7,242.10	11	106.82	17
Massachusetts	8,106.81	6	101.23	21
Michigan	4,980.48	33	91.10	38
Minnesota	7,456.93	9	117.18	9
Mississippi	4,441.15	46	100.54	23
Missouri	4,637.54	42	86.51	43
Montana	5,102.98	32	93.36	33
Nebraska	6,353.35	19	106.24	18
Nevada	5,105.59	31	91.51	37
New Hampshire	5,408.51	26	78.42	48
New Jersey	8,305.17	5	113.81	10
New Mexico	5,175.48	30	107.86	14
New York	10,331.14	2	137.89	2
North Carolina	4,889.15	34	92.51	35
North Dakota	7,011.91	12	111.11	12
Ohio	5,342.54	28	96.40	30
Oklahoma	4,465.44	45	86.88	42
Oregon	6,485.37	17	110.55	13
Pennsylvania	6,254.99	20	99.80	25
Rhode Island	6,487.53	16	107.06	16
South Carolina	4,413.28	47	87.64	40
South Dakota	4,654.86	40	74.68	50
Tennessee	4,259.04	49	80.60	47
Texas	4,860.63	35	84.86	45
Utah	5,652.03	25	105.97	19
Vermont	7,528.06	8	128.87	4
Virginia	6,187.19	21	97.19	28
Washington	6,662.71	15	95.74	31
West Virginia	4,696.68	38	101.18	22
Wisconsin	5,705.45	24	99.88	24
Wyoming	5,204.09	29	81.63	46
U.S. Average	\$6,334.46		\$102.88	

General Sales Tax Collections- State and Local FY2021				
State	Per Capita		Per \$1,000 of Income	
	Amount	Rank	Amount	Rank
Alabama	\$1,363.48	28	\$28.91	12
Alaska	359.91	47	5.54	47
Arizona	1,834.90	10	34.66	8
Arkansas	1,871.83	7	37.97	5
California	1,522.64	18	20.47	32
Colorado	1,551.18	15	23.39	25
Connecticut	1,449.67	20	18.21	41
Delaware	-	-	-	-
D.C.	1,843.65	9	19.33	38
Florida	1,555.31	14	26.71	17
Georgia	1,117.71	38	20.78	29
Hawaii	2,508.23	2	42.91	3
Idaho	1,329.24	30	26.94	16
Illinois	1,234.20	34	18.92	40
Indiana	1,362.43	29	25.14	21
Iowa	1,398.05	25	25.27	19
Kansas	1,636.02	13	28.38	14
Kentucky	1,011.51	42	20.67	31
Louisiana	1,980.04	5	37.50	6
Maine	1,386.61	26	25.14	20
Maryland	884.09	45	13.04	46
Massachusetts	1,113.80	40	13.91	44
Michigan	1,114.85	39	20.39	34
Minnesota	1,239.43	33	19.48	36
Mississippi	1,434.23	22	32.47	9
Missouri	1,245.97	32	23.24	26
Montana	-	-	-	-
Nebraska	1,464.41	19	24.49	22
Nevada	2,260.70	3	40.52	4
New Hampshire	-	-	-	-
New Jersey	1,381.45	27	18.93	39
New Mexico	2,084.82	4	43.45	2
New York	1,640.19	12	21.89	28
North Carolina	1,292.08	31	24.45	23
North Dakota	1,529.14	16	24.23	24
Ohio	1,435.95	21	25.91	18
Oklahoma	1,422.87	24	27.68	15
Oregon	-	-	-	-
Pennsylvania	1,126.04	37	17.97	42
Rhode Island	1,216.91	35	20.08	35
South Carolina	1,043.40	41	20.72	30
South Dakota	1,865.44	8	29.93	10
Tennessee	1,884.27	6	35.66	7
Texas	1,677.17	11	29.28	11
Utah	1,523.44	17	28.56	13
Vermont	807.52	46	13.82	45
Virginia	940.66	43	14.78	43
Washington	3,156.21	1	45.35	1
West Virginia	901.44	44	19.42	37
Wisconsin	1,166.19	36	20.42	33
Wyoming	1,427.69	23	22.40	27
U.S. Average	\$1,437.05		\$23.34	
46-State Avg. (+DC)	\$1,471.41		\$23.88	

Rankings, *Continued from page 5*

Property Tax Collections- State and Local FY2021				
State	Per Capita		Per \$1,000 of Income	
	Amount	Rank	Amount	Rank
Alabama	\$659.23	51	\$13.98	51
Alaska	2,325.31	11	35.77	12
Arizona	1,253.39	36	23.67	37
Arkansas	833.53	50	16.91	50
California	2,096.84	15	28.18	24
Colorado	2,070.89	16	31.22	17
Connecticut	3,276.19	5	41.16	7
Delaware	1,105.22	43	19.32	46
D.C.	4,497.25	1	47.14	5
Florida	1,623.74	29	27.88	26
Georgia	1,398.00	33	25.99	34
Hawaii	1,603.84	30	27.44	27
Idaho	1,107.28	42	22.44	40
Illinois	2,463.38	9	37.76	10
Indiana	1,209.59	39	22.32	41
Iowa	1,936.83	17	35.00	13
Kansas	1,790.44	24	31.06	19
Kentucky	968.41	46	19.78	44
Louisiana	992.19	45	18.79	47
Maine	2,834.74	7	51.39	1
Maryland	1,814.44	22	26.76	32
Massachusetts	2,799.75	8	34.96	14
Michigan	1,661.84	27	30.40	21
Minnesota	1,869.67	20	29.38	23
Mississippi	1,206.04	40	27.30	30
Missouri	1,333.38	35	24.87	35
Montana	1,840.47	21	33.67	16
Nebraska	2,171.52	13	36.31	11
Nevada	1,214.94	38	21.78	42
New Hampshire	3,307.24	4	47.95	4
New Jersey	3,538.32	2	48.49	3
New Mexico	935.55	47	19.50	45
New York	3,343.06	3	44.62	6
North Carolina	1,122.75	41	21.24	43
North Dakota	1,568.08	31	24.85	36
Ohio	1,551.82	32	28.00	25
Oklahoma	917.52	49	17.85	48
Oregon	1,812.89	23	30.90	20
Pennsylvania	1,678.13	26	26.78	31
Rhode Island	2,461.94	10	40.63	8
South Carolina	1,379.96	34	27.40	28
South Dakota	1,660.90	28	26.65	33
Tennessee	926.46	48	17.53	49
Texas	2,217.72	12	38.72	9
Utah	1,229.20	37	23.05	39
Vermont	2,991.72	6	51.21	2
Virginia	1,913.61	18	30.06	22
Washington	1,900.55	19	27.31	29
West Virginia	1,076.37	44	23.19	38
Wisconsin	1,783.25	25	31.22	18
Wyoming	2,160.19	14	33.89	15
U.S. Average	\$1,898.04		\$30.83	

Individual Income Tax Collections - State & Local FY2021				
State	Per Capita		Per \$1,000 of Income	
	Amount	Rank	Amount	Rank
Alabama	997.47	36	21.15	35
Alaska	-	-	-	-
Arizona	899.22	38	16.98	39
Arkansas	1,144.98	34	23.23	33
California	3,738.21	2	50.25	1
Colorado	1,763.21	15	26.58	24
Connecticut	2,831.40	4	35.57	10
Delaware	2,138.01	10	37.38	9
D.C.	3,952.23	1	41.43	5
Florida	-	-	-	-
Georgia	1,318.21	30	24.51	32
Hawaii	2,318.13	9	39.66	7
Idaho	1,290.72	31	26.16	27
Illinois	1,723.94	17	26.42	26
Indiana	1,729.49	16	31.91	13
Iowa	1,366.92	28	24.70	31
Kansas	1,572.00	22	27.27	19
Kentucky	1,528.10	24	31.22	15
Louisiana	850.02	40	16.10	40
Maine	1,506.84	25	27.32	18
Maryland	2,790.28	6	41.16	6
Massachusetts	2,816.07	5	35.17	11
Michigan	1,260.09	33	23.05	34
Minnesota	2,656.17	7	41.74	4
Mississippi	852.88	39	19.31	37
Missouri	1,329.51	29	24.80	30
Montana	1,708.01	18	31.25	14
Nebraska	1,594.35	21	26.66	23
Nevada	-	-	-	-
New Hampshire	107.13	43	1.55	43
New Jersey	1,816.31	14	24.89	29
New Mexico	566.41	42	11.80	41
New York	3,556.42	3	47.47	2
North Carolina	1,505.61	26	28.49	17
North Dakota	576.79	41	9.14	42
Ohio	1,412.45	27	25.49	28
Oklahoma	943.99	37	18.37	38
Oregon	2,644.76	8	45.08	3
Pennsylvania	1,689.59	19	26.96	21
Rhode Island	1,602.28	20	26.44	25
South Carolina	1,050.66	35	20.86	36
South Dakota	-	-	-	-
Tennessee	25.74	44	0.49	44
Texas	-	-	-	-
Utah	1,998.34	11	37.47	8
Vermont	1,906.04	13	32.63	12
Virginia	1,971.34	12	30.97	16
Washington	-	-	-	-
West Virginia	1,262.25	32	27.19	20
Wisconsin	1,536.71	23	26.90	22
Wyoming	-	-	-	-
U.S. Average	\$1,641.84		\$26.67	
44-State Avg.	\$2,037.55		\$32.79	