

Maricopa County Government Relations



End-of-Session Legislative Report 48th Arizona Legislature 2008 Second Regular Session



Maricopa County



Maricopa County

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FROM: DIANE M. SIKOKIS, DIRECTOR, GOVERNMENT RELATIONS

SUBJECT: 2008 LEGISLATIVE SESSION OVERVIEW

The 48th Legislature, Second Regular Session, adjourned sine die on Friday, June 27, 2008 at 10:09 p.m., on Day 166 of the session, which was the fourth longest in history.

A total of 315 bills were signed into law and 32 were vetoed. Unlike previous years, there were no line-item vetoes by the Governor.

The general effective date for bills is 90 days after legislative adjournment, which is Friday, **September 26, 2008**. This report provides the final overview of the 2008 legislative session from Maricopa County's perspective. Please let us know if we may provide any additional information or if you would like to be more fully briefed on any of the bills included in this report.

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In short, there are two things we can say about the 2008 legislative session for Maricopa County. First, the bills that needed to get passed were passed and those that needed to be killed were killed. All of the legislative proposals contained in the Board of Supervisors' legislative package were achieved. Second, with regard to the budget, it was bad, but

it could have been worse, given the reality of an historic \$2 billion-plus state budget shortfall.

Key outcomes were as follows:

• **Bills –**

A full description of the bills contained in the Board's legislative package are in the following section entitled "2008 Board Legislative Agenda", along with all of the other bills affecting the County in any way.

• **The Budget -**

The FY 2007-08 Budget:

Ten months after the '08 budget was passed during the 2007 legislative session, the Governor and House and Senate leadership came to an agreement on the fix for the FY 2007-08 budget deficit on April 17th.

HB 2620 addresses a \$1.37 billion '08 shortfall, with the ability to go up to \$1.57 billion if the '08 budget deficit turns out to be deeper. The legislation takes \$487 million from State's rainy day fund (leaving \$200 million); provides for \$300 million in fund transfers and sweeps; makes \$312 million in state agency reductions; and provides for a \$272 million K-12 rollover. Specifically for counties, as expected, the legislation provides that Maricopa and Pima counties will pay what would normally be the state share of ALTCS growth for FY 2007-08, in the amount of \$7,026,800. For Maricopa County, that amount comes to \$5.5 million.

The FY 2008-09 Budget:

The Legislature passed out a 7-bill \$9.9 billion '09 budget package at the close of the session, with the end product being essentially the Governor's budget. The bills passed in most cases with only the minimum 16 or 31 necessary, a combination of all of the Democrats and four moderate Republicans in each house. The alternative budget that had been developed by Speaker Weiers and his House leadership, along with the Senate Majority Leader and Whip, was never put to a vote as it lacked the necessary votes.

The seven bills contain virtually all of the Governor's priorities, with the exception of the prisoner shift to counties. There is NO prisoner shift to counties contained in the budget. As you know, it was an integral part of the Governor's budget plan, unveiled in mid-January of this year, to use photo radar, a shift of inmates to counties, and extensive borrowing to help balance

the state budget. Unfortunately, signs abound that the Executive will continue to push the ill-advised prisoner shift proposal.

Many observers are in agreement that never was a budget put together in more secrecy. All discussion was behind closed doors, and there was no public testimony and little to no discussion with stakeholders. Virtually everyone, outside of a handful of legislators who were actively engaged in negotiations with the Governor, saw the actual components and language of the budget for the first time only a few hours before its passage in the Senate.

The '09 budget bills provide for a \$344 million sweep of fund balances, \$361 million in state agency budget reductions, \$106 million in HURF transfers, a \$66 million reduction in building maintenance expenses and \$141 million in deferral of school construction, totaling more than \$1 billion. The rest of the rainy day fund was drained. Borrowing components include \$330 million in a K-12 rollover, \$587 million in K-12 lease-to-own and \$50 million in additional accounting options, totaling \$967 million. Also included in the budget was the Governor's \$1 billion-plus borrowing package for state universities, with debt service to be paid by revenue from an expanded state lottery. The budget also includes some additional transfers and reductions totaling \$36 million.

As an aside, the State – Maricopa County Healthcare District fight over federal disproportionate share funding (DSH) was resolved at the end of session with MIHS backing down from their lawsuit and receiving a DSH allocation of \$4,202,300.

The Governor signed all of the budget bills on June 27th.

The budget package is comprised of the following bills:

- HB 2209 - General Appropriations Act, 2008-2009 (Chapter 285)
- HB 2210 – Budget Reconciliation; Criminal Justice (Chapter 286)
- HB 2211- Budget Reconciliation; Education (Chapter 287)
- HB 2275 – Budget Reconciliation; Health (Chapter 288)
- HB 2278 – Capital Outlay; Fiscal Year 2008-2009 (Chapter 289)
- HB 2391 – Budget Reconciliation; General Revenues (Chapter 290)
- HB 2462 – Budget Reconciliation; Budget Procedures (Chapter 291)

Impact on Counties:

Maricopa County started out this session negotiating with House and Senate leadership on the budget. It was our intention, as we have in the past, to assist with the state budget deficit to a certain level and in a way that made good policy sense and also receive something of value in return. However,

the dynamics changed dramatically and the Governor took complete control of the budget process.

At one point in time, the fiscal hit to all counties was well upwards of \$100 million. The hit to Maricopa County was at various times anywhere between \$60million and \$80 million.

Now that we have had the opportunity to assess all of the bills, the overall impact to all counties is considerable, at approximately \$73.6 million. The overall impact to Maricopa County is also significant, at \$46 million.

The impacts for Maricopa County come in the following areas:

- HURF shift - \$5.8 million *[affects all counties, cities & towns, and state]*
- Our portion of the mandate "Contribution" from cities, towns and counties - \$4.7 million *[out of a total contribution amount of \$29,748,400 by cities, towns and counties into the state general fund]*
- ALTCS growth - \$22.3 million
- ALTCS Refund sweep - \$11 million
- Sweep of ALTCS circuit-breaker relief - \$1.8 million
- DPS lab reimbursements - \$446,080 *[affects all counties, cities & towns]*

Total - \$46 million

There were a few items on the plus side for counties in the '09 budget, in terms of what we thought would also be cut, but weren't. For Maricopa County these include:

- Summer Youth Employment - \$131,250
- Immigration Enforcement - \$1,430,000
- County Assistance Fund (Lottery) - \$249,772
- An overall State Tuberculosis appropriation of \$1.4 million to counties was retained, which goes to county health departments.

If there is any good news, it is that the impacts are one-time only monies, no formula changes. Also, contributions are, as we requested, excluded from the county expenditure limit.

Maricopa County did not receive any particular asset or property of value that we had asked for, and had spent months negotiating on. The Executive did not support the concept of Maricopa County receiving any property or deed restriction relief in return for our mandated contributions to the state budget deficit.

In addition, there is a much-needed flexibility component to help counties deal with the significant financial impact of being mugged by the State. The budget language allows, at the counties' request, considerable flexibility in how we pay for those impacts. Counties may use any county revenue sources including any countywide special district funds, in which the board of supervisors acts as the board of directors, to pay those contributions, except for HURF, which is restricted (of course the HURF hit will come from county HURF funds). In addition, the way county VLT monies may be used is expanded. These monies were formerly statutorily allocated only for highway and street purposes. The change now provides that they may be used for any other transportation-related uses as determined by the Board, such as signage, van pools, light rail, mass transit, etc., giving counties more discretion, if desired.

With regard to the DPS lab, the language provides that cities and counties must reimburse the state DPS lab for costs, in an unprecedented change of long-standing policy. It may be possible to stop using that lab; all options will be explored.

Given the flexibility tools that have been given to the county in terms of how to pay, OMB will work to analyze our options and make recommendations to the Board about how to best minimize the impact to the general fund. Because of this flexibility, it is the hope that any general fund impact will be minimal.

Photo radar, one of the Governor's priorities contained in her executive budget proposal, was also placed into the budget. A whole new statewide system of photo radar enforcement was included in the budget (HB 2210), unveiled, like everything else, just hours before passage. This may be a considerable, on-going impact to counties; it is hard to know exactly or even generally at this point. Counties had not been allowed by the executive branch to see any language whatsoever beforehand. In addition, counties received repeated promises that "they would be held harmless."

When the bill came out, it did precisely what we had talked about since January that we did NOT want to happen. That was to direct all of the new anticipated traffic citations directly into justice court, counting fully as Judicial Productivity Credits (JPCs), and not providing any revenues at all from the citations to counties to offset all of the new costs to both process the citations and build new justice courts given the likely impact on JPCs. All of the revenue goes to the state, with a portion going to DPS for its photo enforcement costs, and to the private vendor. The bill contains a \$4 million appropriation for the Supreme Court Administrative Office of the Courts

(AOC) but not a dime for counties to help with anticipated new expenses as a result of this program. The bill also has a \$20 million appropriation from the "photo enforcement fund" for the private vendor.

Fortunately, we were successful in working with CSA and the AOC to press hard to amend this bill on the Senate floor. The amendment, in concept, (and hopefully in practice) will allow those persons who choose to pay the fine after receiving the notice of violation to not have to go into justice court, but rather be treated in something of an "administrative" manner. Possibly only those who contest responsibility will have to go into justice court to exercise their due process, although this isn't clear. Further, the amendment suspends all impact on JPCs for one fiscal year, ending July 1, 2009. That will give counties a little bit of time to sort out the details and potential flaws of the program and analyze the cost and workload impacts.

The fine for each citation will be \$165 plus a 10% surcharge for clean elections. The violations do not count against a driver's record. The Supreme Court is to establish rules governing the issuance, service and processing of the notice of violation, including the rules permitting a person to admit responsibility and to pay, prior to a citation being filed in court. It will be important for counties to provide input and comment on these rules before adoption.

The insurance industry has been extremely critical of the fact that points against a person's drivers license are not assigned to the tickets. It may be anticipated that this industry may lobby to change that, but if successful it would probably be the case that a large number of people would then contest their citations and then many more cases would end up in court, thereby impacting the counties even more.

The new statute is somewhat poorly written with many gaps in how it is supposed to work, and there are many legal and practical questions regarding implementation and process. DPS has just announced an award of the contract to the private company Redflex, with the system set to become operational on September 26th of this year.



What's Next

Some have called this a "whistling past the graveyard" budget. It is likely already anywhere from \$100 million to \$300 million out of balance. It is extremely likely the '09 budget will have to be revised. Thus, the primary

issue still looming over the current Legislature, and the new one that will be seated in January of 2009, is, obviously, the budget. Revenues unfortunately continue to fall well below projections, and there is much speculation about the need to call a special session in the Fall after elections to make adjustments to the just-passed '09 budget. Some are already saying the projected deficit for next January could once again be at the \$1 billion or \$1.5 billion mark. There will be fewer budget-balancing tools left at legislators' disposal to address continuing deficits as they have all been used for this year. Thus, Maricopa County continues to be at grave risk with regard to the State budget. Whether a special session is actually called or not will depend a great deal, it can be presumed, upon election-year politics.

The First Regular Session of the 49th Legislature begins on Monday, January 12, 2009. The legislative landscape will be quite different as there are many members termed out, seeking a completely different office or trying to cross the mall to the other house, or who have decided not to run again. This includes sixteen members of the House and six members of the Senate.

Ballot Measures

Eleven measures are expected to be on the 2008 general election ballot. The Legislature referred only one ballot measure to the 2008 general election ballot during both the 2007 and 2008 sessions. The sole legislative referral was SCR 1042, dealing with Marriage; One Man, One Woman.

The business community had pushed hard for a repeal of the state equalization property tax after the governor's veto of the bill earlier in the session. The House passed the resolution in an effort to put it on the ballot, but the Senate did not hear it. So neither a repeal nor a further 3-year suspension of that property tax is going on the 2008 ballot. The Legislature still has the next session to deal with this issue if they desire before the tax comes back on the books.

While there were several proposals during the session to either statutorily or constitutionally establish levy limits for secondary property taxes in the way that primary taxes are currently limited, no bills were passed. Under these measures, countywide special districts would have their secondary levies limited to the same annual percentage growth of a county's primary levy limit, which is annually increased by 2% plus growth allowed for new construction. Maricopa County already voluntarily limits growth in secondaries. There was some discussion toward the end of the session of legislative leadership referring this issue to the ballot, but they did not do so.

The following is an overview of the 11 ballot propositions for the November 4, 2008 General Election. A detailed description of each measure can be found at the end of the report. *(Keep in mind that it is conceivable that not all measures will ultimately make the ballot if there are any successful legal challenges to sufficiency of signatures or other requirements for validity.)*

Six Constitutional Measures (100 Series):

- Proposition 100 - "No New Home Tax"
- Proposition 101 - "Medical Choice for Arizona"
- Proposition 102 - "Marriage; One Man; One Woman"
- Proposition 103 - "Conserving Arizona's Water and Land"
- Proposition 104 - "Arizona Civil Rights Initiative"
- Proposition 105 - "Majority Rules - Let the People Decide"

Four Statutory Initiatives (200 Series):

- Proposition 200 - "Payday Loan Reform Act"
- Proposition 201 - "Homeowners' Bill of Rights"
- Proposition 202 - "Stop Illegal hiring Act"
- Proposition 203 - "Transportation and Infrastructure Moving Arizona's Economy (TIME) Act"

One Statutory Referendum (300 Series):

- Proposition 300 - "Legislative Pay Raise"



Thank you, everyone, for your help and support during a very difficult session. Once again this year, the personal involvement of Board members, our county elected officials and the County Manager or Deputy Manager in the process at crucial times was key. In these difficult budget times, counties remain very much at risk.

Within Maricopa County, legislative development is underway for the 2009 legislative session. We look forward to working on the Board's and County management's priorities, and assisting other county elected officials in any way possible. A legislative development request form for 2009 has been sent out to all the county departments, and can be linked to on the EBC.



End-of-Session Report 2008

48th Arizona Legislature, Second Regular Session

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☐ MARICOPA COUNTY BOARD OF SUPERVISORS 2008
LEGISLATIVE AGENDA:

[Bills in this report are noted in Chapter order, and an “E” next to the chapter number denotes an emergency measure.]

HB 2426 – Waste Tire Collection Sites
(Chapter 45) Barnes

Because of the County’s concern about waste tire disposal sites within Maricopa County permitted by the Arizona Department of Environmental Quality (ADEQ), where it was becoming increasingly clear that thousands of tires were being stockpiled with no intention to recycle or properly dispose of them, the County took the lead on this statewide legislation designed to give ADEQ more authority over these potentially dangerous conditions and strengthen the State’s ability to require proper disposal. This legislation requires waste tire collection sites with at least 500 waste tires stored for more than 12 months to register with ADEQ and obtain approval of a solid waste facility plan. Under current law, waste tires are sent to either a waste tire facility or waste tire collection site (WTCS) designated by the county. Each county must provide at least one WTCS within their jurisdiction. The bill also designates waste tires, among other materials, as a public nuisance dangerous to public health if they are stored in a manner that provides conditions suitable for breeding carriers of communicable disease or may result in accidental fire with the release of toxic fumes. It also requires a waste tire collection site to obtain Solid Waste Facility Plan approval from ADEQ and mandates that the ADEQ require that every waste tire be lawfully disposed of in accordance with §44-1304 within twelve months of receipt.

HB 2113 – Municipal Annexation; Finality
(Chapter 95) McClure

Current law falls short in requiring cities and towns to officially notify a county when an annexation has been completed. Currently, A.R.S. Section 9-471 outlines the process for municipal annexations. Annexing municipalities must file a blank petition in the County Recorder’s office that describes and provides an accurate map of all the exterior boundaries of the area proposed to be annexed. Notice and a copy of the filing must be given to the Clerk of the BOS and to the County Assessor. However, there have been many instances where there has been jurisdictional confusion, and a lack of clarity or notification regarding the *finality* of the process; as to when or if an annexation has actually taken place. The bill is intended to solve the problems created when annexation occurs but no final notice is given to the county to change the property’s taxing status. The legislation requires a municipal clerk to provide a copy of an adopted annexation ordinance to the Clerk of the Board of Supervisors (BOS) of each county that has jurisdiction over the annexed area.

The bill now requires city and town clerks to notify the county Clerk of the Board when an annexation has been finalized. Annexations can only be finalized after the expiration of thirty days from the adoption of the ordinance annexing the territory by the city or

town governing body, provided the annexation ordinance has been finally adopted in accordance with procedures established by statute, charter provisions or local ordinances, whichever is applicable, subject to the review of the court to determine the validity thereof if petitions in objection have been filed.

**HB 2406 – County Auctions; Easement Exemption
(Chapter 105) Nelson**

Utility easements benefit the citizens and the taxpayers and are public projects. If utility companies did not have to go through a protracted auction process for public projects, citizens would be able to receive their utility services faster than currently experienced. The legislation allows a county, with unanimous consent of the Board of Supervisors (BOS), to grant an easement on county property to a utility for public purposes without public auction. A.R.S. Section 11-251, paragraph 9, requires all property belonging to a county be sold by public auction. This bill expedites public utility easements acquisitions by not requiring public auction if the land is to be acquired by a public utility. Utilities are currently defined as any public service corporation, licensed cable television system, telephone line or telegraph line corporation or person engaged in the generation, transmission or delivery of electricity, gas, telephone, cable television, telegraph or water service, including Arizona or any of its political subdivisions or agencies.

**HB 2420 – Flood Control Districts; Property
(Chapter 107) Nelson**

This legislation exempts County Flood Control District's (FCD) sales from advertising and auction requirements (A.R.S. Sections 9-402 and 9-403) when selling excess land to the state and other county agencies. Currently, an FCD is exempt from A.R.S. Sections 9-402 and 9-403 when the district is selling property to a political subdivision. The bill expands the definition of political subdivision to include state agencies and county agencies. The change was intended to allow county FCDs to sell excess property quickly to public agencies that may have an immediate need such as roadway or bridge projects. After receiving excess FCD property, if a political subdivision sells the property, it is required to pay the difference between the original price and the subsequent sale price, should the subsequent sale price exceed the original sale price.

**HB 2582 – Food Safety Regulation
(Chapter 149) Stump, Allen**

The legislation makes changes to the exemptions that exist for food and drink safety regulation. A.R.S. § 36-136 requires the Director of the Department of Health Services (DHS) to establish rules to protect the public regarding food and drink sold at the retail level for human consumption. Counties are required to enforce these rules through inspections of establishments that sell these items to the public. Current statute exempts certain food and drink from the rules established pursuant to A.R.S. § 36-136. Because of food-borne illness outbreaks across the country related to "non-potentially hazardous foods," (lettuce, spinach, chili, etc.) the need for inspection and recall ability over this food category has been reemphasized.

Exemptions from regulation include food and drink that are:

- served at noncommercial social events or at a workplace;
- prepared at a cooking school;
- whole fruits and vegetables that are washed and cut on site and offered at a child care facility;
- commercially prepackaged food and drink that is not potentially hazardous and is sold and displayed in an area of less than ten lineal feet.

SB 1288 – Local Storm water Pollution Prevention (Chapter 192) Flake, Rios

The federal Clean Water Act requires state and local governments to regulate and permit storm water discharge that is released into the waters of the United States. Currently, Maricopa County is working on a permit with the State ADEQ and may soon be a regulating agency for the program. In order to meet the financial burdens of this mandated regulation, the County must be able to require the payment of appropriate fees from those being regulated, for cost recovery purposes. Statutory changes were required in order to implement this program in a fiscally responsible manner.

This bill authorizes counties to implement a storm water quality regulatory process as required under the Clean Water Act. According to the Environmental Protection Agency (EPA), the National Pollutant Discharge Elimination System (NPDES) permit program controls water pollution by regulating point sources that discharge pollutants into waters of the United States. Point sources are discrete conveyances such as pipes or man-made ditches. Individual homes that are connected to a municipal system that use a septic system or do not have a surface discharge do not need an NPDES permit. However, industrial, municipal and other facilities must obtain permits if their discharges go directly to surface waters.

In 2002, Arizona, along with 45 other states, was given authorization from EPA to operate the NPDES program at the state level. The ADEQ offers two specific types of permits: individual permits and general permits. An individual permit is tailored for a specific facility based on an individual application. These permits are known as Arizona Pollutant Discharge Elimination System (AZPDES) permits. The permit is then issued for a specified period of time not to exceed five years. A general permit is developed and issued to cover multiple facilities within a specific category, industry or area. General permits offer a cost-effective and efficient option for agencies to cover a large number of facilities with elements in common under one permit.

The bill allows counties that are required by the Clean Water Act (CWA) to obtain coverage under the NPDES program to develop and implement storm water pollution prevention plans and storm water management programs. They may also adopt rules, regulations or ordinances regulating the use of lands or rights-of-way owned or leased by the county to implement and enforce its NPDES program, enforce the ordinances, rules or regulations and seek a civil penalty of not more than \$2,500 for each violation. The bill also caps fees counties may charge at the reasonable costs of the county to issue and administer permits, review plans and conduct inspections. Fees cannot be

used to fund storm water infrastructure costs and prohibits any ordinance, rule, regulation or storm water management program development program from being more stringent than or conflict with any requirement of the CWA.

**SB 1476 – Probation; Facilities; Safe Communities Act
(Chapter 298) Huppenthal, Gray L.**

This innovative legislation allows the court to adjust a person’s length of probation if the person has qualified for earned time credit. It provides a process for a portion of the cost savings from a reduction in probation revocations to be used for probation programs. Currently, if a court sentences a person to probation, the court is allowed to set conditions of probation that may promote rehabilitation, and a probation officer is allowed to impose on the probationer regulations that will help implement the conditions of probation set by the court. These conditions of probation must be given to the probationer in writing (Rules of Criminal Procedure, Rule 27.1). The conditions of probation or the regulations implementing the conditions of probation may be modified or added to during the term of probation (A.R.S. § 13-901 & Rule 27.3). Conditions of probation may include such things as fees, jail time and restitution. The court may also revoke a person’s probation in accordance with the Rules of Criminal Procedure if the person commits an additional offense or violates a condition of probation (A.R.S. § 13-901).

The legislation was brought forward through the efforts of Maricopa County, the Pew Institute and the Council of State Governments (CSG) in an effort to reduce recidivism, particularly with regard to probation revocations and allows the court to adjust a person’s length of probation if the person has qualified for earned time credit. It also provides a process for a portion of the cost savings from a reduction in probation revocations to be used for probation programs. The law requires JLBC staff to annually calculate any costs that have been avoided by reducing the percentage of people on supervised probation from each county whose probation is revoked and who are sentenced to serve a term of imprisonment in the Arizona Department of Corrections and requires the Legislature, beginning in FY 2010-2011, to annually appropriate to the Administrative Office of the Courts (AOC) up to 40% of any cost savings calculated by the JLBC. The funds are deposited in the adult probation services fund of each county if there is a reduction in the percentage of people from that county who are on supervised probation and who are convicted of a new felony offense.

We thank David Smith for his particular hard work and involvement in passage of this legislation.

□ BUDGET BILLS FOR FISCAL YEARS 2008 AND 2009

**HB 2620 – Budget Adjustments; Fiscal Year 2007-2008
(Chapter 53) Boone**

The legislation makes various budget revisions, transfers, reversions, capital spending changes and supplemental appropriations in order to balance the FY 2007-08 state

budget. The measure to balance the FY 08 budget included \$300 million in state agency reductions, \$300 million in fund transfers, a \$270 million dollar K-12 rollover and a \$487 million withdrawal from the state rainy day fund. Most of the impact to the County was contained in the \$5.5 million dollar shift from the state to Maricopa County for the state share of the years ALTCS growth.

**HB 2209 – General Appropriations Act; 2008-2009
(Chapter 285) Burns J.**

The legislation makes state General Fund (GF) and other fund (OF) appropriations for FY 2008-09 for the operation of state government and makes various budget revisions, transfers and supplemental appropriations. The bill cuts a total of \$360 million from state agency budgets and sweeps \$340 million from existing fund balances. Direct impacts to the counties include a \$106 million dollar HURF shift from local governments to the state DPS fund (all-county impact is approximately \$14 million). It also requires all counties, cities and towns to contribute \$29,748,400 into the state general fund to help offset the state's budget deficit. The amount transferred to the state general fund by each entity is to be calculated by the Joint Legislative Budget Committee (JLBC), who shall publish the allocations by August 31, 2008. For Maricopa County, this amount should be \$4, 719,523.

**HB 2210 – Budget Reconciliation; Criminal Justice
(Chapter 286) Burns J.**

The legislation makes numerous changes related to criminal justice in order to implement the FY 2009 budget. Benefits to the counties include the increase in filing fees, the permanent increase in the court charged "time payment fee" of \$20 (up from \$12) and the continuation of the split cost for Justice of the Peace salaries between the State and counties. The bill provides that the Supreme Court is to periodically charge local probation fee accounts for costs associated with GPS devices mandated for probationers. This legislation also established a statewide photo radar system designed to increase State revenues, while eliminating any consequences to the driver other than a financial penalty. The potential for a detrimental impact on the counties' court systems is worrisome as the new law is not clear as to how the system is to operate and how funds are to be exchanged to pay for services.

**HB 2211 – Budget Reconciliation; Education
(Chapter 287 Without Emergency) Burns J.**

The legislation alters the lottery distribution formula, requiring lottery revenues to be placed in the State Lottery Fund for distribution to lottery beneficiaries (including LTAF I and the County Assistance Fund); amends the LTAF II statute, deleting the existing percentage cap and establishing an annual base of \$9 million, with an annual increase of up to 10%, up to a total of \$18 million; and appropriates \$9.5 million in FY09 to LTAF II. The bill also calls for university capital construction of up to \$1 billion to be bonded and paid for through the use of the state lottery funds.

**HB 2275 – Budget Reconciliation; Health
(Chapter 288) Hershberger, Alvarez**

The legislation sets county AHCCCS acute care contributions for FY 09 at a total of \$49.6 million (Maricopa's portion is \$21,552,700) and county ALTCS contributions for FY 09 at a total of \$256.6 million (Maricopa's portion is \$160,744,800). It also requires counties to contribute a total of \$2.6 million in FY 08 for the AHCCCS Disproportionate Uncompensated Care (DUC) Pool and \$2.8 million for expanded Prop. 204 administration charges. It specifies that for FY 09, county contributions to AHCCCS for Proposition 204 administrative costs and the DUC Pool are excluded from the county expenditure limit. The bill directs \$4.2 million of the federal disproportionate share (DSH) payments to the Maricopa Special Health Care District.

The biggest impact to Maricopa County includes the establishment of an additional contribution to backfill state costs to the ALTCS program, requiring Maricopa County to pay \$24,168,400 and Pima County to pay \$3.8 million in FY 09. It does specify that, notwithstanding any other law, any county revenues can be used to pay the costs, including resources from a countywide special taxing district, and allows these additional contributions to be exempt from county expenditure limits. It also prevents counties from receiving refunds they would normally be owed on overcharges to AHCCCS in FY07 and FY08, sweeping \$17.8 million in monies that were scheduled to be county refunds.

**HB 2278 – Capital Outlay; Fiscal Year 2008-2009
(Chapter 289) - Hershberger**

The legislation makes appropriations from the state General Fund and other funds for various capital projects in FY 09 and designates \$305.6 million from the State Highway Fund for state highway construction.

**HB 2391 – Budget Reconciliation; General Revenues
(Chapter 290) Hershberger, Rios**

The legislation establishes a minimum annual distribution of Urban Revenue Sharing funds to incorporated cities and towns to at least equal the amount a city or town with a population of 1,500 or more receives. It also suspends the Highway User Revenue Fund (HURF) and State Highway Fund statutory spending caps for monies used to fund DPS highway patrol costs.

**HB 2462 – Budget Reconciliation; Budget Procedures
(Chapter 291) Burns J.**

The legislation allows county Boards of Supervisors to determine transportation-related purposes that qualify for funding from VLT designated for county transportation purposes, expanding the definition beyond the current statutory HURF description. The bill also allows increased fee authority designated to DPS to be used to charge county and municipal law enforcement entities for costs associated with analyses performed at the DPS crime lab. The legislation also specifies that counties may use any source of revenue, including monies from a countywide special taxing district, to cover any impact from the increased fees from these agencies.

□ COURTS / CRIMINAL JUSTICE/ PUBLIC SAFETY:

SB 1013 – Arrest Warrants; Child Support; Fiduciary (Chapter 7) Gray C.

The legislation removes the declaration that facsimiles of judicial officers' signatures that are applied to fiduciary and child support arrest warrants under the supervision of judicial officers are deemed to be the authorized signatures. A child support arrest warrant is "an order that is issued by a judicial officer in a noncriminal child support matter and that directs a peace officer in this state to arrest the person named in the warrant and bring the person before the court" (A.R.S. § 25-681 (E)).

SB 1021 – Community Notification (Chapter 9) Gray C.

This legislation adds a cross-reference to the sex offender community notification statutes pertaining to the annual probation hearing for a probationer who is under 22 years of age. Current statute orders the information of any offender registered by DPS to the sheriff in the county where the offender is registered. After receiving this information from DPS, the sheriff must forward the information to local law enforcement at which time local law enforcement must categorize the offender and place the offender into a notification level (Level 1, Level 2 or Level 3). Within 45 days, local law enforcement must notify the community of the offender's presence in the community.

SB 1056 – Law Enforcement Merit System; Continuation (Chapter 10) Gray C.

The statutory life of the Law Enforcement Merit System Council (Council) is extended for another seven years, to July 1, 2015. The Council was created from the Arizona Highway Merit System Council in 1967. The Council is responsible for developing rules and procedures for personnel management of the Department of Public Safety (DPS) and the Arizona Peace Officer Standards and Training (AZPOST).

SB 1057 – Law Enforcement Officer; Definition; Representation (Chapter 40) Gray C.

This legislation excludes a detention, correction, probation or surveillance officer who is a probationary employee from provisions relating to interviews that may lead to their dismissal, demotion or suspension or from provisions relating to evidence during an appeal of a disciplinary action. Currently, law enforcement officers and probation officers have the right to request representation during an interview that the employer reasonably believes will result in dismissal, demotion or suspension. Before the interview may begin, the employer must inform, in a written notice, the law enforcement officer or the probation officer of the following information: specific nature of the investigation; officer's status in the investigation; all known allegations of misconduct that are the reason for the interview; and the officer's right to have a representative present at the interview (A.R.S. § 38-1101).

**SB 1050 – Court Reporter Certification
(Chapter 54) Gray L.**

This legislation authorizes the Arizona Supreme Court (Court) to adopt administrative rules to determine the duration of certification for court reporters. Currently, the Board of Certified Court Reporters (Board) makes recommendations to the Court regarding program rules, policies and procedures for applicant testing, fees, codes of conduct, continuing education requirements and testing methods. The Board issues certificates to successful applicants and requires applicants for renewal to submit documented proof of 10 hours approved continuing education by December 31 of each year.

**SB 1022 – Jury Fees; Technical Correction
(Chapter 76) Gray C.**

This legislation corrects a statutory cross-reference relating to the compensation given to persons serving on a state grand jury. According to A.R.S. § 21-428, persons serving on a state grand jury must be compensated by the county in which the assignment judge is serving for reasonable per diem expenses as established by the Supreme Court in addition to other fees and amounts. Currently, the counties must pay jurors \$12 per diem for serving on the Superior Court or a Justice Court and must also reimburse jurors for the mileage necessary to travel to the court. The laws of 2007 Ch. 199, § 28 amended A.R.S. § 21-428 by replacing the reference to “fees and amounts stated in section 21-221” with a reference to “fees and amounts stated in section 21-211.” A.R.S. § 21-211 stipulates which persons shall be disqualified to serve as jurors in any particular action. It does not, however, specify any fees or amounts due to jurors.

**SB 1186 – Judicial Performance Reviews; Court Commissioners
(Chapter 82) Gray C.**

This legislation requires the Arizona Supreme Court to adopt and administer a process for evaluating Superior Court Commissioners in counties with a population of 250,000 persons or more. As established by Supreme Court rule, Commissioners are currently allowed to hear and determine various types of cases including the dissolution of marriages, the garnishment of monies, property or earnings, the Uniform Enforcement Support Act, trusts, estates, protective proceedings and mental health.

**HB 2129 – Internet Age Misrepresentation
(Chapter 97) Robson**

This legislation specifies that a person commits *unlawful age misrepresentation* if the person is at least 18 years of age and knowingly, or has reason to know, that the recipient of communication is a minor, and uses an electronic communication device to knowingly misrepresent the person’s age for the purpose of committing an offense that would require registration as a sex offender. The bill defines an *electronic communication device* as any device that is capable of transmitting visual depictions.

**HB 2443 – Constables; Ethics; Training
(Chapter 109) Kavanagh, Pearce**

This legislation increases the minimum amount of annual training that constables are required to attend from 8 hours to 16 hours and allows the monies from the Constable

Ethics Standards and Training Fund to be used to pay for constable training. The Constable Ethics Standards and Training Board is responsible for adopting a code of conduct for constables, investigating written complaints involving a constable's ethical conduct and providing training and support programs for constables (A.R.S. § 22-137). In addition, the mandatory training courses for constables (including an initial basic training course and additional training each year) must be approved by the Arizona Peace Officer Standards and Training Board. The initial basic training course for newly elected constables must be completed within 6 months after election and covers topics including civil and criminal processes, conflict resolution and firearm safety. In subsequent years, constables must annually attend additional training. Currently, at least 8 hours of additional training is required per year (A.R.S. § 22-137).

**HB 2554 – Justice Courts; Criminal Actions; Jurisdiction
(Chapter 138) Biggs**

This legislation expands, for purposes of determining jurisdiction in a Justice of the Peace (JP) court, the restriction of calculating a penalty assessment to include other added assessments. A time payment fee is a fee of \$20 assessed to each person who pays a court ordered penalty, fine or sanction on a time payment basis and includes parking penalties, restitution and juvenile monetary assessments. Time payment basis is defined as any penalty, fine or sanction not paid in full on the date the court imposed the fine, penalty or sanction (A.R.S. § 12-116). There is no anticipated fiscal impact to the state General Fund.

**HB 2623 – Constables; Peace Officers Status
(Chapter 150) Pearce, Burges, Burns J., Gallardo, Nelson, Hale, Harper**

This legislation states that constables have the authority of a peace officer in the performance of their official duties, and deputy constables must meet minimum peace officer qualifications set by AZPOST.

**HB 2444 – Aggravated Assault; Constables
(Chapter 179) Kavanagh, Pearce**

The legislation adds constables and persons summoned and directed by constables to the list of persons against whom assault is classified as aggravated assault. Aggravated assault as described in A.R.S. § 13-1204 (A) (8) is a Class 6 felony unless the offense results in physical injury to a prosecutor or to a peace officer while the peace officer is engaged in the execution of any official duties, in which case the offense is a Class 5 felony.

**SB 1043 – CORP; Judiciary; Other Designated Positions
(Chapter 185) Tibshraeny**

This legislation allows the local judicial board to designate a position within the Administrative Office of the Courts as a Correction Officers Retirement Plan (CORP) position and limits the designation of CORP positions to those that provide training or technical expertise to probation, surveillance or juvenile detention officers.

**SB 1339 – Law Enforcement; Probation; Officers; Investigations
(Chapter 193) Gray L., Blendu, McClure, Nelson**

This legislation allows for law enforcement officers and probation officers to be subject to a polygraph test during the course of an investigation of the officer that may lead to dismissal, demotion or suspension if conflicting statements made by the officer need to be reconciled with information known by the officer's employer. The bill also modifies procedures for appeals of disciplinary actions by law enforcement officers and probation officers.

**SB 1355 – Attempted Dangerous Crimes Against Children
(Chapter 195) Pesquiera, Aguirre, Burton Cahill**

The bill adds certain preparatory offenses involving any of the following crimes committed against a minor under 12 years of age to the list of Dangerous Crimes Against Children in the second degree that are classified as Class 3 felonies with presumptive terms of incarceration of 10 years:

1. Second degree murder;
2. Sexual assault of a minor;
3. Sexual conduct with a minor; and
4. Manufacturing methamphetamine under circumstances that cause physical injury to a minor.

**SB 1440 – Child Dependency Cases; Performance Standards
(Chapter 197) Landrum Taylor**

This legislation instructs the Administrative Office of the Courts (AOC) to establish, review and report on judicial performance standards for courts that manage child dependency cases. When a child is removed from the home as a result of allegations of child abuse or neglect, current statute requires the court to conduct dependency and related hearings within specified timeframes. For example, the court must hold an initial dependency hearing within twenty-one days of filing of a dependency petition, unless service by publication is required. Dependency adjudication hearings must be completed within ninety days after the dependency petition is served, unless there is a court order for in-home intervention. A thirty-day extension is available if good cause is shown or extraordinary circumstances occur (A.R.S. § 8-842). After the dependency adjudication hearing, a disposition hearing must occur, and may be held the same day but no later than thirty days following adjudication (A.R.S. § 8-844). The court is also required to conduct a permanency hearing within thirty days after the disposition hearing if reunification is not ordered (A.R.S. § 8-862). In contested dependency cases, all contesting parties must participate in a court-ordered mediation, settlement conference or pretrial conference. The court considers mitigating factors such as the availability of reunification services available to the parents and the parents' ability to participate in such services. If a parent fails to attend a pretrial conference, settlement conference or dependency adjudication hearing, their absence can be deemed an admission of the allegations and the court may make a determination of dependency and disposition contingent upon the evidence presented.

**HB 2248 – Electronic Communications; Harassment; Order; Protection
(Chapter 205) Robson**

The legislation requires the court to review any evidence of harassment by electronic contact or communication that is submitted to the court by plaintiffs who are filing petitions for injunctions prohibiting harassment or for orders of protection. According to A.R.S. § 13-3602, an order of protection is issued when the court determines that there is reasonable cause to believe that a defendant may commit or has recently committed an act of domestic violence. The order may provide the plaintiff several kinds of protective relief, including granting the plaintiff exclusive use of the home, removing all firearms from the defendant's possession, and restraining the defendant from contacting or coming near the plaintiff or other designated persons. According to A.R.S. § 12-1809, an injunction against harassment is issued when the court finds reasonable evidence of harassment within the last year. The injunction may order the defendant to stop the harassment and may restrain the defendant from contacting or coming near the plaintiff or other designated person. Harassment is defined as "as a series of acts over any period of time that is directed at a specific person and that would cause a reasonable person to be seriously alarmed, annoyed or harassed and the conduct in fact seriously alarms, annoys or harasses the person and serves no legitimate purpose."

**HB 2480 – Aggravated Luring; Minors; Sexual Exploitation
(Chapter 219) Adams**

The legislation stipulates that a person commits aggravated luring a minor for sexual exploitation if the person does both of the following:

1. Knowing the character and the content of the depiction, uses an *electronic communication device* to transmit at least one visual depiction of material that is harmful to minors for the purpose of initiating or engaging in communication with a recipient who the person knows or has reason to know is a minor; and
2. By means of the communication, offers or solicits sexual conduct with the minor. The offer or solicitation may occur before, contemporaneously with, after or as an integrated part of the transmission of the visual depiction.
The bill also classifies *aggravated luring a minor for sexual exploitation* as a Class 2 felony.

**SB 1070 – Concealed Weapons Permit; Qualifications; Instructors
(Chapter 263) Gray C.**

This legislation modifies training requirements for applicants seeking a concealed weapons (CCW) permit and for instructors providing firearms safety training. Currently, the required initial training course to obtain a CCW permit is eight hours in length and must address six issues: 1) the legality of use of deadly force; 2) weapon care and maintenance; 3) mental conditioning for the use of deadly force; 4) safe handling and storage of weapons; 5) marksmanship; and 6) judgmental shooting. Firearm safety instructors (instructors) must meet the six eligibility requirements required of CCW applicants and have completed an approved firearms safety training instructor program provided by the Arizona Peace Officers Standards and Training Board, the National

Rifle Association or a federal law enforcement agency. Additionally, instructors must complete an eight-hour DPS approved firearms safety training program provided by an approved training organization or hold a valid CCW permit. Instructors must be affiliated with an approved firearms safety training organization.

**HB 2634 – Concealed Weapons Permit; Felony Convictions
(Chapter 269) Murphy, Groe, Pearce, Kavanagh**

This legislation allows, under specified circumstances, persons who have been convicted of a felony to obtain a concealed carry permit (CCW). According to current statute, every person convicted of a criminal offense, on fulfillment of the conditions of probation or sentence and discharge by the court, may apply to the sentencing court to have the judgment of guilt set aside, which dismisses the accusations or information and releases the person from all penalties and disabilities resulting from the conviction. Statute precludes certain criminal offenses, which includes offenses that involve the infliction of serious physical injury or the use or exhibition of a deadly weapon.

**HB 2453 – Children; Open Court Proceedings
(Chapter 278) Paton, Adams, Burges, Murphy**

The legislation mandates that court proceedings regarding dependent children, permanent guardianship and termination of parental rights be open to the public. In 2003, the Arizona Legislature passed House Bill 2024 and Senate Bill 1304 which required a pilot program be implemented to assess the impact of opening dependency hearings to the public. The program was to be analyzed and monitored by the Department of Economic Security/Division of Children Youth and Families and the Administrative Office of the Courts. The legislation required a list of questions to be answered regarding the open hearings. The final report was published March 5, 2006. The report concluded that any impact on open dependency hearings was minimal, but warned of the practical application of these findings based on the low volume of non-party courtroom attendance.

**SB 1412 – Biological Evidence; Retention; Preservation
(Chapter 282) Huppenthal, Allen C.**

This legislation requires all identified biological evidence that is secured in connection with a felony sexual offense or homicide to be retained for specified periods of time and specifies fingerprint requirements for certain offenses. In 2005, the Arizona Legislature created the Cold Case Task Force (Task Force). Its responsibilities were to: 1) review procedures used by law enforcement agencies in investigating and preserving cold case homicides; 2) review procedures used by law enforcement agencies in investigating recent homicides; and 3) receive comment from members of victims' families and members of the public. The Task Force issued a report of its findings in December 2007 which recommended developing reasonable standards, through a working group, for the retention of evidence in light of advances in cold case resolution, the needs of victims and victims' families, post conviction analysis and the statutes of limitations on criminal offenses. According to the Task Force report, it is the responsibility of the individual city police department, sheriff's office or state law enforcement agency to determine when evidence or records are to be retained or destroyed; currently, there

are no uniform policies or procedures. All crime laboratories in Arizona cut a small portion of analyzed biological stains and preserve them for future analysis, if necessary. The Department of Public Safety and the City of Phoenix currently preserve these cuttings for a period of 99 years and all crime labs stated they are changing their policies to retain cuttings for a period of 99 years.

**HB 2194 – Military Facility; Reservations; Security
(Chapter 300E) Nelson**

The legislation is an emergency measure that establishes a class 6 felony for committing a criminal trespass on a military reservation or facility. The bill additionally allows the Department of Emergency and Military Affairs (DEMA) to adopt security methods consistent with U.S. Department of Defense directives and requires DEMA employees to obtain and submit a fingerprint clearance card. DEMA is an executive agency consisting of the Army and Air National Guards, the Division of Emergency Management and the Joint Programs Division. The role of DEMA spans from preparing and coordinating emergency response plans for the state to operating Project Challenge, an educational program for at-risk youth. Pursuant to A.R.S. Section 13-1503, a person commits criminal trespass in the second degree by knowingly entering or remaining unlawfully in or on any nonresidential structure or in any fenced commercial yard. Criminal trespass in the second degree is a class 2 misdemeanor which is punishable by up to four months in jail and a \$750 fine.

**HB 2701 – County Graffiti Abatement; Procedures
(Chapter 307) Burns J.**

The legislation allows the courts to order a juvenile's parent or guardian to help the juvenile perform community restitution if the juvenile is guilty of a second graffiti offense, allows a retail business to determine how to restrict the retail display of potential graffiti tools and requires counties to deny kennel permits to people convicted of certain animal welfare laws.

□ ELECTION ISSUES:

**SB 1071 – Sample Ballot Stripe; Primary Elections
(Chapter 11E) Gray C.**

This legislation allows the sample primary election ballots to be printed on white paper with a colored stripe. Current law requires the county Boards of Supervisors to mail a sample primary election ballot of a political party to every household that contains a voter who is registered as belonging to that political party. The sample ballots must be mailed at least 11 days before the primary election. The cost of printing, labeling and mailing the sample ballots is paid from the funds of Secretary of State's office, based on authenticated claims that are submitted by the county Boards of Supervisors. Pursuant to current law, the sample primary election ballots must be printed on colored paper. SB 1071 would also allow the ballots to be printed on white paper with a colored stripe.

**SB 1059 – Elections; Counting Center Video; Multiple
(Chapter 41) Harper**

This legislation repeals A.R.S. § 16-621, as amended by Laws 2007, Ch. 259, § 1, relating to live video recordings of the proceedings at ballot counting centers. The language repealed by this act conflicted with an alternate version as contained in Laws 2007, Chapter 295. Currently, A.R.S. § 16- 602 provides that a hand count be conducted at the central counting center from at least two percent of the county precincts or two precincts, whichever is greater. Only ballots cast at the polling places and ballots from direct recording electronic machines are counted. Provisional ballots, conditional provisional ballots and write-in votes are not included in the hand count. One or more batches of early ballots are selected by the election officer for a post-election manual audit, randomly selecting a number equal to one percent of the total number of early ballots. The county chairman of each represented political party designates and provides the election board members to perform the hand count under the supervision of the county officer in charge of elections.

**HB 2257 – Precinct Registers; Information Fee
(Chapter 50) Hershberger**

This legislation reduces the price of official electronic copies of precinct lists from ten cents per name to one cent per name. As provided by A.R.S. § 16-168, official copies of precinct registers are available for purchase from the county recorders' offices. These lists may only be used for purposes relating to political or political party activities, political campaigns or elections, for revising election district boundaries or for any other purpose specifically authorized by law; however, the lists may not be used for commercial purposes.

**HB 2213 – Uniformed Overseas Voters; Electronic Transmittal
(Chapter 62) Paton**

This legislation allows the county recorder or other officer in charge of elections to receive completed early ballot forms from absent uniformed services and overseas voters via electronic formats other than fax. A.R.S. § 16-543 allows absent uniformed services and overseas voters to request an early ballot with a federal postcard application that contains both an early voter registration application and an early ballot application. The county recorder must transmit early ballot request forms, unvoted ballots and ballot information by fax or by other electronic format to eligible uniformed services and overseas voters. Currently, the county recorder must provide for receipt of the completed early ballot requests and voted early ballots by fax.

**HB 2451 – Election Security Provisions
(Chapter 110) Reagan, Barto, Paton, Stump, Blendu, Gray L., Harper**

This legislation outlines procedures relating to the oversight of management software and computer programming used for county election administration, the contents and printing of sample ballots, the tabulation of votes, the processing of damaged ballots and the tracking of ballots and election equipment. Prior to any election in which electronic voting devices are used, the Board of Supervisors or other authority in charge of elections is required to have the voting devices prepared for the election and mail a

notice to the chairmen of the county committees of the different political parties. The notice must state when and where the voting devices may be inspected before they are sealed and delivered to the polling places (A.R.S. § 16-447).

**HB 2793 – Census; Precinct Line Freeze
(Chapter 154) McComish**

This legislation prohibits county Boards of Supervisors from changing election precinct lines after July 31, 2008 until January 1, 2011. Allows the Boards, after July 31, 2008 and until January 1, 2011, to: subdivide an election precinct for administrative purposes; or provide for more than one polling place within the boundaries of the election precincts and require the Boards to consider particular population characteristics of each election precinct in order to provide the voters the most reasonable access to the polls possible. This applies retroactively from and after July 31, 2008.

**SB 1024 – Cities; Campaign Finance; Website
(Chapter 184) Gray L.**

This legislation requires the Secretary of State, counties with a population greater than 100,000 and municipalities with a population greater than 2,500 that operate websites to post campaign finance information on their website in a format that is viewable by the public and exempts all reports where less than \$500 is spent from the posting requirements of this Act. It is our understanding that Maricopa County already posts this information on-line as a public service. A.R.S. Section 16-901 defines a *political committee* as a candidate or any association or combination of persons that is organized, conducted or combined for the purpose of influencing the result of any election or to determine whether an individual will become a candidate for election in this state or a political subdivision of the state. Pursuant to A.R.S. Section 16-913, each political committee is required to file campaign finance reports setting forth the committee's receipts and disbursements.

**HB 2288 – Initiative and Referendum Amendments
(Chapter 244E) Stump**

This legislation modifies deadlines and procedures relating to initiatives and referendums, affecting the solicitation, verification, and counting of signatures. It also outlines the notification duties of the Secretary of State pertaining to political committees. Currently, the Secretary of State's office mails a publicity pamphlet containing arguments for and against ballot measures to each household in which a registered voter resides three weeks before each general election. The arguments contained in the publicity pamphlet may be submitted by private citizens, organizations, or the Legislative Council. The fee for publication in the publicity pamphlet is \$100 if the argument is submitted in print and \$75 if the argument is submitted electronically (on a floppy disk or CD) along with a paper copy. All arguments must be 300 words or less.

**SB 1053 – Elections; Observation; Counting Center
(Chapter 273E) Gray C., Blendu**

This legislation allows observation of proceedings at the counting center by up to three additional persons representing a candidate for nonpartisan office or a political

committee in support of or in opposition to a ballot measure, proposition or question. The bill also establishes a procedure for the selection of the additional observers.

□ GENERAL GOVERNMENT ISSUES [INCLUDING HEALTH, FINANCE AND TAXATION ISSUES]

HB 2705 – Sudan; Investments; Business Operations; Prohibition (Chapter 1) Sinema, Ableser, Bradley, Burns, Lopes, Weiers J., et al.

This legislation requires Arizona State Retirement System (ASRS), the Public Safety Personnel Retirement System (PSPRS), the Elected Officials Retirement Plan (EORP), the Corrections Officers Retirement Plan (CORP), and the Arizona State Treasurer to divest publicly traded securities from scrutinized companies connected to the government of Sudan and prohibits state government contracts with scrutinized companies.

SB 1078 – Infectious Diseases; Expedited Therapy (Chapter 12) Allen C.

This legislation adds an exception to the definition of unprofessional conduct for certain health professionals allowing them to expedite therapy for persons exposed to persons who have communicable diseases. Current law describes as unprofessional conduct, for several licensed health professionals, prescribing or dispensing prescription medication to a person unless the licensee first conducts a physical examination of that person, or has previously established a relationship with that person as a patient.

HB 2106 – Sales Tax; Electronic Payment Delinquency (Chapter 21) Yarbrough

This legislation establishes a delinquency date for on-line payments of transaction privilege taxes (TPT) as on or before the last business day of the month. Currently, TPT are due on or before the 20th day of the month following the month in which they are collected. For example, March collections are due by April 20. TPT taxes are delinquent if not received by the Department of Revenue (DOR) on the next to the last business day of the month. In order for an electronic payment to be received by DOR on that date, the electronic payment transaction must be initiated the day before. Taxpayers who pay in person can arrive at DOR on the next to the last business day and make their payment. For taxpayers choosing to file by mail, the TPT payment must be postmarked on or before the 25th day of the month or received by DOR on or before the business day proceeding the last business day of the month. HB 2106 establishes a deadline specific to those taxpayers choosing to pay electronically. There is no anticipated fiscal impact associated with this bill.

SB 1172 – Unorganized Territory; Adjacent School Districts (Chapter 27E) Gray L.

This legislation requires an unorganized territory to join both a common and union high school district if an adjacent common school district is within the boundaries of a union

high school district. Currently, an unorganized territory is a region of the state that is not within the borders of an organized school district. A pupil who resides in an unorganized territory may apply to the county school superintendent for a certificate of education convenience (CEC) authorizing the pupil to attend a school in an adjoining school district or county. Under ARS § 15-825.02, if the annual number of CECs or the annual number of students attending an adjacent school district from a single unorganized territory exceeds 150, the Superintendent of Public Instruction (SPI) is required to notify the appropriate county school superintendent. The county school superintendent must then notify the residents of the unorganized territory that they are required to join an adjoining school district and prepare a ballot question to determine whether to join an existing adjacent school district to be voted on at the next general election by the residents.

**SB 1228 – Charitable Funds; Management
(Chapter 30) Leff**

This legislation grants permission to repeal statutes relating to Investments for Eleemosynary (meaning charitable) Purposes and replaces the statutory language with a new chapter titled Management of Charitable Funds, defines terms, subject to a donor's gift instrument, and permits an institution to appropriate for expenditure or accumulate an endowment fund as the institution deems prudent for the benefits, purposes, and duration for its establishment.

**SB 1373 – Poultry Husbandry
(Chapter 32) Burns, Aguirre, Arzberger, et al.**

This legislation authorizes the Arizona Department of Agriculture to adopt rules for egg processing plants, sanitation standards, egg-producing and poultry husbandry practices. Poultry husbandry is the practice of breeding and raising poultry for consumption and is not currently regulated by the Department.

**HB 2032 – County Treasurers; Procedures
(Chapter 35) Konopnicki**

This legislation amends the procedures for county treasurers (treasurers) for entering money received, disbursement of county monies, receipt of paid warrants and foreclosures of paid liens. Currently, treasurers are not allowed to enter money received for the current year on the county's account for the past fiscal year until after the annual settlement for the past year has been made with the Board of Supervisors. Additionally, the treasurer cannot disburse any county money by electronic transfer without having authorization by the BOS and signed authorization of the clerk of the BOS and the BOS chairman or chief financial officer.

**HB 2130 – Residential Property Tax; Homesite Area
(Chapter 49) Barto, Waring**

This legislation defines a home-site for the purpose of assessing owner-occupied residential property for property tax purposes. Currently, Arizona has nine classes of property. Class 3 properties consist of owner-occupied residences that are assessed at ten percent of their full cash value. In addition, class 3 properties have property tax

protections, including the homeowner's rebate program that requires the state to pay a portion of the homeowner's primary school tax and a constitutional cap on primary taxes, not to exceed one percent of the home's value.

**HB 2280 – Emissions Testing; Motorcycles; Area A
(Chapter 64) Weiers JP**

This legislation establishes a vehicle emissions inspection (VEI) exemption for motorcycles. Current exempted vehicles include: automobiles less than five years old, alternative fuel automobiles newer than 2006, automobiles made before 1967, vehicles licensed in more than one state, vehicles powered by electricity such as golf carts and vehicles that do not displace more than 90ccs, motorcycles in the Tucson area, vehicles leased to a person residing outside the emission control areas, and wholesale dealer vehicles do not need to be tested. HB 2280 applies a VEI exemption for motorcycles in Area A (the Phoenix metropolitan area).

**HB 2351 – Property Tax Lien Interest Calculation
(Chapter 65) Konopnicki**

This legislation clarifies that interest begins to accrue on tax liens on the first day of the month following the purchase for both initial tax liens and subsequent tax liens. It also specifies that the amount of subsequent taxes bears interest at the rate stated in the certificate of purchase from the first day of the month following the purchase of the subsequent tax lien.

**SB 1456 – Public Records; Storage
(Chapter 75) Gould, Groe**

SB 1456 allows each state agency or any of the state's political subdivisions to implement a program for the production or reproduction of records on microfiche, digital imaging or other electronic media. Currently, each agency in Arizona or any of its political subdivisions may implement a program for the production or reproduction by photography or other method of reproduction on film or electronic media of records in its custody. The agencies can classify, catalogue and index such records for convenient reference upon approval of the Director of the Arizona State Library, Archives and Public Records (A.R.S. § 41-1348).

**SB 1095 – Air Quality; Clean Burning Gas
(Chapter 77) Flake, Aguirre, Blendu**

This legislation extends the duration in which clean burning gasoline must be sold in Area C (Western Pinal County). It must now be used during the period of May, 1 to September 30, instead of the previous start date of May 30, 2009. SB 1095 will not go into effect unless the EPA approves the change.

**SB 1174 – Notary Public; Registration
(Chapter 80RFE) Tibshraeny, Miranda, Nelson**

Currently, persons commissioned as a notary are required to file an oath of office and a bond in an amount prescribed by the Secretary of State with the Clerk of the Superior Court in the notary's county of residence in order for the commission to become

effective. A licensed surety is required to execute the bond. The bond is effective for four years beginning on the commission's effective date. This legislation transfers all of the powers and duties relating to notaries public, including the receipt of fees, from the Clerk of the Superior Court and county recorders to the Secretary of State and specifies the disbursement of all monies received from such fees to various funds and accounts.

**HB 1438 – Mine Inspector; Abandoned Mines; Donations
(Chapter 89) Flake, O’Halleran, Konopnicki**

This bill allows the State Mine Inspector to accept in-kind donations of material, equipment and services to eliminate the public safety hazard of abandoned mines, to fill abandoned mines with inert materials, and repeals the Inspector’s authority to donate surplus mining rescue equipment. Inert material must satisfy the following requirements: must not be flammable, will not decompose, will not leach substances in concentrations that exceed applicable aquifer water quality standards when subjected to a water leach test.

**SB 1486 – Notary Public; Name Change
(Chapter 91) Aguirre, Burton Cahill, Lujan, et al.**

This legislation expands the procedures relating to surname changes of notaries due to marriage to apply to all surname changes of notaries. Currently, if a notary’s name changes for reasons other than due to marriage, the notary must apply for a new notary commission under the new name (A.R.S. § 41-327 (B)). It expands the procedures relating to surname changes of notaries to apply to all notaries who change surnames, rather than applying only to those notaries who change surnames due to marriage. It also removes the requirement that notaries whose names change must apply for new notary commissions under the new names.

**HB 2478 – Redaction Orders; Expiration; Notice; Funds
(Chapter 113) Adams**

This legislation requires specific persons to be notified six months prior to the expiration of a court ordered redaction of their personal information and expands the use of the Anti-Racketeering Revolving Fund. Currently, to prevent multiple filings, an eligible person who is a peace officer, public defender, prosecutor, code enforcement officer, corrections or detention officer, corrections support staff member or law enforcement staff member delivers the affidavit to their commanding officer or to the head of their agency, who files the affidavits at one time. The presiding judge of the superior court then files a petition with the clerk of the superior court on behalf of all requesting affiants. In the absence of an affidavit that contains a request for immediate action; the affidavits may accumulate and be filed quarterly. The presiding judge of the superior court reviews the petition and, if found necessary, will issue an order prohibiting access for five years to the affiant’s residential address and telephone number contained in instruments or writings recorded by the County Recorder and made available on the internet (A.R.S. § 11-483).

**HB 2834 – Boxing Commission; Unarmed Combat; Rules
(Chapter 120) Paton**

This legislation directs the Arizona Boxing Commission to begin using rules for unarmed combat contests adopted by the New Jersey State Athletic Control Board. Unarmed combat competition involves the use of mixed martial arts and interdisciplinary forms of fighting (jiu-jitsu, judo, karate, wrestling and others). Competitors employ these forms of fighting to achieve strategic and tactical advantage in a supervised match.

**HB 2410 – Open Meetings; Public Opinions
(Chapter 135) Kavanagh**

This legislation clarifies that a member of the public body may express an opinion under certain circumstances without violating statute. The United States Congress enacted the Federal Open Meeting Act (Act) in 1976. The Act opened the door to previously closed meetings conducted by various agencies across the country. In addition, all 50 states have enacted legislation providing the public with a statutory right to openness in governmental proceedings. Arizona's Open Meeting Law was adopted in 1962 and has since been amended extensively over the years. A.R.S. § 38-431.01 states that all meetings of any public body must be public meetings and that all persons so desiring shall be permitted to attend and listen to the deliberations and proceedings. All public bodies shall provide for the taking of written minutes or a recording of all their meetings, including executive sessions.

**HB 2507 – Political Subdivisions; State Endowment Investments
(Chapter 136) Konopnicki**

The legislation allows the Arizona State Treasurer to invest and reinvest monies of the state, state agencies, political subdivisions and tribal nations, in a long-term endowment in equity securities. Earnings, interest and losses shall be credited to each specific fund. Finally, the members of the state Board of Investment are to serve as trustees for the endowment investments.

**HB 2439 – Procurement; Government Set Aside Program
(Chapter 148) Hershberger**

This legislation continues indefinitely the state government Set Aside Program, which requires all state governmental units to set aside at least one percent (1%) of new purchases or contracts for products, materials and services from AIB, C-NADI or ACI (dealing with the blind, the disabled, and the correctional industry). A committee appointed by the Director of the Department of Administration meets quarterly to provide oversight of the Set Aside Program, award contracts and report on participation. The committee also is responsible for identifying and reviewing the materials and services which are provided, manufactured and offered for sale by AIB, C-NADI and ACI. This program is scheduled to expire July 1, 2009.

**HB 2638 – Municipal Tax Incentive Penalty; Application
(Chapter 151) Murphy, Pearce**

This legislation creates a penalty for municipalities that provide transaction privilege tax (TPT) incentives for retail projects to those cities that are partially within the boundary of

any metropolitan area with a population greater than two million persons. HB 2638 provides that if at least 65% of the land area within the municipality's exterior boundaries is located within the MSA (the Phoenix-Mesa Metropolitan Statistical Area), the municipality is subject to the tax incentive penalty. This penalty formally applied to municipalities entirely located within the Phoenix metro area.

**HB 2745 – Employer Sanctions
(Chapter 152 E) Pearce, Barnes, Farnsworth, et al.**

This legislation is an emergency measure that limits the prohibitions against knowingly or intentionally employing an unauthorized alien to employees hired after December 31, 2007, and excludes independent contractors from the definition of employee. It requires the Arizona Attorney General (AG) to establish a Voluntary Employer Enhanced Compliance Program, and establishes requirements pertaining to employers that pay hourly wages or salary by cash. Prohibits, after September 30, 2008, an agency or political subdivision from issuing a license to an individual who does not establish the individual's legal presence and a government entity from awarding a contract to any contractor or subcontractor that fails to use the E-Verify system. Establishes the crime of knowingly accepting the identity of another person or entity and expands the definitions of identity theft and trafficking in the identity of another person or entity.

**SB 1121 – Emergency Response Commission; Continuation
(Chapter 156) Harper**

This legislation extends the Arizona Emergency Response Commission (AZSERC) for ten years. Currently, AZSERC consists of the directors, or their designees, of the Division of Emergency Management, the Department of Environmental Quality, the Department of Health Services, the Department of Public Safety and the Department of Transportation. In addition, AZSERC is assisted by a 12-member Advisory Committee and is scheduled to terminate on July 1, 2008.

**HB 2483 – Ignition Strength of Cigarettes; Regulation
(Chapter 159RFE) McComish, Reagan, Schapira**

The legislation establishes a new standard for cigarette ignition propensity, with associated testing and manufacturer certification requirements, civil penalties for violations, and designates the State Fire Marshal (SFM) to approve and oversee the program. Effective August 1, 2009, HB 2483 prohibits the offer for sale or the actual sale of cigarettes in Arizona unless written certification is filed with the SFM showing that the proper testing and standards have been met.

**HB 2828 – Worker's Compensation; Claims
(Chapter 169) McComish**

The legislation clarifies a reopened claim for benefits must have been previously accepted by the ICA as a valid claim. Asserts a claim cannot be reopened if the initial claim was previously denied or deemed final and the exception for late filing does not apply. It also requires a claim for temporary partial disability benefits to be filed within two years after the date of the claim of entitled benefits or within two years after the final benefits award.

**HB 2190 – Constable Ethics; Board; Membership
(Chapter 171) Driggs**

This law permits the Arizona Multi-Housing Association to recommend a member for the Constable Ethics Standards and Training Board to be appointed by the Governor. This previously-created Board is responsible for adopting a code of conduct for constables, investigating written complaints involving a constable's ethical conduct, and providing training and support programs for constables (A.R.S. § 22-137).

**HB 2523 – Tax Lien Sale; Regulation
(Chapter 174 E) Crandall**

This legislation deals with the sale of tax deeds, allowing a county Board of Supervisors to sell tax deeds of delinquent property that are held by the state to the owner of the adjoining property, under certain conditions. Currently, unsold parcels are struck off the rolls and assigned to the state. The state assigns the parcels to investors upon completion of a tax sale auction. The investor must pay the amount of taxes, sub-taxes, interest, and fees due at the time of assignment. The Certificate of Purchase is transferred to the investor through affidavit. The current requirement that a county Board of Supervisors must sell at auction all real property that has been struck off to the state for delinquent taxes is waived if the property meets the following criteria:

- an offer to purchase the parcel has been received from the owner of contiguous property;
- the parcel in question is either part of a common area of an HOA or had once been owned by the owner of the contiguous property;
- and the subject parcel cannot be used for residential purposes because of its size, configuration or deed restrictions. This provision does not apply if there is more than one contiguous parcel that meets these conditions.

In addition, in counties with a population greater than two million persons (Maricopa County), the list of permitted uses of money from the county treasurer's Taxpayer Information Fund is expanded to include the costs associated with notification of property owners of an impended tax sale of their parcel or an adjacent parcel. Effective May 8, 2008.

**HB 2191 – Property Classification; Bed and Breakfast
(Chapter 178) Crandall**

The legislation, for property classification purposes, increases the number of rooms, from four to six, an owner-occupied residence is allowed to have and qualify as a bed and breakfast inn for class four property with a 10% assessment ratio.

**SB 1125 – Occupational Safety; Employee Death; Penalties
(Chapter 187) McCune Davis**

This legislation permits the estate of a permanently disabled or deceased employee to receive the \$25,000 additional penalty assessed by the Industrial Commission of Arizona (ICA) against an employer for willful or repeat violations of OSHA laws. Every

Arizona employer is required to furnish a place of employment free from recognized hazards that are causing or likely to cause death or serious physical harm to employees. *Recognized hazard* is defined in statute to mean an unsafe or unhealthful condition or practice recognized as such with respect to the standard of knowledge in the industry. (A.R.S. §23-401) Fines and penalties for willful or repeat violations of OSHA standards or regulations range from a minimum civil penalty of \$5,000 to a maximum \$70,000 for each violation. Monies are deposited into the State General Fund. (A.R.S. §23-418)

**SB 1340 – Tax Exemptions; Internet Applications
(Chapter 194) Bee, Aboud, Aguirre, et al.**

The legislation adds applications for educational purposes to the list of exemptions for Transaction Privilege Tax (TPT) and Use Tax collections, and the list of exemptions for the telecommunications classification and the rental property classification. This bill exempts internet applications for educational purposes from the TPT tax base, the telecommunications classification and the rental property classification. Currently, revenues from TPT collections are distributed in the following way: a) 25% is paid to the cities in proportion to their population based on the last U.S. decennial census, special census, or revised population figures approved by the Department of Economic Security; b) 40.51% is paid to the counties according to a formula; and c) 34.49% is retained by the state. There may be anticipated a negative fiscal impact to the County and state General Fund.

**SB 1489 – Divestments; Terrorism Countries; Contract Prohibition
(Chapter 201) Verschoor, Bee, Gray L., et al.**

This legislation repeals the section of statute pertaining to the required annual submission of global security risk report by Public Funds to the State Legislature and requires the State Board of Investment, ASRS, and the Fund Manager of PSPRS to divest from all companies in violation of the Export Administration Act of 1979 and establishes procedures for reporting any divestments.

**HB 2495 – Military Reservations; Board; Accommodation Schools
(Chapter 207 E) Burns J., McClure, Nelson, et al.**

The legislation is an emergency measure that establishes a five-member military reservation accommodation school board and modifies the general budget limit (GBL) and revenue control limit (RCL) for an accommodation school located on a military reservation by an amount equal to the federal impact aid monies received for classification as a heavily-impacted local educational agency.

**HB 2193 – Publication; County Minutes
(Chapter 214) Nelson**

This legislation allows counties to publish the full minutes of every meeting of a county Board of Supervisors on the county website rather than in a newspaper of general circulation in the county. Currently, each newspaper that publishes the minutes of the BOS must supply a copy of the published minutes to the public libraries in each city, town and county and make the minutes for the prior three-month period available for

use by the public on an on-line computer information service at no expense to the county.

**HB 2425 – Underground Storage Tanks; Energy Act
(Chapter 218) Barnes, Garcia M.**

This legislation makes various changes to Arizona's underground storage tank (UST) regulations to conform to federal law. Current law allows regulation of USTs (A.R.S. 49-1001). The Underground Storage Tank Compliance Act increases regulation of UST systems by including provisions for UST inspections, operator training, delivery prohibitions, cleanup of leaks and secondary containment and financial responsibility.

**HB 2802 – Newborns; Testing; Confidentiality
(Chapter 225) Nelson**

This legislation requires the State Laboratory to be the only testing facility for the Newborn Screening Program (Program) and requires that test results be kept confidential except as allowed by statute. A.R.S. § 36-694 requires the Department of Health Services (DHS) to establish the Program to screen newborns for certain congenital disorders. The Program must include a component to educate the general public and the medical community, as well as a central database of newborns that have been tested. The Director of the DHS is required to establish a committee to provide recommendations regarding tests that should be included in the Program. If the tests indicate that a newborn may have a congenital disorder, the Program will provide follow-up services to encourage the newborn's family to access evaluation and early intervention services.

**HB 1223 – Insurance; Long-Term Care
(Chapter 230) Allen, C.**

This legislation adds training requirements for individuals who sell long-term care insurance and makes changes to preexisting condition limitations for long-term care insurance policies. According to AHCCCS, this legislation could result in cost savings if more individuals seek long-term care insurance coverage in the private market, delaying or preventing their enrollment in the Arizona Long-Term Care System.

**HB 2440 – Condominiums; Planned Communities; Political Petitions
(Chapter 238) Nichols**

This legislation prohibits homeowners' associations (HOA) from disallowing the circulation of political petitions but allows for the adoption of reasonable regulation. Currently, A.R.S. § 33-1808 Subsection C, stipulates that an HOA cannot prohibit any member of the association from displaying a political sign on their own property forty five days before an election. However, an association can regulate the size and number of political signs on a member's property, in compliance with restrictions set forth by the applicable city, town or county ordinance.

**HB 2116 – CORP; Joinders; Credited Service
(Chapter 242) McClure**

The legislation requires a state defined benefit plan to transfer all service credit earned in a Corrections Officer Retirement Plan (CORP) designated position and held by those who are designated as dispatchers at the time of the joinder, to CORP. The bill requires a state defined benefit plan to transfer all interest and principal, on account for employees who have an existing service credit purchase through a payroll deduction agreement, to CORP.

**HB 2378 – Counties; Debit Card Acceptance
(Chapter 245) DeSimone, McGuire, Reagan**

This legislation allows counties to accept credit and debit cards for payment of services. Transaction fees must be paid by the person tendering payment unless the entity accepting payment determines that the “financial benefits of accepting credit or debit cards exceeds the additional processing fees.”

**HB 2403 – Towing Advisory Council; Repeal
(Chapter 249) Biggs**

This legislation repeals the Motor Vehicle Towing Advisory Council (MVTAC). Current statute establishes the MVTAC to advise the Department of Public Safety (DPS) concerning matters related to rules governing the design and operation of all tow trucks in this state and to assist in resolving complaints from consumers and tow truck operators. The MVTAC is required to meet at least four times each year and submit a report with its findings and recommendations on or before December 1 of each year to the Governor and the Legislature. According to the Governor’s Office of Boards and Commissions, the MVTAC currently has ten vacancies.

**HB 2330 – Property Tax Exemption; Charter Schools
(Chapter 252) Mason**

This legislation specifies when a nonprofit charter school becomes exempt from property taxation and procedures for filing an affidavit of eligibility and applying for a refund of taxes paid. As part of the exemption process owners of nonprofit charter schools as well as other tax exempt nonprofits are typically required to file an initial affidavit with the county assessor providing information on their nonprofit status and any and all other information related to the exemption. Some organizations are further required to file annual affidavits in order to remain eligible for the exemption. Currently, statute does not address the timing of the property tax exemption for nonprofit charter (public) schools. For example, the exemption should be applied in the entire first year of ownership if the property is recorded after January 1. HB 2330 specifies that the property tax exemption applies from the date the nonprofit organization acquired ownership of the property. The fiscal impact of this legislation is unknown. The impact if any will be on newly acquired or established nonprofit charter schools that were not receiving the applicable property tax exemption for the entire year.

**HB 2621 – Standards; Biofuel
(Chapter 254) Boone**

This legislation establishes standards for biofuels relating to labeling, product transfer documents, registration and reporting requirements, and also establishes the Arizona Biofuels Conversion Program in the Department of Commerce to encourage the use of biofuels. Currently, The American Society for Testing and Materials (ASTM) is one of the largest voluntary standards organizations worldwide. ASTM international standards have an important role in the information infrastructure that guides design, manufacturing and trade in the global economy. Specifically, the standards regard product specifications, manufacturing procedures, testing methods and appropriate uses for various materials and products, including biofuels. As defined by HB 2621, *biofuel* is a solid, liquid or gaseous fuel that is derived from biomass and that can be used directly for heating, power or as a motor fuel. In general, biofuel includes fuel produced from renewable resources, especially plant biomass, vegetable oils, and treated municipal and industrial wastes.

HB 2622 – Exemption; Preconstruction Services (Chapter 255) Boone

This legislation clarifies the transaction privilege tax exemption for design phase services and professional services related to prime contracting activities. Currently, a sales tax is imposed on the activity of prime contracting. Prime contracting includes the construction, alteration, repair, addition, subtraction, improvement, movement, wrecking or demolition of any building, highway, road, railroad, excavation, manufactured building or other structure, project development or improvement. The tax base for prime contracting is 65% of the gross proceeds of sales or gross income derived from the business. Current statute sets forth several exemptions to the tax base, but generally the tax is applied to the whole project, including some services provided to fulfill the construction project. Direct costs for engineering and architectural services related to the construction contract are currently exempt from TPT. Additionally, professional services under the retail classification are also tax exempt. Construction contracts can include preconstruction services, such as advice given during the design phase that may include advice on budget, design, construction management plans, cost estimates, etc. To determine the taxability of the project often requires a detailed analysis of the facts of each contract. HB 2622 will provide statutory exemptions for these types of services and clarify that professional services are also tax exempt. Additionally, Laws 2000, Chapter 135 established a statutory program for the use of the design-build method of contracting, in addition to creating a number of alternative contracting tools to be used by ADOT and other local governments. These provisions became effective beginning 2001. HB 2622 contains a retroactivity clause to coincide with the start of these provisions.

HB 1165 – Salvage Title; Stolen Vehicle Title (Chapter 258) Gorman

This legislation allows insurers to obtain salvage titles more quickly in cases where the vehicle owner has been paid for the loss, but the paperwork cannot be obtained. SB 1165 also establishes a stolen vehicle certificate of title. Currently, an unrecovered stolen vehicle is branded as salvage when the insurer pays a total loss settlement. If the vehicle is recovered following payment of a total loss settlement but is relatively

undamaged, the insurer pays for a level-3 inspection by the Motor Vehicle Division (MVD) and if the vehicle passes the level-3 inspection, a clean title is issued. However, a consumer purchasing a vehicle history report will receive a title history indicating “clear, salvage, clear” and the report warns the consumer about purchasing a vehicle with a salvage history. Senate Bill 1165 establishes a “stolen vehicle” title and allows the title history on undamaged, recovered total loss thefts to indicate “clear, stolen vehicle, clear” thereby, according to the insurance industry, providing consumers with a more accurate picture of a vehicle’s history.

**SB 1407 – ASRS; Administration Procedures
(Chapter 264E) Verschoor**

This legislation is an emergency measure that exempts ASRS from the Revised Arizona Unclaimed Property Act, establishes procedures for unclaimed property within ASRS and guidelines for transfers out of ASRS and makes numerous administrative changes to ASRS statute. Currently, ASRS considers inactive member accounts to be abandoned three years after the member’s required beginning distribution date, defined by Internal Revenue Code as April 1 of the calendar year following the calendar year in which the employee turns 70½ years of age. These funds are not currently being distributed to DOR in accordance with unclaimed property statutes; however, ASRS does follow unclaimed property statutes for uncashed benefit checks and unclaimed vendor checks. Statutory exemption from Title 44, Chapter 3, will allow ASRS to take an actuarial gain on inactive accounts that are deemed abandoned. ASRS reports the net gain on inactive accounts in FY 2008-2009 to be \$2,493,000, and annual net recoveries of \$512,000 thereafter. ASRS further reports unclaimed benefit checks being sent to DOR average \$125,000 annually. The bill may have a negative fiscal impact to the state General Fund, but cannot be estimated because future reclaims are unknown. The bill has a positive impact to the ASRS Trust Fund due to the actuarial gain from abandoned accounts and the ability of ASRS to reclaim overpayments by reducing member benefits. Finally, the bill appropriates \$137,607 in FY 2008-2009 from the ASRS Administration Account to the ASRS for implementation.

**HB 2219 – County Buildings; Sale; Nonprofit Entities
(Chapter 266) Alvarez, Burns J., McClure, et al.**

This legislation authorizes, as session law, a county with a population of 100,000 persons or less, to sell any real or personal property that is currently being leased to any nonprofit entity without public auction, at a price determined by an appraisal. Before the county Board of Supervisors (Board) deems it advantageous to sell any property belonging to the county, the Board must provide notice 30 days before a sale in a newspaper of the county, stating the time and place of the auction. In addition, the county must sell the land at public auction to the highest bidder, for cash or contract of purchase. Before the sale of real property, the board must obtain an appraisal and establish a price for the property not less than 90 per cent less than the appraised value. With unanimous consent of the Board, the county may sell or lease any county property to any other duly constituted governmental entity, including the state, cities, towns and other counties or to a charitable, social or benevolent nonprofit organization without public auction. In addition, the Board may convey land and improvements

without complying with the notice, sale and auction requirements if the conveyance is to a nonprofit corporation which operates housing units which are federally financed or sponsored until such time as the bonded indebtedness is paid, at which time the title to the land and improvements reverts to the county.

**HB 2367 – Health Care Institutions; Definitions
(Chapter 270) Crandall**

This legislation removes and modifies several definitions relating to the Department of Health Services (DHS). According to DHS, several definitions in DHS statutes are inconsistent or are no longer necessary. HB 2367 removes certain terms that are not used in statute and modifies several definitions for consistency with industry practice.

**SB 1238 – Outdoor Fires; Counties
(Chapter 275 Without Emergency) Flake**

This bill authorizes counties to enforce open outdoor fire ordinances on designated lands when a determination of emergency is issued by the county emergency management officer and the county Board of Supervisors considers it necessary to protect health and safety. Currently, there are other outdoor fire ordinances required for counties. Counties are required to adopt an ordinance for no burn restrictions for high pollution advisory for particulate matter as forecast by the Arizona Department of Environmental Quality. Counties are also required to prohibit open outdoor fires in Area A, generally the Phoenix metropolitan area, from May 1 through September 30 each year. Counties with a population exceeding 1,200,000 persons are required to adopt an ordinance to prohibit the use of wood burning chimneys, outdoor fire pits and similar outdoor fires on days that the county has issued a no burn day restriction.

**HB 2159 – Disciplinary Records; Open to Inspection
(Chapter 277) Adams**

This legislation requires a public body to maintain employee records in a manner that will depict an accurate knowledge of disciplinary actions, including employee responses to all disciplinary actions, involving public officers or employees. The bill stipulates that the records shall be open to inspection and copying, unless inspection or disclosure of the records or information is specifically prohibited pursuant to statute and clarifies that the personal identifying information of any eligible person pursuant to A.R.S. § 39 - 123 & 124 (mainly law enforcement and other eligible persons) is still protected from disclosure pursuant to law.

**HB 2614 – Renewable Energy Valuation; Expiration Extension
(Chapter 306) Mason, Miranda R., O’Halloran**

The legislation extends the expiration date for the property tax incentive for the valuation of renewable energy equipment. Statute defines “renewable energy equipment” as any electric generation facility, electric transmission, electric distribution, gas distribution or combination gas and electric transmission and distribution cooperative property that is located in this state, which is used for useful generation, storage, transmission or distribution of electric power, energy or fuel derived from solar,

wind or other non-petroleum renewable sources not intended for self-consumption, including materials and supplies and construction work in progress.

Laws 2000, Chapter 214, provided a package of tax incentives for solar energy equipment. One component of the package was that the Legislature enacted a new property tax valuation methodology for renewable energy equipment. The valuation method is currently set to expire on December 31, 2011. The valuation method for renewable energy equipment requires the Department of Revenue (DOR) to value renewable energy equipment at 20 percent of its normal depreciated cost. Laws 2003, Chapter 37, expanded the definition of “renewable energy equipment” as part of a bill that provided the criteria for the DOR to value electric generation facilities currently in operation as well as new facilities. This bill continues the existing valuation of taxable renewable energy equipment, and therefore continues to defer the collection of future higher taxes on this equipment. The revenue that is abated as a result of this deferment is unknown.

**HB 2822 – Pest Control; Department of Agriculture
(Chapter 309E) Crandall**

This emergency measure replaces the Structural Pest Control Commission (SPCC) with the Structural Pest Control Agency (SPCA) under the supervision of the Director of the Arizona Department of Agriculture (ADA) and includes numerous changes, such as: removal of a requirement that a qualifying party ensure that utility employees who conduct pest control services are properly trained, supervised and equipped in order to be exempt from structural pest control regulations, and requires the Auditor General to conduct a performance review of the SPCA and make a report with recommendations to the Legislature and Governor by November 2010.

**SB 1337 – Centennial Funding; Capitol Renovation
(Chapter 313 Without Emergency) Flake, Aguirre, Arzberger, et al.**

This legislation reverts and reallocates monies previously appropriated to the Arizona Historical Advisory Commission (AHAC) and Legislative Council in FY 2006-07 and makes changes to the conditions AHAC must meet in order to expend appropriated monies. It also:

- removes the requirement that AHAC receive and account for \$5 million in matching funds through gifts, grants, and donations before the appropriation may be spent;
- removes the requirement that AHAC expenditures receive an affirmative vote of Legislative Council;
- repeals the transfer of \$50,000 in FY 2006-07 to AHAC;
- and reverts \$2 million of the FY 2006-07 appropriations to the AHAC to the state General Fund, reducing the total appropriation from \$2,500,000 to \$500,000.

**SCM 1004 – Federal Tax Intercept Proposal
Tibshraeny, Gray L.**

This memorial urges Congress to enact legislation enabling the U.S. Department of Treasury to intercept federal tax refunds to pay overdue victim restitution and other financial obligations ordered by state and local courts and requires the Secretary of

State to distribute this memorial to the President of the U.S. Senate, the Speaker of the U.S. House of Representatives and each member of Congress from Arizona.

□ PLANNING AND DEVELOPMENT:

SB 1385 – Municipal Plans; Neighborhood Element (Chapter 72) Tibshraeny

This legislation requires cities of 50,000 or more persons to include a neighborhood preservation and revitalization element in their general plans. Currently, cities with 50,000 persons or more are required to include a conservation, rehabilitation and redevelopment element in their general plans. One component of this element must focus on neighborhood presentation and revitalization.

HB 2155 – Transfer of Development Rights (Chapter 145) Paton

The legislation allows counties to transfer development rights from unincorporated areas of a county to a municipality through an Intergovernmental Agreement (IGA). Laws 2005, Chapter 273 allows the Board of Supervisors of a county to establish procedures, methods and standards for the transfer of development rights within its jurisdiction, pending the written approval of both the property owners of both the sending and receiving properties. Development rights are defined in statute as the maximum development allowed on a transferred property under the growth plans or zoning ordinances of a county or municipality. The bill allows municipalities to enter into an IGA with another municipality or a county for the transfer of development rights between jurisdictions and allows the BOS to authorize the transfer of development rights from unincorporated areas of a county to a municipality pursuant to an IGA.

HB 2154 – County Plans; Major Amendments (Chapter 164) Paton

The legislation allows, rather than requires, the Board of Supervisors of a county to refer major amendments to the county's Comprehensive Plan (Plan) to the county's Planning and Zoning Commission (Commission). According to A.R.S. Section 11-823, once a Plan is recommended to the BOS, a public hearing is held to consider testimony on Plan amendment requests. At the hearing, the BOS may approve, approve with modification or deny the request. Before adopting any amendments, the BOS must re-fer the amendment back to the Commission for its recommendation. A subsequent hearing is then held by the BOS to consider the Commission's recommendations. The bill exempts major Plan amendments and amendments to existing zoning regulations from mandatory re-referral to the Commission by the BOS.

SB 1387 – Real Estate Disclosure; Training Ranges (Chapter 196) Bee

The legislation requires municipalities and counties to notify the military installation commander of a military electronics range (MER) when certain land use applications

are deemed complete. Additionally, land sellers must disclose whether or not the property up for sale is located in a MER. Pursuant to A.R.S. Section 28-8481, political subdivisions with territory in the vicinity of a military airport must adopt comprehensive and general plans along with zoning regulations for property in high noise or accident potential zones to ensure compatible development with the military operations at the airport. Currently, the Real Estate Commissioner, upon examination of a subdivision, must publish a report that states whether or not any part of the land is under restricted airspace or a military training route, which is low level military route used by aircraft of the U.S. Department of Defense. Sellers of five or fewer parcels of land in an unincorporated area of a county must furnish a written affidavit of disclosure to the buyer that discloses, among other things, whether or not the property is located in a clear, accident potential or high noise zone of a military airport or is located under military restricted airspace.

**HB 2270 – Water Supply; Disclosure
(Chapter 216) Clark, Adams, Barnes, et al.**

The legislation requires the Department of Real Estate and the Department of Water Resources to post certain information relating to water supplies on their websites. The bill also allows a person to request water supply information from a city, town or private water company and requires that information to be provided within three days of the request. The bill contains a delayed effective date of January 1, 2009.

**HB 2615 – Solar Construction Permits
(Chapter 241) Mason, Ableser, Reagan**

This legislation specifies the standards municipalities and counties must adopt regarding permits for solar energy devices and creates the Local Government Solar Equipment Permit Process Improvement Study Committee. Currently, municipalities and counties each may charge building permit fees for the construction of solar energy photovoltaic systems. With exceptions, these fees are generally derived from a formula that takes into account the cost and size of the project along with the cost of conducting inspections.

**HB 2371 – Critical Infrastructure; Pipelines; Review
(Chapter 262) Campbell Ch., Ableser, Lopes, et al.**

The legislation requires the Director of Arizona Department of Homeland Security to evaluate and report on the security of critical infrastructure in Arizona used for the transmission of aviation fuel, petroleum or natural gas. Prohibits a sub-divider from being required to disclose critical infrastructure information to the State Real Estate Commissioner as part of a notice of the sub-divider's intent to sell or lease subdivided lands.

**SB 1491 – Subdivision Reports; Notice
(Chapter 271E) Gorman**

This legislation is an emergency measure that requires the Arizona Department of Real Estate to record a public notice when land has been unlawfully subdivided and permits the Real Estate Commissioner to impose civil penalties against persons that subdivide

lands without a public report. Currently, the Department of Real Estate licenses and regulates more than 67,000 real estate salespersons and brokers and approximately 10,000 corporations as well as other entities engaged in the sale of real property. A.R.S. § 32-2181 requires the sub-divider to notify the Commissioner, in writing, of the sub-divider's intention before offering subdivided lands for sale or lease. A.R.S. § 33-422 requires certain sellers to provide a written affidavit disclosing specified information to the buyer.

□ SPECIAL DISTRICTS:

SB 1289 – Flood Protection Districts; Financing (Chapter 85) Flake

This legislation establishes financial mechanisms for a Flood Protection District to construct, reconstruct, replace, renovate, repair or acquire a flood protection facility. The financial mechanisms include property assessments and the authority to issue improvement bonds. The bill outlines the process to establish an assessment area, and Board authority with respect to construction contracts, hearings on objections, delinquent assessments and various other issues related to managing the District.

HB 2524 – Agricultural Improvement Districts; Amendments (Chapter 137) Crandall

This legislation modifies the election procedures and specific administrative duties that apply to agricultural improvement districts. The bill also includes a conditional enactment clause. The Salt River Project Agricultural Improvement and Power District (District) is a political subdivision of the state and is also the only agricultural improvement district that exists in Arizona. The Salt River Project consists of two entities: the Salt River Valley Water Users' Association (Association) which manages water and the District, which provides electricity to retail customers in the Phoenix area. Laws 2006, Chapter 69 allowed a holder of a revocable family trust (an individual who put their land in a family trust for estate planning purposes) to be eligible to vote in agricultural improvement district elections. Prior to enactment of the 2006 legislation, the right to vote was limited to individuals who met standard voting requirements.

HB 2481 – Special Health Care Districts; Terms (Chapter 304) Adams

The legislation stipulates that the terms of office for directors elected from supervisorial districts 3 and 4 at the 2008 general election are two years, which results in the board of directors of the special health care district serving staggered four-year terms.

□ TRANSPORTATION:

SB 1473 – Logo Sign Programs; ADOT (Chapter 33) Gould

The list of business that may advertise on highway logo signs is expanded to include twenty-four hour pharmacy services. In addition, SB 1473 allows the Arizona Department of Transportation (ADOT) to enter into revenue sharing agreements with ADOT's contracted third party that installs, maintains and leases advertising space for logo signs. There is no anticipated fiscal impact to the state General Fund associated with this proposed legislation as logo signs are funded through the lease of advertising space and the costs incurred are paid under an agreement between the third party and the advertisers.

SB 1468 – ADOT Continuation (Chapter 90) Gould

This legislation provides for the continuation of the Arizona Department of Transportation (ADOT) for eight years, until July 1, 2016.

HB 2249 – Right-of-Way; Military Procession (Chapter 99) Weiers JP

This legislation provides regulations for those participating in and directing a military procession. The bill requires the sheriff to approve the markings on funeral escort vehicles (FEVs) and the uniforms of the drivers of FEVs to ensure that the markings do not resemble those of law enforcement. A.R.S. § 28-776 regulates funeral processions which consist of two or more vehicles accompanying the body of a deceased person. Each vehicle participating in a funeral procession must have its headlights on. Pedestrians and operators of all vehicles, except emergency vehicles, must give the right-of-way to those drivers participating in a funeral procession and who are directed by a FEV. FEVs are given the authority to direct the drivers of vehicles participating in the funeral processions through intersections despite traffic devices. FEVs can exceed the speed limit by 15 miles per hour when proceeding to the next intersection the funeral procession will be entering. When directing a funeral procession, FEVs must have a red or red/blue lamp lighted. The sheriff in each county is responsible for registering and issuing an identification sticker or plate to each FEV. In order for a person to be a driver of an FEV the person must: Hold at least a valid Class D driver license, complete a training program in motor vehicle safety and traffic control safety as prescribed by the sheriff in addition to paying a fee.

HB 2133 – Transportation Districts (Chapter 157) Rios P.

This legislation establishes a population minimum to become a single-county transportation district. Current statute divides the State Transportation Board (STB) into six transportation districts with one Transportation Board member from each district, except for two from the Maricopa County district. The membership of the Board is determined in statute by the population of the district and reconsidered after every ten

years after the census. Every transportation district formed must have at least one member to represent them. One member is appointed if the population of the county is less than 2.2 million and two members are appointed if the population of the county is more than 2.2 million. If Pinal County reaches a population of 500,000 and becomes a single county district, an additional member will be added to the State Transportation Board and the membership will increase to eight.

HB 2094 – Highway Project Advancement Notes (Chapter 299) Biggs

This legislation allows a county to issue Highway Project Advancement Notes (HPANs) and increases the total amount of HPANs a city, town or county may issue from \$100 million to \$300 million. In addition, HB 2094 redefines “highway project” to include a highway project that is included in the transportation improvement plan of a regional association of governments. HB 2094 allows the transfer of monies from the STAN I account (construction) to the STAN II account (interest reimbursement) to pay for interest costs resulting from bonds, loans notes or advances issued to or on behalf of a city or county.

☐ KILLED:

[Defensive efforts constituted a large part of our legislative activities this year. There seemed to be an especially high number of unfavorable provisions that were aimed at a dangerous erosion or preemption of county Board of Supervisors discretion or authority. The following represent a number of unfavorable bills that were stopped.]

HB 2285 – Procurement Services; Costs, Fees Tobin

Certain language pertaining to the selection process for hiring technical services (architect, engineer, etc.) for work on public buildings is changed by this legislation to allow a selection committee or agent to consider estimates on fees and prices. Previously, cost information was not allowed to be requested or provided at this stage of the selection process.

HB 2306 – Attorney Fees; Zoning Challenges Sinema, Campbell Ch, Lujan, et al.

With this bill, in any civil action commenced by a big box retailer to challenge the validity or application of an ordinance, rule, regulation or initiative measure regulating zoning that was adopted by any local government entity; the court shall award attorney fees and other litigation expenses to a local government entity only under a whole host of provisions. "Big box retailer" means a business establishment that has more than one hundred thousand square feet of gross buildable area and that will generate sales or use tax revenue but does not include a person whose primary business activity is as a motor vehicle dealer as defined in section 28-4301.

**HB 2354 – Property Valuation; Common Areas
Biggs**

This legislation provides that commercial and industrial common areas shall be valued in the same manner as residential common areas. Typically, common areas include deed restrictions and the value of a common area is often reflected in the value of the individual properties that are connected with the common area. For commercial or industrial projects, common areas are set aside for the common use of the property owners within the development. Common areas are typically owned by an incorporated association of the owners and the land within these common areas are prohibited from future development. An example of a common area in a commercial complex would be a retention basin where the storm water of the entire development is stored.

**HB 2530 – Competency; Duration of Order
Farnsworth**

The maximum time a court order relating to competency to stand trial can remain in effect was increased from 21 months to 24 months.

**HB 2586 – Special Districts; Secondary Levy Limits
Yarbrough, Murphy**

[Note: Maricopa County did not take a position on these bills designed to place statutory caps on counties' secondary property tax levy, in the same way that primary property tax levies are currently capped. The County Supervisors Association, however, at the direction of the other fourteen counties, strongly opposed them.]

HB 2586 will establish statutory levy limits for secondary property taxes that are levied by fire districts and county library, jail, television and public health services districts. It provides a definition of "special taxing district" to mean a fire district, county television improvement district, a county free library district, a county jail district, a special health care district and a public health services district. Beginning in 2009, it limits the secondary levies of special taxing districts, except fire districts, to an amount equal to the change in the primary levy limit between the current year and the preceding year for the county in which the special district is located. Beginning in 2008, fire districts levies may increase up to ten percent over the previous year.

**HB 2759 – Legislative Vacancies; Precincts; Election
Miranda B.**

This legislation establishes, for counties with a population of 1.5 million persons or more, a new method for filling legislative vacancies. The bill would have created a new procedure to fill legislative vacancies only in Maricopa County, thereby bypassing the county Board of Supervisor. It eliminates the use of proxy votes by precinct committeemen for the purpose of filling a vacancy. Current statute requires a county Board of Supervisors to establish a convenient number of election precincts in the county and define the boundaries of each as proscribed by law for elected officers of the state and its political subdivisions.

**HB 2809 – Environmental Standards; County Regulation
Borges, Boone**

This legislation allows a person to file a petition challenging a county rule, ordinance or regulation if it is detrimental to public health and removes language regarding adopting rules, ordinances and regulations. Currently, counties have been given authority in the Arizona Revised Statutes to adopt rules, ordinances or other regulations in addition to those already established in A.R.S. Title 49 or adopt new, more stringent rules than those already established as long as they meet certain conditions. The rule, ordinance, or regulation had to address a peculiar local condition with credible evidence that there was a threat to public health and that the rule, ordinance or regulation was technically and economically feasible or else demonstrate that the rule was required by federal statute or regulation. Finally, the rule, ordinance or regulation could not implement excessive fees.

**SB 1007 – Aggravated DUI; Sentences
Waring**

This legislation requires certain jail sentences for aggravated driving under the influence and eliminates judicial discretion in regards to setting jail time to be served.

**SB 1061 – Elected Officials; Print; Visual Media
Waring**

This legislation determines an elected official of any elective office in this state shall not use public monies, or cause public monies to be used, in any print media announcements, visual medium announcements, broadcast media announcements, website campaign or similar type of general public communication that refers to the elected official or any employee of the elected official, unless otherwise provided by law.

**SB 1103 – Lobbyists; Prohibited Acts
McCune Davis**

This legislation prohibits a lobbyist, designated public lobbyist or authorized public lobbyist from providing information to any public official as to any material fact pertaining to any legislative or administrative action knowing or having reason to know that the information is false. Any lobbyist, designated public lobbyist or authorized public lobbyist who is convicted of violating any provision of this law is prohibited from acting as a lobbyist, designated public lobbyist or authorized public lobbyist for a period of three years after the date of the conviction. Any person who violates this section is guilty of a class 1 misdemeanor.

**SB 1136 – Prisoners; Incarceration; County Jail
Cheuvront, Gray C.**

This legislation transfers from DOC to county jails all prisoners sentenced to under a year, all who less than a year remaining on sentence when remanded to DOC, and probation violators. This bill was introduced to implement the Governor's prisoner-shift proposal.

**SB 1138 – Local Development Fees; Schools; Exclusion
Burns B., Murphy, Kavanagh, et al.**

This legislation adds certain regulations stating development fees shall not be assessed for any costs associated with school district or charter school construction or appurtenances, including streets and water and sewer utility functions, and development fees shall not be assessed against a development, school district or charter school for any costs associated with school district or charter school construction or appurtenances, including streets and water and sewer utility functions.

**SB 1160 – Juror Summons; Questionnaire; Return Postage
Gray C.**

This bill prohibits the returning of juror questionnaires from generating any cost upon the prospective juror. The bill as introduced would have cost Maricopa County at least \$270,000. A.R.S. Section 21-334 was renumbered as A.R.S. Section 21-223, effective January 1, 2008. Pursuant to A.R.S. Section 21-223, it is unlawful for a juror who is summoned and who fails to obtain a postponement or who is not excused from jury service to willfully and without reasonable excuse fail to attend on the date scheduled for jury service. If the person fails to respond to a second summons the court may issue a body attachment as for a direct contempt of the court. The person may be fined an amount not to exceed \$500 and may be compelled to attend for jury service on another date.

**SB 1190 – County Sheriffs; Powers and Duties
Gray C.**

This legislation expands the duties of the sheriff to include transportation of prisoners to court for appearances in that county, which would have carried an increased cost to counties.

**SB 1256 – Special Districts; Secondary Levy Limits
Burns B., Gorman**

This bill would limit the annual increase in the maximum secondary tax levy permissible to certain special districts. This bill defines ‘Special Taxing District’ for the purposes of the bill and applicable section of statute as “Fire, County Television Improvement, County Flood Control, County Free Library, County Jail, Special Health Care, and Public Health Services Districts” and adds them to what the Property Tax Oversight Commission reviews for violations of tax rate and levy. This bill also allows for voter approved overrides for Fire and Flood Control Districts.

**SB 1377 – Procurement; Construction; Specialized Services
Huppenthal**

This legislation adds new definitions to current law with this bill, including several pertaining to “one-step and two-step design-build construction services”. It makes various changes, and adds definitions, to the procurement of construction services by the Arizona Department of Transportation (ADOT), including the ability to procure multiple contracts for job-order-contracting construction services in a single procurement and one-step design-build construction services. SB 1377 also separates

the processes for the procurement of single and multiple contracts for professional services and construction services by the state and political subdivisions and prohibits the procurement of multiple contracts for construction-manager-at-risk construction services and design-build construction services, and makes various other changes to the procurement of professional services and construction services by the state and political subdivisions.

**SB 1398 – Public Private Partnerships; Written Agreements
Johnson, Blendu**

This legislation requires public private partnerships to disclose certain information in a written agreement and obtain approval by a government or legislative oversight committee. Currently, public private partnerships describe a venture between a public agency and a private entity; however, there is no definition provided in statute. The State Procurement Office, which solicits and administers buying, purchasing, renting, leasing or otherwise acquiring any goods, services or construction projects on behalf of state agencies, allows public private partnership contracts to finance the needs of the purchasing agency. Funding under this agreement is contingent upon the implementation of established performance standards and the Joint Legislative Budget Committee is required to evaluate the fiscal impact of the contract to the state (A.R.S. § 41-2559). Additionally, the Arizona Department of Transportation may enter into written agreements, after a public hearing and approval by the State Transportation Board, with private entities for the construction and lease of transportation facilities. These agreements authorize the private entity to impose or collect tolls to pay for costs associated with the construction and maintenance of the facility (A.R.S. § 28-7701). This bill could have jeopardized or prohibited county agreements.

**SCR 1003 – Constitutional Amendment; Prop 13 Arizona
Harper**

The 2008 general election ballot would carry the question of whether to amend the state constitution to limit the maximum aggregate amounts of all state and local property taxes to .5% of the value on residential property, and to 1% of the value on any other real property. Beginning in tax year 2009, the base line full cash value of real property is the valuation on the 2003 tax bill, or if the property was not on the tax roll in 2003, on the actual purchase price. After 2009, the full cash value of real property can not increase more than 2% over the previous year. This would have had a dramatic impact on counties.

**SCR 1009 – Public Agency Lobbyists
Gray L., Blendu, Gould, et al.**

Subject to voter approval, this SCR would have prohibited public officials, government employees, or contractors retained by a public body from lobbying the Legislature on behalf of that public entity. Also prohibited is the spending of public resources for lobbying the Legislature. Currently, a public body is required to register with the Secretary of State before any lobbying occurs on its behalf. The information reported must include the name and address of the body, the designated public lobbyist, each authorized public lobbyist employed by, retained by or representing the body, each

employee who may lobby on behalf of the body if the designated or authorized public lobbyist is not an individual and a description of expenses that are to be reimbursed to each designated or authorized public lobbyist (A.R.S. § 41-1232). The Secretary of State reports there are a total of 3,476 active lobbyists in Arizona, this number is not further sorted to identify the number of public lobbyists.

SCR 1024 – Property Tax Levy Rollback

Gould, Groe, Pearce

The 2008 general election ballot would have carried the question of whether to amend the state constitution to require all taxing jurisdictions to set their 2009 levy no higher than the actual levy in 2005. Then beginning in 2010, they must limit the annual increase in tax levies to 2% plus the value of new construction.

SCR 1026 – Property Tax Valuation Rollback

Gould, Groe, Pearce

The 2008 general election ballot would have carried the question of whether to amend the state constitution to require that beginning in tax year 2010, property values would be reset to 2003 levels and annual increases are limited to 2%. Additionally, SCR 1026 would replace the current formula for limiting valuation growth (“limited property value”) by a new formula under which the limited value would be referred to as “uniform property value” (UPV). This bill would have resulted in property tax losses for local governments.

☐ VETOED:

[Note: the following are bills of particular county interest that were vetoed.]

HB 2359 – Border Officers; State Laws; Enforcement

(VETOED) Paton, Adams, Bee

The legislation would authorize chiefs of police and county sheriffs to cross-certify Customs and Border Protection officers without board or council approval, and to enter into agreements with Customs and Border Protection for the primary purpose of facilitating interagency communication under certain circumstances. The veto message indicated it did nothing but affirm existing law.

HB 2585 – General Obligation Bond Requirements

(VETOED) Yarbrough, Murphy

This legislation restricts items available for bonding by local governments. Makes changes to the election requirements for the refinancing of General Obligation (GO) bonds, and it creates additional requirements for the information contained in the publicity pamphlet for an election to incur debt through the issuance of GO bonds. The fiscal impact of this legislation, if any, could be attributed to cities and municipalities when adding the additional information to publicity pamphlets. The Governor indicates in her veto message that the bill contains unnecessary and undesirable changes to the voter information pamphlets for GO bonds that would obfuscate rather than clarify the

information provided to voters. In addition, she expresses that the bill would unnecessarily restrict counties, cities, community college districts and school districts, and their tax payers, from taking advantage of lower market interest rates by accelerating the repayment of general obligation debt and refinancing.

**HB 2807 – Immigration; Local Enforcement
(VETOED) Nelson**

This legislation requires sheriffs and police departments to implement a program to address violations of federal immigration laws. Prohibits officials, agencies or personnel of counties, cities or towns from being limited in sending, receiving or maintaining information related to immigration status. The bill requires training to be funded by any source of federal funding or by the state if federal funding is unavailable. For federal fiscal year 2006, Congress appropriated \$5 million for states and localities that enter into such agreements. The veto message expressed concern that the cost of training local law enforcement officers would be shifted away from the federal government to the state general fund.

**SB 1264 – Public Rights-of-Way; Claims
(VETOED) Johnson**

This legislation provides for the retention of “Revised Statute 2477” rights-of-way that were enacted before October 21, 1976. Current law stipulates that this State does not recognize or consent, and has not consented, to the exchange, waiver or abandonment of any R.S. 2477 right-of-way across public lands unless by formal, written official action by the state, county or municipal agency or instrumentality that held the right-of-way, and recorded in the office of the county recorder of the county in which the public lands are located. The veto message said this bill would have injected unnecessary confusion into claims over what is now federal, state, military, tribal or privately-held land in Arizona.

Here are the remaining Vetoes:

**HB 2017 – Greenhouse Emissions; Regulations; Fuel Economy
Konopnicki**

**HB 2039 – Schools; Multiple Birth Siblings; Classrooms
Anderson**

**HB 2043 – FY 2007-2008 State Hiring; Moratorium
Robson**

**HB 2220 – State Equalization Property Tax Repeal
Weiers J, Anderson, Adams, et al.**

**HB 2235 – Administrative Rules Oversight Committee
DeSimone, Burns B., Cheuvront**

**HB 2263 – Parental Consent; Abortion
Nichols, Mason**

**HB 2389 – Misconduct Involving Weapons; Means; Transportation
Kavanagh**

**HB 2395 – Driving; Boating; Under The Influence
Weiers J.**

**HB 2470 – Board Of Behavior Analysts
Bradley**

**HB 2557 – Schools; Standards; PE; Art; Music
Anderson, Barnes, Farley, et al.**

**HB 2560 – School Districts; Compliance; Withholding Monies
Anderson, Tobin**

**HB 2626 – Weapons; Peace Officers; Posse; Reserves
Pearce**

**HB 2629 – Justification; Defensive Display Of Firearm
Pearce, Barnes, Burges, et al.**

**HB 2630 – Concealed Weapons; Petty Offense
Pearce, Barnes, Burges, et al.**

**HB 2769 – Partial-Birth Abortion; Definition
Tobin, Barnes, Barto**

**HB 2857 – Fiscal Year 2007-2008; Budget Adjustments
Boone**

**SB 1012 – Postsecondary Education Programs; PEG; PFAP
Gray L.**

**SB 1025 – Scholarships; Disabled Pupils; Good Cause
Gray L.**

**SB 1048 – Definition; Partial-Birth Abortion
Gray L.**

**SB 1097 – GITA; State Treasurer's Office Exemption
Burns B.**

**SB 1106 – Concealed Weapons Permit; Renewal Option
Gray C., Blendu, Biggs, et al.**

**SB 1255 – Administrative Rules Oversight Committee
Burns B.**

**SB 1279 – Review Committee; Arizona National Rankings
Huppenthal**

**SB 1297 – State Telecommunications Program; Exemption
Flake, Arzberger**

**SB 1341 – Schools; Employee Code Of Conduct
Gray L., Clark**

**SB 1406 – Municipal Development Fees; Procedures
Bee**

**SB 1452 – Homeowners' Associations; Foreclosures; Voting Rights
Gould**

**SB 1484 – Prime Contracting Deduction; University Improvements
Verschoor, O'Halleran**



STATE OF ARIZONA

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May 15, 2008

The Honorable Jim Weiers
Speaker of the House
Arizona House of Representatives
1700 West Washington
Phoenix, Arizona 85007

Re: House Bill 2017; Greenhouse Emissions; Regulations; Fuel Economy

Dear Speaker Weiers:

Today I vetoed House Bill 2017, which would have undercut the ability of the Arizona Department of Environmental Quality ("ADEQ") to fulfill its statutory responsibilities monitoring the health and quality of Arizona's air, land and water. House Bill 2017 would have prohibited ADEQ or any agency of government from adopting or enforcing programs that would have in any way regulated the emission of greenhouse gas or motor vehicle fuel economy, without legislative approval through specific legislative authorization. While the legislature has a role in ensuring Arizonans have clean air to breathe, House Bill 2017 is micromanagement.

Establishing standards for car emissions is ADEQ's explicit statutory responsibility. ADEQ fulfilled its responsibilities by adopting the Clean Car Rules and did so through the process required by law, which included a 20-month long public review that was completed on May 6, 2008. Ignoring that process and requiring another political approval at the last minute is unnecessary. Because some new arguments have arisen about possible consequences of the Clean Car Rules, ADEQ will monitor the effects of the new rules so that necessary adjustments can be made. These adjustments will be better dealt with administratively as well.

As to the Western Climate Initiative, the coalition of seven states and three Canadian provinces that make up the membership of the Initiative are in the process of formulating recommendations concerning how to collectively reduce climate change effects. The recommendations will be based on public input at numerous regional stakeholder meetings throughout this summer and released at the end of the summer. These are only recommendations, not requirements. Thus, it is premature to summarily require any programs

The Honorable Jim Weiers

May 15, 2008

Page Two

related to greenhouse gases receive special legislative approval, in addition to all the other procedures that will be utilized.

For these and other reasons, I have vetoed House Bill 2017. I stand ready to work with the legislature, business and community stakeholders, and ADEQ on these and other measures that will provide Arizonans cleaner air and a better environment.

Yours very truly,

A handwritten signature in black ink, appearing to read "Janet Napolitano", with a long horizontal flourish extending to the right.

Janet Napolitano
Governor

JN:LK/jm

cc: The Honorable Timothy S. Bee
The Honorable Bill Konopnicki



STATE OF ARIZONA

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May 12, 2008

The Honorable Jim Weiers
Speaker of the House
Arizona House of Representatives
1700 West Washington
Phoenix, Arizona 85007

Re: House Bill 2039; Schools, Multiple Birth Siblings; Classrooms

Dear Speaker Weiers:

Today I vetoed House Bill 2039, the bill that would have enacted into state-wide statute a requirement that all schools in Arizona place twins, triplets and other multiple-birth siblings in the same classroom, if requested by their parents, unless the school district's governing board determines at the end of a grading period that the arrangement is disruptive to the school.

Classroom placement of children and their siblings should be addressed on a case-by-case basis in a decision collaboratively made between educators and parents. Legislative intervention on a state-wide level is unwarranted.

For these and other reasons, I have vetoed House Bill 2039.

Yours very truly,

A handwritten signature in black ink, appearing to read "Janet Napolitano".

Janet Napolitano
Governor

JN:LK

cc: The Honorable Timothy S. Bee
The Honorable Mark Anderson



STATE OF ARIZONA

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March 14, 2008

The Honorable Jim Weiers
Speaker of the House
Arizona House of Representatives
1700 West Washington
Phoenix, Arizona 85007

Re: House Bill 2043; FY 2007-2008 state hiring; moratorium

Dear Speaker Weiers:

I am forwarding with my veto House Bill 2043, pertaining to a state-wide freeze on hiring and promotions. Through this bill, the legislative branch of government is directing Arizona's executive branch, its judicial branch and its public universities to cease all hiring and promotions, except in limited circumstances, and to report these human resource functions to the budget research division of the legislature on a monthly basis.

This legislation is wholly unnecessary. All the agencies under the control of the executive branch are already operating under a hiring freeze, pursuant to my February 21, 2008 directive. Arizona State's judicial branch of government and the state universities have also already adopted policies to voluntarily restrict hiring in light of the budget deficit. And as you probably know, this bill would not even take effect until ninety (90) days after the legislative session is over. So not only is the bill unnecessary, it takes effect too late to do any good.

This bill also constitutes an unwarranted intrusion into the distribution of powers and responsibilities among the three branches of government, as recognized by Article III of the Arizona Constitution. One branch of government cannot exercise the powers and authority properly belonging to another branch of government. This reason alone demands a veto of this bill.

In the end, this bill adds nothing to the comprehensive, bipartisan approach we are now taking to resolve our budget deficit. For the reasons stated above and other reasons, I am vetoing House Bill 2043. I will continue to monitor Arizona's fiscal health and extend my hiring freeze until it is no longer necessary.

Yours very truly,


Janet Napolitano
Governor

JN:LK/jm

cc: The Honorable Timothy S. Bee
The Honorable Bob Robson



STATE OF ARIZONA

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April 16, 2008

The Honorable Jim Weiers
Speaker of the House
Arizona House of Representatives
1700 West Washington
Phoenix, Arizona 85007

Re: House Bill 2220; State Equalization Property Tax Repeal

Dear Speaker Weiers:

Today I vetoed House Bill 2220. The bill would have permanently repealed the state equalization property tax, the county-level property tax that funds local schools.

As you know, I approved a temporary three-year suspension of this tax in 2006. Consequently, Arizonans paid no state equalization property tax for tax years 2006 and 2007 and will pay no such tax for tax year 2008. The suspension was a fair and reasonable action in 2006, when the national economy was strong, our rainy-day fund was full and our tax revenues were sufficient to meet our State budget requirements. Today we find ourselves in a very different fiscal situation. As Representative Tom Boone and Senator Thayer Verschoor said in their letter to me of April 4, 2008, Arizona is facing a "budget shortfall approaching 20% of the budget in fiscal year 2009 . . . the largest proportional budget deficit of any state in the nation." Permanently repealing a tax that supports such basic needs as schools and education during a time of severe budgetary deficits would be the height of fiscal irresponsibility.

For these and other reasons, I have vetoed House Bill 2220. Let us continue our work developing a comprehensive, bi-partisan budget using all the fiscal tools available to us. Arizonans deserve our protection of basic needs like education.

Yours very truly,

A handwritten signature in black ink, appearing to read "Janet Napolitano".

Janet Napolitano
Governor

JN:LK

cc: The Honorable Timothy S. Bee



STATE OF ARIZONA

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April 28, 2008

The Honorable Jim Weiers
Speaker of the House
Arizona House of Representatives
1700 West Washington
Phoenix, Arizona 85007

Re: House Bill 2235; Administrative Rules Oversight Committee

Dear Speaker Weiers:

For many of the same reasons articulated by Governor Jane Hull in her April 26, 1999 veto, I have vetoed House Bill 2235, which would have resurrected the long dead and little missed Administrative Rules Oversight Committee.

Yours very truly,

A handwritten signature in black ink, appearing to read "Janet Napolitano", with a long horizontal flourish extending to the right.

Janet Napolitano
Governor

JN:LK

cc: The Honorable Timothy S. Bee
The Honorable Mark DeSimone



STATE OF ARIZONA

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April 4, 2008

The Honorable Jim Weiers
Speaker of the House
Arizona House of Representatives
1700 West Washington
Phoenix, Arizona 85007

Re: House Bill 2263; Parental Consent; Abortion

Dear Speaker Weiers:

Today I vetoed House Bill 2263, which would have amended Arizona's parental consent law, A.R.S. § 36-2152. Under the current law, a minor must obtain consent from her parents or guardian before having an abortion, unless she is already emancipated or unless she is able to prove to a superior court judge that she is sufficiently mature and capable of giving informed consent.

House Bill 2263 purports to add a clear and convincing standard of proof by which the minor must convince the judge of her maturity and capability to give consent and outlines the factors a judge may consider in making her determination. As I said the last time a version of this bill came before me in 2006, the bill is unnecessary to achieve these goals. Arizona case law already sets forth the clear and convincing standard of proof for judicial bypass of the parental consent requirement. *See In re B.S.*, 205 Ariz. 611, 74 P.3d 285 (Ct. App. Div. 1 2003). In that same case, the court listed the factors for the judge's consideration proposed by House Bill 2263, as well as other factors.

For this and other reasons, I have vetoed House Bill 2263. As I have offered in my letter to you regarding House Bill 2769, let us work together on remedying the root issue of unwanted pregnancies, particularly teenage pregnancies, by addressing such issues as family planning and the prevention of sexual violence against women. I stand ready to work together to address these matters in a bi-partisan manner.

Yours very truly,

A handwritten signature in black ink, appearing to read "Janet Napolitano", with a long horizontal flourish extending to the right.

Janet Napolitano
Governor

JN:LK/jm

cc: The Honorable Timothy S. Bee
The Honorable Warde Nichols



STATE OF ARIZONA

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April 29, 2008

The Honorable Jim Weiers
Speaker of the House
Arizona House of Representatives
1700 West Washington
Phoenix, Arizona 85007

Re: House Bill 2359; Border Officers; State Laws; Enforcement

Dear Speaker Weiers:

Today I vetoed House Bill 2359 because it does nothing but affirm existing law. House Bill 2359 merely acknowledges that county sheriffs may decide to enter into intergovernmental agreements with U.S. Customs and Border Protection to facilitate inter-agency communication without seeking the permission of the County Board of Supervisors, so long as the agreement has no fiscal impact on the county.

For this and other reasons, I have vetoed House Bill 2359. In so doing, however, I repeat that all law enforcement agencies whose jurisdictions overlap must communicate with one another and coordinate their policing efforts for the safety of the officers and the public.

Yours very truly,

A handwritten signature in black ink, appearing to read "Janet Napolitano", with a horizontal line extending to the right.

Janet Napolitano
Governor

JN:LK

cc: The Honorable Timothy S. Bee
The Honorable Jonathan Paton



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July 7, 2008

The Honorable Jim Weiers
Speaker of the House
Arizona House of Representatives
1700 West Washington
Phoenix, Arizona 85007

Re: House Bill 2389; Misconduct Involving Weapons; Means; Transportation

Dear Speaker Weiers:

Today I vetoed House Bill 2389, a bill that would have allowed individuals to hide weapons in their vehicles without a concealed weapons permit. Law enforcement requested that I veto this bill, and for good reason. House Bill 2389 would have added to the level of uncertainty and danger law enforcement officers who make traffic stops already face in the line of duty. It would also deprive officers of the ability to confiscate concealed weapons from individuals who ignore the concealed weapons laws in transit.

For these and other reasons, I have vetoed House Bill 2389.

Yours very truly,

A handwritten signature in black ink, appearing to read "Janet Napolitano".

Janet Napolitano
Governor

JN:LK/jm

cc: The Honorable Timothy S. Bee
The Honorable John Kavanagh



STATE OF ARIZONA

JANET NAPOLITANO
GOVERNOR

OFFICE OF THE GOVERNOR
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April 29, 2008

The Honorable Jim Weiers
Speaker of the House
Arizona House of Representatives
1700 West Washington
Phoenix, Arizona 85007

Re: House Bill 2395; Driving; Boating; Under the Influence

Dear Speaker Weiers:

Today I vetoed House Bill 2395, the bill that proposed numerous changes to Arizona's driving and boating under the influence laws. One of the key changes would reduce the length of time a person must use an ignition interlock device after a conviction for driving while impaired by alcohol or drugs. House Bill 2395 would reduce that time period from 12 months to six months.

It has been less than a year since Arizona enacted the current interlock device law. I join with Mothers Against Drunk Drivers and Students Against Drunk Drivers in their belief that requirements to use ignition interlock devices have a deterrent effect on decisions to drive under the influence. Some disagree and believe the penalty is too harsh and the benefit to public safety is too low. No one can be sure because the law is so new. Under these circumstances, it would be premature to change the law, before we have had a chance to examine its effects.

For these and other reasons, I have vetoed House Bill 2395.

Yours very truly,

A handwritten signature in black ink, appearing to read "Janet Napolitano".

Janet Napolitano
Governor

JN:LK/jm

cc: The Honorable Timothy S. Bee



STATE OF ARIZONA

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June 6, 2008

The Honorable Jim Weiers
Speaker of the House
Arizona House of Representatives
1700 West Washington
Phoenix, Arizona 85007

Re: House Bill 2470; Board of Behavior Analysts

Dear Speaker Weiers:

Today I vetoed House Bill 2470, which proposed to create a new state board to license and regulate behavior analysts.

It has been one of my stated goals to find responsible ways to make our many state boards and commissions less costly to operate and more efficient. Thus, I take special notice of requests to create new boards and commissions. The proposed five person Board of Behavior Analysts would be charged with licensing and regulating approximately 32 applicants. The cost of operating the Board would exceed any rational fees collected from the pool of licensees and leave the Board with such limited resources that it may not be feasible to fulfill its regulatory duties.

I suggest that instead of lobbying for a new state regulatory board, the individuals pursuing the creation of this licensed status consider seeking licensure and regulation by the existing Board of Behavioral Health Examiners or the Board of Psychologist Examiners, both of which have the infrastructure and formal educational experience to monitor and regulate behavior analysts.

For these and other reasons, I have vetoed House Bill 2470.

Yours very truly,

A handwritten signature in black ink, appearing to read "Janet Napolitano", with a long horizontal flourish extending to the right.

Janet Napolitano
Governor

JN:LK/jm

cc: The Honorable Timothy S. Bee
The Honorable David Bradley



STATE OF ARIZONA

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May 20, 2008

The Honorable Jim Weiers
Speaker of the House
Arizona House of Representatives
1700 West Washington
Phoenix, Arizona 85007

Re: House Bill 2557; Schools; Standards; PE; Art; Music

Dear Speaker Weiers:

I have vetoed House Bill 2557, which purports to prohibit school districts from eliminating or reducing instruction in physical education, the arts, music, career and technical education or vocational education unless, among other exceptions, the governing board of the school district votes to do so. A decision by the school district governing board is already the method by which districts make such changes in their curricula. House Bill 2557 is, therefore, both unnecessary and redundant.

In addition, House Bill 2557 provides school districts no additional resources to foster programs in music, the arts, physical education, or career and technical education. Thus, not only is House Bill 2557 unnecessary, it also is an empty promise for important areas that need real action.

For these and other reasons, I have vetoed House Bill 2557.

Yours very truly,

A handwritten signature in black ink, appearing to read "Janet Napolitano", with a long horizontal flourish extending to the right.

Janet Napolitano
Governor

JN:LK/jm

cc: The Honorable Timothy S. Bee
The Honorable Mark Anderson



STATE OF ARIZONA

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May 1, 2008

The Honorable Jim Weiers
Speaker of the House
Arizona House of Representatives
1700 West Washington
Phoenix, Arizona 85007

Re: House Bill 2560; School Districts; Compliance; Withholding Monies

Dear Speaker Weiers:

Today I vetoed House Bill 2560, the bill that would have given the State Board of Education and the Superintendent of Public Instruction the power to withhold 10 percent of a school district's funding if the school district substantially and deliberately failed to comply with its statutory obligations under A.R.S. § 15-341, Chapter 5 of Title 15 or Chapter 7 of Title 15 after 90 days notice. The funding would be withheld as a penalty until the State Board of Education determined the school district had achieved compliance.

The State Board of Education and Superintendent of Public Instruction currently have the power to issue strong penalties to school districts. They may already withhold 10 percent of funds if a school district has failed to comply with financial reporting requirements under the Uniform System of Financial Records. With the recent passage of House Bill 2711, they also have the power to take over entire school districts that are academically underperforming. These powers are more than sufficient.

For these and other reasons, I have vetoed House Bill 2560.

Yours very truly,

A handwritten signature in black ink, appearing to read "Janet Napolitano".

Janet Napolitano
Governor

JN:LK

cc: The Honorable Timothy S. Bee
The Honorable Mark Anderson



STATE OF ARIZONA

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May 20, 2008

The Honorable Jim Weiers
Speaker of the House
Arizona House of Representatives
1700 West Washington
Phoenix, Arizona 85007

Re: House Bill 2585; General Obligation Bond Requirements

Dear Speaker Weiers:

Today I vetoed House Bill 2585, which contains unnecessary and undesirable changes to the voter information pamphlets counties, cities, community college districts and school districts are required to publish in advance of general obligation bond elections. It also unnecessarily limits local options to refinance bonds.

Bond elections are an important financing tool for counties, cities, community colleges and school districts to fund their necessary capital improvements. The changes House Bill 2585 makes to voter information pamphlets obfuscate, rather than clarify, the statistical information provided to voters. Voters should make informed decisions based on information that is balanced, transparent and as neutral as possible. Moreover, House Bill 2585 would also unnecessarily restrict counties, cities, community college districts and school districts, and their taxpayers, from taking advantage of lower market interest rates by accelerating the repayment of general obligation debt and refinancing.

For these and other reasons, I have vetoed House Bill 2585.

Yours very truly,

A handwritten signature in black ink, appearing to read "Janet Napolitano".

Janet Napolitano
Governor

JN:LK/jm

cc: The Honorable Timothy S. Bee
The Honorable Steven B. Yarbrough



STATE OF ARIZONA

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July 7, 2008

The Honorable Jim Weiers
Speaker of the House
Arizona House of Representatives
1700 West Washington
Phoenix, Arizona 85007

Re: House Bill 2626; Weapons; Peace Officers; Posse; Reserves

Dear Speaker Weiers:

Today I vetoed House Bill 2626, a bill that included provisions I vetoed last year regarding an unreasonably narrow definition of "concealed" for purposes of the concealed weapons law.

As I said in my April 27, 2007 veto letter, I object to the idea that a weapon is not considered concealed for purposes of the concealed weapons laws if *any* portion of the weapon is visible. Common sense tells us that exposure of a small corner of a gun handle is insufficient to give reasonable notice to the public or to law enforcement that a person is armed.

For this and other reasons, I have vetoed House Bill 2626.

Yours very truly,

A handwritten signature in black ink, appearing to read "Janet Napolitano", with a long horizontal flourish extending to the right.

Janet Napolitano
Governor

JN:LK/jm

cc: The Honorable Timothy S. Bee
The Honorable Russell K. Pearce



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May 27, 2008

The Honorable Jim Weiers
Speaker of the House
Arizona House of Representatives
1700 West Washington
Phoenix, Arizona 85007

Re: House Bill 2629; Justification; Defensive Display of Firearm

Dear Speaker Weiers:

Today I vetoed House Bill 2629, a bill that would have allowed the introduction of firearms into what was up to then only a word fight. This is a dangerous escalation that would have put the public's safety at risk.

House Bill 2629 purported to create a new "justification" defense that would allow an individual who reasonably believes he is under threat of unlawful physical or deadly force to display, take hold of and expose his firearm. House Bill 2629 is largely unnecessary because, with some exceptions, the current Arizona justification laws already allow a person to display, take hold of, expose and even discharge a firearm against another person if a reasonable person in his circumstances would believe he is under the threat of deadly physical force. The problematic new defense House Bill 2629 creates, however, is the ability to display, take hold of and expose a firearm when the situation is only a verbal dispute. Under current Arizona justification laws, a person is not justified in taking hold of their firearm if his fear is based only on words of the provocateur, with no related action.

There is a reason Arizona law does not allow a person in the heat of a verbal dispute, even when the exchange includes harsh words and threats, to take hold of his firearm. No one wants a war of words to escalate into a battle of bullets. This is why Arizona's law enforcement community opposes House Bill 2629. By allowing this kind of escalation, House Bill 2629 puts the public and its law enforcement officers at greater risk.

The Honorable Jim Weiers
May 27, 2008
Page Two

For this and other reasons, I have vetoed House Bill 2629.

Yours very truly,

A handwritten signature in black ink, appearing to read 'J. Napolitano', with a long horizontal flourish extending to the right.

Janet Napolitano
Governor

JN:LK/jm

cc: The Honorable Timothy S. Bee
The Honorable Russell K. Pearce



STATE OF ARIZONA

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April 29, 2008

The Honorable Jim Weiers
Speaker of the House
Arizona House of Representatives
1700 West Washington
Phoenix, Arizona 85007

Re: House Bill 2630; Concealed Weapons; Petty Offense

Dear Speaker Weiers:

At the request of Arizona law enforcement, I have vetoed House Bill 2630, which would have reduced the penalties for illegally carrying a concealed weapon without a permit from a class one misdemeanor to a petty offense and prevented law enforcement from confiscating the weapon from the violator.

As you know, House Bill 2630 is almost identical to last year's Senate Bill 1629, which I also vetoed. As I stated in my veto letter of May 16, 2007, lawful gun owners who wish to carry concealed weapons should comply with Arizona's concealed weapons laws and obtain the required permit. People who fail to do so are, by definition, lawbreakers in possession of deadly weapons.

As our law enforcement professionals will tell you, serious criminals, especially gang members, often carry concealed weapons without permits. Our law enforcement officers must have the full array of enforcement options to use against these violators, including the power to arrest the violator and confiscate his deadly weapon. Maintaining our current level of penalties promotes the safety of our citizens and law enforcement officers.

For these and other reasons, I have vetoed House Bill 2630.

Yours very truly,

A handwritten signature in black ink, appearing to read "Janet Napolitano".

Janet Napolitano
Governor

JN:LK/jm

cc: The Honorable Timothy S. Bee
The Honorable Russell K. Pearce



STATE OF ARIZONA

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April 4, 2008

The Honorable Jim Weiers
Speaker of the House
Arizona House of Representatives
1700 West Washington
Phoenix, Arizona 85007

Re: House Bill 2769; Partial-birth Abortion; Definition

Dear Speaker Weiers:

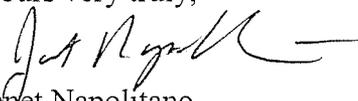
Today I vetoed House Bill 2769, which would have amended A.R.S. § 13-3603.01, the Arizona partial-birth abortion statute that was held unconstitutional by the United States District Court for Arizona in 1997.

In 2003, the federal government enacted 18 USC §1531, the federal partial-birth abortion ban. Under the federal law, it is a crime punishable with up to two years imprisonment for a physician to knowingly perform a partial-birth abortion. The only exception in the federal law is when the procedure is necessary to save a woman whose life is endangered by physical disorder, physical illness or physical injury. This law applies throughout the United States, including Arizona.

Some have tried to portray House Bill 2769 as merely conforming Arizona's statute to federal law. That is not correct. The federal law provides physicians who are prosecuted under federal law with the opportunity to seek the professional opinion of their peers as to the necessity of the medical procedure as part of the physicians' criminal defense. House Bill 2769 does not. Further, the federal law specifically caps the criminal penalty for violation to two years in prison. There is no comparable cap in House Bill 2769.

For these and other reasons, I have vetoed House Bill 2769. Rather than introducing more criminal penalties into the relationship between a woman and her physician, let us focus our collective efforts to remedy the root issue of unwanted pregnancies by addressing such important topics as family planning and the prevention of sexual violence against women. I stand ready to work together to address these matters in a bipartisan manner.

Yours very truly,


Janet Napolitano
Governor

JN:LK

cc: The Honorable Timothy S. Bee
The Honorable Andrew M. Tobin



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JANET NAPOLITANO
GOVERNOR

April 28, 2008

The Honorable Jim Weiers
Speaker of the House
Arizona House of Representatives
1700 West Washington
Phoenix, Arizona 85007

Re: House Bill 2807; immigration; local enforcement

Dear Speaker Weiers:

I have vetoed House Bill 2807, which would have mandated that Arizona counties, towns and cities participate in federal immigration law enforcement efforts and would have shifted the cost of training those local law enforcement officers away from the federal government to Arizona's state general fund. This bill is similar to Senate Bill 1306, which I vetoed in May 20, 2005. And for many of the same reasons, I am vetoing House Bill 2807 today.

House Bill 2807 is simply an unnecessary, unfunded mandate to law enforcement.

Let us start with the clear understanding that nothing in current law prevents Arizona's sheriffs and police departments from entering into agreements with federal immigration authorities to enforce federal immigration laws, provided they are given proper training. Many already have entered into these agreements on a voluntary basis. A legislative mandate to that effect is unnecessary.

In addition, House Bill 2807 is an unfunded mandate. The real impediment to cross training local law enforcement in federal immigration law enforcement efforts is the federal government's inability to meet the demand for training opportunities. In 2006, Congress added Section 287(g) to the Immigration Reform Act, giving the federal Department of Homeland Security the ability to train local law officers in the enforcement of federal immigration laws. While interest in these cross training programs was high, Congress appropriated only \$5.5 million in 2008 to maintain the entire nation-wide program. Demand for training has, predictably, significantly outstripped federal resources. Even now, the Arizona Department of Public Safety alone has a wait list of over 100 officers for cross training. Because House Bill 2807 requires the Arizona general fund to pay the training costs for *all* local law enforcement (not just for the Department of Public Safety) if federal funding is not available, Arizona tax payers would be required to pay an approximately \$100 million bill at a time we are facing significant budget shortfalls.

The Honorable Jim Weiers
April 28, 2008
Page Two

Accordingly, for the reasons stated in my May 20, 2005 veto letter of Senate Bill 1306 and others, I have vetoed House Bill 2807.

Yours very truly,



Janet Napolitano
Governor

JN:LK

cc: The Honorable Timothy S. Bee
The Honorable John B. Nelson



STATE OF ARIZONA

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March 11, 2008

The Honorable Jim Weiers
Speaker of the House
Arizona House of Representatives
1700 West Washington
Phoenix, Arizona 85007

Re: House Bill 2857; FY 07-08 Budget Adjustments

Dear Speaker Weiers:

I am forwarding with my veto House Bill 2857, pertaining to a legislative freeze on state government's access to and use of certain fiscal year 2007-2008 appropriations.

Last September, I released a comprehensive budget management plan that addressed the state's budget shortfalls and balanced the 2008 budget. Since then, I have regularly updated and adjusted my management plan and shared those plans with the legislature. Now we are over seven weeks into the legislative session and House Bill 2857 is the only bill you have delivered to me related to Arizona's now estimated \$1.2 billion budget deficit. This bill, which lacks bipartisan support and addresses less than half of the budget shortfall amount, is wholly inadequate.

We cannot congratulate ourselves and think we have made progress by piecemeal attempts like House Bill 2857. We fool no one. Arizonans deserve a comprehensive fiscal plan that resolves the expected budget deficits of fiscal year 2008 and 2009.

I call on the legislature to work with me on a comprehensive, bipartisan plan that provides for Arizona's future, taking into account our current realities. I continue to make myself available to meet with you so we may produce a reasonable fiscal plan for Arizona together.

Yours very truly,

A handwritten signature in black ink, appearing to read "Janet Napolitano", with a stylized flourish at the end.

Janet Napolitano
Governor

JN:LK/jm

cc: The Honorable Timothy S. Bee
The Honorable Tom Boone



STATE OF ARIZONA

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April 29, 2008

The Honorable Timothy S. Bee
President
Arizona State Senate
1700 West Washington
Phoenix, Arizona 85007

Re: Senate Bill 1012; Postsecondary Education Programs; PEG; PFAP

Dear President Bee:

Today I vetoed Senate Bill 1012, the continuation bill for the Commission on Postsecondary Education. I support the legislative changes proposed by Senate Bill 1012, save one: the 10-year long continuation of the Commission. A 10-year long continuation period is too long for this Commission, which is the subject of inquiry regarding its mission and membership.

I would welcome a bill for the Commission that includes all the changes suggested by Senate Bill 1012, but extends the continuation of the Commission for no more than one year.

Until then, I have vetoed Senate Bill 1012.

Yours very truly,

A handwritten signature in black ink, appearing to read "Janet Napolitano", with a long horizontal flourish extending to the right.

Janet Napolitano
Governor

JN:LK

cc: The Honorable Jim Weiers
The Honorable Linda Gray



STATE OF ARIZONA

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May 12, 2008

The Honorable Timothy S. Bee
President
Arizona State Senate
1700 West Washington
Phoenix, Arizona 85007

Re: Senate Bill 1025; Scholarships; Disabled Pupils; Good Cause

Dear President Bee:

Today I vetoed Senate Bill 1025, the bill that would have allowed the Arizona Department of Education to waive certain eligibility requirements to the Arizona Scholarships for Pupils with Disabilities Program, the program that allows disabled students to use public funds to pay for private school tuition.

The Arizona Scholarships for Pupils with Disabilities Program is currently the subject of litigation, and the continued existence of the program is unpredictable. As recently as April 23, 2008, the Arizona Court of Appeals heard oral arguments in the matter. It is premature to expand a program in the midst of this type of legal challenge.

For these and other reasons, I have vetoed Senate Bill 1025.

Yours very truly,

A handwritten signature in black ink, appearing to read "Janet Napolitano", with a long horizontal flourish extending to the right.

Janet Napolitano
Governor

JN:LK

cc: The Honorable Jim Weiers
The Honorable Linda Gray



STATE OF ARIZONA

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June 27, 2008

The Honorable Timothy S. Bee
President
Arizona State Senate
1700 W. Washington
Phoenix, Arizona 85007

Re: Senate Bill 1048; Definition; Partial-birth Abortion

Dear President Bee:

Today I vetoed Senate Bill 1048, which proposed to amend Arizona's partial-birth abortion statute to make it correspond in penalty and scope with the 18 USC §1531, the federal partial-birth abortion ban statute.

As I said in my April 4, 2008 veto letter of House Bill 2769, Arizona physicians are already subject to criminal penalties under the federal statute. I am loathe to introduce more criminal penalties, including incarceration by the State, into the relationship between a woman and her physician.

For these and other reasons, I have vetoed Senate Bill 1048.

Yours very truly,

A handwritten signature in black ink, appearing to read "Janet Napolitano", with a long horizontal flourish extending to the right.

Janet Napolitano
Governor

JN:LK

cc: The Honorable Jim Weiers
The Honorable Linda Gray



STATE OF ARIZONA

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May 12, 2008

The Honorable Timothy S. Bee
President
Arizona State Senate
1700 West Washington
Phoenix, Arizona 85007

Re: Senate Bill 1097; GITA; State Treasurer's Office Exemption

Dear President Bee:

Today I vetoed Senate Bill 1097, the bill that proposed to limit the jurisdiction of the newly created Statewide Information Security and Privacy Office ("SISPO") as it relates to the State Treasurer's Office's banking and investment systems.

SISPO was created during the 2007 legislative session to ensure the safety and privacy of the state's information technology systems. Among other things, SISPO has the statutory power to temporarily suspend the operation of a government information infrastructure to stop the spread of an information security breach.

Senate Bill 1097 would prohibit SISPO and its parent organization, the Government Information Technology Agency, from directly accessing the State Treasurer's Office's banking or investment systems and prohibit SISPO from suspending the operation of those banking and investment systems under any circumstances. The Treasurer's Office argues that such restrictions are necessary because of the sensitivity of its financial information and the potential financial impact on the state if the Treasurer's Office is unable to electronically effect its market trades and money management efforts.

This argument goes too far. Every state agency maintains sensitive, confidential information (including private citizen data) and could be negatively affected by a suspension of its information technology systems. During the rulemaking process contemplated in Senate Bill 1097, these potential losses can be weighed against the need to protect all of our state-wide information technology systems against cyber attacks. It is premature and bad precedent to legislatively carve away at SISPO's jurisdiction before it has begun this important work.

The Honorable Timothy S. Bee
May 12, 2008
Page Two

For these and other reasons, I have vetoed Senate Bill 1097. I encourage the State Treasurer's Office to participate in the SISPO rulemaking process and present its concerns in that forum.

Yours very truly,

A handwritten signature in black ink, appearing to read "Janet Napolitano", with a long horizontal flourish extending to the right.

Janet Napolitano
Governor

JN:LK

cc: The Honorable Jim Weiers
The Honorable Robert Burns



STATE OF ARIZONA

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May 27, 2008

The Honorable Timothy S. Bee
President
Arizona State Senate
1700 W. Washington
Phoenix, Arizona 85007

Re: Senate Bill 1106; Concealed Weapons Permit; Renewal Option

Dear President Bee,

Today I vetoed Senate Bill 1106, which proposes to make concealed weapons permits, once obtained, valid for the entire lifetime of the permit holder, without renewal.

Under current law, concealed weapons permits are valid for five years and renewable. At renewal, the Arizona Department of Public Safety conducts a criminal background check of the applicant to ensure he or she is still eligible to carry a concealed weapon. The criminal background check is paid for, in part, by a \$43.00 renewal fee. Because Arizona requires this renewal and criminal background check, other states and the Federal Bureau of Investigation accept the Arizona concealed weapons permit in lieu of their own permits and procedures.

A lifetime permit would eliminate the periodic opportunity to conduct these criminal background checks, which are an important part of ensuring that only non-felons lawfully carry concealed weapons. The lifetime permit would also, ironically, make it harder for permit holders to carry weapons outside of Arizona and to purchase firearms from firearm dealers without also passing an independent Federal Bureau of Investigation background check.

More important, the concept of lifetime validity for a concealed weapons permit is unwise public policy. In Arizona, a food service worker license is valid for three years, after which every chef, waiter, bartender and dishwasher must take a new exam on food safety to renew his or her license. If we believe protecting the public from food poisoning

The Honorable Timothy S. Bee
May 27, 2008
Page Two

is important enough to require retesting and renewal, it is impossible to justify a lifetime permit for the carrying of a concealed weapon.

For these and other reasons, I have vetoed Senate Bill 1106.

Yours very truly,

A handwritten signature in black ink, appearing to read "Janet Napolitano", with a large, sweeping flourish extending to the right.

Janet Napolitano
Governor

JN:LK
cc: The Honorable Jim Weiers
The Honorable Chuck Gray



STATE OF ARIZONA

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May 6, 2008

The Honorable Timothy S. Bee
President
Arizona State Senate
1700 W. Washington
Phoenix, Arizona 85007

Re: Senate Bill 1255; Administrative Rules Oversight Committee

Dear President Bee,

It will come to no surprise to you that I vetoed Senate Bill 1255 for the same reasons I vetoed the identical House Bill 2235.

Yours very truly,

A handwritten signature in black ink, appearing to read "Janet Napolitano", with a long horizontal flourish extending to the right.

Janet Napolitano
Governor

JN:LK

cc: The Honorable Jim Weiers
The Honorable Robert Burns



STATE OF ARIZONA

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May 27, 2008

The Honorable Timothy S. Bee
President
Arizona State Senate
1700 W. Washington
Phoenix, Arizona 85007

Re: Senate Bill 1264; Public Rights-of-Way; Claims

Dear President Bee,

Today I vetoed Senate Bill 1264, which would have injected unnecessary confusion into claims over what is now federal, state, military, tribal and even privately-held land in Arizona.

Senate Bill 1264 would have the State of Arizona formally assert, on behalf of itself and every political subdivision in Arizona, claims to any and all rights-of-way it or other Arizona political subdivisions may have had, whether or not recorded, on any public land held by the federal government between 1866 and 1976. Much of the land affected by Senate Bill 1264 has changed hands since 1866 and is now held by private owners, as well as tribes, the federal government, the military and the State of Arizona. Commencing the adjudication of every state right-of-way created during that 110 year period would create unnecessary uncertainty for current land holders.

My veto of Senate Bill 1264 does not foreclose Arizona's ability to assert claims to these historical rights-of-way. Indeed, some Arizona counties have already pursued claims to rights-of-way in specific cases, after weighing necessity against the effect on current land holders. Adjudicating these historical rights-of-way on a case-by-case basis is appropriate. But the blanket assertion of all potential rights suggested by Senate Bill 1264 creates too much collateral damage and chaos.

For this and other reasons, I have vetoed Senate Bill 1264.

Yours very truly,


Janet Napolitano
Governor

JN:LK

cc: The Honorable Jim Weiers
The Honorable Karen Johnson



STATE OF ARIZONA

JANET NAPOLITANO
GOVERNOR

OFFICE OF THE GOVERNOR
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FACSIMILE: 602-542-7601

May 12, 2008

The Honorable Timothy S. Bee
President
Arizona State Senate
1700 W. Washington
Phoenix, Arizona 85007

Re: Senate Bill 1279; Review Committee; Arizona National Rankings

Dear President Bee,

Today I vetoed Senate Bill 1279, which would have created a joint legislative and executive appointed committee to study existing education and wage earning rankings of Arizona compared to other states.

It has long been said that there are three kinds of lies, "Lies, damn lies and statistics." The goal of Senate Bill 1279 is to conduct a review of various national rankings that include Arizona, analyze the statistical validity of the rankings, and help policy makers make better use of statistical data. This is a commendable task, but one that is already being undertaken by numerous policy makers, advisory groups and regulatory agencies who are trained to engage in peer review analysis.

The committee Senate Bill 1279 creates not only would duplicate the statistical analyses already being conducted by others, it would have been asked to do so without any funding. The statistical usefulness of such a committee approaches zero.

For these and other reasons, I have vetoed Senate Bill 1279.

Yours very truly,

A handwritten signature in black ink, appearing to read "Janet Napolitano", with a long horizontal flourish extending to the right.

Janet Napolitano
Governor

JN:LK

cc: The Honorable Jim Weiers
The Honorable John Huppenthal



STATE OF ARIZONA

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May 20, 2008

The Honorable Timothy S. Bee
President
Arizona State Senate
1700 W. Washington
Phoenix, Arizona 85007

Re: Senate Bill 1297; State Telecommunications Program; Exemption

Dear President Bee,

Today I vetoed Senate Bill 1297, a bill that would have made the Cotton Research and Protection Council the first state government organization legislatively exempt from participating in the statewide telecommunications program.

The statewide telecommunications program makes one agency, the Department of Administration ("ADOA"), responsible for purchasing and managing the telecommunications systems for all the agencies of state government. By coordinating this effort through ADOA, the state takes advantage of economies of scale and benefits from system-wide uniformity in its telecommunications system. The Cotton Research and Protection Council sought this legislative exemption because it believes it can purchase telecommunications services for \$8,000 less than its current annual payment to ADOA.

The benefits of a statewide telecommunications system, including the efficiency of technology service support, fungibility of hardware and connectivity within a system, outweigh the \$8,000 out-of-pocket cost savings cited. Once the legislature exempts the Cotton Research and Protection Council, other small agencies will try to follow suit. The loss to functionality and efficiency that would occur by supporting multiple, different systems throughout state government would be immense.

The Cotton Research and Protection Council's issue about cost of telecommunications services to the smallest organizations in government raises a more fundamental question: whether our smaller state organizations are appropriate candidates for consolidation, at least with regard to administrative functions. My office is exploring these options throughout state government.

The Honorable Timothy S. Bee
May 20, 2008
Page Two

For these and other reasons, I have vetoed Senate Bill 1297.

Yours very truly,

A handwritten signature in black ink, appearing to read "Janet Napolitano", with a long horizontal flourish extending to the right.

Janet Napolitano
Governor

JN:LK

cc: The Honorable Jim Weiers
The Honorable Jake Flake



STATE OF ARIZONA

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June 6, 2008

The Honorable Timothy S. Bee
President
Arizona State Senate
1700 W. Washington
Phoenix, Arizona 85007

Re: Senate Bill 1341; Schools; Employee Code of Conduct

Dear President Bee,

Today I vetoed Senate Bill 1341, a bill that would have mandated the Arizona State Board of Education recommend to each school district governing board and charter school governing body an employee code of conduct for adoption. Senate Bill 1341 specifies by what means and how often school administrators would disseminate the codes of conduct to employees.

Most school districts and charter schools have already adopted employee codes of conduct, customized to their needs. Those who have not have many resources to obtain sample codes of conduct, whether through legal counsel, industry organizations, peer school districts or private, for-profit organizations that specialize in providing codes of conduct. Mandating the State Board of Education provide additional sample codes of conduct is unnecessary and a diversion from the Board's primary duties.

For this and other reasons, I have vetoed Senate Bill 1341.

Yours very truly,

A handwritten signature in black ink, appearing to read "Janet Napolitano", written over a horizontal line.

Janet Napolitano
Governor

JN:LK

cc: The Honorable Jim Weiers
The Honorable Linda Gray



STATE OF ARIZONA

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July 7, 2008

The Honorable Timothy S. Bee
President
Arizona State Senate
1700 W. Washington
Phoenix, Arizona 85007

Re: Senate Bill 1406; Municipal Development Fees; Procedures

Dear President Bee,

Today I vetoed Senate Bill 1406, which would have placed further restrictions on municipalities that seek to make developers of new growth assist in paying the public costs of growth through the use of development fees.

Every legislative session, developers propose new procedural changes to the way municipalities may calculate, schedule or collect development fees. Rather than address these issues on a piecemeal basis as we have in the past, we should work on comprehensive procedures for the fair imposition of development fees. Such fees should create predictability for developers, provide needed public services more quickly and more equitably distribute the cost of new public services.

Arizona would benefit if an agreed upon, comprehensive approach to development fees would be considered during the next regular legislative session.

In the meantime, I have vetoed Senate Bill 1406. I look forward to working with all the interested parties as, together, we move forward.

Yours very truly,

A handwritten signature in black ink, appearing to read "Janet Napolitano".

Janet Napolitano
Governor

JN:LK

cc: The Honorable Jim Weiers



STATE OF ARIZONA

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July 7, 2008

The Honorable Timothy S. Bee
President
Arizona State Senate
1700 W. Washington
Phoenix, Arizona 85007

Re: Senate Bill 1452; Homeowners' Associations; Foreclosures; Voting Rights

Dear President Bee,

Today I vetoed Senate Bill 1452, a bill that would have dramatically changed the voting rights of homeowners' association members in certain circumstances.

Members of homeowners' associations generally select their boards of directors and decide crucial decisions by majority vote. Senate Bill 1452 turns that well accepted tenet of representative governance on its head, giving the minority the majority power and stripping the majority of equal voting rights.

Under Senate Bill 1452, the minority members of a homeowners' association would be given control of the board of directors if the majority membership is owned by a party who acquired the lots in a settlement for unpaid property tax from the original master planned community developer. Despite owning the majority of the lots in the planned community, the replacement owner to the original master planned community developer would only be allowed to vote on the election of less than half of the members of the board of directors of the homeowners' association.

The members of any homeowners' association can opt-in to such uneven voting measures if they vote to amend their bylaws accordingly. Unilaterally imposing this change of a fundamental governance rule by statewide statute, however, is unnecessary and unwise.

For these and other reasons, I have vetoed Senate Bill 1452.

Yours very truly,


Janet Napolitano
Governor

JN:LK

cc: The Honorable Jim Weiers
The Honorable Ronald Gould



STATE OF ARIZONA

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July 7, 2008

The Honorable Tim Bee
President
Arizona State Senate
1700 West Washington
Phoenix, AZ 85007

Re: Senate Bill 1484; Prime Contracting Deduction; University Improvements

Dear President Bee:

Today I vetoed Senate Bill 1484, a bill that proposed to divert the State's share of certain transaction privilege tax revenues and transfer them to any city that expended monies to provide infrastructure necessitated by the construction of privately funded university buildings.

Senate Bill 1484 is unfair; it only benefits cities that have state universities. Yet these cities already benefit greatly from a university's presence. An extra tax "dividend" goes too far.

In addition, if this special tax treatment is afforded to universities, other worthy organizations (community colleges, public hospitals, etc.) would be justified in making the same request of the general fund, further limiting the State's abilities to fund its priorities. These priorities include, obviously, the funding for the universities themselves.

For these and other reasons, I have vetoed Senate Bill 1484.

Yours very truly,

A handwritten signature in black ink, appearing to read "Janet Napolitano", with a long horizontal flourish extending to the right.

Janet Napolitano
Governor

cc: The Honorable Jim Weiers
The Honorable Thayer Verschoor

**ARIZONA'S
11 BALLOT PROPOSITIONS
FOR 2008 GENERAL ELECTION**

*Ballot Language as Submitted for Approval by Secretary of State
Descriptive Language as Prepared by Legislative Council
July 2008*

CONSTITUTIONAL MEASURES (100 Series)

**PROPOSITION 100
“NO NEW HOME TAX”**

Ballot Language:

Proposition 100 – proposed amendment to the Arizona Constitution by the initiative relating to real property

PROHIBITS STATE, COUNTY, CITY, TOWN, MUNICIPAL OR OTHER STATE POLITICAL SUBDIVISION FROM IMPOSING ANY NEW TAX, FEE, STAMP REQUIREMENT OR OTHER ASSESSMENT ON THE SALE, PURCHASE, GRANT, ASSIGN, TRANSFER, RECEIPT, OR OTHER CONVEYANCE OF ANY INTEREST IN REAL PROPERTY SUCH AS HOMES AND OTHER REAL ESTATE AFTER DECEMBER 31, 2007.

A “yes” vote shall have the effect of keeping the government from imposing any new tax, fee, stamp requirement or other assessment on the sale, purchase or other conveyance of homes and other real estate.

A “no” vote shall have the effect of retaining the current law, which allows the government to impose a tax on the sale or transfer of homes and other real estate.

Descriptive Language:

Proposition 100 would amend the Arizona Constitution to prohibit the state or any county, city, town or other political subdivision of the state from directly or indirectly imposing any new tax, fee or other assessment on the sale, purchase, transfer or other conveyance of any interest in real property (such as homes and other real estate).

This proposed measure would not affect any tax, fee or other assessment in existence prior to this year.

Proponent: Arizona Association of REALTORS

Likely Opponent:

PROPOSITION 101

“MEDICAL CHOICE FOR ARIZONA”

Ballot Language:

Proposition 101 – proposed amendment to the Arizona Constitution by the initiative relating to health care

PROHIBITS LAWS THAT: RESTRICT PERSON’S CHOICE OF PRIVATE HEALTH CARE SYSTEMS OR PRIVATE PLANS; INTERFERE WITH PERSON’S OR ENTITY’S RIGHT TO PAY FOR LAWFUL MEDICAL SERVICES; IMPOSE A PENALTY OR FINE FOR CHOOSING TO OBTAIN OR DECLINE HEALTH CARE COVERAGE OR FOR PARTICIPATION IN ANY HEALTH CARE SYSTEM OR PLAN.

A “yes” vote shall have the effect of prohibiting laws that restrict a person’s choice of private health care systems or private plans, interfere with a person or an entity’s right to pay for lawful medical services, and impose a penalty or fine for choosing to obtain or decline health care coverage or for participation in any health care system or plan.

A “no” vote shall have the effect of retaining the current law regarding a person or entity’s health care choices.

Descriptive Language:

Proposition 101 would amend the Arizona Constitution to provide that no law shall:

1. Restrict a person's freedom to choose a private health care plan or system of their choice.
2. Interfere with a person’s or entity’s right to pay directly for lawful medical services.
3. Impose a penalty or fine, of any type, for choosing to obtain or decline health care coverage.
4. Impose a penalty or fine, of any type, for participation in any particular health care system or plan.

Proponent: Medical Choice Arizona: Lori Klein (associated with Prop. 207), Dr. Jeff Singer, Dr. Eric Novack.

Likely Opponent: Groups that support single-payer health plans

PROPOSITION 102

“MARRIAGE; ONE MAN; ONE WOMAN”

Ballot Language:

Proposition 102 – proposed amendment to the Arizona Constitution by the legislature relating to marriage [SCR 1042]

DEFINES THAT ONLY A UNION OF ONE MAN AND ONE WOMAN SHALL BE VALID OR RECOGNIZED AS A MARRIAGE IN THIS STATE.

A “yes” vote shall have the effect of amending the Constitution to define marriage as a union of one man and one woman.

A “no” vote shall have the effect of leaving marriage undefined in the Constitution and retaining the current laws regarding marriage.

Descriptive Language:

Proposition 102 would amend the Arizona Constitution to provide that only a union of one man and one woman shall be valid or recognized as a marriage in this state.

Proponent: Center for Arizona Policy, Arizona Catholic Conference

Likely Opponent: Gay rights groups, Arizona Human Rights Council

PROPOSITION 103

“CONSERVING ARIZONA'S WATER AND LAND”

Ballot Language:

Proposition 103 – proposed amendment to the Arizona Constitution by the initiative relating to state trust land

DESIGNATES 570,000 ACRES OF STATE TRUST LAND FOR PERMANENT CONSERVATION; ELIMINATES PUBLIC AUCTION REQUIREMENT FOR TRUST LAND LEASES; ALLOWS SALE OF CONSERVATION LAND WITHOUT AUCTION TO GOVERNMENTAL BODY; PERMITS PARTICIPATION AGREEMENTS; REQUIRES STATE AND LOCAL COORDINATION WHEN DEVELOPING LAND; ALLOWS APPROPRIATION OF PERCENTAGE OF REVENUES TO PROTECT TRUST LAND VALUE.

A “yes” vote shall have the effect of designating 570,000 acres of state trust land for permanent conservation, eliminating the public auction requirement for trust land leases (including grazing), allowing the sale of easements and rights-of-way over state trust land without advertisement or public auction, allowing the sale of conservation land without advertisement or public auction to a state agency, county, city or town, permitting participation agreements, requiring state and local coordination when developing trust land, and allowing legislative appropriation of an unspecified percentage of trust land revenues to protect land value.

A “no” vote shall have the effect of retaining the current law regarding the sale and use of state trust land.

Descriptive Language:

In 1910, the United States Congress passed the Arizona-New Mexico Enabling Act allowing Arizona to become a state. The Enabling Act granted Arizona 10.9 million acres of land, referred to as "state trust land", to be held in trust for the benefit of the named beneficiaries, primarily the public schools, as well as other public institutions (colleges, hospitals, prisons, etc.). Both the Enabling Act and the Arizona Constitution provide that the state can lease or sell trust land, and the natural products (timber, minerals, etc.) of the land, to the "highest and best bidder" at advertised public auction and lands and products offered for sale must be appraised at and sold for not less than "true value".

Proposition 103 would amend the Arizona Constitution to:

1. Designate approximately 570,000 acres of state trust land as permanent conservation lands without required beneficiary compensation to be used in a manner consistent with the conservation of the natural, cultural and historical assets of the land. This land would be restricted from development. This land would no longer be available for sale to benefit public schools and other beneficiaries although some revenue from leasing may be realized.
2. Allow a public auction of state trust land to take place at a location other than the county seat of the county where the land is located.
3. Eliminate the current requirement that all state trust land leases, including grazing, go to a public auction.
4. Allow the sale of land designated for conservation purposes to a state agency, county, city or town without advertisement or public auction, provided that the land is restricted against development, used in a manner consistent with conservation and subject to reasonable public access.
5. Allow for the disposition of a right-of-way or easement on, over or across state trust land for certain purposes without advertisement or public auction.
6. Allow participation agreements so that the true appraised value of state trust land or an interest in the land to account for the nonmonetary value would be received if the land was sold, leased or otherwise transferred.
7. Require the state to prepare plans for the development of state trust land in cooperation with the county, city or town in which the land is located according to generally applicable regulations that apply equally to similar private property in the jurisdiction.
8. Allow an unspecified percentage of monies derived from rentals, interest on installment sales and distributions from the permanent fund to be used to enhance, maintain or protect the value of the state trust land or the revenues derived from the land. The Legislature would appropriate these monies and the expenditures would be annually published.

Proposition 103 does not become fully effective unless the United States Congress amends the Arizona-New Mexico Enabling Act before January 1, 2015 to authorize the changes contained in this proposal.

Proponent: Nature Conservancy, Janet Napolitano, Jim Pederson

Likely Opponent: AZ School Boards Association

PROPOSITION 104

“ARIZONA CIVIL RIGHTS INITIATIVE”

Ballot Language:

Proposition 104 – proposed amendment to the Arizona Constitution by the initiative relating to civil rights

PROHIBITS GOVERNMENTAL ENTITIES FROM DISCRIMINATING AGAINST OR GRANTING PREFERENTIAL TREATMENT BASED ON RACE, SEX, COLOR, ETHNICITY OR NATIONAL ORIGIN; EXEMPTS SEX BASED QUALIFICATIONS REASONABLY NECESSARY TO OPERATION OF PUBLIC EMPLOYMENT, EDUCATION OR CONTRACTING; EXEMPTS EXISTING COURT ORDERS AND ACTIONS RESULTING IN FEDERAL FUNDING LOSS; APPLIES ANTIDISCRIMINATION LAWS TO VIOLATIONS.

A “yes” vote shall have the effect of prohibiting governmental entities from discriminating against or granting preferential treatment based on race, sex, color, ethnicity or national origin; exempting sex based qualifications reasonably necessary to the operation of public employment, education or contracting and existing court orders and actions resulting in a loss of federal funding; and applying antidiscrimination laws to violations.

A “no” vote shall have the effect of retaining the current law regarding civil rights.

Descriptive Language:

Proposition 104 would amend the Arizona Constitution to prohibit governmental entities from discriminating against or granting preferential treatment to any individual or group on the basis of race, sex, color, ethnicity or national origin in the operation of public employment, public education or public contracting.

This proposition does not prohibit bona fide qualifications based on sex that are reasonably necessary to the normal operation of public employment, public education or public contracting.

This proposition would not invalidate any existing court orders and would not prohibit action necessary to prevent a loss of federal funding to the state.

The remedies for violations of this proposition would be the same as for violations of current antidiscrimination laws.

This proposition applies to the state, counties, cities and other political subdivisions of the state, including school districts and the public university and community college systems.

Proponent: AZ Civil Rights Initiative: Andrew P. Thomas, Max McPhail. Backing also by the American Civil Rights Coalition headed by Ward Connerly who spearheaded similar initiatives in CA and MI.

Likely Opponent: AFSCME Union

PROPOSITION 105

“MAJORITY RULES - LET THE PEOPLE DECIDE”

Ballot Language:

Proposition 105 – proposed amendment to the Arizona Constitution by the initiative relating to the initiative

REQUIRES AN INITIATIVE MEASURE THAT ESTABLISHES, IMPOSES OR RAISES A TAX, FEE, OR OTHER REVENUE, OR MANDATES A SPENDING OBLIGATION, WHETHER ON A PRIVATE PERSON, LABOR ORGANIZATION, OR OTHER PRIVATE LEGAL ENTITY, SHALL NOT BECOME LAW UNLESS THE MEASURE IS APPROVED BY A MAJORITY OF QUALIFIED ELECTORS REGISTERED TO VOTE.

A “yes” vote shall have the effect of requiring that a majority of registered voters approve any initiative measure establishing, imposing or raising a tax, fee, or other revenue, or mandating a spending obligation, whether on a private person, labor organization, or other private legal entity, in order to become law.

A “no” vote shall have the effect of retaining the current law under which an initiative measure is enacted upon approval of a majority of registered voters that vote on the measure.

Descriptive Language:

Proposition 105 would amend the Arizona Constitution to provide that an initiative measure that establishes, imposes or raises a tax, a fee or other revenue or mandates a spending obligation on a private person, a labor organization, other private legal entity or this state shall not become law unless the initiative measure is approved at the election by a majority of qualified electors registered to vote in the state.

Proponent: MJKL Enterprises, which owns the Carl's Jr. franchises in Arizona; TCAG Management Services (auto dealer Jim Click's California corporation); beer and wine distributors.

Likely Opponent:

STATUTORY INITIATIVES (200 Series)

PROPOSITION 200 “PAYDAY LOAN REFORM ACT”

Ballot Language:

Proposition 200 – proposed by initiative petition relating to payday loans

REPEALS DEFERRED PRESENTMENT LICENSING PROGRAM TERMINATION DATE; ALLOWS ELECTRONIC DEBIT AGREEMENTS; PROHIBITS SERVICES OVER 35 DAYS; REQUIRES ENGLISH OR SPANISH AGREEMENTS; PROHIBITS CERTAIN FEES; REQUIRES PAYMENT PLAN IF REQUESTED; PROHIBITS ARRANGEMENTS WITH CUSTOMERS HAVING OUTSTANDING REPAYMENT PLANS; ALLOWS LICENSEE TO MAKE OTHER LOANS; REQUIRES LICENSEE APPLICANTS TO MAINTAIN MINIMUM WORTH.

A “yes” vote shall have the effect of repealing the July 1, 2010 termination date for the existing “payday loan” licensing program thus allowing it to continue indefinitely, allowing payday loan licensees to provide electronic debit agreement services, prohibiting services over 35 days, requiring payday loan agreements be in English or Spanish, prohibiting certain fees, permitting only one payday loan transaction with a customer each business day, requiring a payment plan if requested by the customer, prohibiting arrangements with customers having outstanding repayment plans, allowing licensees to make other loans and requiring licensee applicants to maintain a minimum net worth of at least \$50,000 per location up to a maximum of \$1,000,000.

A “no” vote shall have the effect of retaining the current law regarding payday loans.

Descriptive Language:

Currently, state law regulates companies that provide deferred presentment services. Deferred presentment is a service where a company makes a loan to a customer, accepts the customer's check in return and agrees to hold the check for at least five days before presenting the check for payment or deposit. These services are more commonly known as "payday loans". The deferred presentment licensing program in the current law is set to terminate on July 1, 2010.

Proposition 200 would continue to allow deferred presentment services indefinitely because it would repeal the program's termination date. A company or individual providing deferred presentment services is licensed by this state to provide those services and is referred to as a "licensee".

Proposition 200 would expand the scope of deferred presentment services to include electronic debit agreements and would further make the following changes to the regulation of companies that provide deferred presentment services:

1. A licensee would be:

- a. Prohibited from offering deferred presentment services for longer than 35 days.
 - b. Prohibited from entering into a new deferred presentment transaction with a customer until the next business day following the completion of any prior transaction.
 - c. Required to provide the deferred presentment agreement in English or Spanish, as requested by the customer. The agreement must contain contact information for the state agency that regulates licensees.
 - d. Prohibited from charging a fee to extend the presentment or deposit of a check, but would not be limited on the number of times the presentment or deposit could be extended.
 - e. Prohibited from charging a dishonored check fee more than:
 - i. Twice for a check returned due to insufficient funds.
 - ii. Once for a check returned due to a closed account or a stop payment order.
 - f. Required to enter into a repayment plan with the customer if the customer requests it before the deferred presentment transaction is due. The repayment plan would divide the customer's remaining balance into four substantially equal payments. A licensee would not be able to assess additional fees or interest on the outstanding balance or seek to collect any amount due except pursuant to the terms of the repayment plan so long as the customer fulfills his repayment plan obligation; otherwise, the customer could be taken to collections. A customer's obligation under the deferred presentment services agreement would be fulfilled if the repayment plan is completed. A customer would only be allowed to enter into a repayment plan once every 365 days. A customer's participation in and completion of a repayment plan would be reported to a consumer credit reporting service (an entity that assembles or evaluates consumer credit information for the purpose of providing consumer credit reports to third parties).
 - g. Prohibited from entering into a deferred presentment arrangement with a customer who has an outstanding, incomplete repayment plan. Before October 15, 2009, Proposition 200 would allow a licensee to rely on a customer's written representation that the customer does not have an outstanding, incomplete repayment plan. The superintendent of the state agency that regulates licensees would be required, by October 15, 2009, to identify consumer credit reporting services that meet certain criteria and can be used by companies to verify whether a consumer has an outstanding, incomplete repayment plan and is eligible or ineligible for deferred presentment services.
2. A licensee would not be prohibited from making certain other loans of money or extension of credit such as consumer revolving loans and home equity revolving loans.
 3. An applicant for a license would be required to maintain a minimum net worth in cash or cash equivalents of at least \$50,000 per licensed location, up to a maximum required net worth of \$1,000,000.

4. A licensee would be civilly liable under state law for violating a federal law that provides consumer credit protections for active members of the military and their families ("covered borrowers").

Proponent: AZ Community Financial Services, composed of payday loan lenders.

Likely Opponent: SEIU, UFCW, and other community groups

PROPOSITION 201

“HOMEOWNERS' BILL OF RIGHTS”

Ballot Language:

Proposition 201 – proposed amendment to the Arizona Constitution by the initiative relating to homeowners

GRANTS PROSPECTIVE DWELLING PURCHASER RIGHT TO SUE; PROHIBITS ALTERNATIVE DISPUTE RESOLUTION AND SELLER ATTORNEY FEES; SHORTENS NOTICE AND RESPONSE TIME; REQUIRES SELLER INSPECTION AND LICENSED CONTRACTOR; REQUIRES SELLER CONTRACT PROVIDE TEN YEAR WARRANTY; CONFLICT DISCLOSURES; RIGHT TO CANCEL; EXPANDS TIME TO FILE IMPROVEMENTS SUIT; EXPANDS PURCHASER REMEDIES.

A “yes” vote shall have the effect of granting “prospective buyers” a right to sue over a dwelling action, prohibiting alternative dispute resolution provisions in sales contracts, shortening purchaser notice and seller response period before and after filing defects lawsuit, requiring seller to inspect dwelling after receiving notice, requiring any seller offer to include repair or replace option that must be performed by a licensed contractor, eliminating seller right to receive attorney fees and costs if the seller prevails, mandating seller to provide ten year warranty of materials and workmanship, requiring newly constructed dwelling contract to include disclosure of seller’s financial relationship with a financial institution, disallowing seller from requiring a purchaser deposit unless contract allows 100 day cancellation period, extending from eight to ten years the time to file suit against any person making improvements to real property, and expanding remedies available to an owner who is successful in a dwelling action against the seller.

A “no” vote shall have the effect of retaining the current law regarding purchaser dwelling actions.

Descriptive Language:

Current law provides an alternative process for purchasers and contractors or sellers to resolve issues related to the design, construction, condition or sale of a dwelling prior to filing a lawsuit.

Proposition 201 makes mandatory changes to the legal procedures for any purchaser dwelling action and for the time to sue on any improvements for real property:

1. Expands existing law to grant "prospective buyers" the rights to sue over a dwelling action.

2. Prohibits sellers or purchasers from agreeing to or allowing any "reasonable alternative dispute resolution" procedures in sales contracts.
3. A purchaser would be required to give 60 days' notice, instead of 90 days' notice, to a seller of the alleged defects before filing a court action against the seller. The notice must currently contain a "detailed and itemized" list of alleged defects. Proposition 201 replaces that standard with a requirement that the notice contain a description in "ordinary, non-technical terms" of defects that a purchaser of "average experience" would be expected to observe and any defects that should have been found by the seller shall be deemed a part of the notice.
4. After receiving notice of alleged defects, the measure would require rather than allow the seller to conduct an inspection of the dwelling to determine the cause of the alleged defects and what repairs or replacements would be necessary, if any, to remedy the alleged defects.
5. The seller would be required to send the purchaser a written response within 30 days, instead of 60 days, after receiving a notice from the purchaser of the purchaser's intent to file a court action against the seller. If an offer to repair or replace any alleged defects includes an offer of compensation, the purchaser would be given the sole power to choose compensation instead of repair or replacement.
6. A seller would be required to hire a qualified licensed contractor to complete any and all repairs to the dwelling. In order for the licensed contractor to be qualified, the registrar of contractors could not have had an order against the licensed contractor in the preceding ten years.
7. The seller would be required to provide the purchaser a choice of at least three qualified licensed contractors for each contract or subcontract for repair or replacement. The right of any seller to receive attorney and expert witness fees and costs even if the seller is the successful party is eliminated.
8. A contract for the purchase of a dwelling could not require the purchaser to pay the attorney or expert fees of the seller under any circumstances. If a purchaser is awarded any relief the court must also award attorney and expert witness fees, plus taxable costs.
9. The purchase of a dwelling would include a ten year warranty of the materials and workmanship. This warranty would transfer to any subsequent purchasers within the ten year warranty period.
10. The contract for the sale of a newly constructed dwelling would need to include disclosures of a seller's financial relationships with any financial institution, including arrangements for mortgage financing, title insurance, or property and casualty insurance, ownership interests in the financial institution, and any commissions or payments the seller may receive as a result of the transaction with the buyer. This disclosure would also need to indicate whether a mortgage arranged by the seller will be held by the seller, the financial institution or is intended to be sold to other parties. A purchaser would be allowed to sue the seller for violating these disclosure requirements.

11. A seller would not be allowed to require a deposit for a contract to sell a dwelling unless the contract allowed the purchaser to cancel the contract within 100 days and receive a refund of at least ninety-five per cent of the deposit.
12. The advertised base price of a home would need to include all fixtures or equipment shown in a seller's model home, unless the fixtures or equipment are priced separately and are clearly and accurately disclosed to prospective buyers.
13. The time period in which a person can file an action against any person who makes improvements to any real property or dwelling, including commercial, industrial, raw land and retail would be extended to ten years instead of eight years.
14. An owner of a residential dwelling who is successful in a dwelling action against the seller would be able to receive damages such as out-of-pocket expenses for repairing and replacing defects, costs of relocation if defects make a dwelling uninhabitable, reimbursement for reasonably-documented time missed from work due to dealing with defects and compensation for a seller's unreasonable failure to repair the defects, consequential damages and other damages that were reasonably foreseeable.

Proponent: AFL-CIO and other unions such as Sheet Metal Workers.

Likely Opponent: Homebuilders associations such as HBACA.

PROPOSITION 202

“STOP ILLEGAL HIRING ACT”

Ballot Language:

Proposition 202 – proposed by initiative petition relating to employment

MODIFIES LAWS TO SUSPEND OR REVOKE BUSINESS LICENCES FOR EMPLOYERS WHO KNOWINGLY AND UNLAWFULLY EMPLOY AN UNAUTHORIZED ALIEN; INCREASES PENALTIES ON IDENTITY THEFT; ADDS FINES ON EMPLOYERS WHO PAY CASH WAGES NOT PROPERLY REPORTED; ESTABLISHES A PRESUMPTION OF INNOCENCE IF EMPLOYER VERIFIES EMPLOYEE ELIGIBILITY UNDER FEDERAL LAW.

A “yes” vote shall have the effect of modifying the laws covering employers who knowingly and unlawfully employ “unauthorized aliens,” suspending or revoking licenses of businesses that employ unauthorized aliens, adding penalties on employers who fail to properly report cash wages, increasing penalties for identity theft, and establishing a presumption of innocence if an employer verifies employee eligibility under federal law.

A “no” vote shall have the effect of retaining Arizona’s current employment laws that suspend or revoke business licenses for employers who knowingly or unlawfully employ an unauthorized alien.

Descriptive Language:

Proposition 202 makes various changes to the state laws prohibiting an employer from intentionally or knowingly employing an alien who is not authorized under federal law to work in the United States. Under Proposition 202, the definition of "knowingly employ an

unauthorized alien" would be amended to require actual knowledge by an owner or officer of the employer.

Proposition 202 would provide that a state, county or local official, in attempting to verify with the federal government if a person is authorized to work in the United States, shall rely solely upon the processes and procedures set forth in federal law. Additionally it allows the court to take judicial notice of the federal government's determination of legal work eligibility and provides the court may request the federal government to provide automated or testimonial verification pursuant to federal law.

Proposition 202 allows any person to file a written and signed complaint with the attorney general or county attorney that an employer in this state was either intentionally or knowingly employing an unauthorized alien in this state. If a person files a false or frivolous complaint, the person would be guilty of a class 3 misdemeanor. If the complaint is found to be valid, the appropriate federal and local officials would be notified by the attorney general or the county attorney. The county attorney would be authorized to bring an action against an employer only for violations that occur beginning January 1, 2009.

For the first knowing violation in a three-year period, the court shall:

- Confirm that the employer has terminated or will terminate the employment of all unauthorized aliens in this state.
- Order the employer to be subject to a three-year probationary period and file quarterly reports with the county attorney of each new employee hired at the location where the unauthorized alien performed work.
- Order the employer to sign an affidavit stating that the employer has terminated the employment of all unauthorized aliens in this state and that the employer will not knowingly or intentionally employ any unauthorized aliens in this state. If the affidavit is not signed, all licenses held by the employer that are necessary for the employer to operate the employer's business at the business location where the unauthorized alien performed work would be suspended until the affidavit is signed. If there are no licenses held by the employer specific to that business location, the court would be required to order the suspension of all licenses held by the employer at the employer's primary place of business in this state. The court would be authorized to order that the business licenses of the employer be suspended for no more than ten days if certain factors are present. For a first intentional violation in a five-year period, the court shall:
 - Confirm that the employer has terminated or will terminate the employment of all unauthorized aliens in this state.
 - Order the employer to be subject to a five-year probationary period and file quarterly reports with the county attorney of each new employee hired at the location where the unauthorized alien performed work.
 - Order the employer to sign an affidavit stating that the employer has terminated the employment of all unauthorized aliens in this state and that the employer will not knowingly or intentionally employ any unauthorized aliens in this state. If the affidavit is not signed, all licenses held by the employer that are necessary for the employer to

operate the employer's business at the business location where the unauthorized alien performed work would be suspended until the affidavit is signed. If there are no licenses held by the employer specific to that business location, the court would be required to order the suspension of all licenses held by the employer at the employer's primary place of business in this state.

- Order the appropriate agencies to suspend all of the employer's business licenses as described above for a minimum of 10 days. For a second knowing or intentional violation during a probationary period, Proposition 202 would require the court to order the permanent revocation of all licenses held by the employer that are necessary for the employer to operate the employer's business at the business location where the unauthorized alien performed work. If there are no licenses held by the employer specific to that business location, the court would be required to order the permanent revocation of all licenses held by the employer at the employer's primary place of business in this state.

Proposition 202 creates a non-rebuttable presumption of innocence if an employer verifies work eligibility through the E-verify system or other method as provided under federal law. Additionally, it creates an affirmative defense of innocence if an employer establishes that it complied in good faith with the requirements of 8 United States Code section 1324a or 1324b.

Under Proposition 202, an employer would not be required to take any action that would violate federal or state law.

Beginning January 1, 2009, Proposition 202 would require every employer, after hiring an employee, to verify the employment eligibility of the employee through the federal employment electronic verification (E-Verify) program or through other documentation procedures authorized by federal law.

Proposition 202 would authorize the attorney general to bring an action against an employer if the employer has more than four employees, pays hourly wages or salary in cash and fails to do any of the following:

1. Withhold required taxes from the employee's compensation.
2. Report the hiring of an employee to the state.
3. Make the required contributions for unemployment compensation benefits.
4. Provide employees coverage for workers compensation.

If the employer is found guilty of any of these actions, the court would be required to enter a judgment against the employer for triple the amount of money that the employer failed to pay or \$5,000 per employee for which a violation was committed, whichever is greater. All sums paid by the employer would be remitted to the Arizona department of education and the Arizona department of health services for distribution to school districts and emergency room providers to use to offset the costs of illegal immigration.

Proposition 202 would expand the crime of identity theft to include a person who knowingly takes or uses personal identifying information of another person or entity without the consent of that other person or entity with the intent to obtain or continue employment. The crime of identity theft would also be expanded to include a person who knowingly accepts any personal identifying information of another person from an individual knowing that they are not the identified person and uses the information for work authorization under federal law. Identity theft is a class 4 felony.

Proposition 202 would expand the crime of aggravated identity theft to include the theft of two or more identities or an identity theft that causes at least \$1,000 in economic loss. Aggravated identity theft is a class 3 felony.

Proposition 202 would expand the crime of trafficking in the identity of another person or entity to include a person who sells personal identifying information of another person or entity with the intent of allowing another person to obtain or continue employment. Trafficking is a class 2 felony.

Proponent: Stop Illegal Hiring Committee, Andrew Pacheco Chairman and Wake Up Arizona. Business groups such as the Arizona Chamber.

Likely Opponent: Anti-illegal immigration groups

PROPOSITION 203

“TRANSPORTATION AND INFRASTRUCTURE MOVING ARIZONA'S ECONOMY (TIME) ACT”

Ballot Language:

Proposition 203 – proposed by initiative petition relating to transportation

INCREASES VARIOUS TAXES FOR 30 YEARS TO BE USED FOR THE STATE’S TRANSPORTATION SYSTEM INCLUDING STATE AND INTERSTATE HIGHWAY IMPROVEMENTS, PASSENGER RAIL SYSTEMS, LOCAL, REGIONAL AND INTERCITY TRANSPORTATION, CAMPSITES AND PRESERVATION OF OPEN SPACES AND WILDLIFE HABITATS; PROVIDES FOR THE ISSUANCE OF BONDS, SPECIFIC DISBURSEMENTS OF MONIES AND PERIODIC AUDITS.

A “yes” vote shall have the effect of increasing the transaction privilege tax (“sales tax”) and use tax from 5.6 to 6.6 cents per one dollar (a 17.8% tax increase) and the mining severance tax from 2.5 to 3.5 cents per one dollar (a 40% tax increase) for thirty years to be used for the state’s transportation system, including state and interstate highway improvements, passenger rail systems, local, regional, and intercity transportation, campsites and preservation of open spaces and wildlife habitats and provides for the issuance of bonds and disbursement of the monies.

A “no” vote shall have the effect of retaining the current tax rates and not provide additional monies for the state’s transportation system.

Descriptive Language:

Beginning in January 2010, Proposition 203 would increase various taxes for thirty years. The transaction privilege tax (“sales tax”) and the use tax would be increased from 5.6 cents per one dollar to 6.6 cents per one dollar (a 17.8% tax increase). Additionally, the mining severance tax would be increased from 2.5 cents per one dollar to 3.5 cents per one dollar (a 40% tax increase). These tax increases would be referred to as the transportation improvement excise tax.

The monies collected from the levy of the transportation improvement excise tax would be used for this state's transportation system including state and interstate highway improvement projects, passenger rail systems, local, regional and intercity transportation, campsites and preservation of open spaces and wildlife habitats.

Under Proposition 203, the state board of transportation would be authorized to issue bonds for these purposes and to use the excise tax revenues as security for the bonds.

Proposition 203 would distribute the transportation improvement excise tax as follows:

1. Fifty-five per cent (55%) into the highway TIME fund, to be used as described below.
2. Eighteen per cent (18%) into the rail TIME fund, to be used as described below.
3. Twenty per cent (20%) for local transportation purposes.
4. Four per cent (4%) for transportation enhancement projects such as developing safe school routes, scenic beautification and environmental mitigation.
5. Three per cent (3%) into the open space conservation and wildlife habitat fund, to be used as described below.

Under Proposition 203, fifty-five per cent (55%) of the transportation improvement excise tax would be deposited into the highway TIME fund and would be used for projects such as the planning, construction and improvement of state highways and state routes and the acceleration of state and interstate highway improvement projects. Of the monies deposited into the highway TIME fund:

1. Forty-nine per cent (49%) would be used on projects that are authorized by the state transportation board and that are located in any county with a population of more than 2,500,000 persons.
2. Thirty-nine per cent (39%) would be used on projects that are authorized by the state transportation board and that are located in any county with a population of 1,000,000 persons or less.
3. Twelve per cent (12%) would be used on projects that are authorized by the state transportation board and that are located in any county with a population of more than 1,000,000 persons but not more than 2,500,000 persons.

Under Proposition 203, eighteen per cent (18%) of the transportation improvement excise tax would be deposited into the rail TIME fund and would be used for projects such as constructing,

operating and maintaining passenger rail systems of statewide significance and funding local, regional and intercity transportation. Of the monies deposited into the rail TIME fund:

1. Eight per cent (8%) would be allocated to the transportation authority that performs regional public transportation planning and programming for any county with a population of more than 2,500,000 persons.
2. Five per cent (5%) would be allocated to the transportation authority that performs regional public transportation planning and programming for any county with a population of more than 1,000,000 persons but not more than 2,500,000 persons.
3. Eighty-seven per cent (87%) would be used for passenger and freight rail.

Under Proposition 203, three per cent (3%) of the transportation improvement excise tax would be deposited into the open space conservation and wildlife habitat fund and would be used to protect, maintain or recover wildlife habitats and open space in this state that are affected directly or indirectly by transportation projects. Monies in the open space conservation and wildlife habitat fund would be used to fund projects based on the priorities identified in the Arizona state wildlife action plan or the Arizona game and fish department wildlife management plan and could be used to purchase real property. The monies would be distributed through a grant program.

Proposition 203 would also allow the department of transportation to consider proposals, both solicited and unsolicited, and enter into agreements for public-private partnerships for any transportation project.

Proposition 203 would require that periodic, independent audits be performed on the past expenditures of the state public transportation system and the projects scheduled for funding.

Proposition 203 would also require for each passenger rail project that a passenger rail project committee be appointed in order to coordinate the department of transportation's project planning.

Proponent: TIME Coalition, Janet Napolitano, AZ Association of General Contractors

Likely Opponent: Goldwater Institute, AZ Free Enterprise Club, Sierra Club

STATUTORY REFERENDUM (300 Series)

**PROPOSITION 300
“LEGISLATIVE PAY RAISE”**

Ballot Language:

Proposition 300 – recommendation of the commission on salaries for elective state officers relating to legislators’ salaries

RECOMMENDATION OF THE COMMISSION ON SALARIES FOR ELECTIVE STATE OFFICERS AS TO LEGISLATIVE SALARIES HAS BEEN CERTIFIED TO THE SECRETARY OF STATE AND IS HEREBY SUBMITTED TO THE QUALIFIED ELECTORS FOR THEIR APPROVAL OR REJECTION.
PROVIDES FOR AN INCREASE IN THE SALARIES OF STATE LEGISLATORS FROM \$24,000 TO \$30,000 PER YEAR.

“SHALL THE RECOMMENDATION OF THE COMMISSION ON SALARIES FOR ELECTIVE STATE OFFICERS CONCERNING LEGISLATIVE SALARIES BE ACCEPTED?”

YES NO

RECOMMENDATIONS, IF APPROVED BY THE ELECTORS, SHALL BECOME EFFECTIVE AT THE BEGINNING OF THE NEXT REGULAR LEGISLATIVE SESSION WITHOUT ANY OTHER AUTHORIZING LEGISLATION.

CURRENT SALARY	\$24,000
PROPOSED SALARY	\$30,000

A “yes” vote shall have the effect of raising State Legislators’ salaries to \$30,000 per year.
A “no” vote shall have the effect of keeping State Legislators’ salaries at \$24,000 per year.

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