

Accomplishments of the 50th Legislature First Regular Session

The Arizona State Senate convened in January with a primary objective to respond to the voter mandates of an improved economy and a responsible approach to the state's budget crisis. Setting the goals and priorities of the Republican caucus at the onset of session enabled legislators to take proactive measures with efficiency and effectiveness. In addition to enacting an economic recovery package and a gimmick-free budget, the Legislature also achieved major reforms in the state's retirement system and regulatory structure. A wide range of key policy areas were addressed, all within the traditional 100 day timeline established for the Legislature to conclude its business. Some of the key proposals are outlined as follows:

Budget

- **2012 State Budget**

This session, the Arizona Legislature passed the first truly balanced budget in five years—no gimmicks, no new borrowing, and no new rollovers. The enacted budget made responsible and crucial reductions. These carefully considered reductions were necessary now to avoid even deeper cuts in the near future.

- It is imperative that the Legislature have oversight of federal funds when making policy and funding decisions. **SB 1561/HB 2577** requires budget units to track noncustodial federal monies separately from other accounts or funds. The bill also authorizes the Legislature to appropriate noncustodial federal monies. The Governor, however, vetoed this measure.

Economic Recovery and Tax Reduction

- **Arizona Competitiveness Package**

One of the Legislature's goals is to re-establish Arizona as a national economic leader. The Arizona Competitiveness Package gets the job done. This proposal includes a mix of targeted business incentives and broad tax reforms designed to reinvigorate Arizona's economy in order to create jobs. The tax reductions are a step in the right direction for attracting and retaining businesses. The Arizona Commerce Department is replaced with the Arizona Commerce Authority, a public-private board comprised of Arizona leaders. The package includes a deal closing fund, a quality jobs program, and a job training program. Multi-state corporations in Arizona will see their sales factor move from 80% to 100%. Corporate income taxes are cut from 6.96% to 4.9%. Property taxes are cut, with Class 1 assessment ratio reduced from 20% to 18%. There is an additional 5% accelerated depreciation schedule for prospective acquisitions of commercial personal property.

- **Invest Arizona**

A perfect complement to the Arizona Competitiveness Package, **SB 1041** makes the state one of the most aggressive in America for luring new companies. It provides tax credits to benefit new and expanding companies. The measure requires significant reinvestment in the state through new capital expansion and improvements to existing infrastructure, which will additionally spur job growth. Incentives are not dependent on the type of industry, size of company, or whether they are rural or urban. The bill is intended to attract all types of industries to bring new technology and innovation to Arizona.

Pension Reform

- The State Retirement System has been headed for collapse. **SB 1609** made the necessary reforms to keep the system afloat. It maintains generous benefits for employees while strengthening the funded status of the state retirement plans. For the Public Safety Personnel Retirement System, SB 1609 reforms the cost-of-living-adjustment (benefit increase) mechanism to better insulate from volatile market performance, asks employees to contribute a reasonable amount for their retirement benefits, and phases out the controversial Deferred Retirement Option Program. For employees in the state retirement plan (ASRS), the "points" system is eliminated and age thresholds for retirement are established. For all retirement plans, SB 1609 prohibits a person convicted of a felony involving the person's official duties from being able to collect a pension and reforms the service purchase process.

Better Business Practices

- The Legislature made great strides in improving the workers' compensation system. **HB 2584** creates a pilot program for self-insured employers to manage their health care costs by directing injured employees to physicians within their network of providers. This one-year program will allow employers to demonstrate to the Industrial Commission of Arizona (ICA) that they can contain costs, improve the quality health care their employees deserve and show better return to work outcomes. While it is necessary to provide long-term medical care for injured workers, oftentimes questionable uses of controlled substances have remained unchecked due to statutory prohibitions. **HB 2616** allows interested parties to request supporting medical information (to be submitted to the ICA) regarding the use of narcotics, particularly opium based controlled substances that exceed normal doses or appropriate use. Employers can request a change of physician if they don't comply with the reporting requirements.
- The voter approved Medical Marijuana Act created certain ambiguities between patient rights and employer rights in addressing drug use on the job to ensure worker safety. **HB 2541** as amended in the Senate would allow an employer to exclude an employee who is a medical marijuana patient from performing safety

sensitive jobs, reassign the employee to another position or place the employee on paid or unpaid leave if an employee used, possessed or was impaired by drugs during employment hours. Employers will have access to the medical marijuana verification system to confirm that employees hold a valid registry identification card.

- **HB 2619** will avert a potentially significant federal unemployment insurance tax increase on Arizona businesses. Reeling from an economy with an unemployment rate that has not improved over the last several years, Arizona had depleted its unemployment insurance fund and borrowed from the US Department of Labor to pay benefits to unemployed workers. If businesses do not pay off the balance of an interest free loan from the federal government by 2012, they could risk double jeopardy and see an increase in costs rise from the current tax rate of 0.8% up to 4.1%.
- **SB 1363** gives business owners relief by prohibiting protesters from obstructing entrance to the workplace, making threats to a person entering or leaving a business and assembling in an un-peaceful manner. Businesses may post a trespass policy publicly with the Secretary of State, which would be accessible to law enforcement. Should business property rights be hindered by picketing, enforcement actions could be taken.
- Being a Right to Work state, it is not appropriate for government entities to impose terms of union collective bargaining agreements in the public bidding process. **SB 1403** prevents state agencies, local governments and the Arizona Corporation Commission (ACC) from conditioning the award of contracts on the demands of unions in project labor agreements. Businesses should not have to add to the costs of a project, particularly using taxpayer money, because government dictated how a project is completed, with whom at what cost.
- **SB 1365**, the Paycheck Protection Act, requires public and private employers to obtain authorization from employees prior to deducting any payment from an employee's check for political purposes. If an employer disregards this direction, the employer is subject to a civil penalty of at least \$10K.

Illegal Immigration/Border Security

- Strengthening Arizona's immigration laws and fortifying access to services and government authorized identification have been top legislative priorities. **HB 2102** requires an individual to present a government issued document that contains the individual's photograph in order to obtain a license to operate a business, perform a professional service that requires a license, or to obtain fingerprint clearance. In that regard, **SB 1465** prohibits the acceptance of consular identification cards as a valid form of identification. This is intended to curtail use of this form of identification in order to derive public benefits in this country.

- Enforcing laws against human smuggling operations is another important measure in containing the state's ongoing immigration problem. While the Legislature has already imposed stiff penalties against human smugglers and businesses and individuals who facilitate illegal immigration by selling or leasing properties used as drop houses, **HB 2405/SB1368** lengthens the sentencing for these felony offenses, without probation, pardon or release until the full term is served.
- Frustrated by the lack of federal response to Arizona's illegal immigration problem, legislators have responded through resolutions seeking consideration of possible solutions to address illegal border crossings and the economic impact on the state. Examples include asking the US Department of Labor to establish a daily commuter worker pilot program and implementing a comprehensive border security plan. Better use of electronic surveillance, an increase in Border Patrol agents and improved/expedited prosecution of crimes committed by illegal aliens are excellent first steps to resolving a significant national challenge.
- Illegal immigration has placed a tremendous financial burden on the state's prison system. **SB 1046** requires the US Immigration and Customs Enforcement (ICE) to take custody of a minor for immigration proceedings and also directs the state's juvenile corrections system to notify ICE if juvenile offenders who have been previously discharged to return to the United States without legal authorization.
- Arizona enacted comprehensive immigration reform in 2010 with the passage of **SB 1070**. The landmark legislation immediately met legal challenges and a subsequent court ruling imposed an injunction on key provisions of the law. It is anticipated that the legal challenges will ultimately be considered by the Supreme Court. As such, the Legislature saw fit to permit the Speaker of the House and the Senate President to enjoin in the legal proceedings to offer proper perspective on the legislation and represent their respective chambers in court. This legislation was upheld in federal court, allowing the Legislature a seat at the legal table.
- Using private funds, **SB1406** allows the Governor to enter into an interstate compact to create a border fence along the Arizona-Mexico border. The fence would be located on private, state, or federal property, if permitted.
- Arizona voters will have a say next year on an important issue. **SCR 1020** asks voters to enact the "Crime Victims Protection Act", which ensures crime victims are not liable for damages incurred by a person injured during the commission of a felony. Illegal immigrants should not be able to get punitive damages.
- There has been ongoing discussion at the state and federal level as to what level of engagement the National Guard should have along Arizona's borders. Current law acknowledges the Arizona National Guard as a militia that can be called into service, and the Arizona State Guard, which can be organized and also placed into action. **SB 1495** empowers the Governor to solidify the Arizona State Guard utilizing unused monies appropriated to the National Guard to build a stronger presence along the border to enforce immigration laws. SB 1495 allows

the Governor to establish the Arizona State Guard for any reason the Governor considers necessary.

Education Reform

- The Education Relief Act is a wide-ranging education bill that promotes efficiency by giving schools flexibility, cutting red tape and freeing up dollars for the classroom. **SB 1263** maintains funding in the classroom site fund, encourages electronic record keeping, and gives the State Board for Charter Schools the ability to establish a fund for approved gifts or grants.
- The Dropout Recovery Program is established with **SB 1303**, which helps high school students who have dropped out of school find a flexible option to earn their diploma.
- As part of a school improvement plan for an underperforming school, **SB 2706** directs the State Board of Education to implement guidelines for supplementary training in reading instruction for teachers who teach kindergarten through grade three.
- Parents want to be informed about what is being taught in their child's school. **SB 1453** establishes parental consent in the course content for public schools. Parents have the option to request alternative assignments for their children if the parent deems the material unfit or inappropriate.
- In order to protect young athletes from incurring additional head injuries during a school athletic event, the Legislature passed **SB 1521**. It requires school district governing boards to implement enhanced policies and procedures regarding concussions and head injuries of students participating in school-sponsored athletic activities.
- Arizona Empowerment Scholarships are created in **SB 1553**. These accounts are for students with a qualifying disability, consisting of 90% of the base level support for that particular student. This bill helps to establish opportunities that will highly benefit a disabled student's education.
- For some school districts, unification and consolidation provides the best remedy. **HB 2219** creates a joint legislative study committee to examine unification and consolidation of school districts. Unification can greatly reduce waste in school districts and save taxpayer dollars.
- During these hard economic times, it is important for schools to spend unencumbered funds where they are needed most. **HB 2301** lifts restrictions placed on extracurricular activity funds and allows schools to spend 50% of that money on short-term capital items.

- Arizona is doing all it can to make higher education affordable for our nation's veterans. **SB1223/HB2410** grants in-state student status for the purposes of tuition at any Arizona public university or community college to any person honorably discharged from the United States Armed Forces and their immediate family.

Judicial Reform

- The issue of judicial reform will go to the voters. **SCR 1001** asks the people of Arizona to approve necessary changes to the judicial merit selection and retention system. It provides more options to the Governor in appointing judges by expanding the list of qualified applicants. It extends judicial terms of office, increases the retirement age for judges and narrows the influence of the State Bar in the nomination process for judges. Additionally, it improves accountability by providing a central place for citizens to access court decisions and makes the retention process more transparent through additional public hearings.
- The Legislature also improved the probate process. **SB 1499** provides transparency, accountability and protection for the most vulnerable Arizonans. It places reasonable time limits on how long a professional has to submit bills, requires disclosure of compensation, outlines factors for determining the extent to which compensation is appropriate and allows the court to sanction parties for engaging in frivolous legal actions at the expense of a ward. The bill requires training for judges and commissioners on probate cases, specifies the duties and responsibilities a fiduciary must have to the person under protection and requires the court to substitute a guardian/conservator if it is in the person's best interest, instead of requiring a higher threshold for removal.

Healthcare

- **HB 2620** moves the current system of medical information sharing into a new era that will improve efficiencies in the delivery of health care. Creating a Health Information Organization that will manage medical records with proper securities in place can benefit providers and patients alike by reducing paperwork and medical errors, decreasing health care costs by eliminating unnecessary diagnostic testing and assuring that health care providers have accurate and timely information. A critical element of the legislation is to provide individuals the right to opt out of sharing their personal medical history, or enabling them to select which types of medical information can be shared among providers and insurers.
- In order to break commercial barriers and allow Arizona consumers to obtain affordable insurance, **SB 1593** allows insurance companies from other states to register with Arizona's Department of Insurance and offer health care coverage as long as they meet the benefit requirements of the state where they are headquartered. Arizona insurers can compete with these companies, as they will

also be able to match the same level of coverage offered by out of state insurers. Fostering healthy competition in this market has been a much sought after goal among our legislators to mitigate the skyrocketing costs of health care.

- Health Savings Accounts (HSAs) are making a comeback in the health care arena. Employers and employees are finding it advantageous to manage their health care expenses and be responsible for their own health care decisions. With state budgets under duress, many states are looking at HSAs as a model for providing health care benefits. **HB 2556** allows individual and corporate income tax credits for employers who provide qualified health insurance plans to their employees beginning in TY 2012.

2nd Amendment Rights

- The Firearms Omnibus, **SB 1201**, prevents the disarming of citizens in public establishments unless the establishment itself is secured (law enforcement or an armed security officer is present and metal detectors or x-ray machines are in use). The facility must also be in compliance with posting and locker requirements. SB 1201 affirms the rights of private property owners to restrict weapons on their property if it is not being used for a government purpose.
- Second Amendment rights don't end on a university campus. **SB 1467** prohibits the governing board of an educational institution from adopting or enforcing any policy or rule prohibiting the lawful possession or carrying of a weapon on a public right-of-way. The Governor, however, vetoed this measure.
- **HB 2645** permits a person found to be a prohibited possessor of a firearm to petition the court to restore the person's right to own a firearm, and stipulates that a retired peace officer may not be prohibited from carrying a firearm, with exceptions
- **SB 1610** establishes the Colt Single Action Army Revolver as the state firearm.

Tort Reform

- Oftentimes the cost of litigation, particularly in the appeals process, is too steep for a defendant to pursue their just course of action. In order to appeal, they must post an appeal bond equal to or higher than the judgment awarded in the trial. **SB 1212** sets a cap on the appeal bond to be either 55% of the appellant's net worth or \$25 million. This will allow defendants an opportunity to affordably appeal their cases, rather than be forced into a settlement without due process.
- Medical malpractice lawsuits remain a deterrent for recruitment and retention of physicians in this state. High medical malpractice insurance premiums and the threat of litigation, particularly within specialty practices, have contributed to the increased use of defensive medicine and ultimately the increased cost of health

care. Students enrolled in medical school or health care training programs are sometimes named in malpractice claims, which places an undue burden for the instructional institution to defend not only the facility but the student as well. **SB 1429** ensures that a student in an accredited medical training program is not liable for a malpractice action and does not owe an independent duty of care under supervised instruction. The student is not exempt if gross negligence is established, and the bill does not remove liability from the supervising licensed healthcare provider for the student's actions.

Election Reform

- The Legislature enacted measures to prevent abuses in our initiative and referendum processes. **SB 1167** specifies that a challenge to the legality of a referendum measure or any proposed amendment to the Constitution ordered by the Legislature must be filed within 20 days after the referendum is filed with the Secretary of State if the referendum is filled in an odd numbered year and 10 days after filing in an even numbered year.
- **SB 1412** strengthens election integrity through the creation of several felony offenses targeting voter fraud, such as selling/offering to sell a ballot, collecting ballots but not turning them in, soliciting ballots by misrepresenting oneself as an election official or engaging in a pattern of ballot fraud. **SB 1412** also requires county recorders to provide "tamper evident" envelopes for early ballots and requires any person who brings ten or more early ballots to a polling site to provide photo identification to the election official accepting the ballots.
- Election reform will be on the ballot next year. **SCR 1025** asks voters to prohibit the state and political subdivisions from using public funds for political campaigns.
- **SB 1472** requires the Commission on Judicial Performance Review to provide biographical information and a listing of specific published decisions for appellate judges to the Secretary of State for electronic publication at least 60 days before a primary election.

Strengthening the Family

- **SB 1560** brings transparency and consistency to the foster care process by streamlining processes to allow kids who are in out-of-home placements to find stable, permanent homes. The bill requires the Department of Economic Security (DES) to provide a 15-day notice prior to a hearing to remove a child from a foster placement if the foster parent is a "prospective permanent placement." It requires DES to have a court order prior to taking any action that might be inconsistent with the case plan and states that if an alleged parent fails to take a paternity test requested by the court or DES, the failure is prima facie evidence that the child has been abandoned by the alleged parent. **SB 1560** also requires

providers to make every reasonable effort to schedule appointments, visitations or activities for kids in out-of-home placements outside of school hours.

- A number of bills protecting the unborn were passed by the Legislature and signed by the Governor. **HB 2416/SB 1246** establishes additional requirements for physicians to obtain the voluntary and informed consent of a woman seeking an abortion and prohibits the use of telemedicine to provide an abortion and defines terms. **HB 2384/SB 1265** prohibits qualifying charitable organizations from providing, paying for, promoting, providing coverage of or referrals for abortions. It also prohibits the use or allocation of state university or community college student tuition or fees for training to perform abortions. **SB 1030** prohibits a physician's assistant from prescribing medication intended to perform or induce an abortion.

Privatization

- **SB 1589** requires the Director of the Arizona Department of Transportation to authorize third parties to perform duties that would normally be performed by the Motor Vehicle Division.
- **HB 2154**, an emergency measure, requires the Arizona Department of Corrections to issue a Request for Information within 30 days after the effective date, for the privatization of all correctional health services, including all medical and dental services. The bill prohibits the ADC from bidding or competing to provide medical services. It mandates that ADC award a contract to the best qualified bidder.
- **SB 1270** is the Arizona Department of Transportation Omnibus. The bill makes various changes to transportation laws that reduce the bureaucracy and enhance public-private partnerships.

Government Reform

- **SB 1329** prohibits a taxpayer-paid public employee from lobbying or engaging in political activities during the employee's work hours. The bill additionally prohibits a public entity from using taxpayer monies for rallies, protests or lobbying efforts (specific exemptions provided for designated public lobbyists and employee representatives).
- The Legislature came to the assistance of homeowners in dispute with their Homeowners Associations (HOAs) a few years ago by establishing an administrative hearing process to resolve conflicts. This was intended to mitigate the high cost of litigation that a property owner would have to undertake if they challenged their HOAs. Unfortunately, the Arizona Court of Appeals ruled that the process was unconstitutional, citing that the designation of authority to appeal an HOA ruling through the Department of Fire, Building and Life Safety

(DFBLS) was not the appropriate jurisdiction. **SB 1148** responds to the court ruling by clarifying in statute that DFBLS does indeed hold an additional purpose of resolving disputes and may interpret statutes relating to common interest communities that may not be directly licensed by that department.

- Families need to be better informed on their options when placing loved ones in care facilities. **SB 1190** requires DES to hold meetings with individuals who live in state intermediate care facilities, skilled nursing facilities or intermediate care facilities and their parents/guardians to present all the different placement options, including placement with private service providers.
- Arizona’s “Regulatory Bill of Rights” provisions have been extended to local jurisdictions. **SB 1598** establishes the rights for people regulated by cities, towns, counties and flood control districts. For too long, cities have dragged their feet in getting the permitting process completed, so businesses can start or expand. This bill ensures fair and open regulation by local governments.
- **SB 1116** prohibits universities and university employees from engaging in various advocacy-related practices. The bill is specified to restrict universities and personnel from using taxpayer dollars in order to advocate for their specific policy. This legislation does not impact the free exchange of ideas and knowledge in regards to policy issues.
- The home building industry is a prime driver of the state’s economy. In an effort to promote economic competitiveness and job creation, the Legislature adopted **SB 1525**, model legislation to curb impact fee abuse in Arizona. At its core, this measure ensures that new homeowners pay their share of the cost of services and ensures that they actually receive those services.
- More than 40% of Arizona land is federal property. **SB1546** broadens the classification of property subject to the state’s eminent domain laws by including property possessed by the United States Government. This would open up development to thousands of acres of land in Arizona that is currently off limits.
- **HB 2665** is a regulatory reform measure that assists business owners in complying with environmental laws. Proper notice as to what documents are required for an inspection, what specific allegations a business must address and due process to correct on site deficiencies will reduce ongoing correspondence and legal proceedings with the state's environmental agency. The bill is intended to improve the business climate in Arizona.

Sentencing Reform

- **SB 1200** establishes continuous alcohol monitoring as an alternative to part of the jail sentence for a person convicted of specific DUI offenses. This is a cost-effective way to manage offenders while ensuring public safety. There are

incentives for DUI offenders to get an ignition interlock device and to comply with post-sentencing DUI requirements through reductions in the amount of time that they are subject to an ignition interlock device. The bill allows for the electronic submission of administrative suspension materials and makes numerous other DUI-related statutory changes.