



ARIZONA HOUSE OF REPRESENTATIVES

Issue Briefing Binder

For Republican Members of the Arizona House of Representatives

Includes summaries of key legislation passed during the 2009 and 2010 legislative sessions.



Compiled by:

The Arizona House Communications Team

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For further information, contact Paul Boyer

602.926.5545





1700 West Washington, Suite H • Phoenix, AZ 85007-2844

Phone: (602) 926-5495 • FAX: (602) 417-3019

Office of the Speaker of the House

Memorandum

Dear Colleagues:

It is hard to believe the 49th Legislature has already completed the 2010 Regular Session. Not only did we pass a balanced budget in record time, we also sine died in a mere 109 days – an act of efficiency unheard of in recent memory.

Of equal importance, however, are all the positive policy measures promoted and passed by the House Republicans. As you will recall, we developed a Republican Majority Program at the beginning of the 49th Legislature. The goal of this program was to promote a stronger, more vibrant Arizona through the fundamental concepts of fiscal accountability, economic prosperity and sound Republican principles. As this book demonstrates, we have been quite successful.

As House Republicans, we banded together and stood firm on our principles and, as a result, have a lot to be proud of from our accomplishments over the past 18 months. Please use this book as you go home to your districts. As you meet with constituents, make sure you remind them how much we have achieved and how those accomplishments affect them.

If you have any questions or would like information on any other issue or bill, please do not hesitate to contact me. Thank you for making the 49th Legislature such a success.

Sincerely,

Kirk Adams
Speaker
Arizona House of Representatives

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1. INTRODUCTION

While the Democrats abdicated their responsibility and failed to produce any budget plan during the worst fiscal crisis in Arizona's history, the House Republicans passed responsible, balanced budgets. Republicans cut more than \$2 billion in state spending, permanently eliminating a massive amount of government waste. These budgets have placed Arizona at the forefront in cutting government largesse.

Combined with cutting spending, the House Republicans also promoted job creation and economic development. Although unfortunately denied a floor vote in the Senate, the Arizona Economic and Job Recovery Act was overwhelmingly supported and passed by Republicans in the House. Not only would this bill have recouped some of the 300,000 jobs lost during the recession, it would have created a more business friendly and job-centric environment in every corner of the state. Critical to this effort was the \$900 million in tax cuts the bill provided to existing and new businesses as well as to individual taxpayers, thereby establishing Arizona as the Nation's leader in economic development.

As the Second Regular Session came to a close, the bulk of the media's attention was focused on SB 1070. While some self-serving politicians from other states (and a few from Arizona) complained and spread misinformation about the bill, Arizonans – fed up with border violence and federal inaction – overwhelmingly supported the measure in poll after poll. The bill simply mirrored federal law to ensure the enforcement of existing immigration laws. Tellingly, most law enforcement officials supported SB 1070, endorsing the basic principle that border security is one of Arizona's most pressing concerns.

A strong life affirming and pro-Second Amendment agenda was also a top priority for Republicans in the House. They were successful in strengthening parental consent laws and banning taxpayer money from being used for abortions. Reaffirming the importance of the Second Amendment to Arizonans, Republicans passed legislation to stop municipalities from undermining state laws and imposing restrictions on gun owners as well as passed a referral to stop efforts to ban hunting and fishing in the state.

House Republicans also took a leading role in several other key issues. They took on the federal government with health care reform, worked toward energy independence, advanced school choice and enacted public/private partnership legislation that has become the model for other states to follow.

These achievements and more ensured the 49th Legislature will be recognized as the most productive and successful in recent memory. Despite a daunting budget crisis and disappointment with an aloof federal government, House Republicans were successful in advancing a strong agenda based on fiscal responsibility and individual rights – an agenda that will provide the framework for even more successes in the future.

2. BUDGET

2.1 FISCAL ACCOUNTABILITY

The Legislature is constitutionally mandated through its power of appropriation to create state fiscal and economic policy. In addition, as elected members of Arizona's citizenry, members of the Legislature are tasked with the stewardship of Arizona's economy. Inherent in this stewardship is the responsibility to improve and expand Arizona's economy. We have met this challenge by learning from the past and using those lessons to create a better future for Arizona. We have identified the proper role of state government, maintained funding for its core responsibilities at a level appropriate to our revenues, and preserved essential services for our citizens to the best of our ability.

For the last two years, the Legislature grappled with looming deficits of more than \$3.3 billion each year. State government spending grew by \$3.7 billion from 2004 to 2009, or an annual increase of almost 10% per year for five years. The increases were attributable to extraordinarily high revenue growth rates. Unfortunately, increased revenues were not allocated to capital infrastructure or necessary business tax relief to stimulate economic growth. Instead these dollars were directed into permanent ongoing spending that could not be maintained at regular and constant revenue levels. These unwise and short sighted decisions have resulted in the tough choices and actions that have been made by the Legislature in the last two years, to right size government.

In the 49th Legislature, we adjusted the budget several times that culminated in the reduction of state government by 20%. These budget reductions, totaling \$9.6 billion in deficit solutions since the start of 2009, were structured to strategically diminish the state's structural deficit. This is a remarkable feat given the entire state budget is approximately \$10 billion. Total budget deficit reduction solutions include: spending reductions, fund transfers, non-tax revenue enhancements, stimulus, and borrowing.

Below is a summary of the actions taken by the Legislature in the last two legislative sessions:

First Special Session: \$1.65 billion (Spending Reductions, Fund Transfers, Stimulus)

First Regular Session, April 2009 (Regular Session Bills): \$650 million (Stimulus, School Cash Balances/Rollovers, University Rollover)

3rd Special Session: \$2.55 billion (All categories)

4th Special Session: \$450 million (Spending Reductions, Non-tax revenue enhancements)

5th Special Session: \$200 million (Spending Reductions, Fund Transfers)

6th Special Session: \$772 million (Lottery Bonding, Sale-Leaseback, Out of State Filers Income Tax modification)

7th Special Session: \$3.30 billion (All categories)

8th Special Session: None

2.2 STRUCTURAL REDUCTIONS

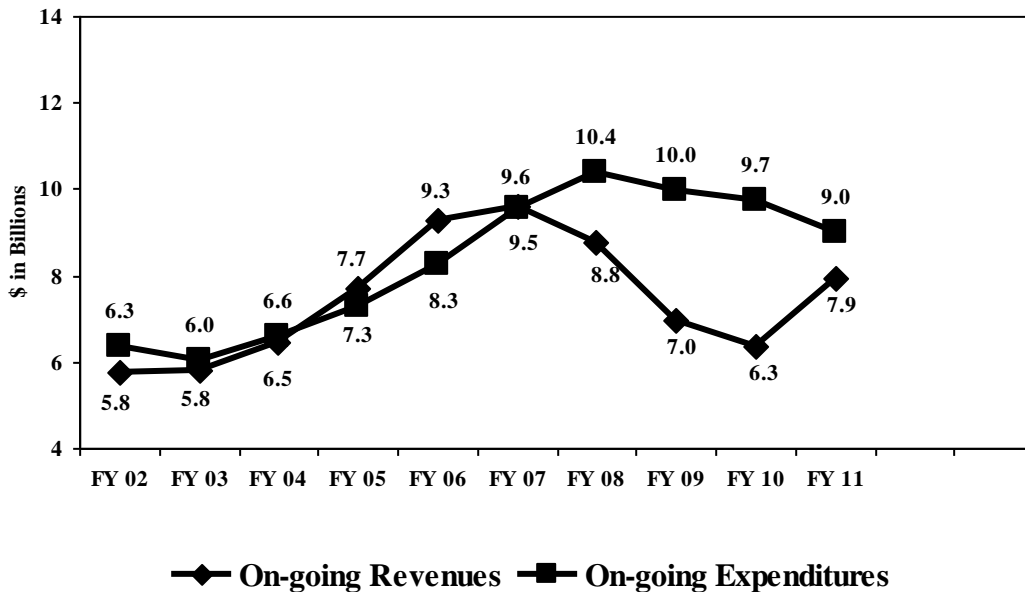
Recognizing the structural deficit as the root of the state's fiscal crisis, the Republican caucus took steps to reduce permanent spending. The \$2.1 billion in spending reductions represent permanent solutions to make Arizona's budget structurally balanced.

- The cumulative reductions represent a 20% decrease in spending relative to the originally-enacted FY 2009 budget, which budgeted \$10.2 billion in spending.

The spending reductions are as follows:

FY 2009 Budget (1 st Special Session):	\$550 million
FY 2010 Budget (3 rd Special Session):	\$61 million
FY 2010 Budget (4 th Special Session):	\$250 million
FY 2010 Budget (5 th Special Session):	\$75 million
FY 2010 Budget (7 th Special Session):	\$81 million
FY 2011 Budget (7 th Special Session):	<u>\$1.079 billion</u>
Cumulative Structural Spending Reductions: \$2.096 Billion	

Structural Deficit - With the Passage of Proposition 100



2.3 PERMANENT BUDGET REFORMS

In addition to implementing permanent spending reductions to address the State's structural deficit, Republicans have put into place several budget reforms that will help limit unconstrained growth in government spending when revenues start growing again. A summary of the reforms is as follows:

Proposition 204 Rollback – The FY 2011 budget funds the Proposition 204 population within AHCCCS & DHS only up to the level of Tobacco Settlement monies and dedicated tobacco tax monies, beginning January 1, 2011.

- **The General Fund was never intended to be the primary funding source for Proposition 204.**
- Since FY 2003, the Tobacco Settlement funds have been inadequate to fund the Proposition 204 expansion. To support the Proposition 204 population in FY 2011, the General Fund is forecast to provide almost \$700 million, with only \$108 million of state support for Proposition 204 provided by tobacco settlement monies and \$62 million funded via dedicated tobacco tax monies.
- Under this proposal, 310,500 Arizonans – 4.3% of the state's population and 25% of its projected FY 2011 AHCCCS enrollment – will lose their AHCCCS health insurance.
- Few states are as generous as Arizona when it comes to Medicaid coverage, particularly non-elderly adults. At a share greater than 20%, Arizona has one of the highest Medicaid coverage levels as a percentage of the overall population. In FY06 (latest available data¹), 39% of Arizona's AHCCCS population is non-elderly adult, which is the 2nd-highest proportion among the states. Only California has a higher rate, 40%. The national average for non-elderly adults was 25%.
- The budget proposal takes us from covering 20% of the State's population to now 16%.

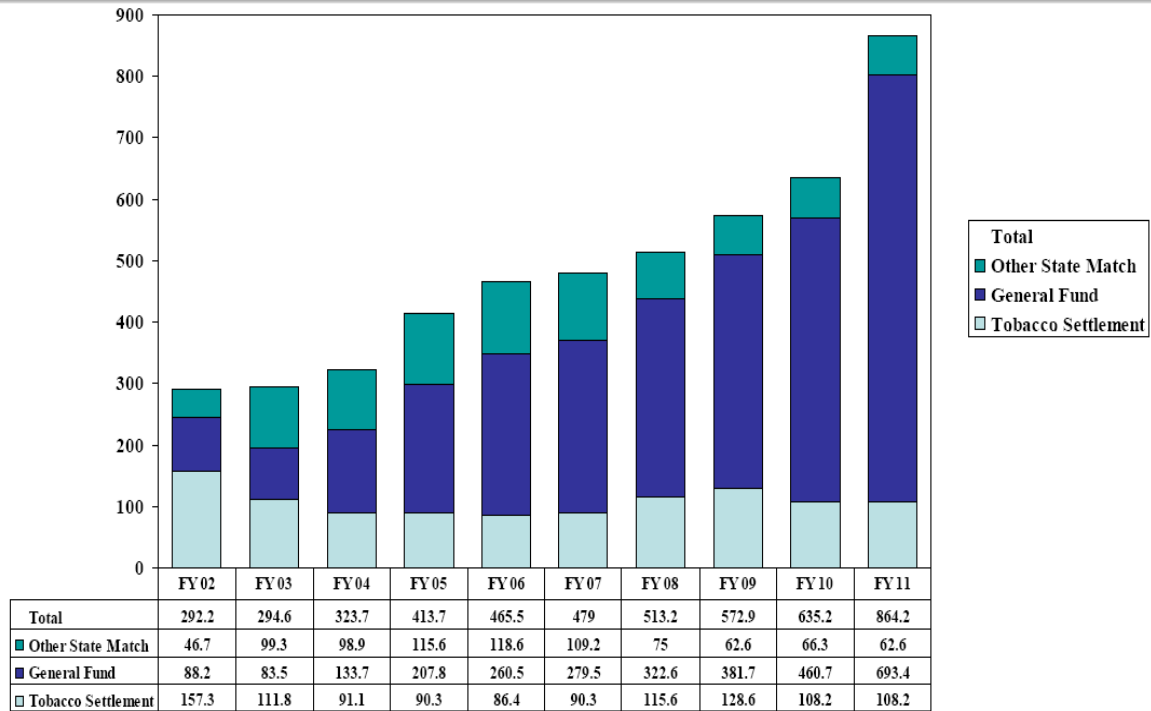
From FY 1990 – 2007 (latest data available²) Arizona has led the nation in Medicaid spending growth. 15.4% (FY 1990 – 2001); 22.8% (FY 2001 – 2004); 10.3% (FY 2004 – 2007)

¹ Ibid. <http://www.statehealthfacts.org/comparetable.jsp?ind=200&cat=4&sub=52&yr=29&typ=2>

² Kaiser Family Foundation. State Health Facts.

<http://www.statehealthfacts.org/comparetable.jsp?ind=181&cat=4>

Proposition 204 State Match By Source



Traditional Medicaid Population (Not Impacted by Proposition 204 Reduction)	
•	Children less than 1, up to 140% of the Federal Poverty Level (FPL)
•	Children aged 1-5 up to 133% FPL
•	Children aged 6-18, up to 100% FPL
•	Pregnant women up to 150% FPL
•	Aged, blind, and disabled adults, up to 75% FPL
•	Parents, up to 36% FPL
•	Women diagnosed through the Breast and Cervical Cancer Screening Program, up to 250% FPL
•	Individuals aged 16-64 receiving Supplemental Security Income compared to other states, up to 250% FPL ("Ticket to Work" Program)

Arizona's chronic deficit situation is similar, albeit much larger as a proportion of its General Fund budget than most states, to other state governments around the country that are grappling with a severe economic downturn. State finances worsened in FY 2009 and are forecast to decline further during FY 2010, likely into FY 2011 and possibly into FY 2012. Nearly every state faced tightening fiscal conditions compared to fiscal 2008, when such fiscal difficulties were seen in only about half the states.³

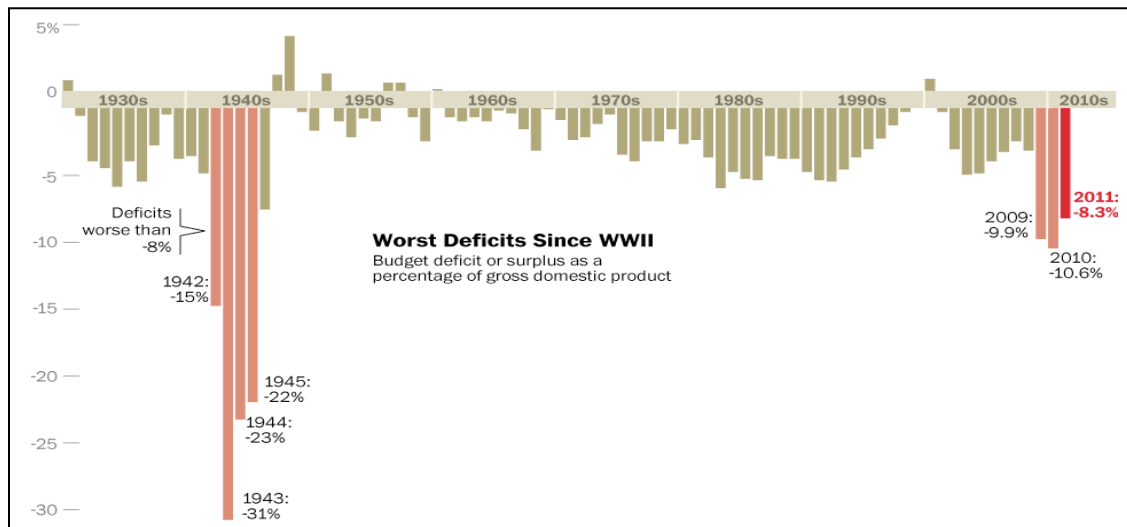
- In FY 2009, 43 states reduced enacted budgets by \$31.3 billion
- As a result of declining state fiscal conditions, states were considerably active in addressing budget gaps in FY 2009. Two-thirds of states relied on targeted cuts, while more than half enacted across-the-board cuts, and half the states used rainy day funds to reduce or eliminate budget gaps.

³ Adopted from National Governor's Association. The Fiscal Survey Of States: December 2009.
<http://www.nga.org/Files/pdf/FSS0912.PDF>

- As of December 2009, 36 states have reduced FY 2010 expenditures by \$55.7 billion across the nation
- To eliminate FY 2010 budget gaps, nearly two-thirds of states have again employed targeted cuts, while nearly half of the states undertook layoffs and 16 states have implemented furloughs.
- At the depth of the previous state fiscal crisis, 37 states in both FY 2002 and FY 2003 made mid-year budget cuts totaling nearly \$14 billion and \$12 billion, respectively, more than a year after the end of the national recession.
- State reductions to K-12 & Higher Education spending have been commonplace. Through December 2009, 60% of the states have enacted spending reductions to the K-12 and Higher Education systems in both FY 2009 and FY 2010.

2.4 IMPACT OF FEDERAL ECONOMIC POLICY

While States are struggling under the fiscal strains imposed by the “Great Recession”, adopting rigorous measures to ensure expenditures meet budgeted revenue levels, the federal government is taking the opposite approach.



At the time of the nation’s greatest economic downturn in decades, the federal government is spending and borrowing at unprecedented levels, creating money leading to high levels of inflation in the near future, providing “bailouts” to banks and politically-connected carmakers, attempting to pass unpopular, job-killing legislation that is hostile to free enterprise and an expedient return to private sector job growth and capital investment.

The National debt already tops \$12 trillion, and the projected FY 2011 budget deficit would put it at more than \$13.6 trillion, nearly 100 percent of U.S. Gross Domestic Product (GDP).

2.5 FY 2011 BUDGET HIGHLIGHTS

The FY 2011 budget makes the most comprehensive reduction to state government spending that Arizona has ever seen. The budget made structural, permanent reductions of \$1.1 billion in FY2011, with the structural savings growing to more than \$1.55 billion in FY 2012⁴. Highlights included:

- Proposition 204 Rollback – The FY 2011 budget funds the Proposition 204 population within AHCCCS & DHS only up to the level of Tobacco Settlement monies and dedicated tobacco tax monies, beginning January 1, 2011.
- The FY 2011 budget holds education spending (K-12, Higher Education) funding at the FY 2006 Maintenance of Effort (MOE) level required by the federal government under the federal stimulus legislation. The FY 2010 budget already had state support for education at the FY 2006 MOE.
- Protected funding for Public Safety & Law Enforcement – the budget included no spending reductions in the Department of Corrections or the Department of Public Safety.
- Protects Funding for Veterans’ Services – The FY 2011 budget includes no reductions to the Department of Veterans’ Services.
- The FY 2011 Budget does NOT impose a transfer of the Department of Juvenile Corrections to the counties. Given the wide-ranging policy, fiscal, and inter-governmental relations implications of the DJC proposal, a commission will be established in FY 2011 that will study this issue in-depth and make recommendations on the best way for Arizona to manage juvenile corrections.
- Reduces welfare cash assistance payments from 60 months to 36 months. The federal government provides a 60-month maximum benefit limit, though states may include more strict timelines. Some states allow for only 24 months.
- Limits Arizona’s Cities & Towns budgetary impact to the re-direction of Local Transportation Assistance Fund (LTAF) Lottery revenues into the General Fund (\$32 million cost to the Cities & Towns). The re-direct of LTAF Lottery Revenues to the General Fund is designed to help the state manage the debt service that has been incurred in the course of balancing successive FY09-FY11 budgets.
- The State shares approximately \$900 million of its Sales Tax, Income Taxes, and Vehicle License Tax revenues with the Cities & Towns
- Consequently, the LTAF re-direct of \$32 million is less than 4% of the total amount of monies the State shares with the Cities & Towns.

⁴ The additional \$450M in FY 2012 structural savings are attributable to full-year savings of the Proposition 204 Rollback & implementation of QTR-only Homeowner’s Rebate budget reform.

The Budget also asked the voters of Arizona to make important choices to help the Legislature balance the budget. Given the voter constraints imposed by Propositions 105 & 108, it is critical Arizonans are brought to the table on a deficit of historical proportions.

2.6 MINORITY CAUCUS FAILURE TO LEAD

The minority caucus has not provided a budget plan since May 2009. Their often referenced website featured just slight modifications to their May 2009 proposal, but never attempted to solve the FY 2011 budget. Based on that website, the budget proposed by the minority caucus in May 2009 would have done the following to “solve” the FY 2010 budget:

- Increased Property Taxes on Homeowners and Businesses by \$735 million by increasing the Qualifying Tax Rate (QTR)
- Took \$1.1 billion of Sales Tax Revenues from the Cities & Counties
- Reinstate the State Equalization Tax, costing Homeowners & Business \$250 million per year

The minority caucus had been invited on numerous occasions to provide a budget plan, whether in bill form or not, and present it in the Appropriations Committee, and, if in bill form, receive a floor vote. Despite several requests to participate in the budget process by providing a concrete proposal, Democrats refused to provide any budget ideas, let alone a plan; effectively marginalizing their involvement in solving the largest deficit in the state’s history.

3. ECONOMIC PROSPERITY

3.1. ARIZONA ECONOMIC & JOB RECOVERY ACT (HB2250) – PASSED BY THE HOUSE

The Arizona Economic and Job Recovery Bill would have created a more business-friendly climate, attracted and retained base industries, created jobs with good pay and benefits, and provide needed tax relief to businesses and citizens.

This bill included legislation focused on four specific areas: job creation and training programs, incentives to attract new and retain existing base industry companies in Arizona, tax relief for large and small businesses and economic development programs.

A major focus of the Arizona economic and job recovery legislation was base industries, which include those in high-wage sectors such as manufacturing, research and development, and high-tech companies. In addition, each base industry job creates additional jobs in local businesses throughout the state. For example, every 10,000 jobs in Aerospace manufacturing in Arizona create 22,000 more jobs in other industries across the state. A base industry is defined as: a) exports 65% of its goods and/or services outside the State; b) creates jobs with gross wages at or above the county average wage; and c) pays 50% of employee health insurance. The base industries identified in the bill:

1. Manufacturing
2. Research & Development
3. Mining
4. Corporate or Regional Headquarters
5. Companies meeting the 65% export requirement

Job creation and training programs

- The **Arizona Quality Jobs Program** would have provided cash rebates to new and existing base industry companies that create good, high-paying jobs in Arizona. These rebates would have required no funding from the State, but would have been paid by rebating back to the base industry company a proportion of each new employee's withholding taxes.
 - Qualifying base industry companies must have had payrolls at \$2 million or above, roughly equivalent to 50 jobs, which must have been maintained annually for a minimum of five years. Companies would have only received the rebate when the total payroll thresholds, wage requirements, and health insurance requirements were met.
 - Of the new jobs created by the Arizona Quality Jobs Program, 50% of the value of the tax withholdings would have been rebated back to the company, while the state received the remaining 50%.
 - This program would have reduced the cost for base industry companies to do business in Arizona by offsetting their annual payroll costs.
 - The State would have benefitted since the Arizona Quality Jobs Program required no commitment of General Fund monies. Each grant would have

been self-funded and paid through a diversion of a portion of withholding taxes from the employees of the company.

- The model was based on successful Quality Jobs Programs in Arkansas, Kansas, Louisiana, Missouri, and Oklahoma.
- The Oklahoma Quality Jobs Program, for example, has been in place since 1993, and has enrolled 491 companies, creating more than 339,000 new jobs, with a payroll of more than \$11 billion.
- The **Arizona Job Training Program**, which was suspended during the 2009 Legislative Session, would have been reinstated and enhanced to be more robust and responsive to new and existing base industry companies in Arizona. Funding for this program would have come from a percentage of withholding tax revenue and is based on successful programs in Iowa and Kansas. The program would benefit all businesses in Arizona since it would have repealed the existing Job Training Tax currently being applied to the payroll and paid by every employer in the State, even though they may not participate.
 - Established a new Arizona Job Training Program through July 1, 2020 managed by the Department of Commerce for Arizona base industries providing new jobs.
 - Authorized the Greater Arizona Development Authority (GADA) to provide revenue bond financing for job training projects. GADA provides financing through a loan agreement, which includes a legally-binding acknowledgement that all repayment obligations are not obligations of the General Fund.
 - The Arizona Jobs Training Program requires no commitment from General Fund appropriations because each grant is self-funded and paid through a diversion of a proportion of withholding taxes for up to 7 years from the new jobs created by the participating company.
 - In addition to the withholding tax diversion, participating companies would have also been required to pay for 25% of the training cost.
 - Provided the Director of the Department Commerce the discretion to allow qualified companies to participate in the program to preserve and retain existing jobs in base industries.
 - Every employee and employer in Arizona would have benefitted from the repeal of the Job Training Tax, which collected \$15 million in additional payroll taxes from employers in fiscal year 2009.

Incentives to attract new base industry companies to Arizona

- The **Arizona Opportunity Fund** would have provided incentive funds to attract much needed, high-impact base industries to the State, but would not add to Arizona's budget deficit. Seeding of this fund would have come through a use of existing Arizona Federal Stimulus proceeds, and maintained through a percentage of withholding tax revenue generated from the newly-created quality jobs and job training programs.
 - This fund would have helped all of Arizona due to the multiplier effects of bringing base industry companies to the State. In addition to its jobs, base industries generate "indirect" jobs created by businesses that provide goods and services to the export-oriented business/industry, and "induced" jobs created as a result of the spending by direct and indirect employees in the local economy on such things as food, housing, and transportation.
 - At least nine states have a Deal Closing Fund, with at least two adding more monies to their funds amid the economic downturn.

Tax Relief

- The **Corporate Income Tax Reduction** is critical to attract and retain businesses in the State, as well as make Arizona competitive with other states on corporate income tax assessments. A phased-in reduction of the corporate income tax rate from 6.968% to 5% would have created a more business-friendly environment, making Arizona more competitive for businesses to locate and operate here. The rate reduction would have been phased in from FY12 through FY15
- **General Reductions in Business Property Taxes** are needed since Arizona is not currently business-friendly in regards to business property taxes. Most businesses must pay the higher assessed rate on not only property but land and capital which includes most commercial real estate property, including land, buildings, and improvements to land, as well as business personal property, such as office furniture, business equipment and tools. This bill will reduce the business property class assessment ratio from 20% to 15%, positively affecting all businesses in Arizona.
 - The phase down would begin in 2012 and would decline by 1 percentage point per year until it reaches 15% in 2016.
 - This phase down extends the ongoing reduction in the business property assessment ratio. Beginning in 2005 the assessment ratio began being reduced from 25% to 20%.
 - Arizona has one of the most punishing business property tax systems in the nation, which is a severe handicap to business growth in the state, particularly in high-wage, capital-intensive base industries.

- **Repeal of the State Equalization Tax** to provide broad-based property tax relief to Arizona homeowners and businesses. From 2006 to 2009 this property tax had been suspended, but returned in 2010. Permanent repeal would be phased in starting FY 2012. Repeal of this tax in no way reduces K-12 funding. The state's K-12 funding obligation for schools remains whether the tax is assessed or repealed.

- **Small Business Income Tax Relief** is needed to help grow the State's small business sector and to spur investment and job creation. This bill will provide for across-the-board reductions in the individual income tax, which is paid by a majority of Arizona businesses owners and individuals in the state.
 - 80% of small business owners in Arizona pay individual income tax rate, except "C" corporation owners.
 - Business owners of "S" corporations, for example, find the profits generated from their businesses flow through to their individual income taxes, substantially boosting their tax liabilities.
 - As a result of the income tax relief, every single taxpayer in Arizona would have received a rate reduction.

Economic Development

- **Modify the Arizona Enterprise Zone Program** to revise and expand the current program and allow base industry companies to take part in the program.
 - Made Enterprise Zones a statewide program, renaming it the *Arizona Enterprise Development Program*; eliminates zone designations prospectively, allowing businesses to locate in any part of the state.
 - Delayed the termination of the Enterprise Zone Program an additional five years from July 1, 2011 to July 1, 2016.
 - Added the following conditions a business or insurer must meet in order to qualify for the Enterprise Zone Program:
 - Relocate its operations from outside the state into an Enterprise Zone or expand its in-state operation to an Enterprise Zone.
 - Create at least 25 new FTEs if the Enterprise Zone is in an urban area w/ a population greater than 50,000 persons, or at least 15 new FTEs in any other location.
 - Pay compensation at least equal to the county average wage.
 - Provide health insurance 50% coverage for FTEs
 - Obtain and submit to Commerce a resolution of the governing board of the city, town, or county in which the business or insurer will be located acknowledging that the business intends to meet the requirements of the tax credit and lists any incentives offered by the city, town, or county.

- Expand the types of businesses eligible to qualify for the Enterprise Zone Program to include any business that meets the new requirements listed above and complies with the following new capital investment requirements within the first three years of being certified by Commerce.
- To qualify for a temporary Class 6 property assessment ratio, a capital investment within the first 36 months of being certified of at least \$5 million in an urban area with a population greater than 50,000 persons within or at least \$2 million in any other location.
- To qualify for a temporary Class 9 property assessment ratio, a capital investment of at least \$250 million and at least 50 new FTEs.

3.2 TAX POLICY

The 49th Legislature took many important steps to improve Arizona's tax system. The reforms can be classified in five areas:

- 1) Strengthening Arizona's competitiveness in renewable energy business development.
- 2) Assisting technology-intensive small businesses.
- 3) Improving the competitiveness and economic viability of the state's Universities in inter-collegiate athletics.
- 4) Promoting Transparency & Accountability in government.
- 5) Providing tax relief for charitable donations and charter school operations.

3.3 RENEWABLE ENERGY BUSINESS DEVELOPMENT

For the State of Arizona, renewable energies, particularly solar, are very promising. The state's large desert areas as well as its intensity and abundance of sunshine make it one of the best solar production sites in the country. Given Arizona's relatively uncompetitive corporate income tax rate and punitive commercial property tax system, incentive programs were passed to incentivize development of renewable energy sources in the state, while still recouping a return on investment to Arizona taxpayers.

- **SB 1403 - renewable, high-wage industries incentives**
Creates a tax incentive program with refundable income tax credits and property tax incentives for expanding or locating new renewable energy operations in Arizona. Renewable energy companies must invest more than \$25M in new capital in Arizona and create 75 or more jobs paying above-average wages to apply for the incentives and receive the benefits. Since its passage in July 2009, there have been four announcements of solar companies confirmed to establish operations in Arizona on account of the renewable industries incentive program. These four companies will create 500 new jobs in Arizona.
- **HB 2700 - solar energy tax incentives; extension**
Extends the termination date of the exemption provided for contracts to install solar energy devices from the prime contracting/transaction privilege tax (TPT) classification from TY 2010 to TY 2016. The bill also extends the termination date of the individual and corporate income tax credits for installing solar energy devices for commercial or industrial use from TY 2012 to TY 2018. Combined, the extension of both the TPT exemption and the income tax credits for the

installation of solar devices in commercial and industrial operations incentivizes the continued integration of renewable energy equipment into Arizona businesses.

3.4 ENERGY EFFICIENCY, CONSERVATION & RENEWABLE ENERGY

- **HB 2332 schools; energy contracts**

As a result of conservation awareness campaigns urging energy efficiency and renewable energy programs, lawmakers are urged to create statutes that foster energy efficiency savings programs on a statewide basis. Often times, these programs are geared to help schools districts and public bodies develop energy-savings programs that dramatically reduce the public entities use of energy and water; resulting in savings which pays for building upgrades. HB2332 allows school districts to enter into energy performance and renewable energy power purchase contracts and utilize the savings realized from these contracts. Additionally, it makes changes to the valuation of energy-related equipment and adds energy standards for some commercial products sold in this state.

- **HB 2336 county renewable energy incentive districts**

The production and use of renewable fuels has grown more quickly in recent years as a result of higher oil and natural gas prices. When renewable energy sources are used, the demand for fossil fuels is reduced, which has elevated the important role renewable energy plays in our nations energy supply. HB2336 is another tool for cities and counties to use when addressing the high cost of energy production. It allows municipalities and counties to create renewable energy incentive districts in qualified boundaries or unincorporated areas of the county.

3.5 ASSISTING TECHNOLOGY-INTENSIVE SMALL BUSINESSES

Small business is the backbone of the U.S. economy. Small businesses create new jobs and introduce new products and processes into the economy. Any assistance the Legislature can provide to lower the costs of doing business helps small businesses grow and thrive in the state.

- **SB 1254 - research; development; production; tax credit**

Modified the individual and corporate income tax credit for Research and Development (R&D) to allow a taxpayer that employs less than 150 full-time employees to receive a refund for the credit, with total refunds limited to \$5 million per year. Additionally, the legislation allows qualified producers of renewable energy to receive up to a \$2 million tax credit on the electricity they produce for up to ten years and limits the total amount of credits issued each year to \$20 million in any given year.

In particular, the bill allows small companies to actually realize the benefit of the R&D tax credit, which is designed to foster the creation of innovative new products and processes. Small, early-stage, R&D intensive firms typically lack the sales and profitability levels to pay income taxes in their formative years: Consequently, such companies are unable to economically realize the value of the

incentive. A refundable tax credit to small, R&D intensive businesses provides working capital to those businesses working at creating new products and processes, thereby assisting Arizona's small businesses in growing and creating jobs.

3.6 ECONOMIC VIABILITY

- **HB 2676 - university athletic facilities districts**

Allows the Coconino, Maricopa, and Pima County Board of Supervisors to establish a University Athletic Facilities District to collect revenues from commercial lease assessments for the improvement of property for new or existing athletic facilities at public universities. Inter-collegiate athletics represents a major industry in the United States. Having Division I-A Universities at the University of Arizona and Arizona State University and a Division I-AA University at Northern Arizona University, Arizona competes with other states to enhance the competitiveness and economic impact inter-collegiate athletics can have in the state.

The Universities need this assessment/bonding authority to finance improved athletic facilities, which are crucial to maintaining an edge in inter-collegiate competition and recruitment. University inter-collegiate sports are a significant driver of economic activity in the state; Sun Devil Stadium, for example, annually hosts a major college football bowl game, bringing in millions of tourist dollars from out-of-state visitors.

- **HB 2003 revitalization districts**

Authorizes the establishment of a Revitalization District for the purposes of infrastructure development in one or more cities or tribal entities. Prescribes the process to establish the district, powers of the district, requirements of the district's general plan, the district's finance authority and use of revenue bonds and special assessment bonds, district taxes, district elections and the dissolution of the district.

3.7 TRANSPARENCY AND ACCOUNTABILITY IN LOCAL GOVERNMENT

A steady, consistent, and open process in taxation helps ensure fairness in tax policy and provides certainty to the business community. This is particularly important on the local level. Unlike the State, which cannot raise taxes or fees without a two-thirds majority, local government does not have to abide by the same restrictive mandate.

- **HB 2257 - municipalities; counties; taxes; fees; notice**

Establishes new requirements that must be met before a municipality or county may levy or assess any new or increased taxes or fees. The bill requires a minimum 90 day written notice of a *newly proposed tax/fee charge* or an *increase in an existing business tax/fee* on the home page of the municipal or county website, and issue a press release of the proposed change through the municipal or county distribution list, before the new tax or fee is approved or disapproved.

HB 2257 also provides greater transparency and consistency to local taxpayers concerning the consideration, vote, and implementation of new fees or taxes in municipalities. This bill is particularly important when it comes to local sales taxes. Arizona already has one of the most complicated sales tax systems in the country. It is just one of three states where each city is allowed to establish a different tax base than the state, creating administrative burdens and confusion for businesses and consumers. HB 2257 will help alleviate some of the confusion through the required notification process.

- **HB 2478 - development fees; moratorium**

Extends the moratorium on development fees to June 30, 2012 and allows cities and towns to impose development fees established prior to passage of the retroactive start date of the moratorium.

The moratorium relieves a burden on the homebuilding industry, which has been adversely affected by the severe economic downturn in Arizona. Moreover, the bill provides consistency and predictability as to when and in what amounts cities and towns can impose development fees on homebuilding activities.

- **HB 2282 – political subdivisions; government transparency**

In an effort to ensure governmental transparency and give citizens the ability to examine financial records, HB 2282 requires local governments to establish and maintain an official Internet website that contains a comprehensive reporting of all revenues and expenditures over \$5,000. The bill also requires the Arizona Department of Administration (ADOA) to establish an Internet web portal with a searchable database, and stipulates that local governments must report certain public expenditures and report all incurred debt to the Arizona Department of Revenue.

- **SB 1366 – eminent domain; relocation assistance**

Requires an acquiring agency, including the Department of Transportation to adopt relocation assistance rules and regulations that are not in conflict with the rules of this state and that provide, at a minimum, the level of relocation assistance prescribed in the Uniform Relocation Assistance and Real Property Acquisition program included in the federal transportation code.

- **SB 1375 contractor payments (Retention)**

Outlines requirements and regulations for the release of retention or final payment to a contractor. Expands and proscribes contractual language for the release of retention, final payment and progress payments. Specifically, it requires an owner to release retention or make final payment to the contractor within seven days after the date the billing or estimate for release of retention or final payment is certified and approved, unless otherwise stated in a contract or plan. It allows an owner to withhold monies from a progress payment that are sufficient to pay the direct costs and expenses the owner reasonably expects to incur in order to protect the owner from loss in which the contractor is responsible for and results from specified reasons.

- **HB 2389 - ASRS; plan design; refunds**

Makes numerous changes to the Arizona State Retirement System (ASRS) including a prospective increase in the number of points for retirement from 80 to 85, a change in the compensation period from 5 of the last 10 best years as opposed to 3 of the last 10 years and a change in the return of funds. The contribution rate goes down for employers and therefore costs the state less money to continue funding ASRS

- **HB 2240 – recovery audits; public funds – VETOED**

An emergency measure requiring the Auditor General to contract with consultants to conduct a recovery audit of state payments made to vendors during the last three years. Requires the recovery audit be designed to detect and recover overpayments to vendors that have total expenditures of at least \$25,000 during the fiscal year and to recommend improved state agency accounting operations. In her veto message, Governor Brewer stated this legislation will result in the delegation of Executive authority to the Legislature and that it is the Executive's responsibility to ensure payments are made properly.

3.8 TAX RELIEF FOR CHARITABLE DONATIONS & CHARTER SCHOOLS

It is individuals and private-sector businesses that provide tax dollars for government spending, charitable activities, and support non-governmental education institutions such as charter schools. The 49th Legislature took strides to provide individuals and the private sector greater opportunities to assist charitable activities and support the operations of charter schools.

- **HB 2286 - tax credit; charitable organizations**

Expands the income tax credit to charitable organizations helping the working poor that provide services to chronically ill or disabled children. Previously, the tax credit applied only to contributions made to charitable organizations that help only the working poor. The bill's expansion of the tax credit allows taxpayers to reach another vulnerable population in society

- **HB 2514 - charter schools; food; tax exemption**

Expands the current Transaction Privilege Tax (TPT) and Use tax exemptions (Sales tax exemptions) for food and drink served for consumption at school districts to include charter schools. This exclusion removes a tax burden on the operations of charter schools.

Arizona tax policy frequently exempts certain sales or use of items from the TPT for public policy purposes. Current law already provides an exemption from TPT and use tax to school districts for food, drink, or condiment and accessory tangible personal property if the items are prepared and served for consumption on school district premises during school hours. The bill provides the very same TPT and use tax exemption to charter schools.

4. IMMIGRATION ENFORCEMENT

4.1 SB 1070 - SAFE NEIGHBORHOODS; IMMIGRATION; LAW ENFORCEMENT

One of the most talked about pieces of legislation of the 49th legislature was SB 1070. It is important to note that SB 1070 was drafted in accordance with current federal laws. The Legislature intentionally worked with immigration think tanks and immigration attorneys to ensure that the state legislation would work in parallel with federal immigration laws. SB 1070 was further amended by HB 2162. Below are the major talking points of SB 1070 as amended with HB 2162.

- ***Enforcement of Immigration Law***

Prohibits law enforcement officials and law enforcement agencies of this state or counties, municipalities and political subdivisions from restricting or limiting the enforcement of federal immigration laws to less than the full extent permitted by federal law.

While it is true that Washington holds primary authority in immigration, the Supreme Court since 1976 has recognized that states may enact laws to discourage illegal immigration without being pre-empted by federal law. As long as Congress has not expressly forbidden the state law in question, the statute does not conflict with federal law. Congress has not displaced all state laws from the field, therefore it is permitted. That is why Arizona's 2007 law making it illegal to knowingly employ unauthorized aliens was sustained by the United States Court of Appeals for the Ninth Circuit.

- ***Inquires into Immigration Status***

Requires officials and agencies to reasonably attempt to determine the immigration status of a person involved in a lawful stop, detention or arrest in the enforcement of any other law or ordinance where reasonable suspicion exists regarding the immigration status of the person, when practicable, except if the determination may hinder or obstruct an investigation.

“Reasonable suspicion” is a well known and time-tested legal principle. Over the past four decades, federal courts have issued hundreds of opinions defining those two words. SB1070 did not invent the concept. Court decisions detail myriad factors that can contribute toward a law enforcement officer's reasonable suspicion; when several are combined, the “totality of circumstances” that results may create reasonable suspicion that a crime has been committed. Here are some examples of reasonable suspicion factors courts have addressed in the vehicle stop context:

1. Characteristics of the area in which the vehicle is encountered.
2. Proximity to the border.
3. Usual patterns of traffic on the road.
4. Previous experience with alien traffic.
5. Information about recent illegal crossings in the area.
6. Behavior of the driver.
7. Appearance of the vehicle.

8. Number, appearance, and behavior of the passengers.⁵

By contrast, reasonable suspicion does not exist where law enforcement attempts to justify a stop on the basis that an individual looked like they came from a foreign country, or that they were of Latin-American ancestry.⁶ In other words, SB 1070's reliance on reasonable suspicion is yet another safeguard against racial profiling.

The courts have a long history of reviewing the common-sense determinations made by law enforcement tasked with protecting the public enforcing our laws each and every day. Contrary to the hype, SB 1070 breaks no new ground when it comes to the concept reasonable suspicion. Rather, it relies on a bedrock principal of criminal law and court review of law enforcement procedure.

- ***Willful Failure to Complete or Carry an Alien Registration Document***

Specifies that in addition to any violation of federal law, a person is guilty of willful failure to complete or carry an alien registration document if the person is in violation of 8 U.S.C. § 1304(e) or 1306(a).

Since 1940, it has been a federal crime for aliens to fail to keep such registration documents with them. The Arizona law simply enforces the federal penalty to what was already a federal crime.

- ***Unlawfully Picking up Passengers for Work***

Prescribes a class 1 misdemeanor for an occupant of a motor vehicle that is stopped on a street, roadway, or highway to attempt to hire or hire and pick up passengers for work at a different location, if the motor vehicle blocks or impedes the normal movement of traffic. Additionally, it is a class 1 misdemeanor for a person to enter a motor vehicle that is stopped on a street, roadway or highway in order to be hired by an occupant of the motor vehicle and be transported to work at a different location, if the motor vehicle blocks or impedes the normal movement of traffic.

- ***Illegal Application Solicitation for Work.***

Creates a class 1 misdemeanor for a person who is unlawfully present who is an unauthorized alien to knowingly apply for work, solicit work in a public place or perform work as an employee or independent contractor.

- ***Unlawfully Transporting or Harboring Unlawful Aliens***

Stipulates that it is unlawful for a person **who is in violation of a criminal offense** to: a) transport or move an alien in a means of transportation, or attempt to do so, if the person knows or recklessly disregards the fact that the alien is here unlawfully b) conceal, harbor or shield an alien, or attempt to, if the person knows

⁵3A Am. Jur. 2d *Aliens and Citizens* § 79 (2010).

⁶ *Id.*

or recklessly disregards the fact that the alien is here unlawfully c) encourage or induce an alien to come to this state if the person knows or recklessly disregards the fact that doing so would be a violation of law. Violations are designated as a class 1 misdemeanor and subject to a fine of at least \$1,000 unless extenuating circumstance occur.

- ***Employer Sanctions***

Provides employers with the affirmative defense that they were entrapped, but they must admit the substantial elements of the violation. Stipulates the employer has the burden of proof proving the following by a preponderance of the evidence: a) the idea of committing the violation started with the officer or their agents b) the officers or their agents urged and induced the employer to commit the violation c) the employer was not predisposed to commit the violation before the law enforcement officer or agents urged and induced the employer to do so.

- ***Lawful Immigration Determination***

Stipulates that the immigration status may be determined by a law enforcement officer who is authorized by the federal government to verify or ascertain an alien's immigration status or ICE or CBP pursuant to 8 U.S.C. § 1373(c).

- ***Does Not Implement Real ID***

Specifically stipulates that *“this section does not implement, authorize or establish and shall not be construed to implement, authorize or establish the real id act of 2005 (p.l. 109-13, division b; 119 stat. 302), including the use of a radio frequency identification chip.”*

- ***Immobilization and Impound of Motor Vehicle***

Requires a peace officer to immobilize or impound a person's vehicle if the officer determines either that: a) in furtherance of the illegal presence of an alien and in violation of a criminal offense, the person is transporting or moving, or attempting to do so in a vehicle if the person knows or recklessly disregards the fact that the alien is here unlawfully b) the person is concealing, harboring or shielding an alien in this state, or attempting to do so in a vehicle if the person knows or recklessly disregards the fact that the alien is here unlawfully.

- ***Exemptions from Prosecution***

Indemnifies officers against actions brought under these provisions, except if the officer has been adjudged to have acted in bad faith.

- ***Officer Discretion***

Allows for officer discretion when verifying immigration status *“when practicable”* and may not *“if the determination may hinder or obstruct an investigation.”* We give officers discretion over enforcement of our laws everyday, and we trust them to up hold the laws in the most balanced and practical manner they can.

- ***Protection Against Frivolous Lawsuits (loser pays)***
Protects political sub-divisions from frivolous law suits in that only legal Arizona residents may bring actions against sanctuary cities and allows the court to award court costs and reasonable attorney fees to officials or agencies that prevail in lawsuits challenging their policy.
- ***Anti- Discrimination Clause***
The legislation explicitly states that officers “may not consider race, color or national origin” in forming a reasonable suspicion. Even though we have both state and federal discrimination clauses, this legislation specifically reinforced this clause to ensure the public that racial profiling will not be tolerated under this law.

It is stated four times in this legislation that law enforcement officials “*may not consider race, color or national origin*” in making any stops or determining immigration status. In addition, all normal Fourth Amendment protections against profiling will continue to apply. In fact, SB 1070 actually reduces the likelihood of race-based harassment by compelling police officers to contact the federal government as soon as is practicable when they suspect a person is an illegal alien, as opposed to letting them make arrests on their own assessment.
- ***Safety Net for Transporting, Moving, Concealing, Harboring or Shielding an Unlawful Alien.***
It provides a safety net for those inadvertently *transporting, moving, concealing, harboring or shielding an unlawful alien* in that they must do so with knowledge or reckless disregard and additionally be in violation of a criminal offense. This is a protection that does not exist in federal law, as the federal corollary does not require an additional crime.

5. REFERENDUMS & INITIATIVES

The 49th Legislature referred ten measures to the November ballot for approval by Arizona voters.

5.1 HEALTH-RELATED REFERENDUMS

- **HCR 2014 – health care services; direct purchase**

Places language on the ballot to amend the Arizona Constitution related to what types of health care systems can lawfully exist in Arizona.

In preparation for the oncoming changes in our health care system, this act will provide a states rights argument that the state can make its own decisions about health care choices and opt-out of any government run system. The Healthcare Freedom Bill provides for two fundamental rights:

1. The right to spend your own money to seek out and receive health care services that are otherwise legal.
2. The right to choose NOT to participate in any health care system, of any type.

- **HCR 2001 – early childhood development; health; repeal**

In the 2006 General Election an initiative established the Early Childhood Development and Health Board, and the Early Childhood Development and Health Fund (Fund) known as First Things First. Revenues are generated by adding an \$0.80 tax to each pack of cigarettes, and by donations or appropriations, with 90% of revenues deposited into the Fund's Program Account, and 10% of revenues deposited into the Fund's Administrative Costs Account. If passed by the voters in November, HCR 2001 would repeal the Early Childhood Development and Health Board, effective December 1, 2010 and redirects the deposit of Arizona Early Childhood Development and Health Initiative authorized tobacco tax revenues to the state General Fund.

5.2 NATURAL RESOURCES-RELATED REFERENDUMS

- **HCR 2002 – land conservation fund; reversion**

The Growing Smarter Act is a comprehensive framework for municipal, county, and State Land Department planning and zoning reform. The legislation required voter approval through ballot Proposition 303, asking the voters to fund grants of money from existing state revenues to conserve open spaces in or near urban areas and other areas experiencing high growth demands. Proposition 303 created the Fund comprised of the Public Conservation Account and the Conservation Donation Account.

Arizona Revised Statutes § 41-511.23 requires the state to annually appropriate \$20 million from the state General Fund to the Fund's Public Conservation Account from FY 2001 through FY 2011. Currently, the Fund has a balance of approximately \$123,538,600. If passed by the voters in November, HCR 2002 transfers the balance of the monies in the Fund to the General Fund.

- **HCR 2008 – hunting and fishing; constitutional rights**
 According to the National Rifle Association (NRA), there are groups; such as the Congressional Animal Protection Caucus that is working to ban all sport hunting in this country. The NRA has launched a national campaign that supports our country’s centuries-old sporting heritage and the idea that wildlife management should be dictated by science, not emotion. HCR 2008 establishes the constitutional right of Arizona citizens to hunt, fish and harvest wildlife. This bill also specifies that hunting and fishing are the preferred means of managing and controlling wildlife.
- **SCR 1047 – state lands; military installation preservation**
 Land use and zoning around military installations in Arizona that advances the mission of each facility has been a focus of concern for decades. SCR 1047 constitutionally authorizes the conveyance of trust land or interests in trust land without an auction or advertisement in order to protect military installations. This measure also provides for exchanges of trust land if the exchange is related to either protecting military installations or for land management purposes.

5.3 GOVERNMENT-RELATED REFERENDUMS

- **HCR 2018 - initiatives; filing deadline**
 This measure allows the voters the opportunity to change the initiative signature filing deadline from 4 months to 6 months preceding the date of the election. This change allows both the Secretary of State and each county the time to accomplish their signature verification duties. In 2008, the Arizona Supreme Court opined there is not enough time for the signature verification process.
- **HCR 2019 - discrimination; preferential treatment; prohibition**
 Constitutionally prohibits the discrimination against or preferential treatment of any group or individual on the basis of race, sex, color, ethnicity or national origin, subject to voter approval. Arizona Revised Statutes Title 41, Chapter 9 contains the Arizona Civil Rights Act which was enacted in 1965. The Act sets forth lawful and unlawful practices regarding voting rights, public accommodations, employment discrimination, fair housing, and the free exercise of religion.
- **SCR 1013 - lieutenant governor; secretary of state**
 This measure gives voters the opportunity to change the office of Secretary of State to that of Lieutenant Governor. If the voters approve the measure, the Lieutenant Governor assumes the title and duties of the Secretary of State beginning in 2015. The measure also specifies that candidates for Governor and Lieutenant Governor run separately during the primary election. Same-party nominees for Governor and Lieutenant Governor run on the same ticket in the general election. As a whole the measure is designed to clearly delineate the line of succession so Arizonans will know who is to take over if the Governor leaves office for any reason.

5.4 TAX-RELATED REFERENDUM

- **HCR 2056 – personal property; tax exemption**

Requires the Legislature to increase the amount of personal property exempt from property taxes and provide a full exemption by 2014.

5.5 BUSINESS-RELATED REFERENDUM

- **SCR 1026 – secret ballot; fundamental right**

The Employee Free Choice Act, informally known as the Card Check bill is a proposed federal law that would change how unions may organize workers. Currently, workers vote for or against unionization in a secret ballot election that is federally supervised by the National Labor Relations Board (NLRB). If at least 30% of employees sign petition cards requesting the right to organize, the cards are submitted to the NLRB for a secret ballot election. Then, if more than 50% of employees certify their desire for representation, a union may choose to form using card check procedures.

A petition card, or “card check,” is a method of labor organization in which employers enter into an agreement to recognize the unionization of employees if a majority of employees in a bargaining unit sign authorization forms, or “cards”. The proposed card check method specifies that if more than 50 percent of workers at a facility sign a card, the NLRB would be required to certify the union and a secret ballot election would be prohibited. Subject to voter approval, SCR 1026 constitutionally guarantees the right of individuals to vote by secret ballot.

5.6 INITIATIVE

One initiative has been placed on the November 2010 ballot by the voters of Arizona:

Medical Marijuana

Allows nonprofit Medical Marijuana Dispensaries to register with the Department of Health Services to dispense an amount not to exceed 2.5 ounces of marijuana during any fourteen day period or a civil penalty with be imposed.

Requires an identification card for both the qualifying patient and the designated caregivers which contain the name, date of birth, address, ID number, photo, date of issuance and expiration, and whether the cardholder is authorized to cultivate marijuana for medical use.

Limits the use of medical marijuana by prohibiting undertaking any task under the influence of marijuana that would constitute negligence or professional malpractice. It does not allow the possession, engagement or smoking of marijuana: on a school bus, on the grounds of any preschool, primary or secondary school; in any correctional facility; on any form of transportation; or in any public place. In addition, this Act specifies that it is still unlawful to operate or be in physical control of a motor vehicle, aircraft or motorboat while under the influence of marijuana.

6. EDUCATION

Significant education policy in the 2009 Legislative Session was primarily enacted in the FY 2010 budget. Policy development centered on fiscal accountability in the public education system (over \$4 billion in state funds and \$9 billion in total funds) and increased budget flexibility for public schools that because of declining state revenues, lower property tax revenues, and decreased student enrollment, were negatively impacted by the economic downturn.

6.1 FISCAL REFORMS

During periods of economic downturn, the public demands more accountability of taxpayer dollars. During the 2009 Legislative session, the following provisions were included in the budget to control spending levels by K-12 public schools and limit the impact to property taxpayers:

- Institutes a hard “cap” on desegregation spending. Until FY2010, school district governing boards could increase property taxes annually (without a vote) for desegregation expenditures, even if no desegregation issues remained. This cap did not reduce budgets, but merely kept them at FY2009 levels into perpetuity.
- Reduces unlimited capital overrides to 10% of the school district’s revenue control limit (RCL). While capital overrides are voter approved, unlimited capacity has resulted in uncontrolled spending and financial obligations that cannot be met as property valuations have decreased.
- Eliminates, starting in FY2012, the state subsidy on property tax levies controlled by school district governing boards, but retains the state subsidy on the state controlled property tax rate - the Qualifying Tax Rate. For years, residential property owners have been sheltered from increased non-voter approved levies through the partial subsidy. A level taxpayer playing field will limit unnecessary and unjustifiable increases in school district property taxes.
- The Legislature used statutory discretion to fund inflation for schools on one component of the RCL, rather than all, and put aside a long-standing legal disagreement that the Proposition 301 requirement for inflation was “and” and not “or.”

6.2 EASED ADMINISTRATIVE BURDENS

Tough decisions were made by the Legislature to address the budget shortfall in FY 2010, including budget reductions to public schools. In an effort to assist schools to “do less with more,” many budget provisions were included to ease bureaucratic burdens and to allow efficiencies in budgeting:

- Passes comprehensive “Red Tape” administrative and financial reforms to provide school districts with increased flexibility and ability to focus more time and resources on classroom instruction.

- Expands maintenance and operations (M&O) budget override ability from 10% to 15% for additional education programs to provide options to state funding reductions and other decreased tax revenues outside of the Legislature's control.
- Permits school districts to bond for technology so that schools would have the ability to offset soft capital reductions made by the State to address state budget deficits.
- Provides budget flexibility to districts facing funding reductions by allowing districts to shift costs between funding sources.
- Removes the cap on the number of district and charter-sponsored online learning programs in the state. School districts and charters previously unable to offer these online programs realized decreasing enrollment and the expansion allowed them to offer programs to retain their current student enrollment.
- Allows a greater number of school districts to do their own accounting, if qualified and approved to do so, rather than contracting for the work. Previously, schools were obligated to pay a fee for service. This change allowed for a reallocation of those fees for other budgetary needs.
- Allows school districts and charter schools to discard policies that provide employment retention and re-hiring priority for teachers based on tenure or seniority and prohibited employment contracts from including compensated days for professional association (union) activities. Under previous policies, schools were required to retain tenured teachers over less experienced, more qualified teachers. Now, schools can ascertain the best quality teacher that will fit into their budgetary and educational priorities.
- **HB 2357 - public education; students' religious liberties**
Known as the "Student Religious Liberties Act," it prohibits a public educational institution from discriminating against students or parents on the basis of their religious viewpoints or expression. It also establishes an administrative process for the remedy of alleged violations of students' religious rights, which must be used before a student or parent can pursue legal action. This bill was brought forth to address inconsistent school policies on a student's right to religious expression, this legislation finally provides requisite guidance to schools on establishing uniform policies on religious and non-religious forms of expression.

6.3 POLICY REFORMS

Amidst the state's worst fiscal crisis, the Legislature banded together to make wide-sweeping education policy reforms. Keeping in line with the State's desire to seek millions in federal Race to the Top funding and following in the footsteps of Florida successful education reforms, the following legislation was passed:

- **HB 2298 - preparation programs; teacher certification**

The State Board of Education is required to allow a variety of teacher and administrator preparation program providers to offer a variety of preparation models and courses of study. Mid-year career professionals can now bring their breadth of content knowledge and applied learning into the classroom, specifically specialized areas like math and science – areas where there are clearly shortages in our schools.

- **HB 2281 - prohibited courses; discipline; schools**

Public schools are prohibited from including courses or classes that either promote the overthrow of the United States government or promote resentment toward a race or class of people. Public schools should maintain curriculums that respect the social, religious and cultural differences of our nation and should not be breeding grounds for racial disharmony or prejudicial thought.

- **HB 2227 - schools; teachers contracts; acceptance**

This bill included procedural “fixes” to the Arizona Education Association (AEA) lawsuit that challenges changes to tenure and seniority policies made in 2009. As a result, the AEA dropped their lawsuit in May 2010.

- **HB 2731 - high schools; graduation; board examinations**

The Grand Canyon Diploma enables high school students to graduate early to pursue postsecondary education, international baccalaureate and advanced placement programs, or a career readiness track. The key to curtailing Arizona's dropout problem and one-size fits all educational track is to offer students multiple options that are customized to their strengths and weaknesses and put them on the road to educational success or a skill set necessary to compete in Arizona's workforce environment.

- **HB 2732 - schools; third grade retention**

Eliminates promotion from the third grade if a child cannot read at grade level (effective 2012-2013 school year with kindergarten cohort). A child's ability to read proficiently and comprehend is a key indicator of future educational attainment and success. Studies show that if reading proficiency is captured early, interventions and strategies are more apt to be successful.

- **HB 2725 - education; omnibus**

Includes several omnibus provisions, including charter school sponsorship expansion, changes to teacher certification statutes, budget exemptions, clarifying language for school construction programs, expansion of advertising at public

schools, and temporary expansion of impact aid monies to offset school budget reductions. Fashioned as a “red tape” reduction bill, this bill, thoughtfully and with the full support of the education community, addressed a multitude of issues common to school districts and charters.

- **SB 1040 - teacher and principal evaluations**

The State Board of Education creates a model framework for a teacher and principal evaluation tool that includes at least 33-50% student academic data for implementation by school year 2012-2013. Consistent with federal Race To The Top requirements, this unprecedented legislation, crafted with the input of the AEA, is the first occasion in which the state has been able to incorporate student academic progress in teacher evaluations. Teachers will now have a comprehensive and equitable tool in which they will be critiqued and provided necessary professional development to succeed.

- **SB 1286 - schools; achievement profiles; letter grades**

Accountability labels of AZLEARNNS are modified from excelling, highly performing, performing, underperforming and failing to letter grades: A, B, C, D and F. Parents can now use the AZLEARNNS system to judge the quality of schools in terms they understand. Previously, a performing school may have seemed adequate. Now, its characterization as a “C” school may now compel parents, teachers and administrators to strive for better by creating a more competitive and transparent system.

6.4 SCHOOL CHOICE

Over the last two years, the Legislature has renewed its focus on providing parents a wide breadth of choices for the education of their children. Several reforms have been made to enhance the current individual and corporate tuition tax credits available for students who attend private schools.

In response to concerns related to the administration and accounting of school tuition organizations (STOs), the Speaker formed the Ad Hoc Committee on Private School Tuition Tax Credit in the fall of 2009.

- **HB 2663 and HB 2664 - STOs; corporate tax credit requirements**

Mandates stricter administrative, accounting and reporting regulations on STOs that accept individual and corporate income tax credit donations based on recommendations of the Ad Hoc Committee. These bills addressed criticism that alleged that STOs lacked accountability and transparency. Now, STOs are subject to more strenuous accounting, auditing and reporting requirements and the Department of Revenue has been given a stronger enforcement arm in which to monitor the activities of STOs.

6.5 FLEXIBILITY AND PARTICIPATION

This Legislature passed legislation to increase taxpayer participation and to ease the taxpayer's ability to make a tuition tax credit donation.

- **HB 2287 – tax credits; withholding tax reductions**
Individual income taxpayers can now authorize their employers to reduce their withholdings tax amount in order to make contributions to a STO, charitable organization or public school. This allows individuals who want to make contributions the flexibility to make contributions over the tax year.
- **HB 2288 - premium tax credit; STO contribution**
Prior to this legislation, insurance companies were precluded from participating in the corporate tuition tax credit program. Insurers can now take a credit against their insurance premium tax liability for donations to a school tuition organization. Additionally, this bill repealed the sunset date for the corporate credit for donations to STO's removing the uncertainty associated with offsets in future years.
- **SB 1274 - STOs; contribution date**
Individuals can now make a donation to a STO between December 31 and April 15 to be claimed in current or preceding tax year as a tax credit. This flexibility allows individuals to assess their tax liability and make appropriate decisions regarding their contributions.

Additionally, a new tuition tax credit program was created for vulnerable populations of special education students and foster children. Rapid action by the Legislature, after the state's voucher system was ruled unconstitutional, ensured that over 400 students currently participating would not be uprooted from their schools.

- **HB 2001 - scholarships; disabled or displaced students (2009 2nd Special Session)**

Creates a tuition tax credit program specifically for disabled and foster students.

7. HEALTH CARE

The performance of our healthcare system reflects our priorities and our principles. Arizona citizens deserve a more efficient and effective health care market with increased accessibility, quality and affordability.

7.1 RESTORATION OF KIDSCARE

SB 1043 restores the Children's Health Insurance Program (CHIP) known as KidsCare and allocates expected federal dollars to pay for Proposition 204 programs. As part of the state budget reductions during 2010 legislative session, the state's KidsCare program was eliminated and Proposition 204 was not fully funded due to budget cutbacks for FY2011. The Patient Protection and Affordability Act of 2010 was signed into law by President Obama, which established a "maintenance of effort" (MOE) snapshot of all state healthcare programs.

Upon notification to Centers for Medicare and Medicaid Services of the state's intent to eliminate the KidsCare program, we were notified that "*Arizona currently receives about \$7.8 billion in Federal Medicaid funding per year and this funding is potentially at risk as a result of eliminating the CHIP program (KidsCare).*"

- **SB 1043 - health care; programs; coverage**

Triggers acceptance of \$385 million federal dollars for Proposition 204 and \$9 million to restore KidsCare. Under this scenario **NO** state dollars will be used for the funding of the Proposition 204 population or the restoration of KidsCare.

7.2 LIFE AFFIRMING AGENDA

A strong and predominate life affirming agenda was a top priority for the 49th Legislature. This agenda strengthened parental notification, provided informed consent, prohibited non-physician performed abortions, defined partial birth and prohibited the use of public funds for abortion. These measures protect women, children, parents, and the civil rights of healthcare workers.

- **HB 2564 - abortion**

This legislation makes a variety of changes to statutes related to abortion, including:

- Parental notification when a minor is seeking an abortion.
- New requirements that physicians must follow when obtaining written informed consent from patients seeking abortions.
- Permission for certain health professionals, including pharmacists, to abstain from having to facilitate or participate in the provision of an abortion, abortion medication or emergency contraception.
- Prohibits a person from knowingly performing an abortion on an un-emancipated minor.

- **SB 1175 - performance of abortion; non-physician; prohibition**

Prohibits persons who are not physicians from performing surgical abortions.

- **HB 2400 - partial-birth abortions; definition**

In April 2007, the U.S. Supreme Court issued an opinion, which offered guidance on partial-birth abortion. This bill mirrors the federal law banning partial-birth abortion. The state law was needed in addition to the federal law because the federal law only applies in limited scenarios where a prosecutor can prove that the partial-birth abortion affected interstate commerce. Parallel state and federal bans give prosecutors more options to ensure that partial-birth abortions do not happen in Arizona.

- **SB 1304 - abortion; reporting requirements**

Requires a hospital or facility that performs abortions and health professionals that treat women with complications due to an abortion to submit a report to the Department of Health Services (DHS) detailing non patient identifiable information so that DHS can prepare an annual statistical report based on the data gathered in the reports without violating patient privacy. This is necessary to ensure statistics about abortion in Arizona are accurate.

- **SB 1305 - public monies; insurance; abortion; prohibition**

Current Arizona law prohibits taxpayer funding of abortion. This legislation clarifies current law to make certain that governmental entities are not funding abortions through employee benefit plans. This ensures that tax dollars are not directly or indirectly spent on insurance coverage of abortions.

- **SB 1306 - human egg provider; protection**

Enacts requirements for human egg donations and prohibits the purchase or sale of human eggs for purposes other than treatment of human infertility and clinical investigation. Egg donation carries risks for both donor and recipient. The egg donor may suffer complications from in vitro fertilization, such as bleeding from the oocyte recovery procedure, ovarian hyper stimulation syndrome, rarely, liver failure, as well as unintended pregnancy.

7.3 LEGAL ACTION - LIFE AFFIRMING AGENDA

Planned Parenthood brought legal action to challenge the provisions of HB 2564 in both state and federal court. The federal case has subsequently been dismissed after the plaintiff failed to receive a preliminary injunction. The superior court entered a preliminary injunction blocking a significant portion of the legislation from being enacted.

Speaker Adams, along with Representative Nancy Barto, sought intervention on this case to defend the constitutionality of the law as a party to the suit. The judge has denied both Speaker Adams' and Representative Barto's motion to intervene and the case are currently on appeal.

It is our contention that provisions of this legislation are constitutional. The U.S. Supreme Court has upheld parental consent laws and informed consent provisions, including a 24-hour waiting period. Similar provisions have been upheld by federal courts of appeals

throughout the country. The provisions are also constitutional under the Arizona Constitution. To date, the Arizona Constitution has never been interpreted to provide a greater right to abortion than the U.S. Constitution.

7.4 HEALTH INSURANCE & ESSENTIAL SERVICES

Two of the major issues that come up every year are: 1) How can we make insurance more affordable? 2) How is the state going to maintain funding for essential hospital services like graduated medical education and disproportionate share to hospitals? In the 49th Legislature, we were able to provide answers to both of these questions.

- **HB 2324 - health insurance; individuals; coverage exemptions**

Allows health insurers to issue policies to uninsured individuals that are exempt of certain mandated benefits or “Mandate Lite”. In 2006, the Arizona Legislature passed a bill allowing insurers to offer products without all of the mandated benefits to uninsured small groups. As signed, HB 2324 now allows insurers to develop a similar product for uninsured individuals. The concept of “Mandate Lite” is to reduce restrictions on insurance companies by allowing them to create insurance products that are more affordable for individuals. Individuals now have more freedom to determine what kind of insurance package they would like and what they want in it.

- **HB 2116 - ambulance services; rates; AHCCCS members**

An amendment was added to this bill establishing a voluntary process for hospitals and local entities to provide a state match for graduate medical education (GME) and disproportionate share payments (DSH). Both GME and DSH were eliminated as part of budget reductions which increases the need for legislation to ensure that funding for these vital programs can be maintained if other funding is available.

7.5 FOSTER CHILDREN & CHILD PROTECTIVE SERVICES

Protecting children especially foster children is one of the most essential services that the legislature can provide. It is the duty of the legislature to ensure the safety of all children and ensure that all children have rights that should not be violated.

- **SB 1047 - child safety**

Expands the definition of *abuse* to include the physical injury that results from permitting a child to enter or remain in any structure or vehicle in which volatile, toxic, or flammable chemicals are found or equipment is possessed by any person for the purpose of manufacturing a dangerous drug and unreasonable confinement of a child.

- **SB 1091 - CPS workers; investigations; group homes**

Requires Child Protective Services to accept, screen and assess reports of abuse or neglect in Level I, II and III behavioral health residential agencies (group homes) that are licensed by the Department of Health Services.

- **HB 2224 - foster parents; rights**

Establishes a foster parents bill of rights that includes, but is not limited to, ensuring that the foster parent is treated with respect, included as a team member, and included in the permanency plan.

- **SB 1315 - child care programs; fees**

Allows child care facilities and child care group homes to pay license and certificate fees annually if additional funding exists for the transfer, rather than once every three years, and allows child care providers to pay fees by installment. Requires the Arizona Department of Health Services to conduct a study to identify costs and assess the efficiency of current child care licensure and certification regulation and to adjust fees accordingly.

7.6 FEDERAL HEALTHCARE REFORM

Federal Healthcare Reform was passed by Congress and signed into law by President Obama on March 23, 2010. The overall approach to expanding coverage is to require most U.S. citizens and legal residents to have health insurance. Create state-based American Health Benefit Exchanges through which individuals can purchase coverage, with premium and cost-sharing credits available to individuals/families with income between 133- 400% of the federal poverty level (the poverty level is \$18,310 for a family of three in 2009) and create separate Exchanges through which small businesses can purchase coverage. Require employers to pay penalties for employees who receive tax credits for health insurance through an Exchange, with exceptions for small employers. Impose new regulations on health plans in the Exchanges and in the individual and small group markets. Expand Medicaid to 133% of the federal poverty level.

- **HCM 2002 - health care reform**

Requests the United States Congress to ensure that any federal health care legislation contain an equitable distribution of Medicaid funding.

Maintenance of Effort Under Federal Healthcare Reform

Federal Healthcare legislation requires the state to maintain all existing Medicaid populations as of the federal enactment date (March 23, 2010) in order to continue receiving federal matching funds.

New Provisions of the Legislation

- Beginning in January 2014, states must increase its Medicaid eligibility to 133% of the federal poverty level (FPL).
 - The federal government will pay 100% of the cost of adults through January 2017, then will gradually lower the match to 90% by 2020.
 - The federal government will pay for children between 100% and 133% at the regular match rate (approximately 65%).
 - Starting in 2016, the federal government will match the cost of the KidsCare population between 133% and 200% of FPL at 99%.
 - Proposition 204 childless adults would be funded at 83% starting in FY 2014, gradually growing to 90% by FY 2020.

- There will likely be some “woodwork” effect as existing eligible but nonparticipating individuals sign up for coverage.

Fiscal Impact to Arizona

In FY 2012, the cost of retaining Proposition 204 and KidsCare will be \$948 million. Beginning in 2014, the enhanced federal match rates will reduce the state’s cost. The FY2015 savings is \$220 million with a cumulative savings through FY2020 of \$2.3 billion. The combination of restoring Proposition 204 and the enhanced federal match rate will cost \$826 million in FY 2015 with a cumulative cost through FY2020 of \$7.5 billion.

8. PUBLIC SAFETY

The safety of the people of Arizona is one of the most fundamental functions of our government. During the 49th Legislature, the Republican caucus worked to maintain our valuable public safety workforce and strengthen human smuggling and domestic violence laws.

8.1 SECOND AMENDMENT RIGHTS

After several years of experiencing vetoes of important gun rights legislation, we were successful at significantly strengthening gun rights for Arizonan's. Reforms include the "Constitutional Carry" bill and a bill allowing employees to keep a firearm in their vehicle at work while recognizing the property rights of employers.

- **SB 1108 - concealed weapons; permit**

Also known as the "Constitutional Carry" bill, this legislation eliminates the penalty for carrying a concealed weapon without a permit, while preserving the ability to obtain a permit. It further modifies the requirements to obtain a permit by providing alternate training and modifies the requirement for forfeiture of a weapon under court order.

- **HB 2307 - Arizona manufactured firearms; regulation**

Exempts certain Arizona manufactured firearms, firearms accessories and ammunition from federal interstate commerce laws and regulations. Also included are legislative findings derived from the Constitution of the United States and the Constitution of Arizona, pertaining to the guaranteed reservation, to the states, of all powers not otherwise enumerated and granted to the federal government or reserved to the people by the United States Constitution, intrastate commerce, and the right of the people to keep and bear arms

- **SB 1168 - storage; firearms; motor vehicles**

While recognizing the importance of private property rights, this legislation prevents property owners, tenants, employers and businesses from restricting the storage or transport of lawfully-possessed firearms in privately-owned and locked vehicles parked in a parking lot, parking garage or other designated parking area.

- **HB 2543 - firearms regulation; state preemption**

Modifies prohibitions pertaining to firearms related ordinances, rules or taxes that may be enacted or enforced by a political subdivision of the state. Specifically, it prohibits political subdivisions from requiring the licensing or registration of ammunition or related accessories and specifies that a political subdivision may not prohibit the ownership, purchase, sale or transfer of ammunition or related accessories and prohibits a political subdivision from enacting any rule or ordinance relating to firearms that is more prohibitive than or carries a penalty greater than any penalty prescribed in state law. Finally, it prohibits political subdivisions from enacting rules or ordinances that limit the possession of firearms in parks or preserves to persons possessing a concealed carry weapons permit.

- **SB 1113 - concealed weapons; permit**

Citizens with a concealed carry weapons permit (CCW), can now, under specified circumstances, carry a concealed handgun into the licensed premises of an establishment that sells alcohol, but cannot be served alcohol. Concealed handguns can still be prohibited by a clearly marked sign that notifies patrons that weapons are not allowed. It also changes permit requirements for reserve officers, as well as classifications related to misconduct involving weapons.

- **SB 1243 - justification; defensive display of firearm**

Allows a person in a threatening situation to declare and display that they are carrying a firearm if a reasonable person believes physical force is immediately necessary to protect them from physical or deadly force. Cannot be used to intentionally provoke another person, use unlawful physical force or use a firearm during the commission of a serious offense or violent crime.

- **HB 2629 – self-defense; political subdivisions; weapon records**

Prohibits a political subdivision from maintaining records related to the transfer or storage of firearms and specifies circumstances under which a person is justified in using deadly physical force. Specifically, in a situation where a person is justified in threatening or using deadly physical force against another, the person has no duty to retreat prior to threatening or using the force, provided the person is in a place they are legally permitted to be and not engaged in unlawful activity.

8.2 MILITARY AFFAIRS

Supporting the men and women of our military and preserving the missions of our military facilities has been a prime focus for the last two years. Military bases have been and continue to be a major port of our economy.

- **HB 2348 - veterans; disability benefits**

Prohibits the federal disability benefits of veterans from being awarded to anyone else except for child and spousal support enforcement pursuant to federal law.

- **HB 2427 - military overseas voting; ballot arguments (See Judiciary)**

- **HB 2541 - military duty; unemployment insurance**

Established guidelines for determining employers' Unemployment Insurance contributions following the active duty military service of employees and employers. Specifically, it prohibits benefits paid to an individual whose employment was terminated due to the individual's employer being called to active duty military service from being used as a factor in determining the future contribution rate of the employer.

9. JUDICIARY

9.1 ELECTIONS AND CAMPAIGN FINANCE

In 2009 and 2010, the legislature took action on a number items relating to the right to vote and the electoral process. Several noteworthy improvements were signed into law.

- **SB 1422 – petitions; post office box addresses**
Modifies the partisan and nonpartisan nomination petition forms to allow an individual to use a post office box address, provided that the individual's residence has not changed since last being updated in the voter registration file.
- **HB 2427 - military overseas voting; ballot arguments**
Increases flexibility to ensure that Arizonans serving in the military overseas have the opportunity to vote. The bill allows soldiers, sailors, marines and guardsmen to designate the means by which they receive voting materials and requires the county recorder to provide a method by which the voters may verify their ballot has been received at no cost to the voters. Under the bill, internet, fax, electronic means or mail may all be used to facilitate military overseas voting.
- **HB 2627 - Voter identification valid forms**
Specifies the categories and forms of identification that may be presented by an elector. Voters who do not have appropriate identification retain the ability to cast a provisional ballot.

9.2 INITIATIVE & REFERENDUM REFORM

The Legislature also made improvements to initiative and referendum procedures.

- **HB 2647 – Initiatives; review; title; signature collection**
This measure allows a political committee that intends to submit an application for initiative or referendum petition to submit a copy of the proposed law to the director of Legislative Council at any time before filing the application and after filing a statement of organization. Legislative council has 30 days to review the text of the measure for errors, confusing, conflicting or inconsistent provisions and conflicts with state and federal law. Legislative Council may then prepare recommendations to improve the text of the proposed measure. The sponsor of the proposal may accept, modify or reject any recommendations made by Legislative Council staff regarding the text of the measure.
- **SB 1393 – Secretary of state; elections; lobbyists**
Among other things, this bill changes the numbering of initiative and referendum measures so that upon qualification for the ballot each measure is given a number in the appropriate hundred series (100s, 200s, or 300s) continuing from the last number used in the previous election. No number can be repeated until all the one hundred numbers in that series have been used.

9.3 TORT REFORM

The Legislature made two key changes to the rules that govern how evidence is introduced and relied upon in court.

- **SB 1189 - admissibility of expert testimony**

Modifies Arizona's standard for evidence provided by expert witnesses in order to provide better reliability and reduce frivolous lawsuits. The bill essentially codifies the "*Daubert Standard*" which comes from the U.S. Supreme Court's decision in *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993). Under the standard, courts are required to consider specific evaluative factors to determine the admissibility of expert testimony.

- **SB 1018 - burden of proof; emergency treatment**

Raises the burden of proof in medical malpractice civil actions against health care providers and hospitals to clear and convincing evidence in connection with certain emergency medical services. The bill makes it harder for frivolous lawsuits to be filed, reducing the amount of frivolous lawsuits, the price of insurance, and eventually the cost of healthcare.

9.4 CRIMINAL LAW

The Legislature made several significant changes to Arizona's criminal code. These included improvements addressing specific problems and loopholes, as well as changes to protect some of Arizona's most vulnerable citizens.

9.5 PROTECTING THE VULNERABLE FROM SEXUAL CRIME

- **SB 1281 - violation; human trafficking**

Expands the law against sex trafficking to apply to prostitution and sexually-explicit performances. The bill criminalizes trafficking of both adults and minors for the purpose of sexual exploitation through coercion, deception, and force. It also delineates common circumstances of coercion such as extortion and confiscating passports or immigration documents.

- **HB 2238 - sexual offenses; probation; sentencing**

Modifies certain sentencing requirements for indecent exposure and public sexual indecency. It also classifies these offenses to a minor as sexually violent offenses and enables the court to require an additional term of incarceration for certain defendants on lifetime probation. This bill also strengthens child prostitution laws. It prevents perpetrators from evading responsibility by claiming they did not know that a minor was younger than 18.

- **SB 1266 - juveniles; communication devices; sexual material**

Establishes a new crime for using an electronic communication device to transmit, display or possess visual depictions of minors that depict explicit sexual material. The electronic transmission of sexually-explicit material or "sexting" is a growing problem with young people. This bill hones in on this trend and gives law enforcement the tools they need to address the problem specifically. Before this

bill, the only option for prosecuting “sexting” came through child pornography laws, which carry expansive sentences and are not designed for the “sexting” phenomenon.

9.6 IMPROVING THE ARIZONA CRIMINAL CODE

- **SB 1282 - smuggling; definitions**

Prescribes a class 3 felony, for human smuggling if it involves the use or threatened use of deadly physical force. This allows law enforcement to bring more serious charges where human smuggling is combined with violence.

- **SB 1088 - domestic violence; dating relationships**

Under this bill the definition of domestic violence is expanded to include relationships that are currently, or were previously, in a romantic or sexual relationship. This approach offers the protections and accountability of domestic violence laws to individuals in a dating relationship.

- **HB2062 - aggravated assault; peace officer**

Establishes a Class 4 felony to commit aggravated assault if the assault results in any physical injury to a peace officer. A lesser, but still aggravated penalty applies where an assault on a peace officer does not result in injury. This bill was passed as a response to the tragic death of Lieutenant Eric Shuhandler of the Gilbert Police who was killed in the line of duty on January 28, 2010.

- **SB 1009 – juvenile prosecutions; adult court; age**

Requires a criminal charge brought against a juvenile be based on the age of the juvenile at the time the offense was committed as opposed to when the charges are actually filed.

- **SB 1055 – victims’ rights; disclosure of information**

Expands the rights of victims of crime by allowing victims to consent either verbally or in writing to allow a crime victim advocate to disclose information to the court in furtherance of the victim’s rights.

- **SB 1056 – sentencing; guilty except insane**

Promotes public safety by providing enhanced post-release monitoring for criminal offenders who are found guilty except insane (“GEI”). Among other things, the bill requires DPS to post the name, address, age, current photograph, offense and notification level of persons adjudicated GEI for certain sex offenses on the Arizona sex offender website.

9.7 STATE SOVEREIGNTY & FEDERALISM

- **HCR 2001 - sovereignty; tenth amendment**

This concurrent resolution sent to the U.S. Congress and President Obama asserts the sovereignty of the State of Arizona under the Tenth Amendment to the United States Constitution and demands the termination of mandates that are beyond the scope of the constitutionally enumerated powers.

HCR 2001 is consistent with the earliest understanding of the Constitution. Writing in the Federalist Papers, James Madison explained the dynamic between the states and federal government as follows:

“The powers delegated by the proposed Constitution to the Federal Government, are few and defined. Those which are to remain in the State Governments are numerous and indefinite. The former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce; with which last the power of taxation will for the most part be connected. The powers reserved to the several States will extend to all the objects, which, in the ordinary course of affairs, concern the lives, liberties and properties of the people; and the internal order, improvement, and prosperity of the State.”⁷

No federal law—no matter how well intentioned—is exempt from Constitutional requirements. Alexander Hamilton called federal legislation that went beyond the bounds of the enumerated powers “merely acts of usurpation.”⁸ As Justice O’Connor said in *New York v. U.S.*: “The Constitution protects us from our own best intentions: It divides power among sovereigns and among branches of government precisely so that we may resist the temptation to concentrate power in one location as an expedient solution to the crisis of the day.”⁹

⁷ The Federalist No. 45 (James Madison) (emphasis added).

⁸ The Federalist No. 33 (Alexander Hamilton).

⁹ 505 U.S. 144, 187 (1992).

10. NATURAL RESOURCES & ENVIRONMENT

Arizona's recent and projected population growth necessitates that we plan for a proper balance between the needs of Arizona resources and our resources. The 49th Legislature addressed natural resources, lands, development demands and quality of air and water for the citizens of Arizona and future generations, while maintaining a balance between conservation and economic growth.

10.1 GAME & FISH

- **HB2157 - wildlife; aquatic invasive species**

Several bodies of water in Arizona have aquatic invasive quagga and zebra mussels. The mussels were first spotted in Lake Mead in January 2007 and spread very rapidly to other bodies of water. The colonies of mussels damage boat outdrives, clog water intakes and affect aqueduct flow, cost millions of dollars for water dependent industries and displace and out-compete native wildlife. HB2157 establishes the aquatic invasive species program. This program outlines Game & Fish responsibilities for controlling the invasive species and directs boaters to follow procedures to ensure their vessels do not inadvertently transport mussels to uninfected waters.

10.2 TRUST LAND

- **HB2146 - trust lands; loss of lease**

When there is a conflicting application for a state grazing lease, the State Land Commissioner weighs "equities" and determines if either party should be awarded the lease outright or if the matter should proceed to bid. If the existing lease is not renewed, the lessee of state land must be reimbursed by a succeeding lessee for non-removable improvements. In recent years, the monetary source for non-removable improvements has come under questions as large groups have set out to compete for trust land leases. HB2146 outlines factors the State Land Commissioner must consider when determining reasonable compensation for non-removable improvements. These factors are geared to examine holistically the true impact of the loss of lease.

10.3 STATE PARKS

- **SB1349 - state parks; management**

Due to recent years' revenue collection shortfalls, our state experienced over \$3.3 billion in deficit conditions in FY2009 and FY2010. As a consequence, state agencies' baseline budgets were significantly reduced, and State Parks experienced reductions as well. The decrease in financial resources resulted in park closures, reduced days of operation and the elimination of some park programs and grant cycles. On a positive note, however, management agreements between public entities and the Parks system have emerged to creatively address the individual needs of each park and locality. SB1349 is another tool for the

parks system to use. It allows parks to contract with public, private or Indian tribe to operate State Parks.

10.4 WATER

- **SB1445/HB2561 - groundwater transportation; Big Chino Sub-basin**

SRP sued Prescott after the Department of Water Resources (DWR) affirmed Prescott and Prescott Valley's right to proceed with its Big Chino Water Ranch project (groundwater pumping from the Big Chino aquifer over 20 miles away). The DWR granted a certificate of assured water supply and approval to drill wells and pump water back through a pipeline. SRP argued the project could have a direct impact on the Verde River and some critics felt SRP should be more involved in the process than the statute allowed; suggesting the statute should expand the class of who has standing in these cases. SRP lost the court case, but an agreement was reached between the parties to move forward with the project and offer significant protections for the Verde. SB1445 allows Prescott and Prescott Valley to draw and transport 8,068 acre feet of water per year, and the agreement stipulates the municipalities must track what they pump, replenish the river if its levels drop and work within a monitoring plan.

10.5 VEHICLE EMISSIONS

- **HB2033 - emissions; motorcycles; area A; date**

In 2008, the legislature granted motorcycles, in Area A, a vehicle emissions testing exemption. The legislation also included a conditional enactment due to this change in the State Implementation Plan (SIP), which provided that the exemption would not take effect unless the EPA approved the exemption on or before July 1, 2010. There was some concern the approval date would lapse before the exemption was approved. Therefore, HB2033 extends the conditional enactment date, so this process can move forward and the exemption can be granted.

- **HB2165 - vehicle emissions testing; onboard diagnostics**

The Onboard Diagnostic (OBD) test is the newest emissions test to be used in Arizona. It is only used on 1996 and newer light duty vehicles. OBD testing accesses engine operating data by connecting directly to a computer in the vehicle that continuously monitors the operation of the engine emissions control system. The OBD system helps to ensure that the emissions control system and other engine-related components are operating properly. OBD systems are designed to alert drivers when something in the emissions control system begins to deteriorate or fail and is a shift to pollution prevention because it can identify problems with the emissions control system before the vehicle becomes an excessive polluter.

Unfortunately, this emissions control system failure identified by the onboard computer can lead to costly and sometimes elusive repairs. Therefore, HB2165 allows a vehicle owner to receive a special 90-day resident registration. This

grace period offers the vehicle owner time to save money for the necessary repairs in order to pass the emissions test. The bill also requires the testing agent to identify testing or failure codes, when available.

10.6 ENVIRONMENTAL PROGRAMS CONTINUATION

- **SB1276 water monitoring assistance program; continuation**
In response to the Safe Drinking Water Act, the legislature directed the Arizona Department of Environmental Quality (ADEQ) to establish a monitoring assistance program that would support public water systems in fulfilling monitoring requirements by collecting and analyzing baseline water samples from the public systems to ensure they are in compliance. SB1276 continues the Water Monitoring Assistance Program for ten more years.

- **SB1277 maximum daily load program; continuation**
The Clean Water Act (CWA) requires each state to identify waters within its boundaries that do not meet water quality standards and to develop a program to improve the quality of those waters. As required by the CWA, the legislature established the Total Maximum Daily Load (TMDL) program to help impaired lakes or streams meet water quality standards. In consultation with stakeholders, ADEQ prepares an implementation plan to monitor water quality and to meet applicable standards. SB1277 continues the TMDL program for ten more years.

11. TRANSPORTATION

A safe and efficient transportation system that moves people and products throughout our state is an integral part of our economy. We committed to encouraging the utilization of public/private partnerships for developing and enhancing the state's transportation infrastructure and creating an atmosphere for new opportunities for inter-regional and sub-regional planning of transportation infrastructure.

11.1 INFRASTRUCTURE

- **HB 2396 - transportation; public private partnerships**

Updates and modernizes the parameters for the Arizona Department of Transportation (ADOT) to enter into public-private partnerships for the construction, financing, operation and maintenance of transportation projects, including toll roads. It allows for the infusion of private capital while maintaining ADOT's safety and maintenance requirements. Grants ADOT the authority, after a competitive procurement process, to award a project based on the best value to Arizona, or to reject all proposals. The best value may be based on price, financial proposal or other factors, although ADOT is required to disclose its criteria as part of the project procurement. Public-private partnerships may be initiated either by ADOT or through an unsolicited proposal.

- **SB 1406 - procurement; construction; specialized services**

Modifies the procurement of construction services and professional services by Arizona public entities. For the Arizona Department of Transportation, adds the ability to procure multiple contracts for job-order-contracting construction services in a single procurement and adds the authority for one-step design-build construction services. For the state and political subdivisions, it modifies existing law to separate the processes for the procurement of single and multiple contracts for professional services and construction services. The existing authority to procure in a single procurement multiple contracts for construction-manager-at-risk construction services and design-build construction services is repealed. Finally, heavy or commuter rail construction services are included.

11.2 REGIONAL PLANNING

- **SB 1063 – public transportation; regional planning**

Modifies the statutes pertaining to regional transportation planning. Requires a regional planning agency to develop the public transportation element of the regional transportation plan in cooperation with other local authorities. Specifically, it modifies the duties of the Regional Public Transportation Authority (RPTA) with regard to the development of a regional public transportation system plan. Changes references to the regional public transportation system plan to a public transportation *element* of the regional transportation plan within the RPTA statutes and requires the RPTA to develop the *element* of the regional transportation plan in cooperation with state and local public transportation authorities.

- **HB 2625 – STAN subaccount; city reimbursement**

Specifies that a city or town that receives monies from the Roads of Regional Significance Congestion Mitigation (RRSCM) account prior to July 1, 2012 is not required to reimburse the account. The RRSCM subaccount is used to lend monies to governmental entities for transportation projects in high growth counties, cities and towns. When the Legislature approved the creation of the RRSCM in 2007, the subaccount was appropriated \$10 million from STAN I monies. In addition, the legislation included a statutory termination date of July 1, 2012 for the RRSCM.

APPENDIX

RELATED MEDIA COVERAGE

ECONOMIC PROSPERITY

The time is now for job recovery

by Barry Broome, 4/10/10, Arizona Republic

Arizona is in desperate need of a job-creation package that will accelerate economic recovery. Our current budget challenges will remain in effect until 2014, 2015 and possibly 2016. Arizonans cannot afford to wait five years for a jobs package.

Globally, the formula for economic prosperity follows the same pattern: an improved tax climate for business, greater investments in innovation and education, and a targeted, state-led economic development strategy.

The passage of Senate Bill 1403, the Renewable Energy Tax Incentive Program, has demonstrated success for Arizona. We will have similar success with a job-training program, quality jobs initiative and the restructuring of the enterprise zone.

In the Mountain West, competitor states have better business tax climates than Arizona. Four states ranking in the top 10 nationally are Colorado, Utah, Texas and Washington. The 2010 State Business Tax Climate study ranks Arizona a mere 28th.

To suggest that Arizona does not need tax-policy work is shortsighted. In addition to having better business climates, these same states have implemented smart economic development strategies. Texas is widely respected for its comprehensive state economic development approach and has cut taxes. Colorado recently passed the most aggressive renewable-energy platform in the country. Meanwhile, Utah and Washington are becoming centers of excellence for innovation. None of these states are experiencing a budget shortfall like Arizona.

Suggesting Arizona's economic future will benefit by standing pat in the global contest for jobs is careless. Our current crisis has a reoccurring theme of recession: 1981-1984, 1989-1992, 2000-2002, and now 2007-2014. Each recession occurs more frequently, hits harder and lasts longer. For the first time, Arizona will lag other states in economic recovery. Employment levels aren't expected to normalize until 2014.

It's hard to imagine with this evidence that state leadership doesn't need to do more for Arizona's economy. Equally concerning is the notion that improving the climate for job growth will negatively affect Proposition 100 (the proposed temporary sales-tax increase on the May 18 statewide ballot) or that a jobs bill should wait until budget challenges are fixed.

Can we really remain stagnant another four years while competitor states like Utah, Colorado and Texas improve their competitive position? House Speaker Kirk Adams and others have called for a balance between economic development programs and tax policies to increase Arizona's competitiveness. This proposal modernizes Arizona's enterprise zone, restores job training and encourages quality jobs through the expansion of base industries.

It increases sales factor to 100 percent, which will place Arizona No. 1 in the nation for base industries. It reduces corporate income tax, moving us from eighth nationally. And it establishes a capital gains tax for small businesses.

The Senate has wisely structured tax policy to improve our competitiveness while reducing any potential threat to the budget. For the first time, state policymakers have blended a competitive agenda through improved tax policy and stronger economic development initiatives.

Arizona will neither recover nor change our long-term outlook unless we address both areas. The Speaker's proposal and the improvements made by the Senate make this job-package a winner for Arizona families.

Barry Broome is president and CEO of the Greater Phoenix Economic Council.

Proposal's incentives would work

by Kirk Adams, 3/3/10, Special for the Arizona Republic

Arizona trails other states in its efforts to attract new businesses and encourage business growth within the state. The traditional overreliance on population growth and housing starts, a relatively uncompetitive business tax code and a lack of targeted and proven economic-development programs have resulted in Arizona falling to 50th in the country in job growth last year.

The Economic and Job Recovery Act, **HB 2250**, provides broad and permanent tax relief to every employer in the state and a limited set of performance-based incentives to attract and retain export or "base industry" companies. According to respected economist Elliott Pollack, both are necessary for job growth.

Unfortunately, Robert Robb's March 2 column, "Addictive economic development incentives" erroneously conflates the narrowly-defined incentive provisions of HB 2250 with the unfocused and injudicious local "subsidies" he pillories.

First, the bill's incentive provisions are limited in applicability and duration. Only base-industry companies meeting stringent export, wage and health-insurance requirements qualify for incentives for a limited period. Second, the incentive programs are self-financed, meaning the new property, income, and sales-tax revenues generated by base-industry companies are greater than any working capital rebated back to them. Third, the bill includes clawback provisions to hold employers accountable to Arizona.

State Republicans have a solid record of fiscal prudence. Last year, the Legislature required the assessed value of the government property lease excise tax, properties that Robb criticizes, be computed as part of the K-12 funding formula, pressuring cities to avoid using this incentive.

In fiscal year 2012, the state will no longer subsidize homeowners' local property-tax decisions. Furthermore, Republicans have rebuffed attempts to permit Tax Increment Financing, another undisciplined economic-development tool Robb would surely decry.

Low business taxes combined with targeted and proven economic-development programs work: Look at Texas. The Lone Star state has created 1 million new jobs since 2003. Texas policymakers realize that in the 21st century, states compete not only with each other but with Singapore, China and Ireland.

Having reduced the size of government by \$2 billion in the past 14 months, Republicans are not interested in funding wasteful subsidies. HB 2250 is focused on fostering serious capital investment and job growth.

Put local gov't spending records online, says lawmaker

by Richard Tackett, 2/9/10, Tucson Sentinel

Requiring local governments to post records of all financial transactions online would make officials better stewards of the public's money, a state lawmaker contends.

"There's large sums of money and taxes being collected, and much of the time we don't know exactly how it's spent," said Rep. Steve Montenegro, R-Litchfield Park. "Being that it is public money, people should be informed as to where it goes."

Montenegro has introduced legislation that would force each city, town, county and school district to create a website with a comprehensive database of all receipts and expenditures. He said that such a site would allow taxpayers to learn whether a private contract went to the lowest bidder, for example.

HB 2282, which has won committee approval and is heading to the House floor, is one of several bills this session dealing access to government records and proceedings. Others include a proposal to allow officials to remove information identifying senders of e-mail messages and another that would require public bodies to post notices of public meetings conspicuously on their websites.

Montenegro's bill follows a 2008 law that required the Arizona Department of Administration to create a public site by 2011 logging the use of state money. Montenegro's bill would require local governments to follow suit by 2012.

Dan Guerin, communications associate for the Goldwater Institute, an advocacy group focused on limited government and free enterprise, said that type of Web site would enhance open government.

"Citizens ought to have the same access to data that everyone in the city does," he said, citing multiple lawsuits the Goldwater Institute has filed seeking records from cities. "Everything ought to be online."

But Ken Strobeck, executive director of the League of Arizona Cities and Towns, said the bill's cost to local governments would outweigh the potential benefits.

"Ask yourself, 'What's the problem we're addressing?'" Strobeck said. "My understanding is that it's transparency, but posting every financial transaction, every receipt in and out ... I don't know how that actually helps anyone understand how their government is functioning."

The estimated total cost of creating the state's site is \$740,000, according to the Department of Administration.

Rep. Anna Tovar, D-Tolleson, said she understands Montenegro's intent as far as increasing transparency but voted against the bill in the House Government Committee because it amounts to an unfunded mandate.

"In this crucial budget crisis, local governments shouldn't have the burden of these costs," she said.

Montenegro said cities and towns should be able to cope.

"If someone's collecting hundred of millions of dollars, I find it really hard to accept the 'We can't afford it' argument," he said.

Ariz. GOP outlines tax-cut plan as strategy to spur job growth

by Betty Beard, Mary Jo Pitzl and Erin Zlomek, 1/6/10, Arizona Republic

Arizona House Republicans hope to jump-start the state's economic recovery with a job creation and business tax-relief bill that they say will encourage creation of quality jobs in key industries.

The goal is to use a variety of tools, including tax incentives, to entice new and existing businesses to add jobs.

The bill includes a proposed "Arizona deal-closing fund" to pay for special requests to seal a company's move to the state.

House Speaker Kirk Adams, R-Mesa, said the bill will be introduced Monday. How it will play out in a state Legislature that must close multibillion-dollar budget shortfalls is unknown. Arizona's deficit is expected to be about \$4.7 billion between this fiscal year and next.

Many of the bill's recommendations are based on a \$65,000 report that House Republicans commissioned last month from Scottsdale economist Elliott Pollack. His company surveyed the 50 states for best practices in economic development and suggested the creation of programs already proven successful in other states.

The bill is lean on upfront incentives, instead focusing on giving companies tax rebates after they begin operations or add to their existing operations.

Cutting business taxes also would make the state more competitive in attracting companies, lawmakers said.

The proposed Arizona Economic and Job Recovery Bill focuses on retaining and attracting "base industries" - manufacturing, high-tech and research-and-development companies such as Boeing, Intel Corp. and Raytheon Missile Systems - that pay employees well, bring in dollars from out of state and generate three or four indirect jobs for each one of theirs.

Adams unveiled the plan in front of the Boeing plant in Mesa, while planes and helicopters passed noisily overhead, because he said it illustrated the kind of company Arizona needs to keep and attract. Boeing has about 4,500 employees and an average salary of \$70,000.

Tax-reduction efforts

The tax-cut components of the bill are nearly identical to a plan that passed the House in July, only to die in the Senate.

At the time, the package of income- and property-tax cuts was tied to approval of the temporary sales-tax increase that Gov. Jan Brewer has been promoting to ease the state's deficit.

This year, Adams said, the House leadership will not tie the tax increase to tax cuts. That's because he wants the broader package - tax cuts, as well as other policy moves that he believes will attract good-paying jobs to the state - to stand on its own merits as a long-term, economic-development policy.

However, Adams said many members of his Republican caucus will want to see tax cuts if they are also asked to vote for a tax referral.

Adams emphasized that the tax-cut portions of the plan would be phased in over four years, starting in July 2011, so they would not further affect state tax collections in the recession.

The plan envisions more than \$600 million in tax relief by June 2016:

- \$200 million in individual income-tax relief by reducing rates 10 percent.
- \$200 million in corporate income-tax relief by reducing the rate to 4.5 percent from 6.97 percent.
- \$250 million in property-tax reductions by eliminating the state equalization rate.

Barbara Leff, chairwoman of the Senate Commerce and Economic Development Committee, said she is encouraged by the emphasis on job creation.

The high-wage manufacturing jobs that the bill seeks to attract are out there, said Leff, R-Paradise Valley. She pointed to the bill she championed last year that provides incentives for renewable-energy firms. It's already helped attract several solar firms, she said.

House Democrats panned the Republican plan, saying it would benefit businesses while hiking taxes on residential-property owners.

A cut in the business-property rate would push the burden onto residential rates, said House Minority Leader David Lujan, D-Phoenix.

Adams said he believes homeowners will approve. "The citizens of Arizona understand more than ever the importance of jobs because there isn't a person in the state who has not been affected by a job loss or knows someone who has lost a job or has lost a significant portion of their income," he said.

Several economic-development experts say Arizona will fall behind in luring businesses without better incentives, particularly because of its severe budget issues.

One of its major existing incentives, job-training funds, was suspended last year by the Legislature to try to close the deficit.

Advice to be careful

Jack Boyd, a Princeton, N.J., consultant, said he and other consultants are telling clients looking for new sites to be careful about locating in states with high deficits.

"What concerns me is who is going to put the fiscal houses in order for states like Arizona, California and New Jersey. Our concern is that it will be on the backs of the business community," he said.

He also said that Arizona's property taxes are high by Western standards, another disadvantage, and that it is one of few states to separate business from residential-property taxes.

Ioanna Morfessis, a Phoenix-area economic-development consultant, said that offering incentives have become more important because of globalization and the recession.

"Other states and other governments have beefed up incentive programs tremendously in the last two years even in the face of enormous fiscal and budgetary restraints," she said.

The proposed legislation primarily addresses job creation through three provisions.

The first would give cash rebates to qualifying employers that add \$2 million to their payrolls - roughly 50 jobs - and maintain those new jobs for five years. The rebates would be funded through withholding taxes, with 50 percent going back to the employer and the rest going to the state. If the jobs don't sustain, the employer would have to repay the rebates.

Such rebates have proven effective, according to Sujit CanagaRetna, senior fiscal analyst for the Lexington, Ky.-based Council of State Governments.

CanagaRetna cites Oklahoma, which he said used its rebate program to build a sizable wind-energy industry.

Another job-creation provision would create a "deal-closing fund" that would allow the state to offer out-of-state employers last-minute incentives, including tax breaks and infrastructure construction. About 20 states have similar funds, according to the governments council.

The structure of the fund is similar to the incentives in the renewable-energy bill passed last year. It hinges on feeding a portion of the dollars generated by new jobs, mainly in manufacturing, back into a fund that would help attract more good-paying jobs to the state, Adams said.

CanagaRetna said, "They are an effective way for the executive branch to move quickly on a project, but there is some controversy." Some say the fund gives its administrator too much power because the incentives aren't debated through the standard legislative process, he added.

Adams proposes seeding such a fund with \$25 million of unused federal stimulus money.

The bill's third job-creation provision involves tweaking Arizona's existing job-training program.

All state employers pay a job-training tax, which collected \$15 million in 2009. The fund helps companies pay for new employee training when a skilled workforce is not immediately available.

The program is often attractive to out-of-state employers looking to relocate, according to the Greater Phoenix Economic Council. However, not every company that pays the tax uses the program, House Republicans say.

The new bill proposes eliminating the job-training tax and instead funding the program via participating companies' withholding taxes.

Tax incentives for renewables opposed

by Ryan Randazzo, 2/10/09, Arizona Republic

Even though it has had little more attention than a first reading, legislative opposition already has lined up against a bill that would give tax incentives to factories that produce components for renewable energy.

Opponents of **Senate Bill 1403** favor a comprehensive reorganization of the tax code, lowering taxes on all businesses and individuals.

"When you have carve-outs, you leave the rate artificially high for everyone else," said Steve Voeller of the Free Enterprise Club. "If (the companies') argument is they are not coming unless we give them a huge subsidy . . . maybe our rates are too high to begin with. How many other thousands of businesses are in the same boat?"

Byron Schlomach, director of the Center for Economic Prosperity for the Goldwater Institute, agreed.

"Overall our taxes are not the highest, but our corporate income tax, capital gains tax and commercial property taxes are all pretty high," he said. "We need to restructure our tax system. Obviously, it would be good if we could restructure it and not raise taxes on anybody and make it up on frugality."

Supporters of the bill include Phoenix Mayor Phil Gordon, who recently traveled to California to court companies looking to possibly relocate to Arizona.

Supporters counter that the states winning the race to attract solar manufacturing companies already have lower taxes than Arizona, so even if it's politically possible to pass tax cuts during a recession, Arizona still needs some of the incentives states are using to attract factories.

The bill's sponsor, Paradise Valley Republican Sen. Barbara Leff, said she is looking to reduce business taxes and regulations, but the incentives outlined in SB-1403 still are needed.

"I have another bill to reduce the corporate income tax (SB-1324) to match the individual income-tax rate," she said. "(Before getting the renewable-energy incentives in SB-1403) a company must have already made a significant capital investment, hired workers, paid health insurance benefits and be fully operational. That is a guaranteed win for Arizonans."

Other advocates said the bill would create tax revenue for the state that otherwise wouldn't accrue because the companies wouldn't move here.

For every \$1 billion invested in Arizona, the state will see \$108 million in new tax revenue over the next decade, said Greater Phoenix Economic Council Chairman Michael Bidwill.

He said the economic downturn makes the incentives even more important than last year, when they failed to pass after being introduced in the final weeks of the session.

"We've lost a larger percentage of jobs in homebuilding and construction in this downturn than Michigan has (lost) in the auto industry," said Bidwill, also Arizona Cardinals president.

He said the proposed incentives will attract new industry, and are politically more favorable than handing out checks to help factories build infrastructure, as some states have done.

Joe Snell, chief executive of Tucson Regional Economic Opportunities Inc., described a recent trip in which southern Arizona officials visited more than 30 solar companies in Germany.

"We heard over and over we need some tools," he said.

That is why he's supporting the incentives.

"Frankly, we are living proof now of what happens when we don't have a very diverse economic base," he said.

Freeze on new laws, rules sought to help businesses

Lawmaker wants to help businesses

by Mary Jo Pitzl, 2/6/09, Arizona Republic

Legislatures have enacted state holidays. They've done tax holidays. Now, Arizona's Legislature wants a regulatory holiday - an extended holiday.

A bill introduced by Rep. Andy Tobin, R-Paulden, would impose a one-year moratorium on any new state rule or regulation, with exceptions for those that would protect against an imminent threat to public health or safety, or rules needed to comply with a court order.

Tobin said the freeze is needed to help overburdened businesses weather the economic downturn.

It also would apply to local governments.

House Bill 2240 is part of a push from the business community and Republican legislative leaders to lighten Arizona's regulatory requirements, which they see as overreaching and onerous.

A moratorium would stop scores of regulations that are in the pipeline, not to mention anything that might result from legislation being worked on now.

It also broadens the scope of Gov. Jan Brewer's directive to state agencies to hold off on any new rule-making through April 30 to give her new administration time to assess the effect of rules set in motion during former Gov. Janet Napolitano's tenure.

Richard Bark, Brewer's policy deputy, is leading the regulatory review. Before he joined the administration, Bark spent much of his time as an attorney pushing back against state regulations, particularly in the environmental realm.

When business leaders spoke about the regulations during a budget boot camp last month, House Majority Leader John McComish, R-Phoenix, told them: "You will find a receptive audience."

That was evident earlier this week when the House Commerce Committee unanimously approved Tobin's bill. Skeptical Democrats said the bill needs work - in particular, an exemption for the Arizona Corporation Commission - but voted for it anyway.

Tobin's bill calls for a moratorium through June 30, 2010. But that might not be long enough, he added, since economists have said Arizona won't begin to see an upturn until 2012.

Tobin said the three-month freeze in Brewer's order isn't long enough.

"Can we just stop getting in everybody's way for another year?" Tobin asked.

In January, the Republican leadership in the House and Senate invited business leaders to give them a list of burdensome regulations.

The Arizona Chamber of Commerce and Industry submitted a list of 19 regulations; 11 deal with environmental issues.

One of the rules they targeted was a "clean cars" requirement in the works.

The clean-car rule would require all new vehicles sold in Arizona as of 2011 to meet greenhouse-gas emission standards. It was championed by Napolitano and vigorously opposed by many in the business community, who complained it would drive up costs.

At this week's hearing, Allison Bell, vice president of governmental relations for the chamber, said the state Corporation Commission is readying a rule that would require new fees of about \$200,000 from the Union Pacific and Burlington Northern Santa Fe railroads to pay for railroad-safety oversight. Most states have such a fee, and Arizona is seeking that instead of taking money out of the general fund. Putting the rule on hold for a year would help the rail lines, Bell said.

But the five-member commission objects, saying the commission has the constitutional right to set its own fee schedule.

Although Republican lawmakers were unsympathetic to that argument, they did approve an exemption for self-supporting regulatory boards and commissions.

Rep. Chad Campbell, D-Phoenix, said imposing a rule moratorium on the Corporation Commission seems contrary to that agency's mission since it exists to oversee corporations and rules are how it carries out that mission.

He also questioned whether the definition of an "imminent" health or safety threat is adequate. Air pollution today, he said, may not exact its health costs for years.

"I'm concerned that while we might be saving money in the short run, it might cost us in the long run," Campbell said.

IMMIGRATION ENFORCEMENT

Why Arizona Drew a Line

by Kris Kobach, 2/28/10, NY Times

On Friday, Gov. Jan Brewer of Arizona signed a law — SB 1070 — that prohibits the harboring of illegal aliens and makes it a state crime for an alien to commit certain federal immigration crimes. It also requires police officers who, in the course of a traffic stop or other law-enforcement action, come to a “reasonable suspicion” that a person is an illegal alien verify the person’s immigration status with the federal government.

Predictably, groups that favor relaxed enforcement of immigration laws, including the American Civil Liberties Union and the Mexican American Legal Defense and Education Fund, insist the law is unconstitutional. Less predictably, President Obama declared it “misguided” and said the Justice Department would take a look.

Presumably, the government lawyers who do so will actually read the law, something its critics don’t seem to have done. The arguments we’ve heard against it either misrepresent its text or are otherwise inaccurate. As someone who helped draft the statute, I will rebut the major criticisms individually:

It is unfair to demand that aliens carry their documents with them. It is true that the Arizona law makes it a misdemeanor for an alien to fail to carry certain documents. “Now, suddenly, if you don’t have your papers ... you’re going to be harassed,” the president said. “That’s not the right way to go.” But since 1940, it has been a federal crime for aliens to fail to keep such registration documents with them. The Arizona law simply adds a state penalty to what was already a federal crime. Moreover, as anyone who has traveled abroad knows, other nations have similar documentation requirements.

“Reasonable suspicion” is a meaningless term that will permit police misconduct. Over the past four decades, federal courts have issued hundreds of opinions defining those two words. The Arizona law didn’t invent the concept: Precedents list the factors that can contribute to reasonable suspicion; when several are combined, the “totality of circumstances” that results may create reasonable suspicion that a crime has been committed.

For example, the Arizona law is most likely to come into play after a traffic stop. A police officer pulls a minivan over for speeding. A dozen passengers are crammed in. None has identification. The highway is a known alien-smuggling corridor. The driver is acting evasively. Those factors combine to create reasonable suspicion that the occupants are not in the country legally.

The law will allow police to engage in racial profiling. Actually, Section 2 provides that a law enforcement official “may not solely consider race, color or national origin” in making any stops or determining immigration status. In addition, all normal Fourth Amendment protections against profiling will continue to apply. In fact, the Arizona law actually reduces the likelihood of race-based harassment by compelling police officers to

contact the federal government as soon as is practicable when they suspect a person is an illegal alien, as opposed to letting them make arrests on their own assessment.

It is unfair to demand that people carry a driver's license. Arizona's law does not require anyone, alien or otherwise, to carry a driver's license. Rather, it gives any alien with a license a free pass if his immigration status is in doubt. Because Arizona allows only lawful residents to obtain licenses, an officer must presume that someone who produces one is legally in the country.

State governments aren't allowed to get involved in immigration, which is a federal matter. While it is true that Washington holds primary authority in immigration, the Supreme Court since 1976 has recognized that states may enact laws to discourage illegal immigration without being pre-empted by federal law. As long as Congress hasn't expressly forbidden the state law in question, the statute doesn't conflict with federal law and Congress has not displaced all state laws from the field, it is permitted. That's why Arizona's 2007 law making it illegal to knowingly employ unauthorized aliens was sustained by the United States Court of Appeals for the Ninth Circuit.

In sum, the Arizona law hardly creates a police state. It takes a measured, reasonable step to give Arizona police officers another tool when they come into contact with illegal aliens during their normal law enforcement duties.

And it's very necessary: Arizona is the ground zero of illegal immigration. Phoenix is the hub of human smuggling and the kidnapping capital of America, with more than 240 incidents reported in 2008. It's no surprise that Arizona's police associations favored the bill, along with 70 percent of Arizonans.

President Obama and the Beltway crowd feel these problems can be taken care of with "comprehensive immigration reform" — meaning amnesty and a few other new laws. But we already have plenty of federal immigration laws on the books, and the typical illegal alien is guilty of breaking many of them. What we need is for the executive branch to enforce the laws that we already have.

Unfortunately, the Obama administration has scaled back work-site enforcement and otherwise shown it does not consider immigration laws to be a high priority. Is it any wonder the Arizona Legislature, at the front line of the immigration issue, sees things differently?

Kris W. Kobach, a law professor at the University of Missouri at Kansas City, was Attorney General John Ashcroft's chief adviser on immigration law and border security from 2001 to 2003.

Arizona immigration law: Hispanics vow, 'We're going to fight'

by Daniel Wood, 2/27/10, Christian Science Monitor

Raul Rodriguez says he doesn't know English well enough to find the right words for the Arizona lawmakers who passed a bill targeting illegal immigrants.

One of a dozen workers standing in the parking lot outside Home Depot in T-shirts and steel-toed shoes, Mr. Rodriguez calls over his shoulder: "We're going to fight, eh amigos?" The group nods.

If Rodriguez takes up his own call to action this November – and Hispanics nationwide follow suit – one Arizona bill could have a significant effect on politics.

Sixteen years ago, a California ballot measure prohibiting undocumented immigrants from using social services, health care, and education helped to turn California from a reliably Republican state in presidential elections to one that is a virtual Democratic lock, says Matthew Kerbel, a political scientist at Villanova University in Philadelphia.

Through rallies and angry comments like Rodriguez's, the Hispanic community is giving the first signs that Arizona's immigration law could stir a similar response today to the one that greeted California's Proposition 187 more than decade ago.

"If you look at the history of California, you find that the experience of Prop. 187 galvanized the Latino vote like nothing ever," says Rosalind Gold, a senior political director for the National Association of Latino Elected Officials (NALEO). "It was the catalyst for some of the biggest voting and registration drives we've ever had and brought out Latino candidates into local and state elections like nothing before it."

California voters passed Prop. 187 in 1994, but the measure was struck down by a federal judge as unconstitutional.

Beyond Arizona

The demographics of Arizona are not the same as 1990s California. Its history and influx of white retirees make it solidly Republican. But the reaction from Rodriguez – a Californian – indicates that the Arizona law could have an impact beyond Arizona's borders.

"We're angry. We're going to carry signs. We're going to march. We're going to do whatever it takes to get pro-immigrant candidates into office and anti-immigrant candidates out of office," says Rodriguez. "This is a mean-spirited law and we're not going to take it."

Rodriguez is no stranger to political action.

Two years ago, he participated in a citizenship drive sponsored by NALEO, and last year he went door to door to push Latinos to register to vote. This month, he and several of his companions have participated in a roundtable national phone discussion sponsored by the Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA) and El Centro de Accion Social in Pasadena.

The topic: How the immigrant community can express unity about immigration reform.

Within Arizona, "this will likely help energize Hispanics to vote Democratic," says Larry Sabato, a political scientist at the University of Virginia in Charlottesville. "But that could be offset by how many Anglos are more inclined to vote Republican because of this bill."

Outside Arizona, the calculus changes, Mr. Sabato says. "Hispanics are more likely to lean Democratic because of this, but Anglos are not more inclined to vote Republican." It could give the Democratic party a much-needed boost for the midterm elections in November, he says. Rallying the community. Activists are certainly trying to turn the law to their advantage.

"Republicans have now created a new wave of Latino activism in Arizona, and we will see younger Latinos running for political office – on the side of the Democratic Party," says Randy Ertill, executive director of El Centro de Accion Social. "Republicans once again have shot themselves in the foot."

The anger and spirit of activism has spilled beyond Arizona, adds Jorge-Mario Cabrera, a spokesman for the Coalition for Humane Immigrant Rights of Los Angeles.

"The political, economic, and legal battle we are mounting against Arizona's **SB 1070** ... signifies a new level of political power we are demonstrating as immigrant communities in the United States," he says. "Latinos everywhere are looking at Arizona and the Republicans who voted in favor of it and asking themselves if this is the kind of political party we should be aligning ourselves to."

WINN: Arizona law will triumph in court

Constitutional challenges have little support in case law

by John Winn, 2/14/ 10, Washington Times

Despite howls of outrage from the political left and right, Arizona's new immigration law (SB 1070) will probably withstand constitutional challenge. At its heart, the statute defines as unlawful trespass the presence in the state of adult aliens (noncitizens) who do not possess valid federal identification. The legislation specifically invokes Section 1304 of Title 8 United States Code. Section 1304 requires aliens "at all times" to carry a certificate of alien registration or an alien registration receipt card. Adequate federal documentation would therefore consist of a permanent resident Green Card, work visa or immigrant visa.

Most criticism of the Arizona law is that enforcement will inevitably lead to unlawful racial profiling by police. The problem with this argument is twofold. First, amending language (which arguably wasn't needed) requires all police inquiries to be based upon an otherwise lawful stop, detention or arrest. The other problem with the illegal profiling argument is that even if such practices were to occur, racial profiling usually isn't illegal, nor does profiling typically violate the United States Constitution. Racial profiling occupies a complicated limbo-land between notions of equal protection (under the 5th and 14th Amendments) and protection from unreasonable search and seizure in the 4th Amendment. The problem with a judicial ban on racial profiling is that it would de facto

deprive the police of its most critical law enforcement tool: the hunch. Banning profiling would simply lead to protracted burden-shifting inquiries into the motivation of police whenever a minority suspect is detained based upon a third-party report of crime to which the arresting officer was not personally a witness.

Over the years, the Supreme Court has been quite protective of police hunches. In *Whren v. United States* (1996), the court unanimously upheld vehicles stops based upon reasonable cause when a traffic violation occurred, despite the "subjective intentions," "ulterior motives" or even "actual motivations" of the officers involved. The Supreme Court has approved police checkpoints and roving patrols near borders to question occupants upon "articulable facts" and "rational inferences" that the vehicle may contain illegal aliens (*United States v. Martinez-Fuerte*, 1976). In 1992, the U.S. Court of Appeals for the Eighth Circuit upheld the detention and questioning of an African-American teenager in which virtually the only reason for the initial stop was the subject's race and youth. The Eighth Circuit noted that "facts are not to be ignored simply because they may be unpleasant."

Other critics of SB 1070 make reference to Article 1, Section 8 of the Constitution regarding Congress' authority to make rules on immigration. Thus, the argument follows that no state may pass legislation about unlawful aliens. A more careful reading of the Constitution reveals that Congress was granted the power to pass rules regarding "naturalization." Arguably, naturalization is not the same thing as "immigration." But, even if a court determined that the two words have the same meaning, under the Supremacy Clause a state statute is void only if the state law is in "actual conflict" with a valid federal statute (*Edgar v. Mite Corporation*, 1982). A reviewing court would be hard-pressed to find that the Arizona law "stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress" when such a law merely encourages aliens to obey federal law.

In point of fact, SB 1070 stands firmly upon a position occupied by state police powers for more than 200 years, specifically, the long-standing right and practice of state law enforcement agencies to detain aliens arrested (or convicted) of state crimes pending transfer to federal custody for deportation. In 2007 alone, more than 600,000 non-U.S. citizens were incarcerated in state and local jails awaiting immigration review and removal by U.S. Immigration and Customs Enforcement. Although Congress arguably has the constitutional authority to totally preempt state authority in these matters, to do so would lead to chaos.

Whatever the actual merits (or debatable efficacy) of the Arizona law, public outrage would be better served were it focused upon the debilitating social and economic conditions in Arizona that led the state to criminalize mere alienage. In the bill, Arizona declares enforcement of federal immigration laws is of "compelling interest." In law school, one learns that "compelling" means legal justification of the highest necessity, demanding attention without delay. Even if one could wish away the drug-related violence and mayhem along its borders, a state within which 12 percent of the adult workforce, 15 percent of prison inmates and a rapidly growing proportion of schoolchildren are undocumented noncitizens is a compelling problem indeed.

EDUCATION

Private school tax credit bill moves forward: House committee to hear HB2664 ; legislators divided by increased limit

by Michelle Reese, 2/5/10, East Valley Tribune

Arizona lawmakers have taken the first steps toward making the state's private school tuition tax credit law and the charities and parents who participate in the program more accountable.

HB2664 was introduced this week by some of the legislators who conducted hearings late last year after the Tribune published *Rigged Privilege*, an investigation that found the tax credit program for individual taxpayers to be rife with abuse and lacking oversight. A separate corporate program is more strictly regulated.

The House Ways and Means Committee will hear HB2664 at 2 p.m. Monday. Calls to some of the bill's sponsors were not returned Thursday because they were in special session.

Other lawmakers, though, said the bill doesn't go far enough to correct problems. And they were especially irked by a provision in the legislation that would increase the tax credit for taxpayers, potentially decreasing funds destined for the already deprived state general fund.

"What I think we will try to do is amend it or kill it," said Rep. Tom Chabin, D-Flagstaff. Chabin sat on the Speaker-appointed committee that looked at the tax credit law. "Honestly, the bill itself fails in every fundamental way to address the abuse of tax dollars and the abuses of privileges that exist."

For more than a decade, Arizona law has allowed taxpayers to donate to School Tuition Organizations, known as STOs, nonprofit organizations that then give scholarships for students to attend private schools. Under the current \$55 million annual program, taxpayers then receive a dollar-for-dollar state tax credit for their donations.

The bill to be heard Monday increases the individual tax credit limit from \$500 a year to \$750 a year. It also increases the limit for couples filing jointly from \$1,000 a year to \$1,500 a year.

Recommendations to increase the donation limits came during the last meeting of the committee looking into the tax credits last year. Some said they believe the tax credit saves the state money in education spending, so they wanted to make more tax credits available.

But members of the House legislative staff have said no audit has ever been conducted to see if the program indeed saves the state money.

The legislation "doesn't provide for regulation that's meaningful," Chabin said. "It does allow for some transparency. (But) it extends the tax credit. We cannot stand for that in this fiscal crisis we have, and it still allows for quasi-earmarking."

Last year, the Tribune found that at least one STO allows parents to set up an account to collect tax credit funds before a child even enters school. And parents said they were lining up enough "recommendations" from donors to cover their children's private school tuition by agreeing to recommend other parents' children in return.

State law currently allows donors to "recommend" students to receive the scholarships, what Chabin refers to as "quasi-earmarking," which has resulted in swapping donations among parents. But **HB2664** would directly ban the swapping of recommendations, and it would prohibit STOs from using recommendations as a sole factor in scholarship awarding.

The Tribune investigation also found that some of the 55 known STOs were not giving out at least 90 percent of their donations as scholarships each year, as required by law. The bill to be heard next week would change the reporting time frame from annually to fiscally to give a more accurate picture of the percentage of donations STOs spend on scholarships.

The legislation also would require STOs to report more information to the state Department of Revenue, including the number of scholarships given to low income families. And it would require STOs that collect at least \$1 million annually to undergo a financial audit by a CPA. Those that collect less would undergo a CPA review. Currently, only STOs that collect corporate donations are required to undergo a review.

Arizona lawmakers consider tax-credit overhaul

by Ronald J. Hansen and Pat Kossan, 2/4/10, Arizona Republic

State lawmakers on Wednesday proposed a sweeping overhaul of the private-school tax-credit system that would increase donation limits by at least 50 percent but add key disclosures and more accountability.

For the first time, school-tuition organizations, which collect donations from taxpayers and distribute them as scholarships, would be explicitly banned from promoting or allowing "swaps," in which parents agree to donate money toward each other's children.

The non-profit organizations also would have to register with the state and detail how much in scholarships goes to lower-income students, an original purpose of the 1998 individual tax-credit law.

However, donors - often friends and relatives - would still be able to recommend that their money go to specific students, a practice that critics say has caused the program to mostly benefit the affluent.

The main reform bill, one of several House bills introduced to revise private-school tax credits, is sponsored by three Republicans and one of two Democrats on a special committee that examined the tax-credit law last fall. The bill would take effect in 2011.

Another bill would triple the donation limits for individual taxpayers.

Under current law, individuals can take tax credits for donations of up to \$500 and married couples for up to \$1,000. The most sweeping reform bill would raise those amounts by 50 percent, to \$750 and \$1,500, and adjust them for inflation each year. The other bill would triple them, to \$1,500 and \$3,000. If adopted, that bill could allow most taxpayers to erase their entire state income-tax liability, redirecting the money to private schools. The average tax owed by an Arizona resident in 2008 was \$1,150, according to the state Department of Revenue.

Private-school tax credits fell under scrutiny in the Legislature last year after *Arizona Republic* articles revealed that the system lacked oversight and was barely regulated, leading to various abuses. *The Republic* also found little evidence that the tax credits had helped open the doors to private schools for the poor. Supporters of the program argue the tax credits save the state money by allowing students to switch from publicly funded schools to private ones, although there is no data tracking such moves.

Under two tuition tax-credit programs, the state allows individuals and corporations to make donations to non-profit tuition groups, then take a dollar-for-dollar credit on their state income tax.

A separate bill introduced Wednesday would also require new disclosures about scholarships under the corporate tax credit.

Since they began, the groundbreaking programs have shifted nearly \$380 million from the General Fund to tuition organizations. Over the years, other states have adopted similar measures but added more transparency and accountability.

"We were a trailblazer. It's not surprising that 10 years later, we've got some tidying up to do," said Rep. Rick Murphy, R-Glendale, who chaired the special tax-credit committee. "There's a lot more accountability in (the bill). There never were teeth to the (existing law)."

Rep. David Schapira, D-Tempe and chairman of another panel that reviewed the credits, was unimpressed.

"Instead of doing substantive reform, what has come out is increasing the dollars coming out of state coffers to go toward private businesses," said Schapira, member of the House Education Committee. "I hope that we can still come up with some reforms, which was the purpose of Mr. Murphy's committee. But at this point, this is simply extending a program that is severely unregulated."

Besides raising donation limits, the main bill, **HB 2664**, introduced by Murphy, has other key provisions:

- Non-profit tuition organizations would have to post warnings against parents swapping donations intended to help each other's children. The practice has been an open secret for years but is hard to enforce, and the state has never intervened. Under the bill, tuition groups would be banned from allowing or encouraging "swapped" donations. If a group was caught, the state Revenue Department could prohibit donations to that group from being claimed as tax credits.
- Public charter schools could not receive scholarship funds. *The Republic* reported that at least a half-dozen publicly funded charters had turned half of their all-day kindergarten programs into private schools so they could collect tax-credit donations.
- Organizations would have to register with the state, file annual independent financial audits with state officials and could lose their registration status if they violate the proposed law. Currently, 55 tuition groups comply with a state request to report their donations and scholarships but are not required to file.
- Tuition organizations must consider financial need when awarding scholarships and cannot base awards solely on donors' recommendations of specific students. Most organizations say they consider family finances, although *The Republic* found wide variation in how need is interpreted. The bill wouldn't require organizations to disclose the basis for its scholarships.
- The organizations would have to disclose the number of, and amount of aid for, recipients whose family income qualifies for federal free- or reduced-price lunch aid, and the same data for those within 185 percent of those guidelines. The existing law doesn't require any breakdown of who receives help or when it will be given. Using enrollment numbers, *The Republic* determined that most tax-credit scholarships have gone to students who would have attended private school without taxpayer help.
- Tuition groups also would have to disclose how many scholarships are earmarked for use in future years, though it would not ban the practice of stockpiling donations. Some groups have hoarded cash for years, which has led the attorney general to threaten legal action to recover the unspent money.

Larry Mohrweis, an accounting professor at Northern Arizona University and the operator of a tuition organization in Flagstaff, said he remains troubled by lawmakers' intent to still allow donors to recommend students for scholarships.

"This still allows the opportunity for (organizations) to engage in earmarking even though they may say they are not engaged in earmarking," said Mohrweis, who has said such directions could violate federal tax laws.

To address the legal issue, Murphy's bill would allow tuition organizations to organize under a broader section of the federal tax code.

Tax experts say this would give the organizations more leeway in accepting recommendations.

Beyond the three bills filed Wednesday, other bills also seek to change the tax-credit system.

Democratic members have filed several bills that would suspend or eventually end all tax credits. Another Republican-sponsored bill would essentially allow taxpayers to make a tax-credit contribution up to when they file their tax returns and apply the credit to the previous year.

HEALTH CARE

Lawmakers try to reverse state health cuts

by Howard Fischer, 4/22/10, Capitol Media Services

PHOENIX -- State lawmakers took the first steps Wednesday to reversing their decision to cut state-provided health care for about 350,000 adults and children.

But some of them didn't do it voluntarily.

And it may be only a temporary reprieve.

Rep. Nancy Barto, R-Phoenix, who supported the cuts made earlier this year, said she and other lawmakers have no choice. Barto said federal officials warned the state that if they scale back existing programs to save some money they put at risk the entire \$7.8 billion in Medicaid dollars Arizona gets each year.

And that, she said, would lose far more than the savings.

One part of **SB 1043** reverses the vote by lawmakers earlier this year to scale back funding for the Arizona Health Care Cost Containment System.

The federal government provides about \$2 for every \$1 the state spends in health care for the poor. But federal law requires states which take that money to provide care only for those making about one third of the federal poverty level which now stands at about \$18,300 a year for family of three.

In 2000, however, voters mandated the state to raise that to the full poverty level. The state's part of that increased cost was supposed to be paid, at least in part, from Arizona's share of a nationwide settlement with tobacco companies. As it turned out, though, those dollars now total about \$118 million a year; the additional annual cost to the state is running about \$1.1 billion.

In a bid to trim the \$2.6 billion deficit, lawmakers voted earlier this year to cut AHCCCS enrollment back to what the federal government mandates, plus whatever the tobacco settlement dollars will fund. That change, set to take effect Jan. 1, would eliminate care for 310,000, saving the state about \$385 million for half a year.

On top of that, lawmakers voted to totally eliminate the Kids Care program effective June

15. That program provides nearly free care to about 36,000 children of the "working poor,' those who earn too much to qualify for AHCCCS but earn less than double the poverty level.

The federal government provides about \$3 for every dollar of state funds. But Republican lawmakers and Gov. Jan Brewer concluded the state could not afford its \$18 million share any more than Arizona can afford its share of AHCCCS funding.

All that changed, however, when Congress enacted the health care reform law. In the long run, that will provide extra cash to Arizona for health care and cover more people.

The problem comes in the short run.

Barto pointed out the federal law contains a "maintenance of effort' provision. Put simply, it says states that want any continued federal cash cannot reduce their health care programs below what they were on the date the president signed the measure into law. That covers not just any new dollars under the federal health care law but the funds already provided by Medicaid.

The proposal that was approved Wednesday is built on the premise that sometime between now and the end of the year Congress will provide some additional stimulus dollars to help states like Arizona pay for additional health care costs beyond Dec. 31. If that doesn't happen, the state will go ahead with its plan to drop the 310,000 people from AHCCCS.

But with the June 15 deadline approaching, lawmakers did agree to restore Kids Care funding unconditionally, even if additional federal aid does not materialize.

Barto said this legislation is a temporary fix at best, allowing Arizona to continue getting federal dollars for at least the time being. But she said that, at some point, lawmakers may decide that they just can't afford to keep taking federal dollars.

"The next legislature will evaluate our budget as a whole as well as our required healthcare coverage and determine if maintaining funding levels for this population is a prudent decision given the state's fiscal situation,' she said.

Abortion insurance hit

by Howard Fischer, 2/25/10, Capitol Media Services

PHOENIX - Public employees will no longer be able to get insurance that covers most abortions under the terms of legislation approved Wednesday by a House panel.

If the measure receives final approval, it will force Tucson, and possibly Pima County, to rewrite their employee health-care policies.

City Human Resources Director Cindy Bezaury said abortion is covered in all three city insurance plans. "That's all between the doctor and the patient," she said.

Gwyn Hatcher, the county human-resources director, said she doesn't know if county health plans cover elective abortions. She was unable to obtain the information from the county insurance provider Wednesday.

Sen. Linda Gray, R-Glendale, told members of the House Committee on Health and Human Services that state law already prohibits using public dollars to terminate a pregnancy except to save the life of the mother.

But Gray said that intent is thwarted by allowing cities and counties to offer health-insurance policies that cover abortion - policies paid for, at least in part, with taxpayer dollars.

The measure is backed by Cathi Herrod, president of the anti-abortion Center for Arizona Policy. She said that while courts have upheld the right of women to an abortion, they also have said there is no right to demand public funding.

SB 1305, which already has been approved by the Senate, says no government funds can be used, directly or indirectly, to pay for a health-insurance policy for workers that includes abortion as a covered service, except to save a woman's life or when an abortion is necessary to "avert substantial and irreversible impairment of a major bodily function."

That does not include coverage for abortions in case of rape and incest. Gray said those situations can be addressed with prescriptions for the "morning-after pill," a high dose of hormones that can prevent ovulation or keep a fertilized egg from implanting.

Her legislation, though, would preclude coverage for that pill, too.

Gray said that ban should not keep any woman from getting the care she needs because she could simply pay the \$300 cost of getting the pill out of her own pocket.

The legislation annoyed Rep. Phil Lopes, D-Tucson, who said city and county coverage is none of the Legislature's business.

"Just because we can abuse or overrule local government doesn't mean we should," he said.

Rep. Nancy Barto, R-Phoenix, defended the move. "The overwhelming number of citizens in our state do not approve paying for abortion," she said.

The 5-3 vote by the committee sends the measure to the full House.

AZ Senate votes for strings on teens' care

by Howard Fischer, 2/23/10, Arizona Daily Star

PHOENIX - State senators voted Monday to bar minors from getting birth-control prescriptions or treatment for sexually transmitted diseases without parental permission.

SB 1305, approved 16-13, also imposes similar restrictions on mental health screening or treatment, and mandates parental consent for sex-education courses.

Sen. Sylvia Allen, R-Snowflake, said the legislation, which now goes to the House, is in the best interests of children. She said her own experience proves that to be the case.

"I had their moral, spiritual, emotional well-being at hand and worked as hard as I could to be a good parent," Allen said. "Government has no business interfering in that bond between a parent and a child."

But Sen. Paula Aboud, D-Tucson, said the measure would violate the privacy of minors.

"I recognize that we want all minors, whenever possible, when their safety is involved particularly, to be able to have the discussions they need with parents," she said. But Aboud said there are many teens whose parents don't know they are sexually active.

"Talking to their parents could jeopardize their personal safety within their sacred families," Aboud said. She argued that this legislation means they won't get the health care they need.

Sen. Debbie McCune Davis, D-Phoenix, said the section on mental health means some teens won't get help they need. In fact, she said, it makes it a criminal offense to help a teen get that help.

She said the exception that the law makes in cases of emergency is not much of an answer.

"Why do we have to take adolescents to the brink of an emergency before we allow them to seek out help on their own?" she said.

And Sen. Linda Lopez, D-Tucson, said the measure would require a teen who is the victim of incest to get consent for treatment of a sexually transmitted disease from the parent who assaulted her in the first place.

But Sen. David Braswell, R-Phoenix, said the state should not be setting policy based on a small percentage of "bad" parents.

"The majority of parents are loving, understanding, caring advocates on behalf of their children," he said.

Sen. Chuck Gray, R-Mesa, said existing law already sets up procedures for notifying authorities when a teen has been the victim of assault or abuse. At that point, he said, the

parent loses the right to consent to or refuse to provide medical or mental health treatment.

2 groups sue to block Arizona abortion laws

by Casey Newton, 9/15/09, Arizona Republic

Abortion-rights supporters filed lawsuits in state and federal court Monday, asking judges to block new Arizona laws that would restrict abortion access.

In separate lawsuits, Planned Parenthood and the New York-based Center for Reproductive Rights challenged the enactment of **House Bill 2564 and Senate Bill 1175**. Attorneys for the groups asked judges to prevent enactment of the laws until their constitutionality is settled.

Among other provisions, the bills create a 24-hour waiting period to get an abortion, require physicians to perform the procedure, and allow pharmacists and other health-care professionals to refuse to provide contraception. They also require that parents provide notarized consent for their minor children to get abortions.

The Republican-controlled Legislature passed the laws this year, and Republican Gov. Jan Brewer signed them into law. They are scheduled to go into effect Sept. 30.

Planned Parenthood filed suit in Maricopa County Superior Court, alleging that the laws impose an undue burden on women seeking abortions, in violation of a section of the Arizona Constitution protecting their right to privacy.

Under current law, the procedure can be provided by nurse practitioners, who perform more than half of all abortions at some Planned Parenthood locations, according to the group. The new laws prohibit nurse practitioners from performing abortions, requiring women to see a physician. That will limit access to abortions, which the suit says violates the Arizona Constitution's pledge not to disturb a person's "private affairs."

Another provision of the laws requires women to see a physician 24 hours before an abortion to receive information on risks and alternatives. As a result, women will have to make two trips to get an abortion.

Lawyers for Planned Parenthood said those provisions combine to create an unconstitutional infringement on a woman's right to privacy. One of the laws disturbs a woman's private affairs by requiring her to make two trips, the lawsuit says, because the first trip is to provide her with information that could be given over the phone or online.

The right to privacy is established under Article II, Section 8 of the Constitution, but the Arizona Supreme Court has never ruled on whether it extends to abortion rights.

"It's an open question," said Paul Bender, a professor at the Sandra Day O'Connor College of Law at Arizona State University.

Bryan Howard, chief executive of Planned Parenthood Arizona, said the new laws would limit the availability of abortion to the Phoenix and Tucson areas. Women unable to get

time off from work or arrange child care could be denied access to the procedure, he said, constituting a violation of their privacy rights.

But supporters of the new laws said they provide much-needed protections for women, parents of minors seeking abortions, and medical professionals who object to abortion and contraception on moral grounds.

"Finally, Arizona is taking care of the needs of women facing the abortion decision, as well as parents and health-care professionals," said Cathi Herrod, president of the Center for Arizona Policy, which lobbied for the legislation. "This is catching up Arizona to what many other states have done for many years."

Even if the new laws take effect, Arizona would not be among the states with the most restrictions on abortion, said Elizabeth Nash, public-policy associate at the Guttmacher Institute, a Washington, D.C., think tank that supports abortion rights. But the new laws would make abortion much less widely available, Nash said.

"When you put this together, it really changes the landscape of abortion in Arizona," she said. A hearing in the case has been set for Sept. 24.

The Center for Reproductive Rights, an advocacy group that supports abortion rights, filed its lawsuit in federal court in Phoenix. The suit says the state's 24-hour waiting period creates an undue burden on women under the U.S. Constitution.

In the 1992 *Planned Parenthood vs. Casey* decision, the U.S. Supreme Court upheld the constitutionality of Pennsylvania's 24-hour waiting period. Lawyers for the Center for Reproductive Rights say Arizona's requirement that women visit a physician in person twice goes further than Pennsylvania's and is therefore unconstitutional.

"Here we have very strong evidence that this law will seriously impact a woman's ability to access abortion," said Suzanne Novak, a lawyer for the center. "It will prevent some women from getting an abortion at all." A court date has not been set.

Senate OKs abortion restrictions

by Casey Newton, 6/24/09, Arizona Republic

The Arizona Senate voted Tuesday to require a 24-hour waiting period for abortions and to increase penalties for a controversial late-term procedure the bill calls "partial-birth abortion."

Led by the Republican majority, the Senate voted to pass the new restrictions on abortion and send them to the desk of Gov. Jan Brewer.

Brewer spokesman Paul Senseman said Tuesday that the governor had not decided whether she would sign the bills. Senseman has previously said that Brewer "has a very consistent pro-life track record," suggesting the bills could be headed for approval.

Passing further restrictions on abortion has been a priority of Republican leadership for years, but former Gov. Janet Napolitano vetoed every bill on the subject that came to her desk.

The Senate voted 16-12 to pass **House Bill 2564**, one of the most far-reaching abortion bills introduced this session.

In addition to the waiting period, the bill would require physicians performing abortions to inform their patients about risks and alternatives to the procedure.

The bill would also give doctors, pharmacists and other medical professionals the right to refuse to participate in an abortion or to prescribe emergency contraception.

Minors seeking an abortion would have to receive written, notarized consent from a parent or guardian. In 2003, an Arizona law took effect requiring minors to get written consent from a parent or guardian, but the law did not require the consent form to be notarized.

The second measure, **House Bill 2400**, would impose a fine or two-year prison sentence for performing the illegal abortion procedure known medically as intact dilation and extraction. Currently, the crime is punishable by one year in prison.

Supporters hailed the bills' passage as an important step in making sure women are adequately informed about the risks of and alternatives to abortion.

"It is something Arizona women deserve," said Sen. Russell Pearce, R-Mesa. "And besides that, it is something those babies deserve. That's a live person."

Opponents said HB 2564 would make it unnecessarily difficult to get an abortion in Arizona, particularly for women who do not live in an urban area.

Planned Parenthood officials say the bill would reduce the number of Arizona communities where abortion is available from 10 to three. Requiring a physician meet with a woman at least 24 hours before the procedure would limit the areas where it can be provided because physicians would be less willing to make multiple trips to rural areas, opponents say.

"We understand that people have their own opinions and moral beliefs around this issue, but it's unethical for health-care providers to stand in the way of access to safe, legal and professional health care," said Sen. Paula Aboud, D-Tucson.

PUBLIC SAFETY

Arizona Senate Passes Bill Protecting Disabled Veterans

by Mike Philipsen, 4/13/10, US Fed News

PHOENIX-- Arizona State Senate Republican legislators issued the following news release:

A bill that will help protect disabled fathers and mothers from child support and alimony abuses is on the way to the Governor. The Senate today passed **HB 2348**, which prohibits a court from awarding a veteran's service-connected federal disability compensation benefits to another party.

The bill is sponsored by Sen. Frank Antenori of Tucson. "Judges have been ignoring clear federal law, calculating veterans' disability compensation into divorce settlements. This bill will make it clear, in law, that that practice will end," said Sen. Antenori.

Veterans' disability is intended to financially compensate a military veteran disabled in the line of duty. This compensation is not classified as "income" by the IRS. "Under federal law, disability is non-transferable and cannot be awarded to a third party", said Antenori.

Antenori thanked fellow disabled veteran Mark Beres, a retired test pilot with the United States Air Force, for bringing the problem to his attention, and helping him advance the bill.

Concealed guns for all close to being legal

by Howard Fischer, 3/26/10, Arizona Daily Star

PHOENIX - Arizona is just a few steps away from dropping most restrictions on carrying a concealed weapon.

HB 2347, given preliminary House approval Thursday, removes all the criminal penalties that now exist for having a weapon in a purse, under a jacket or tucked into a boot without having a state-issued permit. That permit requires certain training and a background check.

Identical legislation already has been approved by the Senate. That leaves only a final roll call by each chamber to send it to Gov. Jan Brewer.

Gubernatorial spokesman Paul Senseman said Thursday he could not commit on whether Brewer would sign the measure, but confirmed that aides to the governor consulted with Sen. Russell Pearce, R-Mesa, the bill's author, and got him to make changes to make it more acceptable to her.

"As a strong supporter of Second Amendment rights, Governor Brewer is very interested in responsible weapon legislation to protect the constitutional rights of our citizens," Senseman said.

Her signature would make Arizona only the third state in the nation to let all of its adult residents have concealed weapons, along with Vermont and Alaska.

The House also gave preliminary approval Thursday to a measure curbing the ability of cities to enact their own regulations on weapons that are any more restrictive than state law. Among the provisions of **HB 2543** is one overruling bans some communities now have on carrying guns in parks.

The Senate also voted to say any gun manufactured in Arizona and sold within the state is exempt from federal firearms regulations. Backers say SB 1098 is intended to be a pre-emptive strike against possible future efforts by the federal government to impose new restrictions on firearms ownership.

Existing law allows any adult to carry a weapon as long as it is visible. There are only a handful of exceptions such as someone convicted of a felony.

A 1994 law permitted weapons to be concealed if the person had a permit from the Department of Public Safety, which requires a one-day class on the law and firearms handling, plus a background check.

Rep. Chad Campbell, D-Phoenix, said the requirement should remain in place. "I'm still trying to figure out what exactly is the necessity for this," he said.

"It expands our liberty and supports the Second Amendment," responded Rep. David Gowan, R-Sierra Vista. He said the ability to be armed is a right, whether someone chooses to have a weapon visible or not.

The measure goes beyond just eliminating the need for adults to have permits.

Current law does not permit anyone younger than 21 to have a concealed weapon. This legislation would let someone younger than that have a hidden gun if he or she is in a home or business owned or leased by a parent, grandparent or legal guardian, or if any part of the holster or carrying case is wholly or partially visible.

Senate votes to nullify cities' gun controls

by Howard Fischer, 3/5/10, Arizona Daily Star

PHOENIX - State lawmakers are moving to strip cities of any last vestiges of local regulation of guns.

On a voice vote Thursday, the Senate approved legislation to bar local governments from enacting any rules about who can carry a gun and where that are more prohibitive than state law or carry a greater penalty. **SB 1168** expands existing laws already pre-empting some local rules to take in anything that a city might want to regulate, including regulations on storage, licensing and registration.

Any existing regulation that is in conflict would disappear if **SB 1168** becomes law. Most immediately, the legislation would overturn some communities' rules about people bringing weapons into city parks. Tucson and Pima County officials say they already follow state law, and Tucson restricts guns in some city parks where signs are posted.

It would not, by itself, kill regulations universities and community colleges now have keeping weapons off their campuses because a separate law specifically gives the governing boards of these institutions the power to regulate conduct on campus.

But Sen. Russell Pearce, R-Mesa, who wrote the legislation, made it clear that lifting restrictions at those schools is one of his goals. He calls the campuses "no-defense zones" where people are disarmed and can't defend themselves against criminals.

Sen. Linda Lopez, D-Tucson, attempted to foreclose that option by altering **SB 1168** to say any state pre-emption of local regulations cannot affect colleges and universities. Her amendment was defeated.

But Pearce noted the change she sought was irrelevant: With or without his bill or her amendment, lawmakers always remain free to repeal the separate law letting governing boards regulate guns.

Pearce said there are places where it is inappropriate for people to carry guns, such as courthouses. "But that ought to be a debate here at the Legislature and a policy set by this body," he said.

Bill would bypass feds, OK ammo made in AZ

by Howard Fischer, 1/29/10, Arizona Daily Star

PHOENIX - A House panel voted Thursday to let Arizonans make their own guns and bullets - and offer them for sale - without having to comply with federal regulations.

Rep. Nancy McLain, R-Bullhead City, said **HB 2307** is designed to have Arizona exercise its right of sovereignty that is guaranteed under the 10th Amendment to the U.S. Constitution. It says "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

That amendment is routinely cited by those who contend the federal government is usurping states' rights.

McLain said Congress is relying more and more on another constitutional provision that allows the federal government to regulate interstate commerce. She said that language is being used to regulate the manufacture of guns and ammunition.

"Some of us think they have perhaps gone a bit too far on that and it's time that we start taking steps to reassert our sovereignty as a state," she said.

The legislation, approved 5-2 margin by the House Judiciary Committee, is patterned after an identical measure approved by the Montana Legislature last year.

But McLain said the issue is more than an academic exercise of states' rights. She said there have been various proposals at the federal level that could result in new limits on the rights of Arizonans to purchase guns, whether directly or by making it harder to obtain bullets.

"That is, in effect, taking guns out of the hands of people because ... unless you want to throw it at somebody, a gun without ammunition is basically useless," she said.

McLain said she is even concerned about some proposals that would require identification of bullets.

One, said McLain, would put distinctive numbers on bullets.

Also being discussed is "ballistic fingerprinting" of bullets.

That system, in essence, is based on the idea that each gun leaves a distinct impression on a bullet that passes through the barrel. If all guns are "fingerprinted" before they are sold, police who find a bullet at a crime scene could instantly trace it back to a specific weapon.

"Many of us see this as an attempt to infringe on our Second Amendment rights" to bear arms, she said.

Under the terms of her legislation, guns and ammunition could be manufactured in Arizona as long as it can be made without "significant materials" from elsewhere. Weapons would have to be stamped "Made in Arizona" and could be sold only within the state.

That would not provide carte blanche for Arizonans to make anything they want. Off-limits would be the same kind of guns that generally cannot be purchased by individuals under federal laws, including machine guns, mortar launchers or weapons that cannot be carried by one person.

What practical effect the measure would have if it became law is less than clear.

A report prepared by legislative staffers said the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives sent an open letter to federally licensed firearms dealers in Montana saying that federal law supersedes the new statute.

Several organizations then filed suit in federal court challenging the right of the federal government to control firearms and ammunition manufactured and sold within Montana. That lawsuit is still pending.

Lawmakers advance gun bills

by Howard Fischer, 6/26/09, Arizona Daily Star

PHOENIX - State lawmakers agreed Thursday to let some gun owners take their weapons into restaurants - but only after they expanded the measure to apply to bars, too.

That change in **SB 1113** came not at the behest of the National Rifle Association, which wrote the bill, but after a push from bar owners. Lobbyist Don Isaacson of the Arizona Licensed Beverage Association said there is no sharp delineation in state law between what is a restaurant and what is a bar.

But Rep. Kyrsten Sinema, D-Phoenix, noted that NRA lobbyist Todd Rathner has argued all along the legislation is aimed at providing relief to gun owners who simply wanted to get something to eat and did not want to leave their loaded weapons in their vehicles.

She called extending that right to places where food isn't served "a dangerous cocktail," although she acknowledged the law would preclude anyone who is armed from also drinking.

But since the privilege will apply only to those who have a state-issued concealed weapon permit, which means they are not carrying a gun in the open, Sinema said, there is no way to enforce that no-drinking provision.

The measure to let guns into bars and restaurants, passed by a 6-2 vote by the House Judiciary Committee, was one of three measures advanced on Thursday to expand the rights of gun owners.

The same panel also agreed to **SB 1243**, which would allow individuals to "display" their weapons when they feel in danger, without risking prosecution on charges of intimidation.

And the Senate Committee on Natural Resources and Rural Development voted to allow people to drive onto private property, including private businesses, and lock their guns in their vehicles, overruling any rules the business owners have for employees or customers. Supporters of HB 2474 said it ensures that people who go to work don't have to leave their weapons for self-protection at home just because their employer doesn't want guns on the property.

Current law makes it a crime for anyone to bring a weapon into any place where alcohol is served, which Gary Christensen, lobbyist for the NRA-affiliate Arizona State Rifle and Pistol Association, said is an inconvenience for those who have obtained a permit to carry a concealed weapon because they want to be able to defend themselves. He said the law limits where they can eat, as many restaurants also have liquor licenses.

"You have to decide are you going to go in, are you going to go someplace else, are you going to leave the gun in your car?" he told members of the House Judiciary Committee. "Personally, my old pickup truck isn't the place I want to leave a gun."

The original version, sponsored by Sen. Jack Harper, R-Surprise, was limited to places that have both a liquor license and a "kitchen." But Isaacson complained that term isn't

defined.

Harper said he isn't concerned about the change, saying he still believes that, from a practical standpoint, the law will affect more restaurants than bars.

Rep. Cecil Ash, R-Mesa, said it makes sense to let those with concealed-weapons permits carry their weapons into bars and restaurants.

"Everyone knows places where guns are not allowed are known as target-rich areas for criminals," he said.

The same argument was the basis for letting gun owners take their weapons to work, at least as far as the parking lot.

Rep. John Kavanagh, R-Fountain Hills, said lots of people carry guns for self-defense.

"Many of these are women victims of domestic violence or women in general who feel vulnerable if they work late at night and they have to drive home alone and they're afraid of getting a flat tire on a lonely road," he said.

The 4-2 vote came over the objections of Clint Bolick, an attorney with the Goldwater Institute, who warned legislators they are setting a bad precedent in elevating the Second Amendment right to bear arms above property rights.

"What we see this legislation doing is turning privately owned parking garages, and mom-and-pop parking lots as well, into quasi-public property, which is something I hope this Legislature, a freedom-oriented Legislature, would never do," he said. "My gun rights end when I go onto your property."

JUDICIARY

Arizona House panel delays vote on sexting bill

by Alia Beard Rau, 4/1/10, Arizona Republic

Adults seem to agree that sexting between kids is a bad thing. But the question is, just how bad?

Under current Arizona law, a juvenile who sends a nude photo of a juvenile via cell phone could be arrested for felony sexual exploitation of a minor. It doesn't matter that the recipient also is a juvenile, or that the juvenile in the photo was the one who sent it. Such a crime could result in incarceration or a lifetime sex-offender label.

The Arizona Prosecuting Attorneys' Advisory Council, which includes representatives from the state's county attorneys, the state Attorney General and municipal prosecutors, doesn't believe that kind of punishment fits the crime.

It is backing **Senate Bill 1266**, which proposes to make it a misdemeanor for a juvenile to use a computer or cell phone to send or possess "explicit sexual material" of another juvenile in the form of a photo or video. Explicit sexual material would include human genitalia, nudity, sexual activity or sadomasochistic abuse.

The bill passed the Senate. But on Thursday, legislators on the House Judiciary Committee said it still isn't the right fix and held the bill.

"We take this issue very seriously, but we would like a little more time to think about this issue before we move forward," said Rep. Adam Driggs, R-Phoenix.

Driggs said a revised version may come back before the committee next week.

Under the current proposed legislation, the maximum sentence for conviction would be four months in jail, but lesser sentences could include probation, participation in diversion programs or fines. Juveniles who did not solicit the photo or video, took reasonable steps to destroy it and did not forward it to another person would not be in violation of the proposed law.

Chris Phillis with the juvenile division of the Maricopa County Public Defender's Office said she'd rather see the offense lowered to an incorrigible act such as a curfew violation, which carries no jail time.

Phillis also said the proposed legislation offers no exceptions. She said a girl who receives an offensive photo and then shows it to a friend in horror could be charged, as could a boy who e-mails a photo of a piece of nude art to another student.

Rep. Kyrsten Sinema, D-Phoenix, said she also was concerned about the bill's impact on free speech.

"We really do want to address a growing problem of kids sharing inappropriate data with each other, but we haven't found quite the right balance," she said.

NATURAL RESOURCES & ENVIRONMENT

Bill would allow private groups, local governments to run parks

by Christine Harvey, 3/5/10, Sierra Vista Herald

PHOENIX — The state Senate approved a bill Wednesday that would allow local governments, private companies and American Indian tribes to temporarily take over operations and management of state parks.

"In order to remain economically viable, cities need their parks to remain open, and these partnerships will allow that," said Sen. Barbara Leff, R-Paradise Valley, sponsor of **SB 1349**.

In response to cuts, Arizona State Parks Board plans to close 13 state parks while keeping

nine open. Leff's bill would allow parks to remain open if the state enters into partnerships with outside groups to run them.

Leff's bill, headed to the House, won unanimous approval. The measure contains an emergency clause, requiring a two-thirds majority, that would allow it to take effect immediately upon the governor's signature.

Any partnerships would expire June 30, 2011.

SB 1349 is one of three bills addressing the short- and long-term future of Arizona State Parks. HCR 2040, authored by Rep. Russell L. Jones, R-Yuma, would have voters decide whether to add \$12 to annual vehicle registration fees, with most of that money going to operate, maintain and make capital improvements to state parks. That bill has won committee approval and was headed for the House Appropriations Committee.

HB 2786, sponsored by Rep. Doris Goodale, R-Kingman, would require Arizona State Parks to enter into a 25-year lease agreement allowing Lake Havasu City to operate Lake Havasu State Park. That bill won committee approval, but Jay Ziemann, assistant director for Arizona State Parks, said he has heard the measure isn't going further.

Ziemann called the vehicle registration fee the future of Arizona State Parks and said Leff's measure would give the agency time to recover.

TRANSPORTATION

Arizona leaders explore ways to reopen 13 rest areas

by Alia Beard Rau, 2/18/10, Arizona Republic

Arizona leaders are exploring local, national, volunteer and corporate options in an effort to reopen 13 highway rest areas closed last year because of budget cuts.

Gov. Jan Brewer has asked U.S. Secretary of Transportation Ray LaHood to rescind a federal restriction prohibiting states from privatizing or commercializing rest areas on interstates.

She has also asked Arizona's congressional delegates to look into changing the law that set the federal restrictions in the 1950s when the nation's interstate system was being planned.

"The orange safety barriers blocking the exits to Arizona's rest areas may convey an inaccurate and unfortunate image of a state that is closed for business," Brewer wrote in a letter sent to LaHood last Friday. Only five of the state's 18 rest areas remain open.

Spokesman Paul Senseman said the governor is also pursuing other possibilities.

Brewer asked the Arizona Department of Transportation to review whether some high-traffic rest areas could be reopened while others are closed; to research whether federal

funds are available to reopen or renovate some of them; explore public-private partnerships such as an "Adopt a Rest Stop" program and consider using inmate labor for maintenance and repairs.

Tim Tait, director of intergovernmental relations for ADOT, said it will likely take a combination of solutions.

"It costs \$300,000 a year to operate a rest area, and there are millions of dollars in repairs and upgrades that need to be made to many of the facilities to even keep them open," he said. "This is a long-term problem that isn't going to be solved overnight. We need help."

Arizona Rep. Daniel Patterson, D-Tucson, is sponsoring a bill that would allow ADOT to contract with private groups that want to maintain or improve a rest area.

Forty-eight lawmakers have signed the bill, which awaits a hearing before the House Rules Committee.

Patterson said if Brewer wants to reopen the rest areas, she should support his bill.

"It's nice that the governor sent a letter to Washington, but I don't think that's going to do much," he said. "I'm interested in doing what we can as a state. It's hard to say Arizona is open for business when you don't even keep the rest areas open."

Tait said ADOT has already spoken to communities and groups about adopting rest areas, but has gotten no commitment because of the cost.

Patterson said his bill will just make sure ADOT has the authority to do this, if the opportunity presents itself.

"I want to make sure that if anyone does step up, there will not be any bureaucratic obstacles to making it happen," he said.

Several other states, including California and Colorado, have closed rest areas over the past year.

Tackling our infrastructure needs sends a clear message

by Ed Rodriguez, 12/5/09, Arizona Republic

When Congress announced approximately \$100 billion in planned infrastructure spending as part of the Recovery Act, many were thrilled that infrastructure investments were once again on the front burner.

But stimulus funds alone - focused on shovel-ready projects and some down payments toward longer-term goals like high-speed rail - cannot be presumed to address Phoenix's or Arizona's growing infrastructure needs, which demand adding extensive new capacity.

This state's leadership has taken steps to help ensure that vital infrastructure projects won't be stalled or shelved indefinitely due to a weak economy. Arizona joins states such

as Texas, Virginia, Nevada, Florida and California in exploring the use of public-private partnerships to deliver public infrastructure.

State legislation passed earlier this year adds an important option for private-sector financial and construction support in delivering new state transportation infrastructure that can be beneficial during this difficult economy.

It's especially important for Phoenix, which has been hard hit in the housing and job market, to attract new business. And high-quality infrastructure can be a key consideration for many companies. In fact, when our company polled U.S. business leaders in late 2008, 84 percent said infrastructure directly influences where they locate their businesses.

While raising revenue through additional taxation, such as a gas tax, and issuing public debt has been a successful approach to funding infrastructure, the breadth of finance tools has expanded. That's why exploring alternative ways to deliver and finance infrastructure, while being careful to protect vital public needs, is a fiscally responsible approach.

One such tool in the shed is a public-private partnership. When structured effectively, a public-private partnership is a win-win for both the public and investors. It transfers certain risks (financing, construction cost, project timing, and operation and maintenance costs) from the public to the private sector in exchange for a return on investment. Specific legal requirements and binding contracts can be designed to protect the public interest.

The Lake Pleasant Water Treatment Plant, operated by American Water and owned by the city of Phoenix, earned the 2009 Excellence in Public/Private Partnership Outstanding Achievement Award from the U.S. Conference of Mayors.

In a new project, the Maricopa Association of Governments is partnering with Nissan and Scottsdale-based Ecotality Inc. to set up charging stations for electric and electric-hybrid vehicles. Universities and the water and wastewater industries have used these concepts for decades.

It is critical that we continue to develop a viable long-term plan to finance infrastructure projects. Infrastructure investment decisions made today will affect living standards and business competitiveness of future generations. It's not about a new bridge here or a road there, but a strategic approach to support our competitiveness.

With the city of Phoenix, municipal and state leadership and the Arizona Department of Transportation looking for new ways to tackle our state's infrastructure needs, we're sending a message that Arizona is open for business.