

ARIZONA HOUSE OF REPRESENTATIVES  
Forty-ninth Legislature - First Regular Session

## MAJORITY CAUCUS CALENDAR

March 3, 2009

Bill Number	Short Title	Committee	Date	Action
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### Committee on Banking and Insurance

Analyst: Stacy Weltsch Intern: Azra Hafizovic

<a href="#">HB 2185</a>	life insurance				
SPONSOR:	MCLAIN	BI	1/26	DP	(5-0-2-1-0)

### Committee on Commerce

Analyst: Dianna Clay O'Dell Assistant: Brooke Olguin Intern: Maureen Howell

<a href="#">HB 2210</a>	professional offices; records; protocols (HHS S/E: chiropractors; homeopaths)				
SPONSOR:	BARTO	COM	2/4	DP	(8-0-0-0-0)
		HHS	2/11	DPA/SE	(7-0-0-2-0)

<a href="#">HB 2434</a>	homeowners' associations; document amendments (COM S/E: document amendments; homeowners' associations)				
SPONSOR:	REAGAN	COM	2/18	DPA/SE	(5-0-0-3-0)

### Committee on Government

Analyst: Michelle Hindman Assistant: Zach Tretton Intern: Laurel Johnson

<a href="#">HB 2104</a>	state treasurer; quarterly meetings				
SPONSOR:	CRUMP	GOV	1/27	DP	(6-0-0-2-0)
<a href="#">HB 2269</a>	landlords; tenants; foreclosures				
SPONSOR:	CRUMP	GOV	2/17	DPA	(9-0-0-0-0)
<a href="#">HB 2271</a>	state treasurer; investment pools				
SPONSOR:	CRUMP	GOV	1/27	DP	(7-0-0-1-0)
<a href="#">HB 2432</a>	school board membership; family members				
SPONSOR:	MIRANDA B	GOV	2/17	DP	(7-2-0-0-0)

### Committee on Health and Human Services

Analyst: Dan Brown Intern: Thomas Desmaris

<a href="#">HB 2399</a>	automated external defibrillators				
SPONSOR:	BARTO	HHS	2/11	DPA	(8-0-0-1-0)
<a href="#">HB 2564</a>	abortion				
SPONSOR:	BARTO	HHS	2/25	DP	(5-0-0-4-0)

### Committee on Judiciary

Analyst: Kristine Stoddard Intern: Robert Stout

<a href="#">HB 2018</a>	writ fee; collection; courts				
SPONSOR:	KONOPNICKI	JUD	1/22	DP	(7-0-0-0-0)

[HB 2048](#) local elections; signature requirements  
SPONSOR: REAGAN JUD 2/5 DP (8-0-0-0-0)

**Committee on Natural Resources and Rural Affairs**  
**Analyst: Ralene Whitmer Intern: Sabrina Mericle**

[HB 2178](#) equine rescue registry  
SPONSOR: KONOPNICKI NRRRA 2/9 DPA (7-0-0-1-0)

**Committee on Transportation and Infrastructure**  
**Analyst: Ingrid Garvey Intern: Lauren Stadle**

[HB 2232](#) wildlife conservation special plates  
SPONSOR: WEIERS JP TI 2/5 DPA (7-1-0-0-0)

[HB 2257](#) stopping of vehicles; highways  
(TI S/E: public transportation vehicles; stopping)  
SPONSOR: WILLIAMS TI 2/12 DPA/SE (8-0-0-0-0)

[HB 2426](#) enhanced driver licenses; prohibition  
SPONSOR: BURGES TI 2/12 DP (7-1-0-0-0)  
GOV 2/24 DP (9-0-0-0-0)

**Committee on Ways and Means**  
**Analyst: Kitty Decker Intern: Matt Stone**

[HB 2457](#) university athletic facilities district  
SPONSOR: NICHOLS WM 2/23 DPA (5-2-1-0-0)

[HB 2073](#) state equalization property tax repeal..  
SPONSOR: BIGGS WM 2/23 DP (5-3-0-0-0)



# HOUSE OF REPRESENTATIVES

**HB 2018**

**writ fee; collection; courts**

**Sponsor: Representative Konopnicki**

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**DP** Committee on the Judiciary

**X** Caucus and COW

House Engrossed

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HB 2018 specifies that the fee for a writ issued by a justice of the peace must be collected by the court.

## **History**

Laws 2006, Chapter 280, § 1 specified the fee for writs issued by a justice of the peace, and was amended in 2007 to clarify the amount of the fee (\$5) and the fund into which it is to be deposited. As currently written, the statute specifies the fee and mandates its collection, and does not specify whose responsibility it is to collect the fee.

Justices of the peace are responsible for issuing writs pertaining to a number of judgments. A Writ of Possession demands a justice of the peace's judgment for money, property, or other action, a Writ of Restitution is served to tenants on behalf of a lessor, a Writ of Possession orders the turning over of recovered property to another party, a Writ of Attachment orders the holding of a defendant's property as guarantee that that defendant pay a debt, and a Writ of Garnishment is issued on behalf of a creditor to reclaim owed monies from a portion of the income of a debtor.

## **Provisions**

- Specifies that the court must collect the fee specified for a writ issued by a justice of the peace.
- Contains technical and conforming changes.



# HOUSE OF REPRESENTATIVES

## HB 2048

local elections; signature requirements

Sponsor: Representative Reagan

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DP Committee on Judiciary

X Caucus and COW

House Engrossed

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HB 2048 allows cities that choose to hold nonpartisan elections to provide by ordinance that the minimum number of signatures required for a candidate for mayor be 1,000 signatures or 5 percent of the vote in the city, whichever is less, but not more than 10 percent of the vote in the city.

### History

According to Arizona Revised Statutes § 16-322, the number of signatures that are required to nominate a candidate for mayor or other office nominated by a city at large must equal at least 5 percent and not more than 10 percent of the designated party vote in the city. Current statute does not provide explicitly for nonpartisan elections.

In cities, the basis of percentage is the number of votes cast by voters in the designated party of the candidate for mayor at the last preceding election at which a mayor was elected.

### Provisions

- Allows cities that hold nonpartisan elections to provide by ordinance that the minimum number of signatures required for a candidate for mayor (or other office nominated by a city at large) be 1,000 signatures or 5 percent of the vote in the city, whichever is less, but not more than 10 percent of the vote in the city.
- Makes a technical change.



# HOUSE OF REPRESENTATIVES

## HB 2104

state treasurer; quarterly meetings

Sponsor: Representative Crump

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**DP** Committee on Government

**X** Caucus and COW

House Engrossed

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HB 2104 requires the State Treasurer to hold quarterly public meetings to report on the performance of current investments.

### **History**

As Arizona's Chief Financial Officer, the Arizona State Treasurer (Treasurer) maintains and invests State money. The Treasurer is currently responsible for approximately \$12 billion worth of investments in 26 investment pools. These investments are comprised of:

- State taxes, fees, and other revenues.
- Local Governments Investment Deposits.
- State Land Trust Endowment Funds.

Current law requires the Treasurer to calculate the rate of return for investment pools on a monthly basis and credit this amount, along with interest, to depositors' balances. Arizona Revised Statutes (A.R.S.) § 35-316 provides that the Treasurer may deduct an amount less than twelve-hundredths of one percent from monthly investment earnings for deposit in the State's general fund. The Treasurer is not currently statutorily required to hold quarterly meetings with the public; however, A.R.S. § 35-311 requires the Treasurer to hold a monthly meeting with the State Board of Investment and generate a public report on the status of its investments.

### **Provisions**

- Mandates that the State Treasurer hold quarterly public meetings to report on the performance of current investments maintained by the Treasurer's Office, the operations of the Treasurer's Office, and provide a state and national economic forecast.
- Makes technical and conforming changes.



# HOUSE OF REPRESENTATIVES

## HB 2185

### life insurance

Sponsor: Representative McLain

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DP Committee on Banking and Insurance

X Caucus and COW

House Engrossed

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HB 2185 makes various revisions to the statutes governing life insurance, including allowing exclusions in the life insurance policy for suicides that occur within two years of an increase in death benefits.

### History

Life insurance is a contract between the policy owner and the insurer, by which the insurer agrees to pay a sum of money upon the occurrence of the insured individual's death or other event, such as terminal illness or critical illness. In return, the policy owner agrees to pay a stipulated amount called a premium, paid at regular intervals.

Arizona Revised Statutes (ARS) § 20-254 defines *life insurance* as insurance on human lives, including the granting of endowment benefits, additional benefits in the event of death or dismemberment by accident or accidental means, additional benefits in the event of the insured becoming disabled and optional methods of settlement of proceeds of life insurance.

Currently group life insurance policies may be issued to the following groups of individuals, who are insured under their designated policyholders: credit unions, employers or trustees of a fund established by the employer, labor unions, debtor groups, trustee groups, or association groups. Each group is designated as their own policyholder (ARS § 20-1251.01, ARS § 20-1252 through ARS § 20-1256).

### Provisions

- Eliminates the policy loan rate of interest cap of 8% per annum, or 7.4% per annum if payable in advance, on new life insurance policies.
- Removes the requirement that an insurer certify to the director of DOI that policyholders will benefit from insurers charging an interest rate higher than 6% per annum on policy loans on new policies.
- Repeals the table of values statute, which requires an insurer to include in the life insurance contract a table that shows the loan value and options available under the policy each year upon default in premium payments during the first 20 years or the term of the policy, whichever is shorter.
- States that if the owner of a life insurance policy applies for an increase in death benefits after the policy issue date, the policy may include an exclusion for suicide that occurs within two years after the increase in death benefits.

- Stipulates that the exclusion will only apply to the extent of the increased death benefits.
- Permits the director of DOI to allow a group life insurance policy to be delivered or issued for delivery if the director determines that the group of individuals being insured is substantially similar to a group described in statute.
- Makes technical and conforming changes.



# HOUSE OF REPRESENTATIVES

## HB 2210

professional offices; records; protocols

Sponsor: Representative Barto

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DP Committee on Commerce

DPA Committee on Health and Human Services

X Caucus and COW

House Engrossed

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HB 2210 establishes requirements regarding the maintenance of patients' records for business entities that employ certain health professionals.

### **Summary of the proposed strike-everything amendment**

The proposed strike-everything amendment establishes business entity registration requirements for businesses providing chiropractic or homeopathic services, and allows the boards that regulate those professions to establish fees for this purpose, and to assess civil penalties for failures to comply.

### **History**

Arizona Revised Statutes § 32-1213 requires that business entities that provide dental services be registered with the Dental Board and pay a fee. Laws 2008 Chapter 191 modified the statute to include additional requirements related to business entities providing dental services. The additions included that the business entity must do the following:

- Establish a written protocol for the storage and transfer of dental records, so that patients know where their records are, and they are disposed of properly if they are unclaimed.
- Notify the Dental Board within thirty days of the dissolution of any business entity including the closing or relocation of any facility, and the procedure by which patients may obtain records.

Laws 2008, Chapter 191 also established that failure to have a business entity registration when required is a class 6 felony. In addition, it defined a *business entity* as a business organization that has an ownership that includes any persons who are not licensed or certified to provide dental services in this state, that offers to the public professional services regulated by the Dental Board, and that is established pursuant to the laws of any state or foreign country.

### **Provisions**

- The following applies to business entities providing chiropractic or homeopathic services and the boards that regulate those professions.
  - Stipulates that services may not be offered by a business entity unless the business is registered with the respective board, and the services are conducted by a licensed professional.

- Requires that the business entity submit a registration application and that the business entity submit a separate application and fee for each branch office.
- States that registrations expire June 1<sup>st</sup> of each year and that renewals must be submitted on an annual basis before the expiration date.
- Requires the respective board to prorate the renewal fee for the first year based on the date of original registration.
- Allows the respective board to assess late fees for those registrations not completed before June 1<sup>st</sup>.
- Stipulates that the respective board must be notified within thirty days of a change in an entity's name, address, telephone number, officers or directors, or professionals providing services at any facility, and requires the boards to impose a civil penalty on any entity that does not notify the board within thirty days.
- Stipulates that a business entity must create a written protocol for handling patient records and ensuring patients have access to their records.
- Requires business entities to notify the respective board within thirty days of their dissolution if any facility is closed or relocated, and the procedure by which patients may obtain their records.
- States that the boards may discipline entities that violate the boards' statutes and rules.
- Indicates that the boards must deposit any civil penalties they collect into the General Fund.
- Exempts the following from business entity registration requirements:
  - Facilities owned by licensees.
  - Sole proprietorships or partnerships made up of individuals who are licensees.
  - Professional corporations or professional limited liability companies whose shares are owned by licensees.
  - For one year only, an administrator or executor of a licensee's estate or a person who has been authorized to act in place of an incapacitated licensee.
- Asserts that business entities that offer services without complying with registration requirements are guilty of a class 6 felony.

### **Amendments**

#### **Health and Human Services:**

- The strike-everything amendment was adopted.



# HOUSE OF REPRESENTATIVES

**HB2232**

**wildlife conservation special plates**

**Sponsor: Representative Weiers JP**

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**DPA** Committee on Transportation and Infrastructure

**X** Caucus and COW

House Engrossed

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HB 2232 establishes a *Wildlife Conservation* special plate.

## History

The Arizona Department of Transportation (Department) Motor Vehicle Division (MVD) currently issues license plates related to an assortment of organizations and causes. According to the MVD there over thirty-seven distinctive special plates and special organization plates, some examples of these special plates are for the state universities, *Child Abuse Prevention* and an *Environmental* special plate (see attachment). The funds from these special plates are typically allocated to special funds and require an annual renewal fee; a portion of the fees is allocated for production and administrative costs.

Currently, there is a Wildlife Conservation special license plate approved by the License Plate Commission. The plate is available to everyone who completes an application through the Wildlife Conservation Council. The initial application fee is \$25 and there is a \$25 annual renewal, of which \$17 goes to the organization. The plate is available with a disability symbol.

## Provisions

- Mandates that the MVD issue *Wildlife Conservation* special plates if \$32,000 is paid to the MVD by December 31, 2009.
- Requires the entity paying for the plates to design the plate, subject to the approval of the Department.
- Allows the Director of the Department of Transportation (Director) to permit the combination of the *Wildlife Conservation* special plates and personalized (vanity) plates, under the following stipulations:
  - Combined plates are subject to both fees for special and personalized plates.
  - Requests for the combined plate will be made in a form prescribed by the Director.
- Establishes a \$25 fee of which \$8 dollars is an administration fee and \$17 is an annual donation.
- Designates that the Department must deposit all special plate fees into the State Highway Fund and all donations collected for the *Wildlife Conservation* special plate into the *Wildlife Conservation Special Plate Fund*.
- Establishes the *Wildlife Conservation Special Plate Fund* administered by the Director including the following provisions related to the fund:
  - No more than 10 percent of the monies deposited will be used for administration costs.
  - The monies are continuously appropriated to the fund, excluding administration fees.
- Requires the Director to annually allocate the fund to the entity which provides the initial \$32,000 for the production of the plate.

- Specifies that donations must be used for habitat improvement or restoration and wildlife conservation related programs.
- States funds will be invested and divested by the State Treasurer upon notice from the Director.
- Makes technical and conforming changes.
- Contains an intent clause.

### **Amendments**

#### **Committee on Transportation and Infrastructure**

- Eliminates the creation of the *Wildlife Conservation Special Plate Fund*.
- Requires the Department to distribute donations.
- Adds education as one of the acceptable uses for donations.
- Makes technical and conforming changes.



# HOUSE OF REPRESENTATIVES

## HB 2257

**stopping of vehicles; highways**  
**Sponsor: Representative Williams**

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### DPA

SE Committee on Transportation and Infrastructure

X Caucus and COW

House Engrossed

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HB 2257 allows local authorities to establish public transportation stops on public roadways when the speed limit exceeds forty-five miles per hour.

**The strike-everything allows local authorities to establish public transportation stops on state highways or routes if the speed limit does not exceed fifty-five miles per hour.**

### History

Current statute (A.R.S. § 28-873) allows a person to stop, stand or park a vehicle on a controlled access highway for emergency reasons or in specifically designated areas such as rest stops. In rural municipalities, a state controlled highway is often the main roadway traversing the municipality's business district. Consequently, state highways within municipalities often have traffic control devices and access points for commercial, industrial and residential access adjacent to the roadway.

Laws 2006, Chapter 84 allowed local authorities to establish public transportation stops on a state highway or route with a speed limit of forty-five miles per hour or less provided the appropriate engineering studies were conducted to ensure safety and Arizona Department of Transportation (ADOT) approval was obtained. Prior to this change the municipality did not have the authority to regulate the stopping, standing or parking of vehicles unless the authority was expressly granted by the ADOT.

The ADOT receives federal funding under 49 USC § 5311 for cities and towns that have a population of less than 50,000. In several § 5311 cities and towns public transportation vehicles are prohibited from operating because the main thoroughfare is also a state highway. Examples of § 5311 cities include Cottonwood, Kingman, Sedona and Coolidge.

### Provisions

- Permits the Director of the ADOT (Director) to allow local authorities to establish a stop on a state highway or state route for the purpose of loading and unloading passengers from public transportation when the roadway has a speed limit in excess of forty-five miles per hour and all of the following conditions are met:
  - The local authority has conducted a traffic and engineering investigation and determined that passengers are able to safely enter and exit the public transportation vehicle.
  - The local authority meets specified provisions contained in statute when the speed limit is greater than forty-five miles per hour.
  - The local authority meets other requirements that may be established by the Director.

- Makes a conforming change.

**Provisions for the strike-everything amendment**

- Permits local authorities to create public transportation stops on state highways or routes if the speed limit does not exceed fifty-five miles per hour.

**Amendments**

**The Committee on Transportation and Infrastructure**

- The strike-everything amendment was adopted.



# HOUSE OF REPRESENTATIVES

## HB 2269

landlords; tenants; foreclosures

Sponsor: Representative Crump

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DPA Committee on Government

X Caucus and COW

House Engrossed

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HB 2269 modifies foreclosure statutes regarding single family residences.

### History

Laws 1973 Chapter 103 § 3 established the Arizona Residential Landlord and Tenant Act for the purpose of simplifying, clarifying, modernizing, and revising laws governing the rental of dwelling units and the rights and obligations of the landlord and tenant.

Arizona Revised Statutes (A.R.S.) § 33-1310 defines the following terms:

- *Landlord*: The owner, lessor, or sublessor of the dwelling unit.
- *Tenant*: A person entitled under a rental agreement to occupy a dwelling unit to the exclusion of others.
- *Rental agreement*: All agreements, written, oral or implied by law, and valid rules and regulations adopted under A.R.S. § 33-1342 embodying the terms and conditions concerning the use and occupancy of a dwelling unit and premises.
- *Dwelling unit*: A structure or part of a structure that is used as a home, residence or sleeping place by one person who maintains a household or by two or more persons who maintain a common household.
- *Single family residence*: A structure maintained and used as a single dwelling unit. If the dwelling unit shares one or more walls with another dwelling unit, it is a single family residence if it has direct access to a street or thoroughfare and shares neither heating facilities, hot water equipment, nor any other essential facility or service with any other dwelling unit.

There are two types of mortgages in Arizona: a deed of trust and a realty mortgage. When a house has been foreclosed due to a buyer defaulting on a deed of trust payment, the trustee must:

- Record the notice of sale of the property in the office of the recorder of the county where the property is located. The sale may not take place until at least 91 days after the notice of sale was recorded.
- Mail a copy of the notice of sale within 30 days to each person whose name and address are set forth in a request for notice and to each person who appears on the county records to have any interest in the property.
- Mail a copy of the notice of sale within 5 days to each of the persons who were parties to the trust deed, except the trustee (A.R.S. § 33-809).
- Post a copy of the notice of sale at least 20 days before the date of sale in a conspicuous place on the property to be sold.

- Publish the notice of sale in a newspaper in the county where the property is to be sold for at least once a week for four consecutive weeks until at least 10 days prior to the date of sale.

A.R.S. § 33-1321 states that a landlord cannot demand or receive security, including prepaid rent, in an amount or value in excess of one and one-half month's rent. However, this does not prohibit a tenant from paying more than one and one-half month's rent in advance. The landlord is responsible for stating the purpose of all nonrefundable fees or deposits and any fee that is not designated as nonrefundable in the lease agreement must be refundable. Upon the termination of a tenancy, property or money held by the landlord as prepaid rent and security may be applied to the payment of all rent, all charges as specified in the signed lease agreement, including the amount of the damages the landlord suffered by reason of the tenant's noncompliance with A.R.S. § 33-1341 relating to the tenant's obligation to maintain the dwelling unit.

### **Provisions**

- Requires the trustee to mail a copy of the notice of sale to an occupant in possession of a residential property at the time the notice of sale is recorded.
- Stipulates that the copy of the notice must:
  - Contain the name and address of the mortgagor that holds the mortgage.
  - Contain the name and address of an attorney for that mortgagor.
  - Be addressed to the occupants by name, if known, at the property address, or be served otherwise on any rental occupant.
- Requires the notice to include in boldface type no smaller than the remainder of the document a statement in substantially the following form:

*“Residential tenants occupying this property: Be advised that this property is in the process of being foreclosed due to mortgage nonpayment. If you are a tenant residing here under a written rental agreement, you have certain rights in accordance with the Arizona Residential Landlord and Tenant Act at Arizona Revised Statutes Sections 33-1301 through 33-1381. These may include the right to: terminate your rental agreement, continue residing in the premises, recover your prepaid rents and prepaid deposits or make a bona fide offer to purchase the property at the trustee sale. To preserve these and other rights, you should immediately provide this information by certified, registered or express mail, or hand delivery, to the lender or lender's attorney listed on this document: notice to the lender that you are a tenant occupying the premises, and a copy of your written rental agreement, including any rent to own or lease purchase agreement.”*

- States that on conveyance of title to the rental property, the tenancy is deemed terminated, possession of the rental property is deemed delivered to the former owner, and the tenant is deemed to have demanded return of any property or money held by the landlord as prepaid rent and security.
- Allows a tenant upon receiving a notice of foreclosure to direct the landlord to apply prepaid rent and security to the tenant's rental obligation.
- Requires a landlord or seller who enters into a lease purchase agreement or other form of rental to ownership conversion with a tenant or a buyer to provide a bond, escrow account, or other similar form of financial guaranty to secure the amount of money paid by the tenant or buyer.
- Mandates that the prepaid rent and other security be returned to the tenant or buyer at the time of termination of the tenancy by foreclosure action or otherwise.
- Make technical and conforming changes.

## Amendments

### **Committee on Government**

- Requires the trustee to mail a copy of the notice of sale of a single family residence to the property address.
- Allows a single family residential property notice of sale to be mailed by first class United States mail instead of certified or registered mail.
- Deletes language regarding a specific additional notice requirement to be sent to the occupant in possession of the property at the time the notice of sale is recorded.
- Strikes *prepaid rent and other security* language in the lease purchase bond requirement section and replaces it with *down payment, option to purchase, and other pre-paid closing costs*.
- Contains an applicability clause, clarifying that A.R.S. § 33-809 as amended by this legislation applies to any single family residence foreclosure for which a notice of sale is recorded on or after the effective date of the act.
- Contains an emergency clause.
- Make technical and conforming changes.



# HOUSE OF REPRESENTATIVES

## HB 2271

state treasurer; investment pools

Sponsor: Representative Crump

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DP Committee on Government

X Caucus and COW

House Engrossed

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HB 2271 enables the State Treasurer to include Trust and Treasury monies in long-term local government investment pools.

### History

The Arizona State Treasurer (Treasurer) is granted statutory authority to invest State Trust and Treasury monies. Arizona Revised Statutes (A.R.S.) § 35-310 defines *Treasury monies* as all monies in the Arizona State Treasury (Treasury) or in its custody, while *Trust monies* are defined as Treasury monies entrusted to the State for the purpose of safekeeping or investment. The Treasurer is also statutorily permitted to create investment pools for long-term local government funds. Currently, the Treasurer manages approximately \$12 billion in investments. Most of these investments, over \$7 billion, are in government-related securities, corporate notes, shared fixed income, equities, and certificates of deposit. Current law allows the Treasurer to deduct a percentage of the rate of earnings calculated on investment pools as a management fee (A.R.S. 35-316).

Treasury investments are overseen by the State Board of Investment, which meets monthly and consists of the Treasurer, the Director of the Arizona Department of Administration, the Superintendent of Financial Institutions, and two persons appointed by the Treasurer.

### Provisions

- Relocates statute relating to long-term local government investment pool from Title 41 to Title 35.
- Allows the Treasurer to invest Trust and Treasury monies in long-term local government investment pools.
- Requires that management fees be deposited pursuant with statute.



# HOUSE OF REPRESENTATIVES

## HB 2399

### automated external defibrillators

Sponsor: Representative Barto

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DPA Committee on Health and Human Services

X Caucus and COW

House Engrossed

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HB 2399 removes a number of requirements related to physician oversight of automated external defibrillators (AEDs).

### History

Arizona Revised Statutes (A.R.S) § 36-2262 states that an individual or entity who acquires an AED must enter into an agreement with a physician who will oversee all aspects of public access to defibrillation. Eight specific areas of public access to defibrillation, for which the physician is held responsible, are listed and include training, emergency medical services coordination, and protocol approval. Furthermore, the individual or entity must limit the use of an AED to a trained responder.

In addition, A.R.S. § 36-2262 stipulates that the physician is responsible for evaluating each use of the AED, ensuring that all trained responders have received the proper training, and ensuring that the AED is in good working order and has been tested.

Lastly, in A.R.S. § 36-2262 a *trained responder* means an individual who has received training in cardiopulmonary resuscitation and in the use of an AED through an American Heart Association course, or an equivalent.

### Provisions

- Limits the requirements placed on a physician who enters into an agreement with a person or entity that acquires an AED to providing oversight of public access to defibrillation.
- Removes the requirement that limits the use of AEDs to trained responders.
- Requires that a written report regarding the use of an AED be submitted to the Bureau of Emergency Medical Services and Trauma Systems in the Department of Health Services rather than a physician.
- Stipulates that a person or entity that acquires an AED is required to keep it in good working order and test the AED according to the manufacturer's guidelines.
- Eliminates other requirements placed on a physician who enters into an agreement with a person or entity that acquires an AED.
- Defines the terms *trained user* and *training*.
- Makes technical and conforming changes.

### Amendments

#### **Committee on Health and Human Services:**

- Exempts a trained user from civil liability.

Forty-ninth Legislature

First Regular Session



# HOUSE OF REPRESENTATIVES

**HB2426**

**enhanced driver licenses; prohibition**

**Sponsor: Representative Burges**

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**DP** Committee on Transportation and Infrastructure

**DP** Committee on Government

**X** Caucus and COW

House Engrossed

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HB 2426 prohibits Arizona from participating in the implementation of an Enhanced Driver License (EDL) program to comply with the Western Hemisphere Travel Initiative (WHTI) or the REAL ID Act of 2005.

## **History**

In 2004, the Western Hemisphere Travel Initiative (WHTI) passed into national law, requiring United States (U.S.) citizens to present a passport or a form of WHTI-approved identification to reenter the country by land or by sea. WHTI also created a list of identifications (IDs) which may be used for air travel between the U.S. and Canada, Mexico, Bermuda, and the Caribbean region. For the enforcement of this measure, WHTI permits states to develop Enhanced Driver's Licenses (EDL) for U.S. citizens which contain a vicinity Radio Frequency Identification chip and a Machine Readable Zone. For *WHTI* compliance, the chip shall contain a number which acts as a pointer to records on a secure database with the cardholder's photo and other biographic information.

The REAL ID Act of 2005 attempted to standardize the numerous ID cards, driver's licenses and EDLs used within the U.S. REAL ID originally required that states comply with its measures by May 11, 2008. Without compliance, state driver's licenses and IDs cannot be used for federal purposes, including boarding commercial aircraft, accessing federal facilities or entering nuclear power plants. All states have been granted a REAL ID implementation extension until December 31, 2009.

Arizona signed a Memorandum of Agreement with the Department of Homeland Security (DHS) committing to produce EDLs in 2006. However, last year the Legislature passed a law preventing the state from participation in the REAL ID Act of 2005 (Laws 2008, Chapter 272). To date no EDLs have been produced in Arizona.

## **Provisions**

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- Prohibits Arizona from participating in the implementation of an EDL program in order to comply with WHTI or the REAL ID Act of 2005.
- Prohibits the Arizona Department of Transportation (ADOT) from implementing an EDL program.
- Requires ADOT to report to the Governor and the Legislature any attempt by agencies or agents of DHS to secure the implementation of an EDL program.



# HOUSE OF REPRESENTATIVES

## HB 2432

### school board membership; family members

#### Sponsor: Representative Miranda B

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DP Committee on Government

X Caucus and COW

House Engrossed

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HB 2432 prohibits family members from serving together on a five-member school district governing board.

### History

Arizona Revised Statutes (A.R.S.) § 15-421 establishes the governing body of a school district as a school district governing board (board). The board generally consisting of three members, however in the case of a union high school district the board consists of five members. Additionally, there are exceptions for school districts that hold an election to determine if there should be five board members as outlined in A.R.S §15-425. No employee of a school district or the spouse of such employee may hold membership on a governing board of a school district by which such employee is employed.

A.R.S. § 15-341 specifies the duties and responsibilities of governing boards. Among these duties are prescribing and enforcing policies and procedures for the governance of schools, managing school property and maintaining schools established by the governing board.

*Consanguinity* is a legal term that refers to people who are descended from a common ancestor. *Affinity* is a legal term that refers to a relationship that exists as a consequence of marriage.

### Provisions

- Prohibits persons related by consanguinity to the first degree or affinity to the first degree from:
  - Serving simultaneously on a five-member school district governing board of the same school district.
  - Being simultaneous candidates for nomination or election to the same five-member school district governing board.
- Restricts a person related by consanguinity to the first degree or affinity to the first degree to a member of a five-member school district governing board from being an eligible candidate for nomination or election to that governing board unless the current board member is serving in their last year of a term of office.
- Allows a qualified elector of a school district to bring action in Superior Court to enforce eligibility restrictions against five-member school district governing board members related by consanguinity or affinity.

- Instructs the Superior Court to take corrective action by issuing one of the following appropriate orders:
  - In the case of two persons related by consanguinity or affinity simultaneously serving on the same five-member school district governing board:*
    - Allows the person who has served the longest consecutive period of time to remain on the board and immediately remove all other related persons. If vacancies arise from this removal, the openings must be filled as prescribed by law.
  - In the case of a person being a candidate for nomination or election to a five-member school district governing board with a current member related to that person:*
    - Allows the current member to remain on the board and instructs the county school superintendent to immediately remove the names of all other persons who are related to that member from the ballot for election.
  - In the case of two persons related by consanguinity or affinity who are simultaneous candidates for nomination or election to the same five-member school district governing board:*
    - Allows the candidate who filed the first nomination petition to remain on the ballot for election and instructs the county school superintendent to immediately remove the names of all other persons who are related to that candidate from the ballot for election.
- Specifies that all current school district governing board members may continue to serve unaffected by this act until the expiration of their term.



# HOUSE OF REPRESENTATIVES

## HB 2434

### homeowners' associations; document amendments

Sponsor: Representative Reagan

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#### DPA

S/E Committee on Commerce

X Caucus and COW

As Engrossed and As Passed the House

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HB 2434 revises the process for amending the declaration of a subcommunity within a Condominium or Master Planned Community Association.

#### **History of Proposed Strike-everything Amendment**

A.R.S. § 33-1227 outlines the process and procedures required to amend the declaration, including the plat, of a Condominium Community Association. There must be an affirmative vote of at least 67 percent of the homeowners or any larger number specified in the declaration. Within 30 days of adopting an amendment, the Association must prepare, execute and record the amendment in the appropriate county recorder's office. The amendment becomes effective upon its recording. Further, statute requires any challenge to the amendment's validity to be made within one year after the amendment's recording. Current law strictly prohibits any amendment from increasing the rights of the declarant, increasing the number of units or changing their boundaries, the allocated interests or use restrictions of the units, except by unanimous consent of all unit owners.

Title 10, Corporations and Associations, addresses the various regulatory requirements for nonprofit corporations, including master planned communities. A.R.S. § 33-1801 et al outlines the requirements for single-family homeowners who are members of a master planned community. Statutes are specific with regard to the declaration, bylaws, codes, covenants and restrictions of these communities.

The strike-everything amendment to HB 2434 adds a process whereby any subcommunity within a master community association may amend the declaration, including the plat.

#### **Provisions of Strike-everything Amendment**

- Permits a subcommunity within a master community association whose members are mandatory members, to amend the declaration. A subcommunity must conduct a vote using procedures to amend the declaration as follows:
  - A majority of the members must be present to vote in person or as otherwise provided by law (absentee ballot).
  - At least 67 percent of voting members approve the amendment.
  - The subcommunity Board of Directors submits the approved amendment for the master community association to approve or reject.
  - The master community association approves the amendment, and the amendment is recorded and becomes effective upon recordation.



# HOUSE OF REPRESENTATIVES

## HB 2457

### university athletic facilities district

**Sponsors: Representatives Nichols, Ableser, Barnes, et al**

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**DPA** Committee on Ways and Means

**X** Caucus and COW

House Engrossed

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Allows the county Board of Supervisors to establish a University Athletic Facilities District (UAFD) under the county stadium districts statutes that will allow the Arizona Board of Regents to improve and promote property for sports facilities at public universities.

### **History**

Laws 1990, Chapter 390 allowed the Maricopa County Board of Supervisors the authority to establish a county stadium district and levy a sales tax for the construction of a baseball stadium if the county was awarded a major league baseball team. The county stadium district duties are outlined in statute, along with procedures for bonding authority.

HB 2457 will allow the county stadium district statutes related to Board duties and bonding provisions to be used by any county Board of Supervisors where a state supported university exists to establish a University Athletic Facilities District (UAFD). The counties eligible to create a UAFD are Maricopa (ASU), Pima (UA) and Coconino (NAU)

To establish a UAFD, the Board of Supervisors would enter into an intergovernmental agreement (IGA) with the Arizona Board of Regents. The UAFD boundaries would be the boundaries of the University and the District could use funds for any athletic facility construction, renovation, maintenance or improvements. The district would receive funds through an assessment from prime commercial leases located within the District (University) boundaries. The assessment would be based on the value of the lease, similar to a property tax assessment.

### **Provisions**

- Allows the county Board of Supervisors to organize a University Athletic Facilities District, that will promote the public convenience, necessity and welfare of the community if the district is established.
- Considers this UAFD a County Stadium District.
- Allows the Arizona Board of Regents (ABOR) to use funds collected from an assessment on commercial leases to improve and promote property for sports facilities and other purposes.
- The Board of Directors of this district will be established through an intergovernmental agreement between the county and the ABOR.
- Allows the ABOR to pay the costs to establish a UAFD.
- Prohibits the District from acquiring or owning real property.
- The county Treasurer will be the treasurer of the newly created district and will collect the assessment on commercial leases.
- Requires the assessment from prime commercial lessees in the district to be collected through an intergovernmental agreement with the Board of Directors of the district.

- Requires the amount of assessment on commercial leases to be determined by the county assessor, in a similar manner as property taxes, taking into account the property classification and assessment ratio.
- Allows the Board of Directors the ability to pledge the assessment revenues to secure bonds.
- Expands the definition of *stadium* to include intercollegiate athletic events.
- Makes technical and conforming changes.

**Amendment**

**Ways and Means**

- Clarifies that the property of the district is owned by the ABOR not the University.



# HOUSE OF REPRESENTATIVES

## HB 2564 abortion

Sponsor: Representative Barto

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**DP** Committee on Health and Human Services

**X** Caucus and COW

House Engrossed

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HB 2564 makes a variety of changes to statutes related to abortion including changing the existing parental notification and judicial bypass requirements that apply when a minor is seeking an abortion. It also includes new requirements that physicians must follow when obtaining the written informed consent of patients seeking abortions. And finally, it allows certain health professionals to abstain from having to facilitate or participate in the provision of an abortion, abortion medication, or emergency contraception.

### **History**

Pursuant to Arizona Revised Statutes (A.R.S.) § 36-2151, no hospital is required to admit a patient for the purpose of performing an abortion. And physicians, as well as any other employees of facilities in which the performance of abortions is authorized, are not required to participate in the procedures that will lead to an abortion, if such persons state in writing their objection to the procedure based on moral or religious grounds.

A.R.S. § 36-2152 prohibits a person from knowingly performing an abortion on an unemancipated minor unless one of the following conditions applies:

1. The attending physician has secured the written consent of the minor's parent or guardian.
2. A superior court judge has authorized the abortion after determining the minor is mature and capable of giving informed consent.
3. A superior court judge has determined the minor is not mature, but concludes an abortion without consent of her parent or guardian is in the minor's best interest.

Current law also states that parental consent or judicial authorization is not required if a pregnant minor certifies to an attending physician that the pregnancy resulted from criminal conduct or the attending physician certifies that the abortion is necessary to prevent the minor's death or substantial impairment of major bodily function.

In 2003, the Court of Appeals of Arizona (Court) concluded that "...a pregnant juvenile who seeks a judicial bypass order pursuant to A.R.S. § 36-2152 bears the burden of proving her entitlement to the order by clear and convincing evidence" (*In re B.S.*, 205 Ariz. 611, 74 P.3d 285). In addition, the Court specified criteria by which the maturity of a pregnant minor may be measured to determine if she is capable of giving informed consent including her experience, perspective, and judgment.

## Provisions

### Parental Consent and Judicial Bypass Requirements

- Stipulates that parental consent for a minor's abortion must be notarized, and indicates that the notarial act is confidential and not a public record.
- Requires a pregnant minor to prove to a superior court judge by clear and convincing evidence that she is sufficiently mature and capable of giving informed consent to an abortion, without consulting her parent or guardian, based on her experience, perspective, and judgment.
- Allows a superior court judge to consider, among other relevant factors, a minor's age and experiences working outside the home, living away from home, traveling on her own, handling personal finances, and making other significant decisions in assessing a pregnant minor's experience level.
- Permits a superior court judge to consider, among other relevant factors, what steps a minor took to explore her options and the extent to which she considered and weighed the potential consequences of each option in assessing a pregnant minor's perspective.
- States a superior court judge may consider, among other relevant factors, a minor's conduct since learning of her pregnancy and her intellectual ability to understand her options and make an informed decision in assessing a pregnant minor's judgment.
- Indicates that one or both of a minor's parents or a minor's guardian may bring a civil action to obtain relief for violations of parental consent laws, unless the pregnancy resulted from the criminal conduct of a parent or guardian.
- Specifies a civil action related to an alleged violation of parental consent laws may be based on a claim that failure to obtain consent was the result of simple negligence, gross negligence, wantonness, willfulness, intention, or any other legal standard of care.
- Stipulates that relief resulting from such civil actions includes the following:
  - Money damages for all psychological, emotional, and physical injuries related to the violation.
  - Statutory damages in an amount equal to \$5,000 or three times the cost of the abortion, whichever is greater.
  - Reasonable attorney fees and costs.
- Requires that civil actions of the type described above be initiated within six years of the violation.

### Informed Consent Requirements

- Prohibits an abortion from being performed or induced without the voluntary and informed consent of the woman on whom the abortion is to be performed or induced.
- Stipulates that, except in the case of a medical emergency, voluntary and informed consent has only been obtained if all of the following conditions are met:
  - At least twenty-four hours before the abortion, the physician performing the abortion or the referring physician, has informed the woman, orally and in person of the following:
    - The name of the physician who will perform the abortion.
    - The nature of the proposed procedure or treatment.
    - The immediate and long-term medical risks associated with the procedure, and alternatives to the procedure that a reasonable patient would consider material to the decision of whether or not to undergo the abortion.

- The probably gestational age and anatomical and physiological characteristics of the unborn child at the time the abortion is to be performed.
    - The medical risks associated with carrying the child to term.
  - At least twenty-four hours before the abortion, the physician performing the abortion, the referring physician, or another qualified physician, physician assistant, nurse, psychologist, or licensed behavioral health professional to whom the responsibility has been delegated, has informed the woman, orally and in person of the following:
    - Medical assistance benefits may be available for prenatal care, childbirth, and neonatal care.
    - The father of the child is liable to assist in the support of the child, even if he has offered to pay for the abortion (except in cases of rape or incest, in which case this information may be omitted).
    - Public and private services are available to assist the woman during and after her pregnancy, whether she chooses to keep the child or place the child for adoption.
    - It is unlawful for any person to coerce a woman to undergo an abortion.
    - The woman is free to withhold or withdraw her consent to the abortion at any time without affecting her right to future care or benefits to which she might otherwise be entitled.
  - The information is provided to the woman individually in a private room, and the woman has certified in writing that before the abortion all the information was provided.
- Requires, if a medical emergency compels the performance of an abortion, that the physician inform the woman, before the abortion if possible, of the medical indications supporting the physician's judgment that an abortion is necessary to avert the woman's death or substantial impairment of major bodily function.
- States that a physician who knowingly violates informed consent requirements has committed an act of unprofessional conduct and is subject to license suspension or revocation.
- Allows the following persons to file a civil action for relief related to violations of informed consent requirements:
  - A woman on whom an abortion has been performed without her informed consent.
  - A father of an unborn child if married to the mother at the time she received the abortion, unless the pregnancy resulted from the plaintiff's criminal conduct.
  - The maternal grandparents of an unborn child if the mother was a minor at the time of the abortion, unless the pregnancy resulted from the plaintiff's criminal conduct.
- Specifies a civil action related to an alleged violation of informed consent laws may be based on a claim that failure to obtain informed consent was the result of simple negligence, gross negligence, wantonness, willfulness, intention, or any other legal standard of care.
- Stipulates that relief resulting from such civil actions includes the following:
  - Money damages for all psychological, emotional, and physical injuries related to the violation.

- Statutory damages in an amount equal to \$5,000 or three times the cost of the abortion, whichever is greater.
- Reasonable attorney fees and costs.
- Requires that civil actions of the type described above be initiated within six years of the violation.

#### Right to Refuse to Facilitate Abortion or Emergency Contraception

- Clarifies that any employee of a facility where abortions are authorized to be performed is not required to facilitate the procedure that will result in the abortion.
- Permits any employee of a pharmacy, hospital, or health professional who states in writing an objection to abortion, abortion medication, or emergency contraception on moral or religious grounds to not be required to facilitate or participate in the provision of an abortion, abortion medication, or emergency contraception.

#### Miscellaneous

- Prohibits an individual who is not a physician from performing a surgical abortion.
- Restricts a person from writing a prescription for a drug to induce an abortion or requiring payment for a service provided to a patient who has inquired about an abortion until the expiration of a twenty-four hour reflection period.
- Stipulates that a person, including a parent or guardian of a minor, shall not coerce in any way a person to obtain an abortion.
- Specifies that if a minor is denied financial support by the minor's parents or guardian for the minor's refusal to obtain an abortion, the minor is deemed emancipated for the purpose of eligibility for public benefits, except that the minor may not use those benefits to obtain an abortion.
- States that this act does not create or recognize a right to an abortion and does not make lawful an abortion that is currently unlawful.
- Includes a severability clause.
- Modifies the definition of *abortion*.
- Eliminates the definition of *fetus*.
- Adds definitions for *conception*, *gestational age*, *health professional*, *medical emergency*, *physician*, *pregnant*, *pregnancy*, *probable gestational age*, *surgical abortion*, and *unborn child*.
- Makes technical and conforming changes.



# HOUSE OF REPRESENTATIVES

## HB 2178

### equine rescue registry

Sponsor: Representative Konopnicki

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**DPA** Committee on Natural Resources and Rural Affairs

**X** Caucus and COW

House Engrossed

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House Bill 2178 directs the Department of Agriculture to create and maintain a registry and public list of equine rescue facilities.

#### History

The Department of Agriculture (Department) is divided into three main divisions; Animal Services, Plant Services and Environmental Services. The Animal Services Division protects consumers from diseases in livestock, commercially raised fish, poultry, eggs, meat and dairy. The Animal Service Division also oversees the sale, transport and theft of livestock.

A.R.S. § 3-1721 provides that upon seizing an equine in poor condition because of suspicion of neglect or abuse, the Department can house and care for the equine if there are sufficient funds available in the Livestock Custody Fund. The equine is in the care of the Department for up to 15 days. Within the 15 day period, a hearing is held to determine the circumstances surrounding the animal. The hearing will find whether the animal was found in poor physical condition at the time the equine was seized. If the hearing finds the equine was in good health, it is then returned to the owner free of charge. If the equine was found to be in poor health, it is sold to cover expenses incurred in care of the animal or destroyed in a humane manner.

#### Provisions

- Changes the article heading of Title 3, Chapter 12, Article 2, to “Rescue of Equine in Poor Physical Condition”.
- Requires the Department to establish and maintain a registry of equine rescue facilities.
- Directs the Department to have a list of the registered equine rescue facilities for the public at its offices and website.
- Outlines the requirements for registering an equine rescue facility:
  - A non-profit organization.
  - Maintains minimum physical conditions of the facility and equine care and treatment.
- Specifies that an equine rescue facility’s length of registration is for one year and can be renewed annually with the Department with the following documentation:
  - Letter from a veterinarian, testifying the minimum standards of the Department are being met, dated within 15 days of filing.
  - Documentation verifying non-profit status.
- Ensures that registration documents will be available to the public.
- Allows the Director to adopt rules and fees for the registration of the rescue equine facilities.
- Makes technical and conforming changes.

#### Amendments

- Strikes the change to the article heading of Title 3, Chapter 12, Article 2.
- Moves the new section into Chapter 11, Article 5 of Title 3.



# HOUSE OF REPRESENTATIVES

## HB 2073

state equalization property tax repeal..

Sponsor: Representative Biggs

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DP Committee on Ways and Means

X Committee on Appropriations

Caucus and COW

House Engrossed

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HB 2073 repeals the state equalization property tax.

### History

The county equalization assistance for education tax rate was enacted in 1981 at a rate of \$0.50 per \$100 of assessed value. The board of supervisors in each county is *required* to levy the tax each year and it is the responsibility of the county treasurer to apportion the monies to the school districts within the county as provided by law. It is important to note that under the school funding formula, a decrease in the county education rate does not decrease the amount of funds a school district will receive. If a school district still requires funding after raising revenues through the qualifying tax rate and county equalization for education rate, the Legislature appropriates the remaining amount needed through basic state aid.

Laws 1990, Chapter 399 increased the rate to \$0.53 per \$100 of assessed value. Since the enactment of the Truth-In-Taxation (TNT) provisions in 1998, the rate has fallen each year to reflect the increases in property valuation. The TNT rate determined by the Joint Legislative Budget Committee for tax year 2006 was \$0.4190, however, Laws 2006, Chapter 354 set the rate at zero for three years. In addition, this law changed the name of the county equalization assistance for education tax rate to the state equalization property tax rate. In 2006, the zero rate provided statewide property tax relief for all taxpayers of approximately \$215 M. For the current tax year, the estimated statewide savings is approximately \$250 M.

Without further legislation, the state equalization property tax rate will be determined under the TNT statutes for tax year 2009 and beyond. If the state equalization property tax rate takes effect for this year, the rate will be \$0.3306.

### Provisions

- Repeals the state equalization property tax.
- Makes technical and conforming changes.