



Axiom Public Affairs
2198 E. Camelback Road, Suite 300
Phoenix, AZ 85016
602.263.0086

Arizona Dental Hygienists Association Final Report
53rd Legislature, 1st Regular Session (2017)

Adjourned sine die May 10, 2017

Total days of session: 122

General Effective Date:	August 9, 2017
Bills Introduced:	1079
Billed Passed:	353
Bills Vetoed:	11
Bills Signed:	342
Special Sessions Called:	0
Ballot Measures Referred:	1

2017 Session at a Glance

The 1st Regular Session of the 53rd Arizona Legislature convened on Monday, January 9th. Governor Ducey outlined his priorities for the year in his State of the State address, focusing on K-12 education funding, a bonding plan for university infrastructure, and restoring two-year eligibility for cash assistance (TANF) to needy families. Funding for education and teacher raises remained a theme throughout the legislative session and, along with the university bonding plan, dominated budget negotiations. The FY 2018 budget passed in the early morning hours of Friday, May 5th. The legislature returned the following week to wrap up outstanding bills and adjourned at 7 pm on Wednesday, May 10th.

AzDHA Issues

SB 1362: dental board; dentists; dental hygienists (Brophy McGee)

AzDHA worked closely with the Arizona Dental Association (AzDA) on omnibus legislation to address a number of issues relating to the Board of Dental Examiners, licensing and licensure portability, affiliated practice dental hygienist statutes, and teledentistry. The bill passed both chambers unanimously and was signed into law on April 18th. Statutory changes include the following:

- Affiliated practice dental hygienists:
 - Adds a definition of “affiliated practice dental hygienist”, which is defined to mean any licensed dental professional who is able to initiate treatment based on the dental hygienist’s assessment of a patient’s needs according to the terms of an affiliated practice agreement with a dentist, to treat the patient without the presence of a dentist and to

maintain a patient-provider relationship. This is intended to address reluctance on the part of some AHCCCS plans to reimburse AP hygienists for treatment not initiated by a dentist.

- Clarifies that a dentist's presence and an examination, diagnosis, and treatment plan are not required to initiate treatment unless specified in the AP agreement.
- Amends AP dental hygienist statute to remove requirement that the hygienist hold a license for 3-5 years before becoming an AP dental hygienist.
- BODEX Fund:
 - Repeals statute limiting dental board expenditures.
 - Caps the balance of the BODEX fund at 100 percent of the board's annual operating expenses to prevent an accumulation of dollars in the future.
 - Implements a 3-year fee holiday for licensure renewals.
- Licensure and license portability:
 - Requires that BODEX accept all regional examinations and elimination of credentialing fee for anyone who has taken a recognized exam within five years of application.
 - Amends dental hygienist education requirements to allow a dental hygienist to place ITRs after successful completion of an ITR course, and without taking the EFDA exam.
 - Separates education and certification requirements for dental hygienists to perform local anesthesia and nitrous oxide analgesia.
 - Allows dental assistant to perform expanded functions if they had previously held such a certificate in another state and prove to the board they have required clinical experience.
- Teledentistry:
 - Amends the definition of "teledentistry" to include "examination."
 - Amends the definition of "assessment" to include collection of clinical information to facilitate a diagnosis.

AHCCCS Adult Dental Coverage

Prior to session, AzDHA worked closely with other stakeholders in the public health community to make a case for a comprehensive AHCCCS dental benefit for pregnant women. Ensuring a pregnant woman has access to dental care not only reduces the chances of exposing the baby to infection after birth, but also helps families create good healthcare habits. The executive budget proposal, however, included an emergency dental benefit for *all* adults. After consultation with our partners in the effort, AzDHA decided to support the governor's proposal and save serious pursuit of a benefit for pregnant women for another year. In order to get that conversation going, AzDHA and AzDA worked with Representative Kelli Butler (D – Phoenix) on HB 2442, concerning the comprehensive benefit for pregnant women. By running a bill and getting a committee hearing, the legislators were exposed to the issue and educated on the importance of dental care prior, during, and post pregnancy. The bill passed unanimously out of the House Health Committee but was held in Rules, as expect. The final FY 2018 budget includes \$1.5 million for an adult emergency dental benefit.

HB 2136: applications for regulation; info; process (Carter)

Representative Heather Carter (R – Cave Creek) sponsored legislation this year attempting to make changes to the sunrise process by which health profession groups applying for regulation or for an increase in their scope of practice must apply. HB 2136 would have required groups to include suggested statutory

language in their application, and other additional information about the stakeholder process would also be required in the application. Many health professional groups, including AzDHA, had concerns that the process changes in this legislation were overly burdensome. Although the bill passed out of the House Government Committee, it never received a Rules hearing in the House. As a last-ditch effort, similar language was amended onto Senator Kavanagh's SB 1244 on the House floor, many health profession associations protested and the bill never received a third read.

Other AzDHA Bills of Interest

Bill	Sponsor	Summary	Action
HB 2042: DHS; fingerprinting requirement	Carter	Volunteers who provide medical services, nursing services, behavioral health services, health-related services home health services or supportive services at a residential care institution, nursing care institution or a home health agency are required to have a valid fingerprint clearance card. Some exceptions. The list of persons exempt from the fingerprinting requirements for children's behavioral health program personnel and volunteers is modified. AS SIGNED BY GOVERNOR.	3/21 signed by the governor
HB 2076: advanced directives registry; provider access	Carter	By December 31, 2018, the Secretary of State is required to establish in rule a process for "health care providers" (defined) to access the health care advanced directives registry. Except for acts of gross negligence, wilful misconduct or intentional wrongdoing, the state and its contractors are not subject to civil liability for claims or demands arising out of the provision of access to information stored in the registry. AS SIGNED BY GOVERNOR.	4/17 signed by governor
HB 2135: health care workforce; data	Carter	Establishes a 15-member Task Force on Health Care Professional Workforce Data to research and make recommendations for the establishment of a resource center for the collection of data concerning the health care professional workforce. The Task Force is required to submit a report of its findings and recommendations to the Governor and the Legislature by March 1, 2018 and self-repeals July 1, 2018.	FAILED: never received a committee hearing in the House
HB 2136: applications for regulation; info; process	Carter	Groups applying for regulation of a profession or for an increase in the scope of practice of a profession are required to include with the application suggested language for proposed legislation, and have two years in which to work on the application with the legislative committee of reference to ensure it meets statutory requirements. Other information that must be included with the application is specified. Effective January 1, 2018.	FAILED: held in House Rules
HB 2290: provisional licenses; criminal convictions	Rivero	A "licensing authority" (defined) is required to issue to an otherwise qualified applicant who has been convicted of an offense either the regular license or a provisional license that is valid for up to one year. The licensing authority may revoke a provisional license if the licensee commits a new felony, commits an act or omission causing the licensee's community supervision, probation or parole to be revoked, or violates the law or rules governing the practice of the occupation for which the provisional license is issued. Establishes various reporting requirements for provisional licenses issued under these requirements. Does not apply to a person who is convicted of specified criminal offenses,	5/1 signed by governor

		including violent crimes, sexual offenses, and repetitive offenders. Each licensing authority is required to report to the Governor by July 1 each year on specified information relating to provisional licenses. AS SIGNED BY GOVERNOR.	
HB 2307: controlled substances prescription monitoring program	Carter	The maximum amount the Executive Director of the Board of Pharmacy is authorized to annually transfer to the Controlled Substances Prescription Monitoring Program from the Board of Pharmacy Fund is increased to \$500,000, from \$395,795. Each medical practitioner regulatory board is required to notify medical practitioners who register under the federal Controlled Substances Act of the practitioner's responsibility to register with the Board of Pharmacy and be granted access to the Program's central database tracking system, instead of each board being required to notify the Board of Pharmacy and the Board of Pharmacy notifying the practitioners. The purposes for which the Arizona Health Care Cost Containment System Administration is authorized to use confidential data from the Program for are expanded to include for performing a drug utilization review for controlled substances to help combat opioid overuse or abuse or for ensuring the continuity of care. AS SIGNED BY GOVERNOR.	3/24 signed by governor
HB 2335: tobacco possession; sale; age; signage	Boyer	For the purpose of statute prohibiting furnishing a tobacco product to an underage person, a petty offense, tobacco products may not be furnished to a person who is under 21 years of age, instead of to a minor, and the required mental state of doing so knowingly is eliminated. The definition of "tobacco product" is expanded to include "electronic smoking devices" (defined). The crimes of a retail tobacco vendor selling, furnishing or giving beedies or bidis, of selling tobacco products through a vending machine except in specified circumstances, and of delivering or causing unsolicited tobacco products to be delivered to a residence are all modified to apply to products sold or given to an individual who is under 21 years of age, instead of to a minor. Retail tobacco vendors are prohibited from selling or permitting the sale of tobacco products unless a sign with specified dimensions is posted at the location stating that a person who is under 21 years of age cannot purchase tobacco products. Violations are an unlawful practice and a petty offense.	FAILED: held in House Commerce
HB 2419: s/e occupational licensing	Leach	The Senate Commerce strike-everything amendment prohibits cities, towns or counties from imposing new occupational fees or licensing requirements. Requires waiver of initial occupational fees for military families.	FAILED: never third read in the Senate
HB 2442: AHCCCS; dental care; pregnant women	Butler	The list of covered services under the Arizona Health Care Cost Containment System (AHCCCS) is expanded to include dental services of up to \$1,000 per member for a person who is at least 21 years of age and in any stage of pregnancy. Appropriates \$1.27 million from the general fund and \$2.95 million from federal medicaid authority in FY2017-18 to the AHCCCS Administration for dental services to pregnant women.	FAILED: held in House Appropriations
HB 2460: dental board; teeth-whitening services	Payne	A person may provide "teeth-whitening services" (defined) to persons who are at least 18 years of age in a business entity that is not registered with the Board of Dental Examiners if the person discloses to customers on a posted sign that the services are not	FAILED: never received committee hearing in the House

		regulated by the state, discards specified teeth-whitening equipment after their use by customers, and covers LED whitening lights with a disposable plastic barrier sleeve.	
HB 2508: reduction in force; state agencies	Payne	The Joint Legislative Budget Committee is required to determine and the Department of Administration is required to allocate to each state agency, department, board or commission an amount sufficient to implement a reduction in force, and all monies reduced under the reduction in force are transferred to the general fund. In order to implement the reduction in force, each state agency, department, board or commission is required to eliminate unfilled positions that have been vacant for six months longer than the typical vacancy period, identify nonessential positions, and consolidate positions whenever possible.	FAILED: never received a committee hearing in the House
SB 1023: dispensers; prescription drug monitoring	Kavanagh	The Controlled Substances Prescription Monitoring Program is expanded to include tracking the prescribing, dispensing and consumption of schedule V controlled substances, in addition to schedule II, III, and IV. Conditionally enacted on H2493 becoming law, the Board of Pharmacy is authorized to release to the Department of Health Services data from the Program regarding persons who are receiving or prescribing controlled substances if the information is necessary for the Dept to implement a public health response to address opioid overuse or abuse. AS SIGNED BY GOVERNOR.	5/8 signed by governor
SB 1244: committee of reference; standing committee	Kavanagh	Each standing committee of both legislative houses constitutes a committee of reference in the committee's subject matter area and the committee's respective house, instead of a committee of reference being a joint subcommittee composed of members of the appropriate standing committees of the House and Senate.	FAILED: never third read in the Senate
SB 1362: dental board; dentists; dental hygienists	Brophy McGee	Various changes to statutes relating to the Board of Dental Examiners. The list of procedures that dental hygienists are authorized to perform is repealed and replaced. The requirements for a dental hygienist to be eligible to enter into an affiliated practice relationship with a dentist and the requirements that a dental assistant must meet in order to perform expanded functions are modified. Licensure fees are in an amount established by the Board, with the current statutory fee amounts set as the maximum fee. Session law requires the Board to provide a one-time waiver from license or certificate renewal fees for dentists, denturists and dental hygienists who are licensed in Arizona before January 1, 2018, which is effective for licenses renewing in calendar years 2018, 2019, and 2020. AS SIGNED BY GOVERNOR.	4/18 signed by governor
SB 1437: agencies; review; GRRC; occupational regulation	Barto	Agencies are required to limit all "occupational regulations" (defined) to regulations demonstrated to be necessary to specifically fulfill a public health, safety or welfare concern. Any person harmed by an occupational regulation is authorized to petition an agency to repeal or modify any occupational regulation within the agency's jurisdiction, and the agency is required to take one of a list of specified actions within 90 days after the petition is filed. Any person is authorized to file an action in a court of general jurisdiction to challenge an occupational regulation. If the court finds by a preponderance of the evidence that the challenged	4/5 signed by governor

		<p>occupational regulation on its face or in its effect burdens the entry into or participation in an occupation, trade or profession and the state fails to prove by a preponderance of the evidence that the regulation is necessary to specifically fulfill a public health, safety or welfare concern, the court is required to enjoin further enforcement of the regulation and award reasonable attorney fees and costs to the plaintiff. Additionally, a person is authorized to petition the Governor's Regulatory Review Council (GRRC) to request a review of a final rules based on the person's belief that the final rule does not meet the requirements of the Administrative Procedures Act. Agencies and the Secretary of State are required to post prominently on their website notice of a person's right to petition GRRC for this review. Contains a legislation findings section. Severability clause. AS SIGNED BY GOVERNOR. In his signing statement, the Governor stated that while this legislation makes positive steps, it inadequately addresses the anti-competition issues raised by the U.S. Supreme Court in North Carolina Board of Dental Examiners v. Federal Trade Commission. The Governor called on the Legislature to fully address this issue next session.</p>	
<p>SB 1452: health profession regulatory boards</p>	<p>Barto</p>	<p>A member of a health profession regulatory board is ineligible for reappointment to that board once the person has been appointed for two full terms. A person may be reappointed to a board once the person has not been on the board for a time period of at least two full terms. Health profession regulatory boards are required to digitally record all open meetings of the board and to maintain the records for three years. Each health profession regulatory board is authorized to establish a nondisciplinary confidential program for the monitoring of licensees who may have been chemically dependent or may have had a medical, psychiatric, psychological or behavioral health disorder that may impact the licensee's ability to safely practice or perform health care tasks. Establishes a statute of limitations of four years for complaints against licensees or certificate holders of health professions regulatory boards, and exempts medical malpractice settlements or judgments or allegations of sexual misconduct if the incident involved a felony, diversion of a controlled substance or impairment while practicing from the statute of limitations. Effective January 1, 2018. AS SIGNED BY GOVERNOR.</p>	<p>4/24 signed by governor</p>

FY 2017-2018 Budget

The \$9.8 billion legislative budget approved on May 5th includes \$9.69 billion of ongoing spending and \$162 million in one-time spending. With projected revenue growth of 4.3%, total revenues projected at \$9.69 billion, and \$171 million carry-forward, this leaves the state with a cash balance of \$42 million and structural balance of \$25 million. Most major changes to the baseline stem from new K-12 spending and funding for the university bonding proposal.

New spending	GF \$ in millions	
	Ongoing	One-Time
ADE – 1% teacher salary supplement	34.0	
ADE – results-based funding	37.6	
ADE – early literacy	8.0	
AHCCCS/DCS Prop 206 long term care costs	33.0	10.0
Correction/DPS – retirement adjustment	11.0	
Counties – DJC offset		8.0
Counties – restore local HURF (HELP fund)		30.0
SFB – building renewal grants		17.2
Universities – restore loss of 1-time \$		15.0
Universities capital infrastructure		27.0*
State employee health insurance		25.0
AHCCCS prescription drug rebate shift	(30.0)	
DJC spending reduction	(5.0)	

*in 2019

K-12 Education

The governor's state of the state address and executive budget proposal focused new spending on K-12 education, and the legislature's final budget reflected this focus. Although K-12 lost approximately \$52 million from last year due to statutory expirations of last year's delay in cuts (specifically, current year enrollment), it received an increase of \$37.6 million for results-based funding, \$8 million for early childhood literacy, and \$34 million for a 1% teacher pay raise in FY 2018. Teacher pay was a major sticking point during budget discussions, and Democrats unsuccessfully attempted to leverage their votes on the university bonding proposal for a 4% teacher pay raise. In the end, the legislature committed to 2% over two years, meaning teachers will receive an additional 1% pay raise in FY 2019. Additionally, the budget includes \$1 million for JTED completion grants and \$3 million for broadband expansion to rural schools. Finally, formula funding was increased by \$127.9 million over FY 2017 for inflation and caseload growth.

Higher Education

Governor Ducey made funding for university infrastructure a key part of his budget proposal, but he initially proposed a mechanism by which universities could recapture a portion of their TPT cover the cash costs of or service bonding for research infrastructure. The executive budget would have redirected \$36 million in TPT to the universities. This TPT-recapture mechanism encountered significant opposition from members on both sides of the aisle, and was eventually scrapped in favor of a straight appropriation. The final budget appropriates \$27 million a year starting in FY 2019 for 25 years for cash costs or service of bonding for university infrastructure. Additionally, the universities received \$13 million in one-time dollars to offset the loss of \$19 million in one-time funds from FY 2017. Finally, on the community college side, the legislative budget restored Maricopa and Pima Community Colleges to the funding formula with no new dollars attached. Both urban community college districts had been eliminated from the funding formula after FY 2015.

State and Local Government

The shift of HURF dollars to cover costs of DPS has been controversial in recent years, and rural legislators banded together on the issue this year. The budget appropriates \$30 million in both FY 2018 and FY 2019 from the HELP Fund to restore local HURF dollars. It also appropriates \$8 million in one-time money to

counties to partly off-set county cost-sharing for the Department of Juvenile Corrections. Additionally, DPS and the Department of Corrections received \$11 million to fund employer retirement adjustment costs.

Health and Welfare

Although Proposition 206 exempted employees of the state from the new minimum wage law, it did exempt employees of entities with which the state contracts to provide services. This was of particular concern to providers of long term care services for the developmentally disabled population. The legislature appropriated \$23.3 million ongoing to DES in FY 2018, with an additional \$10 million in one-time money; it also provided a supplemental \$8.1 million for DES in FY 2017. AHCCCS will receive on ongoing \$9.7 million starting in FY 2018. Additionally, the budget provides \$200,000 for a network adequacy study to determine how AHCCCS and DES services are impacted by the minimum wage increase. Other significant changes to the AHCCCS budget include \$1.5 million for adult emergency dental services and \$100,000 for adult occupational therapy services.

Fund Transfers

The budget includes \$65 million in fund sweeps into the general fund from the following funds:

- \$30 million from the Prescription Drug Rebate Fund (AHCCCS)
- \$35 million from the Behavioral Health Services Fund (DHS)

Major Legislation

K-12 and Higher Education

Bills passed:

SB 1042: teacher certification; reciprocity – S. Allen

SIGNED

In an effort to streamline the teacher certification process and help address the state's teacher shortage, Senator Sylvia Allen (R – Snowflake) sponsored SB 1042, which changes the rules and qualifications for who can become a teacher. The bill allows a school district or charter school to hire and enroll into its classroom-based alternative teacher preparation program any teaching candidate who holds a bachelor's degree and meets the background and fingerprint clearance card requirements. Additionally, it requires the Board of Education to establish alternative option to the subject knowledge portion of the proficiency exam for teaching candidates who demonstrate subject knowledge proficiency, including a relevant advanced degree or work experience. While proponents including the Arizona School Boards Association and the business community supported this bill as a way to get more qualified individuals in the classroom, the Arizona Education Association opposed the bill, claiming it will not alleviate the teacher shortage and will lower teacher standards. It passed both the House and Senate on party-line votes and was signed into law on May 2nd.

SB 1098: schools; statewide assessment – S. Allen

SIGNED

This bill started as a clean-up bill that removed statutory references to the AIMS exam, but wound up serving as a vehicle for language important to implementation of Arizona's menu of assessments. Last year, the legislature passed HB 2544, which directs the Arizona State Board of Education to adopt a menu of locally procured achievement assessments to measure pupil achievement of state academic standards. Local education agencies could use test on the menu in place of the statewide exam, AzMERIT. However,

the Board has not implemented last year's law. The proponents of HB 2544 reacted by adding language to SB 1098 putting more "teeth" into last year's legislation and requiring that the Board approve an LEA's request for a test to be included in the menu if the test meets specified statutory requirements. It also delays the deadline for adoption of a menu to school year 2018-19, from 2017-18. The amended bill passed the House 46-9 and passed the Senate 29-0; it was signed into law on April 4th.

SB 1314: schools; student data privacy – S. Allen

SIGNED

After two years of unsuccessful attempts, proponents of the student data privacy legislation finally passed their legislation limiting operators' use of student data. SB 1314, sponsored by Senator Sylvia Allen (R – Snowflake), prohibits an operator of a website, online service, or application used by a school for school purposes from using information obtained for purposes other than those specifically authorized. Additionally, the bill requires local education agencies (LEAs) to adopt policies for the use of technology that include notification to parents and an opt-out option for technology use. Interestingly, this bill had been pushed by Amazon, Google, Microsoft, and other such operators for three years, and it encountered resistance from the self-proclaimed "Mommy Lobby", which opposed it on the grounds that the bill does not impose *strict enough* restrictions on data usage. The bill's opponents pushed for an opt-in, rather than opt-out, provision this year, which would have been vehemently opposed by LEAs and likely tanked the effort. Despite this opposition, SB 1314 passed out of the Senate 28-2 and out of the House 53-5; the governor signed it into law on April 21st.

SB 1431: empowerment scholarships; expansion; phase-in – Lesko

SIGNED

Without question, one of the most controversial issues of the 2017 legislative session was the matter of empowerment scholarship account (ESA) expansion. ESAs have been utilized for years by some students whose needs are not met in the public school system, and allows a student's parents to utilize state dollars to send their child to private school or to offset homeschooling expenses. Eligible students have included students with special needs, students attending failing public schools, and students in foster care. In recent years, there has been a push to expand eligibility to include all students; this year, Senator Debbie Lesko (R – Peoria) was successful in pushing the effort over the finish line. SB 1431 phases in ESA eligibility for all students by the 2020-2021 school year. As part of the compromise necessary to garner the requisite votes for passage, the bill also extends the existing cap on ESA growth of 0.5 percent of all students enrolled in an Arizona public school until 2022, rather than 2019. Proponents of the legislation hailed it as a major victory for the school choice movement, while opponents criticized the bill as a diversion of state dollars from an already-underfunded public education system. The bill narrowly passed out of the Senate by a 16-13 vote, and the mirror bill HB 2394 passed out of the House 31-28. Governor Ducey, who supported the effort, signed SB 1431 into law on April 6th.

Bills that failed to pass:

SB 1384: school-sponsored media; student journalists – Yee

VETOED

Senator Kimberly Yee (R – Phoenix) cited her own experiences as a high school student journalist in her push for this legislation, which permits a student journalist to exercise freedom of speech and freedom of press in school-sponsored media, and requires school district and charter school governing boards to adopt consistent written policies. This bill received quite a bit of attention and was debated extensively by lawmakers. Some argued that the bill was unnecessary and ineffective, as federal law trumps state law and the U.S. Supreme Court has already considered and ruled on issues of First Amendment rights of student journalists in the 1988 case *Hazelwood v. Kuhlmeier*, in which it held that a school prohibiting publication of material deems inappropriate does not violate the student journalists' First Amendment rights. SB 1384 passed the House 41-19 and passed the Senate 29-0, but was vetoed by

the governor on May 22nd. In his veto message, Governor Ducey expressed concerns about the legislation's unintended consequences.

Health & Welfare

Bills passed:

HB 2372: public benefits; fee waivers; requirements – Weninger

SIGNED

During his state of the state address, Governor Ducey announced his intent to restore Temporary Assistance for Needy Families (TANF) cash benefits to 24 months; the legislature has cut TANF benefits to 12 months during the 2015 legislative session – the strictest in the nation. Representative Jeff Weninger (R – Chandler) worked with the governor's office on HB 2372, which restores TANF benefits to 24 months if the head of household or other adult household member who is required to participate in the work program is in full compliance with all work activity requirements of the program and each dependent child who is required to attend school has a school attendance record of at least 90 percent. Although Democrat had called for a restoration of the 24 months since the 2015 cut, they opposed this bill on the grounds that the work activity compliance requirements and attendance requirements would make it easier to kick people out of the program. Additionally, some conservative Republicans opposed the restoration in benefits, and this bill became one of the most controversial of the legislative session. It narrowly passed the House 31-29 in late February, but languished in the Senate without sufficient votes until the days of the legislative session. The Senate Democrats finally cut a deal whereby they would supply the passing vote for the bill in exchange for passage of Representative Allen's HB 2091 (TANF; SNAP; finger imaging repeal), and HB 2372 was the final bill passed before the 2017 legislature adjourned sine die. The governor signed it into law on May 22nd.

SB 1441: health insurers; claims; arbitration – Lesko

SIGNED

Following her success with pension reform during the 2016 legislative session, Senator Debbie Lesko (R – Peoria) decided to tackle the problem of "surprise billing" in which a patient receives an unexpected medical bill from an out-of-network provider, typically for services provided at an in-network healthcare facility. She brought together providers, insurance companies, and healthcare facilities, and SB 1441 was the result of those negotiations. The bill allows an enrollee of a health plan who receives a surprise out-of-network bill and who disputes the amount of the bill to seek dispute resolution if the bill is over \$1,000 under certain circumstances. Although provider groups opposed the legislation on the grounds that providers ought to be able to set their own fees, the bill passed with bipartisan support out of the Senate 25-5 and out of the House 40-16. Governor Ducey signed it into law on April 24th.

SB 1452: health profession regulatory boards – Barto

SIGNED

Senator Nancy Barto (R – Phoenix) sponsored legislation this year making reforms to the health profession regulatory boards. SB 1452 imposes term limits for board members and requires boards to digitally record all meetings and maintain those meeting records. It also establishes a statute of limitations for complaints against licensees, with exception for medical malpractice or sexual misconduct. The reforms were not controversial and the bill passed unanimously out of both chambers before being signed into law on April 24th.

Scope of practice bills:

- **SB 1133: certified nurse midwives; nurse practitioners** (Barto) – the nurses successfully codified rules and defined the role of certified nurse midwives, and removed the requirement the registered nurse practitioners perform services in collaboration with a licensed physician.
- **SB 1235: podiatry; amputation** (Barto) – podiatrist successfully expanded their scope to include amputation of toes or portions of a foot.
- **SB 1269: pharmacists; scope of practice** (Barto) – pharmacists successfully expanded their scope to include application of oral fluoride varnish, prescription of nicotine-replacement tobacco cessation products, and dispensing emergency refills of non-controlled substances.
- **SB 1336: nurse anesthetists; prescribing authority; limitation** (Barto) – certified registered nurse anesthetists successfully amended their statutes to clarify their prescribing authority, redefine the required “presence” of a physician or surgeon, and clarify that a physician or surgeon is not liable for the acts or omissions of a CRNA.

Bills that failed to pass:

HB 2136: applications for regulation; info; process – Carter

FAILED

Representative Heather Carter (R – Cave Creek) sponsored legislation this year attempting to make changes to the sunrise process by which health profession groups applying for regulation or for an increase in their scope of practice must apply. HB 2136 would have required groups to include suggested statutory language in their application, and other additional information about the stakeholder process would also be required in the application. Many health professional groups take issue with the sunrise process already, and they found the process changes in this legislation to be overly burdensome. Although the bill passed out of the House Government Committee, it never received a Rules hearing in the House. As a last-ditch effort, similar language was amended onto Senator Kavanagh’s SB 1244 on the House floor, but many health professional groups protested and the bill never received a third read.

HB 2335: tobacco possession; sale; age; signage – Boyer

FAILED

Many health profession associations and advocacy groups came together to support Representative Paul Boyer’s HB 2335, which would have raised the legal age to possess and buy tobacco products to 21, from 18. Part of a national Tobacco 21 project, this Arizona bill floundered after receiving significant opposition from retailers and libertarian-minded policy makers. The bill was double-assigned to the House Health Committee and House Commerce Committee. Although it passed out of House Health by a 7-2 vote, it failed to receive a hearing in Commerce and died.

Public Safety

Bills passed:

HB 2238: sex trafficking; violation – Grantham

SIGNED

The crime of child prostitution, a class 2 (second-highest) felony, is renamed child sex trafficking, and the crime of sex trafficking of a minor is deleted. The acts constituting a commission of child sex trafficking are expanded to include knowingly enticing, recruiting, harboring, providing, transporting, making available to another or otherwise obtaining a minor with the intent to cause the minor to engage in, or

with the knowledge that the minor will engage in, prostitution or any “sexually explicit performance”. These acts were previously classified as sex trafficking of a minor. A sentence for child sex trafficking must be consecutive to any other sentence imposed on the person at any time. HB 2238 passed unanimously out of both chambers and was signed into law on April 18th.

HB 2268: sexual assault evidence; submission; reports – Syms

SIGNED

This legislative session marked the second year of Governor Ducey’s push to ensure all rape kits are tested. In addition to funding to test the backlog, Maria Syms (R – Paradise Valley) pushed HB 2268, which requires health care facility that obtains written consent to release sexual assault kit evidence to notify the appropriate law enforcement agency within 48 hours after evidence collection. The law enforcement agency is required to take possession of the kit within five business days and submit the evidence to a public accredited crime laboratory for forensic analysis within 15 business days after its receipt in all cases in which a victim reports to law enforcement and law enforcement determines that a crime occurred. All kits submitted for analysis must be analyzed as soon as practicable if sufficient personnel and resources are available, and a public accredited crime laboratory is permitted to contract with a private accredited crime laboratory to perform the analysis. By August 30 of each year, each law enforcement agency and public accredited crime laboratory is required to report specified information about sexual assault kits to the Department of Public Safety, and the Department is required to report a compilation of those reports to the governor and the legislature by December 1 of each year. The bill passed unanimously out of both chambers and was signed on March 21st.

HB 2477: civil forfeiture; report information; remedies – Farnsworth

SIGNED

Civil forfeiture reform was the subject of considerable debate this legislative session. Although the prosecutors opposed the legislation, the bill passed unanimously out of both chambers. HB 2477 changes the burden of proof in actions to prevent or remedy racketeering is clear and convincing evidence, instead of the preponderance of the evidence. Agencies applying for monies from the Anti-Racketeering Revolving Fund are required to submit a written application to the attorney general that includes a description of what the monies will be used for, and the attorney general is authorized to deny an application that requests monies for a purpose not authorized by statute. The quarterly reports that each state department, agency, county or municipality receiving monies from the Fund are required to submit to the attorney general must include a list of specified information if monies were obtained as a result of a forfeiture, and must include a list of specified information with regard to all expenditures made from the Fund. Beginning in 2018 and every other year thereafter, the auditor general is required to conduct a performance audit and a financial audit of the attorney general’s use of the Fund for the previous two years, and to submit copies of the audits to the legislature. The seizing agency or attorney for the state is prohibited from transferring or referring seized property to a federal agency for the purpose of forfeiture if the property was seized pursuant to an investigation that either did not involve a federal agency or involves a violation of a state law and no violation of a federal law is alleged.

SB 1063: PSPRS; risk pool – Lesko

SIGNED

SB 1063 follows last year’s major PSPRS reform legislation, which culminated in a successful ballot referral in the May 2016 special election. SB 1063 establishes the Public Safety Employer Risk Pool for members of the Public Safety Personnel Retirement System (PSPRS) hired on or after July 1, 2017, which consists of any PSPRS employer of an eligible group that has, as of the effective date of this legislation, 250 or fewer active members who were hired before July 1, 2017, and any new employer in the PSPRS that has 250 or fewer employees on the effective date of participation in PSPRS. If any individual employer in the Risk Pool experiences a deviation in reported active member payroll of greater than 20 percent of the average of all participating employers in the Risk Pool in a 24-month period, the PSPRS actuary is required to

prepare a financial impact report to determine whether the deviation created an increased or decreased unfunded liability within the Risk Pool. If it created an increased unfunded liability, the responsible employer is required to pay 100 percent of the cost of the increase in the unfunded liability. If it created a decreased unfunded liability, the PSPRS is required to credit the responsible employer 100 percent of the cost of the decrease. Each employer in the Risk Pool is required to make contributions sufficient under the PSPRS consolidated actuarial valuation to pay 50 percent of both the normal cost plus the actuarially determined amount required to amortize the total unfunded accrued liability within the Risk Pool, and the remaining 50 percent must be divided by the total number of PSPRS members in the Risk Pool so that each member contributed an equal percentage of the member's compensation. It additionally establishes the Retiree Pool Account in the PSPRS Fund for the purpose of sharing the actuarial liability attributable to uncontrollable costs for employers of members hired on or after July 1, 2017, and establishes calculations for amounts that must be transferred from employer accounts to the account for members who are determined eligible for retirement, disability or death benefits. The account must remain 100 percent funded. In any fiscal year that the account is not 100 percent funded as of June 30, the amount necessary to adjust the account must be transferred from or to the investment earnings of the fund before those earnings are distributed to each employer's account. SB 1063 passed both chambers unanimously and was signed into law on May 1st; it contains an emergency clause.

SB 1190: public safety; supplemental benefits; continuation – Kavanagh

SIGNED

SB 1190 extends the repeal date for the public safety officer supplemental benefits plan eight years to October 1, 2025, from October 1, 2017. The bill passed both chamber unanimously and was signed into law on March 29th.

SB 1253: peace officers; investigative reviews; recordings – Borelli

SIGNED

In an administrative investigation of a law enforcement officer's use of force incident that resulted in a death or serious physical injury to another person, if the law enforcement officer recorded a video, the investigation is not complete until the officer has had an opportunity to view the video and provide any further information regarding the footage that the officer believes is relevant, and the officer must be read a specified notice before viewing the video. The bill was passed with bipartisan support and signed into law on May 2nd.

SB 1366: peace officer; victim; aggravating factor – Smith

SIGNED

Dubbed the "blue lives matter bill", SB 1366 expands the list of aggravating circumstances for the purpose of aggravated assault sentencing to include evidence that the defendant committed the crime out of malice toward a victim because of the victim's employment as a peace officer. An assault offense becomes aggravated assault if the person commits the assault knowing or having reason to know that the victim is a peace officer, and the previous requirement for the officer to be engaged in the execution of official duties for the offense to become aggravated assault is deleted. The bill specifies that it is not a defense to a prosecution for assaulting a peace officer or a mitigating circumstance that the peace officer was not on duty or engaged in the execution of any official duties. SB 1366 passed the House on a party-line vote and passed the Senate 21-9; it was signed by the governor on April 17th.

Bills that failed to pass:

HB 2022: unlawful discharge of weapons; exemptions – Lawrence

FAILED

HB 2022 would have allowed for the use of snake and rat shot in residential areas. This would have been an exemption to Shannon's law, which was enacted to limit shooting after a young girl was killed by stray bullet. The bill failed by a vote of 15-15 on the Senate floor.

SB 1142: riot; planning; participation; racketeering – Borelli

FAILED

SB1142 modified the definition of "riot," to include three or more persons acting together and using force or violence that results in damage to the property of another person, instead of only which disturbs the public peace. For the purpose of the criminal code, the definition of "racketeering" is expanded to include rioting, and the list of acts constituting conspiracy would have been expanded to include agreeing with one or more persons to commit riot. SB 1142 passed the Senate on a party-line vote but garnered national attention and ridicule; due to the negative perception of the legislation, Speaker Mesnard killed the bill in the House.

Workplace

Bills passed:

HB2161 workers' compensation; presumption; cancer – Boyer

SIGNED

HB 2161 presumes that any disease, infirmity or impairment of a firefighter's health that is caused by buccal cavity and pharynx, esophagus, large intestine, lung, kidney, prostate, skin, stomach or testicular cancer or non-Hodgkin's lymphoma, multiple myeloma or malignant melanoma and that results in disability or death is an occupational disease for the purpose of workers' compensation and is deemed to arise out of employment if the firefighter received a physical examination that is reasonably aligned with a specified national standard and other specified conditions are met. The presumption may be rebutted by a preponderance of the evidence that there is a specific cause of the cancer other than an occupational exposure to a carcinogen. This presumption and the current presumption for other types of cancer apply to former firefighters or peace officers who are 65 years of age or younger only if the firefighter or officer is diagnosed with cancer no more than 15 years after his/her last date of employment as a firefighter or peace officer. The bill passed both chambers with bipartisan support and was signed into law on May 22nd.

HB 2410: workers' compensation; presumption; cardiac – Shope

SIGNED

HB 2410 presumes a heart-related, perivascular or pulmonary injury, illness or death of a firefighter is an occupational disease for the purpose of workers' compensation, compensable and deemed to arise out of employment if the firefighter passed a physical examination before employment that did not indicate evidence of heart-related, perivascular or pulmonary injury or illness, if the firefighter received a physical examination that is reasonably aligned with a specified national standard, and if the firefighter was exposed to a known event and the heart-related, perivascular or pulmonary injury, illness or death occurred within 24 hours after the exposure and was reasonably related to the exposure. The bill passed both chambers with bipartisan support and was signed into law on May 22nd.

SB 1166: employment security; time frames; interest – Fann

SIGNED

SB 1166 makes various changes relating to unemployment insurance. The bill states that interest on all benefit overpayment debts accrues at 10 percent a year, and that the Department of Economic Security (DES) is authorized to waive a portion of any accrued interest for good cause shown. If DES makes an unemployment insurance liability determination, the determination becomes final with respect to the employing unit 30 days, reduced from 60 days, after written notice is served. The bill also requires that if an employer makes voluntary unemployment contribution payments, they must be included in the employer's account as of the employer's most recent computation date if they are made on or before the following February 28th, instead of January 31st. The bill was signed into law on March 14th.

SB 1332: workers' compensation; settlement; travel expenses – Fann

SIGNED

Effective November 1, 2017, SB 1332 authorizes interested parties in a workers' compensation claim to settle and release all or any part of an accepted claim, or to negotiate a full and final settlement if the period of disability is terminated by the insurance carrier or self-insured employer and implements safeguards that seek to protect the interests of injured workers. The bill requires the ICA to establish specific criteria when determining whether to approve a settlement. Additionally, the bill expands the list of entities that the Department of Economic Security or Office of Economic Opportunity to disclose unemployment insurance information to include the ICA, Department of Insurance or Attorney General for use by those agencies in the prevention, investigation and prosecution of workers' compensation fraud. Finally, session law requires the ICA to review and determine a process for streamlining the authorization process for treatment by December 31, 2017. Stakeholders, including the insurance carriers, self-insureds and injured worker's attorneys worked diligently throughout the 2016 interim and during the 2017 session to ensure the passage of SB 1332. It passed the Senate unanimously and passed the House on final read 50-7; Governor Ducey signed it into law on May 8th.

SB 1478: occupational health and safety omnibus – Fann

SIGNED

SB 1478 was pushed by the Industrial Commission of Arizona (ICA) and makes various changes to statutes related to occupational safety and health. If an employer requests a hearing on an additional penalty for a repeated violation causing employee permanent disability or death covered by workers' compensation, the ICA is required to refer the request to the Office of Administrative Hearings for determination, instead of being permitted to either hear the issued raised or refer it to an administrative law judge. The ICA Division of Occupational Safety and Health is authorized to require the attendance and testimony of witnesses and the production of evidence under oath in making inspections and investigations, and the Division is required to adopt regulations necessary for the operation of a voluntary protection and other model system implementation program, and program requirements are specified. After initially failing in the House by a vote of 25-31, the bill was reconsidered and successfully passed by a vote of 35-24. It was signed into law on April 10th.

Bills that failed to pass:

HB 2419: occupational regulation; municipalities; counties – Smith

FAILED

The strike-everything amendment to HB 2419 would have prohibited municipalities from creating any new licensing requirements or fees related to activities considered an occupation, trade or profession. The amendment would have only affected licensing requirements adopted by municipalities after the effective date of the bill; however, language in the legislation would have impacted a municipality's ability to regulate any new activities in the future or their ability to continue to charge fees for any currently regulated activities the State decided to regulate that the municipality was already regulating. The bill was amended on the Senate floor in an attempt to address these concerns expressed by the Arizona League of Cities and Towns. However, the amendment language was vague and open to wide interpretation – persons could claim they do not believe something is a public, health or safety concern or vice-versa. Additionally, the amendment language did not resolve the issue of potential future state preemption, a concern expressed by the League, and required that the municipality prove new fees were "necessary" and demonstrate how they were for used "strictly" for public safety/health purposes. Ultimately, HB 2419 failed to receive a third read vote in the Senate.

SB 1407: workers' compensation; employee definition; notice – Fann

FAILED

SB 1407 would have given the state and municipal employers that are individually self-insured or are part of a self-insurance pool the same authority as private sector self-insured employers to direct injured workers' medical care. Under the bill, public sector employers would have been required to maintain a list of approved providers for treating workplace injuries, and the employer would have been allowed to direct the worker to a specific physician for an initial exam or treatment. If not satisfied with the physician selected by the employer, the worker would have been allowed to choose a different provider from the list within seven days of the initial visit, and the employer would have been prohibited from denying the worker's choice of a different treating physician. If none of the providers on an employer's list were available, then the worker would have been allowed to choose any other provider and notify the employer of his selection. Municipal employers in Arizona have sought the ability to direct care for years. In 2011, the legislature passed a bill allowing a pilot project to test whether managed care helps public employers control costs, but no cities that were eligible to participate in the study were interested in doing so and the pilot was scrapped. In 2012, Senator Karen Fann (R – Prescott) introduced a bill that would have allowed all employers to direct care. That measure did not receive a vote in the House Banking and Insurance Committee, and died when it failed to meet a legislative deadline. SB 1407 passed out of the Senate on a party-line vote but failed to receive a vote on the floor of the House.

Regulatory Reform

Bills passed:

HB 2271: occupational licensing; military members – Syms

SIGNED

An effort to streamline occupational licensure for veterans, HB 2271 specifies that the education, training, or experience requirements for an occupational license, certificate, or registration are completely or partially satisfied, as determined by the regulating entity, on presentation of satisfactory evidence that the applicant received substantially equivalent education, training or experience as a member of the U.S. Armed Forces. This bill passed both chambers unanimously and was signed into law on March 21st.

HB 2369: repeal; state boards and committees – Shope

SIGNED

HB 2369 repeals the following state boards and committees:

- a. Arizona Agricultural Protection Act and Arizona Agricultural Protection Commission;
- b. Citizens Transportation Oversight Committee;
- c. Special Assistant for the Regional Transportation Plan;
- d. Conservation Advisory Committee;
- e. Advisory Board of ASLPR;
- f. Agricultural Best Management Practices Advisory Committee; and
- g. WQARF Advisory Board.

As part of the deal struck with a few conservative Republicans for the university infrastructure bonding plan in the budget, HB 2369 also prohibits the Arizona Board of Regents or a university under its jurisdiction from using state general fund appropriations for contracting with individuals or entities for lobbying services. Finally, the bill requires the State Forester to develop minimum standards for protecting life and property from fire and fire protection measures, establish minimum standards for storage, sale and distribution of dangerous, flammable or radioactive materials within wildland-urban interface areas, consult with specified agencies on fire evacuation routes and community alert systems, and recommend minimum standards for establishment of defensible spaces near designated wildland-

urban interface areas. This bill passed both chambers on largely party-line votes and was signed into law on May 19th.

SB 1055: expedited rulemaking – Griffin

SIGNED

SB 1055 allows an agency to use expedited rulemaking if the rulemaking implements a course of action that is proposed in a five-year-review report approved by the Governor's Regulatory Review Council (GRRC) within 180 days of the date the agency files the proposed expedited rulemaking with the Secretary of State and the rulemaking adopts rules of another agency that has been or imminently will be consolidated into the agency. The expedited rulemaking becomes effective immediately on the filing of notice with the Secretary of State, instead of 30 days following publication. This bill passed the Senate unanimously and passed the House 54-4; it was signed into law on April 24th.

SB 1437: agencies; review; GRRC; occupational regulation – Barto

SIGNED

Dubbed the "Right to Earn a Living Act," SB 1437 requires state agencies to limit occupational regulations to only those necessary and carefully tailored to meet public health, safety or welfare objectives. Additionally, it provides for a petition the Governor's Regulatory Review Council to include the review of a final rule based on the belief that the final rule was not made in compliance with rulemaking procedures. It passed both chambers on largely party-line votes and was signed by the governor on April 5th.

Taxation

Bills passed:

HB 2191: angel investor; tax credit cap – Cobb

SIGNED

HB 2191 expands the Angel Investor tax credit program and allows the Arizona Commerce Authority to authorize an additional \$10 million in tax credits for qualified investments made in qualified small businesses. The tax credits, in addition to any unused credit capacity carried over from preceding years, can only be issued in an amount not exceeding \$2.5 million each fiscal year from June 30, 2017 through June 30, 2021. One of the last bills to pass the legislature on the final day of session, HB 2191 was signed into law on May 22nd.

HB 2213: GPLET reform; K-12 taxes – Leach

SIGNED

HB 2213 makes several modifications to existing requirements for the government property lease excise tax (GPLET). It limits the lease period for a government property for which the GPLET is abated to eight years, regardless of whether the lease is transferred or conveyed to subsequent prime lessees during that period. However, this limitation does not apply to leases or development agreements for the lease of government property that occurred before January 1, 2017, if a corresponding request for proposal for the lease or intent to lease such property was approved by the governing body of the government lessor or a proposal was submitted to the government lessor in response to a request for proposals. As soon as reasonably practicable and within 12 months after the expiration of the lease, the government lessor is required to convey to the current prime lessee title to the government property improvement and the underlying land, and the property conveyed does not qualify for classification as class 6 property or for any other discounted assessment. Finally, it requires the government lessor, instead of the Department of Revenue (DOR), to maintain a public database of all government property leases that are subject to GPLET, or to post its lease agreements on a county or municipal website where the government property improvement is located. The government lessor is required to submit a current link to the public database

to DOR and to notify DOR when the database no longer contains any active leases. The bill passed the legislature unanimously and was signed into law on March 30th.

HB 2528: index exemptions; unused tax credits – Mesnard

SIGNED

HB 2528 increases the personal income tax exemptions in 2017 and 2018 by \$50 for single individuals, by \$100 for a head of household or married couple, and by \$150 for a married couple who claim at least one dependent. After 2018, the allowable personal exemption shall be indexed according to inflation as measured by the Metropolitan Phoenix Consumer Price Index. Additionally, HB 2528 requires DOR to terminate any tax credit that is unclaimed or not allowed to any individual or corporate taxpayer in any consecutive four-year period. The bill repeals the individual and corporate income tax credits for ecological restoration workforce training, increased employment in military reuse zones, qualified investment and employment in renewable energy operations, research and development and production and delivery system costs associated with solar liquid fuel, and for solar hot water heater plumbing stub outs and electric vehicle recharge outlets installed in houses constructed by a taxpayer. It also repeals the insurance premium tax credit for increased employment in military reuse zones. The bill passed the legislature in conjunction with the budget bills, and was signed into law on May 10th.

SB 1416: - quality jobs incentives; tax credits – Pratt

SIGNED

Representative Jeff Weninger (R – Chandler) and the manufacturing community worked throughout session on an incentives package for manufacturers. After Weninger's initial bill (HB 2492) failed to pass, a slimmed-down package was amended onto SB 1416 as a strike-everything amendment. The bill extends and makes changes to existing tax credit programs. Although it does not create any new programs, it became a lightning rod in the waning days of session for those critical of corporate tax breaks at the perceived expense of education funding. SB 1416 modifies the public infrastructure funding system for large manufacturing investments. It also extends the quality jobs tax credit program through 2025 with some minor changes and extends the research and development tax credit rates of 24% and 15%, which are currently set to expire in 2018, through 2025. It allows personal property under Class 6 and located in a foreign trade zone or military reuse zone to also receive accelerated depreciation, adds clarifying language to the qualified facilities statutes and the tax code statutes to ensure that applicants for the program that are preapproved prior to the current December 31, 2022 sunset date will be able to claim all five years of approved tax credits, and exempts aircraft sold to persons who will enter the aircraft into a fractional ownership program from TPT and use tax. It passed out of the legislature on the final day of the 2017 session and was signed into law on May 22nd.

SB 1480: revisions; community facilities districts – Smith

SIGNED

During the 2016 legislative session, community facilities district (CFD) legislation became extremely controversial, pitting developers against municipalities in a fight exacerbated by political maneuvering. This year's CFD legislation was far less contentious, and the League of Cities & Towns went neutral on the final product. SB 1480 makes changes to statute related to community facilities districts. It requires that, on presentation of a petition signed by the owners of at least 25 percent of the land area proposed to be included in a community facilities district, the county or municipal governing body hold a public hearing within 60 days to consider the application, the county or municipality is authorized to adopt a resolution declaring its intention to form a district that includes contiguous or noncontiguous property that is wholly within the county or municipal boundaries. The bill also establishes a list of information that must be included in a completed application for a community facilities district and caps the fees and other charges assessed by a municipality or county in connection with district formation at \$15,000. The bill passed the House 44-14 and passed the Senate 25-5; it was signed into law on April 26th.

Bills that failed to pass:

HB 2339: - bad debt deduction; retail TPT – Coleman

FAILED

Supported by the retailers and the business community, the Senate Appropriations strike-everything amendment to HB 2339 allows a retailer to deduct bad debt from gross proceeds of sales or gross income derived from under certain circumstances. Any recovery of the bad debt by the retailer or a private label lender after the deduction must be reported as taxable gross receipts when the recovery is received. The amended bill passed out of the Senate 25-3, but when it returned to the House for final read on the last day of session, it failed on the floor 18-37.

HB 2422: annual report; corporate tax credits – Mitchell

FAILED

In what has become something of an annual exercise, Representative Darin Mitchell (R – Goodyear) introduced HB 2422, requiring the Department of Revenue to annually report to the governor and the legislature specified information on corporate income tax credits that were originally enacted by the legislature beginning January 1, 2017, for any corporation that claims or carries forward an amount exceeding \$5,000, and authorizing DOR to disclose confidential taxpayer information for this purpose. While the bill had support from both taxpayer watchdog groups and liberal groups opposed corporate tax credits, the business community opposed disclosure of confidential taxpayer information in an effort to “shame” companies participating in tax credit programs. The bill passed unanimously out of the House and was held in Rules in the Senate.

SB 1144: TPT exemptions and deductions; sunset – Farley

FAILED

Senator Steve Farley (D – Tucson) was successful in getting his bill sunsetting TPT exemption and deductions through the Senate, but it did not make it through the House. SB 1144 requires the Joint Legislative Tax Expenditure Review Committee to review each tax expenditure according to the same review standards currently used for tax credits to determine whether the tax expenditure should be amended, retained or repealed. The bill passed the Senate 28-2 but failed House Ways & Means on a 4-5 vote. Although it was brought back for reconsideration and passed Ways & Means, it was subsequently held in House Rules.

SB 1146: registration fees; VLT; gas tax – Worsley

FAILED

Funding for transportation continues to be a hot-button issue in the legislature, and Senate Transportation Chair Bob Worsley (R – Mesa) sponsored SB 1146 with the intent of addressing this issue. The Senate Transportation strike-everything amendment modified and imposed various fees relating to motor vehicles for deposit into the Arizona Highway Patrol Fund and imposed a tax on natural gas used for the propulsion of motor vehicles. By creating designated revenue sources for the Arizona Highway Patrol Fund, the bill sought to limit the need for the shift of funds from the Highway User Revenue Fund (HURF) so more HURF dollars would be available to go to local governments for the maintenance of roads and transportation infrastructure. The bill passed unanimously out of committee. On the floor of the Senate, three Republicans (including Mr. Worsley) and the Democratic caucus successfully adopted a floor amendment that made more drastic changes. In addition to establishing a Trust Fund for the exclusive use of implementing, continuing and supporting the Arizona Highway Patrol, the amendment subjects alternative fuel vehicles to the same VLT as gas and diesel powered vehicles. Most controversially, the amendment allows local governing bodies to designate contiguous geographical area as a transportation reinvestment zone to fund a transportation project through tax increment financing (TIF). After the coalition successfully added these provisions to the bill, SB 1146 failed to receive a third read vote in the Senate.

SB 1147: county election; motor fuel taxes – Worsley

FAILED

Another attempt by Senator Worsley to generate funding for transportation, SB 1147 authorizes counties and regional transportation authorities to levy a county motor fuel tax of up to 10 cents per gallon, if approved by the qualified electors voting at a countywide election. The net revenues collected from the tax must be deposited in the Regional Transportation Fund for a county with a population of less than 1.2 million or a regional transportation authority, or in the newly established County Motor Fuel Tax Fund for a county with a population of 1.2 million or more persons, the bill stipulates that revenues must be used exclusively for highway and street purposes. This bill passed out of the Senate 17-13 but was held in House Rules.

SB 1337: - industrial hemp; licensing – Borrelli

VETOED

SB 1337 authorizes industrial hemp production, processing, manufacturing, distribution and commerce to be conducted by licensed growers and processors. It requires the Department of Agriculture to adopt rules to oversee the licensing, production and management of industrial hemp, including fees for licensing, testing and production supervision. This bill passed the legislature on the final day of session but was vetoed by the governor on May 22nd. In his veto message, Governor Ducey expressed concerns about the lack of funding for implementation.

Elections

Bills passed:

Initiative Reform Bills:

This year, the business community pushed a number of provisions aimed at reforming the citizens' initiative process. The provisions were broken up into three bills, two of which passed and were signed into law, and a third of which did not pass (SB 1236). The bills' proponents argued that these changes are necessary to maintain the integrity of the initiative process and prevent out-of-state interests from hijacking Arizona's laws. However, opponents countered that the initiative reform bills undermine the citizens' initiative process by making it more difficult and more expensive to collect the requisite signatures. Both bills passed on party-line votes and have been signed into law. However, paperwork has been filed to refer both bills to the 2018 ballot through the referendum process. Opponents of the bills have until the general effective date (August 9th) to collect 75,321 signatures for each bill; if they are successful, the bills will not go into law at that time and instead be referred to the 2018 general election ballot.

- **HB 2244: initiatives; standard of review; handbook** (E. Farnsworth) - modifies the current standard for initiatives from *substantial compliance* to *strict compliance*; also requires the Secretary of State to publish an initiative, referendum and recall handbook and make available a sample initiative petition for use by any Committee.
- **HB 2404 – initiatives; circulators; signature collection; contests** (Leach) – prohibits petition circulators from being paid on a per-signature basis and classifies an offense as a Class 1 misdemeanor. The bill also extends the length of time during which any person is allowed to commence a challenge of a circulator's lawful registration in the appropriate county superior court from 5 days to 10 business days after the date by which petitions are required to be filed. Finally, HB 2404 permits a person or organization that submits an application or a PAC that intends to support or oppose a measure to submit a copy of the proposed law, referral or amendment to the Director of Legislative Council at any time after filing an application.

SB 1200: elections; candidates; requirements – Kavanagh

SIGNED

SB 1200 establishes additional requirements for filing candidate nomination papers and outlines procedures for filling candidate vacancies and candidate restrictions for multiple offices. Specifically, it requires that a candidate for partisan office be continuously registered with the political party of which the person desires to be a candidate no later than the date of the first petition signature on the candidates petition through the date of the election. It passed the Senate 26-4 and passed the House 43-15; the governor signed it into law on April 17th.

SB 1307: voter registration; presidential elector deadlines – Kavanagh

SIGNED

A response to some confusion during the 2016 presidential preference election, SB 1307 stipulates that if the 29th day preceding the election date falls on a Saturday, Sunday or other legal holiday, voter registrations received on the next immediate business day are deemed to be timely received for the purposes of voting in that election. The bill also modifies the filing deadline for a presidential elector nomination from 90 to 120 days before the primary election to allow filing no more than 10 days after the primary election. It passed both chambers unanimously and was signed into law on May 2nd.

Bills that failed to pass:

HB 2320: ballot measures; proposition 105 disclosures – Ugenti-Rita

FAILED

Some members of the legislature, including Representative Michelle Ugenti-Rita (R – Scottsdale), believe that the problem is not with the citizens' initiative process but with the voter protection act, which prohibits the legislature from amending a law passed at the ballot except with a 3/4 majority and then only in furtherance of the ballot measure. HB 2320 was one of several bills sponsored by Representative Ugenti-Rita to address this issue. It requires a statement to be printed on all ballot propositions that make statutory changes stating that the measure "cannot be changed in the future if approved on the ballot except by a 3/4 vote of the legislature and if the change furthers the purpose of the original ballot measure, or by referring the change to the ballot". The statement must also be included in the publicity pamphlet printed by the Secretary of State and included on any advertisement or fundraising solicitation to support or oppose the measure. The bill passed out of the House on a party-line vote and was referred to the Senate Judiciary Committee where it failed to receive a hearing.

HCR 2002: repeal 1998 proposition 105 – Ugenti-Rita

FAILED

HCR 2002 requires the 2018 general election ballot to carry the question of whether to amend the state Constitution for the purpose of repealing the Voter Protection amendment and instead provide that the veto power of the governor or the power of the legislature to repeal or amend does not extend to initiative or referendum measures approved by a majority of the qualified electors. It passed out of the House on a party-line vote and was referred to the Senate Judiciary Committee where it failed to receive a hearing.

HCR 2007: proposition 105; exempt referenda – Ugenti-Rita

FAILED

HCR 2007 requires the 2018 general election ballot to carry the question of whether to amend the state Constitution for the purpose of exempting the legislative referendum from the Voter Protection amendment. It passed out of the House on a party-line vote and was referred to the Senate Judiciary Committee where it failed to receive a hearing.

SB 1236: statewide petition circulators; registration; committees – Lesko

FAILED

The House Appropriations strike-everything amendment tacked on several initiative reform provisions, some of which were included in bills that passed. SB 1236 requires paid circulators that receive compensation for obtaining signatures on a statewide initiative or referendum petition to register with

the Secretary of State's office and prohibits any person that has committed a civil or criminal penalty for a violation of election, initiative or referendum law within the last five years or has committed a felony and has not had their rights restored from registering as a paid circulator. A challenge regarding the lawful registration of circulators can be brought within 10 days after the day on which the petition is required to be filed with the Secretary of State and any criminal violation by a paid circulator is deemed a violation by the person or organization proposing the measure. It also requires any advertisement, fundraising solicitation and publicity pamphlet for a statewide ballot measure to include a disclosure stating that, in accordance with state law, an affirmative vote of the ballot measure cannot be changed except by a three-fourths vote of the state legislature and if the change furthers the purpose of the original ballot measure or if referred to the ballot. The House approved the amended bill on a party-line vote, but it never received a final vote in the Senate.

Environment

Bills passed:

HB 2112: multi-county water district; directors; elections – Finchem

SIGNED

This bill changes the requirements for a person to serve on the board of directors for multi-county water districts such as the Central Arizona Project. This bill would essentially prevent a CAP employee or the spouse of a CAP employee from serving on the Board of Directors. On March 13th, this bill was amended in committee to remove a requirement that would have required candidates for the CAP Board to have their party designation denoted on the ballot for elections. This bill was signed into law on May 10th.

HB 2152: emissions credits; voluntary emissions bank – Bowers

SIGNED

HB 2152 provides both new and expanding Arizona businesses added opportunity in meeting mandatory federal Clean Air Act requirements to improve air quality, and may serve as a draw for new industries to locate to our state. Prior to the passage of HB 2152, surplus emissions reductions deposits to Arizona's emissions bank, which can be purchased by new or expanding businesses to meet Clean Air Act permitting requirements, were accepted only from permitted industrial facilities (traditional sources). Surplus emissions reductions are generated when a company reduces its air emissions below legal limits. HB 2152 expands the emissions bank to accept deposits from "non-traditional sources," such as reductions generated through electrification of vehicle fleets. Allowing deposits from non-traditional sources will significantly increase the number of credits that could be deposited. For example, Maricopa County reports that 86 percent of contaminants that contribute to ozone generation come from non-traditional sources, mostly vehicles. This bill provides both an economic and environmental opportunity because it supports business growth in Arizona and incentivizes further air emissions reductions through a voluntary free-market sale process. Key provisions of the bill include:

- Clarification that the State does not receive any new authority to establish emissions limits for stationary or mobile sources, participation in the emissions bank is voluntary and credits do not expire.
- Prohibits banked credit sweeps by ADEQ or any other entity; and
- Allows non-traditional credits to be banked.

This bill was passed with bipartisan support and signed into law on May 1st.

HJR 2002: lower Colorado Basin; forbearance authority – Barton

SIGNED

HJR 2002 allows the Arizona Department of Water Resources Director to obligate the state to the "domestic agreements" that are a necessary part of a binational agreement with Mexico that benefits

Colorado River water supplies and Lake Mead. The agreement among the Lower Basin Colorado River states of Arizona, California and Nevada to leave “intentionally created surplus” (ICS) water created in Mexico in Lake Mead are ancillary to a pending binational agreement between the U.S. and Mexico that is tentatively known as “Minute 32x.” The current binational agreement – Minute 319 – expires at the end of 2017. The result of the binational agreement and the domestic agreements will assure that Colorado River water contractors retain 100% of the ICS that they secure from Mexico with no risk that any of their ICS will be claimed by another state. While ICS remains in storage, it props up the elevation of Lake Mead and prevents triggering delivery shortages under guidelines established in a 2007 agreement among Colorado River water users. HJR 2002 authorizes the director to enter those agreements to forbear its rights to use certain quantities of ICS from the Colorado River under certain conditions. HJR 2002 was substituted in the Senate for identical SJR 1003 and passed unanimously out of both chambers. The governor signed the resolution and sent it to the secretary of state on March 2nd.

SB 1114: outdoor advertising – Borelli

SIGNED

SB 1114 modifies the area where electronic billboards will be allowed out just 40 miles from Bullhead City, and it specifically prohibits the signs south of Interstate 40 as well as any closer than about 40 miles to Hoover Dam. The measure also contains illumination limits after sunset, and only 35 signs would be allowed within the area. SB 1114 also requires the signs be turned off each night at 11 p.m. Senator Sonny Borelli (R – Lake Havasu City) attempted to pass similar legislation in 2016; however, that legislation included a much larger area in which billboards would have been allowed, and faced significant opposition from the astronomy community and local elected officials. SB 1114 passed the House 35-18 and passed the Senate 20-8; it was signed into law on May 1st.

Bills that failed to pass:

HB 2130: water quality; maximum daily load – Bowers

FAILED

The Maximum Daily Load program is administered by ADEQ to help impaired lakes and streams meet water quality standards for their intended uses. The program applies to impaired waters listed by the state in accordance with the federal Clean Water Act. Under the program, ADEQ submits to the EPA a list of waters and a schedule to establish the total maximum daily load (i.e. amount of pollutant) every two years. HB 2130 would require ADEQ to submit a report to the governor, House speaker, and Senate president detailing progress under the program by September 1st of each year. It passed out of the House Environment committee but never received a vote on the House floor.

HB 2330: water augmentation systems; tax credit – Campbell

FAILED

HB 2330 would have introduced a tax credit for the installation of a "Residential Water Augmentation System," which is defined as either a rainwater harvesting system or a residential graywater system. The tax credit is equal to 25 percent of the cost of the system up to a maximum of \$1,000. The tax credit would be available from through January 1, 2026. The bill limits the annual amount for the tax credit that the state can allow to \$250,000. A similar tax credit for graywater systems was effective for tax years 2007 through 2011, although some have questioned how effective it was at incentivizing graywater use. HB 2330 passed out of the House Ways and Means committee but was held in Rules.