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REFERENCE TITLE: provisional community colleges; financing

State of Arizona
House of Representatives
Forty-sixth Legislature
Second Regular Session
2004

HB 2147

Introduced by
Representatives Konopnicki, Flake: Senator Brown

AN ACT

AMENDING SECTIONS 15-784, 15-1409 AND 42-5029, ARIZONA REVISED STATUTES;
RELATING TO COMMUNITY COLLEGES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 15-784, Arizona Revised Statutes, is amended to
3 read:
4 15-784. Vocational education; acceptance of congressional acts;
5 appropriation; distribution of federal monies
6 A. The state assents to the provisions and accepts the benefits of the
7 vocational education act of 1917, as amended, and the Carl D. Perkins
8 vocational education act of 1984, as amended by the Carl D. Perkins
9 vocational and applied technological education act amendments of 1990, as
10 amended by the Carl D. Perkins vocational and applied technology act of 1998.
11 B. The state board of education is the state board of vocational
12 education for the purposes of the acts. The state treasurer is designated
13 custodian for vocational education for the purposes of the acts. The state
14 treasurer shall receive and provide for the custody and disbursement of all
15 monies paid to the state for the purposes of vocational education.
16 C. There is appropriated from the general fund of the state sufficient
17 monies to meet the requirements of the acts of Congress.
18 D. The state board of education may distribute the monies it receives
19 as provided in subsection A to any eligible recipient of the monies under the
20 federal law.
21 E. The state board of education shall distribute to the community
22 college districts in this state at least fifteen per cent of the monies
23 received as provided in subsection A. ~~Provisional community college~~
24 ~~districts are not eligible to receive monies pursuant to this section.~~
25 Sec. 2. Section 15-1409, Arizona Revised Statutes, is amended to read:
26 15-1409. Provisional community college districts; formation;
27 provisional community college district governing
28 board; powers and duties; program termination
29 A. A provisional community college district shall contract with an
30 existing community college district to provide instructional and student
31 services within the provisional community college district.
32 B. The minimum assessed valuation and population requirements
33 prescribed in section 15-1402 do not apply to provisional community college
34 districts.
35 C. A provisional community college district shall be formed and a
36 provisional community college district board shall be elected in the same
37 manner prescribed in sections 15-1403, 15-1404 and 15-1441, except that the
38 county board of supervisors by majority vote may adopt a resolution to submit
39 the question of the formation of a provisional community college district and
40 the approval of a proposed tax rate to fund the provisional community college
41 district directly to the qualified electors of the county at a special or
42 general election called for that purpose as prescribed in section 16-204 and
43 title 35, chapter 3, article 3. The resolution adopted by the county board
44 of supervisors shall include a statement that the primary property tax levy
45 limit for the provisional community college district shall be no less than

1 the levy limit of the most recently formed community college district in this
2 state.

3 D. Except as provided in this section, a provisional community college
4 district governing board has the same powers and duties specified in section
5 15-1444 for community college districts.

6 E. A provisional community college district shall not award degrees,
7 certificates or diplomas.

8 F. A provisional community college district is not eligible to receive
9 equalization aid pursuant to section 15-1468 or state contribution for
10 capital outlay for initial or additional campuses pursuant to section
11 15-1463.

12 G. The state aid eligibility requirements prescribed in section
13 15-1466, subsection G, paragraphs 1 and 2 do not apply to provisional
14 community college districts. **NOTWITHSTANDING SECTION 15-1466.01, IF THE**
15 **QUALIFIED ELECTORS OF THE COUNTY HAVE APPROVED THE FORMATION OF A PROVISIONAL**
16 **COMMUNITY COLLEGE DISTRICT AND HAVE APPROVED A TAX RATE TO FUND THE**
17 **PROVISIONAL COMMUNITY COLLEGE DISTRICT, THE PROVISIONAL COMMUNITY COLLEGE**
18 **DISTRICT IS ENTITLED TO STATE AID PURSUANT TO SECTION 15-1466 AND STATE AID**
19 **PER CAPITA FOR CAPITAL OUTLAY PURSUANT TO SECTION 15-1464 DURING THE**
20 **PROVISIONAL COMMUNITY COLLEGE DISTRICT'S FIRST AND SECOND YEARS OF OPERATION**
21 **BASED ON THE PROVISIONAL COMMUNITY COLLEGE'S ESTIMATE OF THE FULL-TIME**
22 **EQUIVALENT STUDENT ENROLLMENT FOR EACH OF THE FIRST TWO YEARS OF OPERATION. A**
23 **PROVISIONAL COMMUNITY COLLEGE DISTRICT'S STATE AID PAYMENTS SHALL BE ADJUSTED**
24 **DURING THE THIRD YEAR OF OPERATION BASED ON ANY DISCREPANCIES BETWEEN THE**
25 **ESTIMATED FULL-TIME EQUIVALENT STUDENT ENROLLMENT DURING THE FIRST TWO YEARS**
26 **OF OPERATION AND THE ACTUAL FULL-TIME EQUIVALENT STUDENT ENROLLMENT FOR THOSE**
27 **TWO YEARS AS DETERMINED BY THE AUDITOR GENERAL PURSUANT TO SECTION 15-**
28 **1466.01.**

29 H. Notwithstanding any other law, the same student shall not be
30 counted twice as a full-time equivalent student in both a provisional
31 community college district and a community college district. Notwithstanding
32 any other law, beginning with the fiscal year after the year in which the
33 provisional community college district is formed and has established its
34 primary tax rate, a district that provides services in a provisional district
35 pursuant to section 15-1470 shall no longer count these students in the
36 district's full-time equivalent student count.

37 I. If a provisional community college district is converted into a
38 community college district by the formation of a community college district
39 pursuant to section 15-1402, the provisional community college district is
40 dissolved and any equipment, property, personnel, liabilities and assets are
41 transferred to the community college district.

42 J. If a provisional community college district is formed in a county
43 that provides reimbursement for the attendance of nonresident state students
44 pursuant to section 15-1469, that county shall continue to provide
45 reimbursement payments to community college districts for the remainder of

1 the fiscal year in which the provisional community college district is
2 formed, provided that the county board of supervisors adopts a levy that is
3 at least equal to the sum of the reimbursement payments and the amount of the
4 community college services provided in the fiscal year immediately before the
5 formation of the provisional community college district.

6 K. The board of supervisors of a county that has formed a provisional
7 community college district may by majority vote enter into an
8 intergovernmental agreement to loan monies to the governing board of the
9 provisional community college district in an amount that does not exceed two
10 hundred thousand dollars. Any loan pursuant to this subsection shall be
11 repaid from the next scheduled collection of property taxes to fund the
12 provisional community college district. The annual interest charges on any
13 loan pursuant to this subsection shall not exceed five per cent.

14 L. The provisional community college district program established by
15 this section ends on July 1, 2009 pursuant to section 41-3102.

16 Sec. 3. Subject to the requirements of article IV, part 1, section 1,
17 subsection (6), Constitution of Arizona, section 42-5029, Arizona Revised
18 Statutes, is amended to read:

19 42-5029. Remission and distribution of monies; definition

20 A. The department shall deposit, pursuant to sections 35-146 and
21 35-147, all revenues collected under this article and articles 4, 5, 8 and 9
22 of this chapter pursuant to section 42-1116, separately accounting for:

23 1. Payments of estimated tax under section 42-5014, subsection D.

24 2. Revenues collected pursuant to section 42-5070.

25 3. Revenues collected under this article and article 5 of this chapter
26 from and after June 30, 2000 from sources located on Indian reservations in
27 this state.

28 4. Revenues collected pursuant to section 42-5010, subsection G and
29 section 42-5155, subsection D.

30 B. The department shall credit payments of estimated tax to an
31 estimated tax clearing account and each month shall transfer all monies in
32 the estimated tax clearing account to a fund designated as the transaction
33 privilege and severance tax clearing account. The department shall credit
34 all other payments to the transaction privilege and severance tax clearing
35 account, separately accounting for the monies designated as distribution base
36 under sections 42-5010, 42-5164, 42-5205, 42-5353 and 42-5409. Each month
37 the department shall report to the state treasurer the amount of monies
38 collected pursuant to this article and articles 4, 5, 8 and 9 of this
39 chapter.

40 C. On notification by the department, the state treasurer shall
41 distribute the monies deposited in the transaction privilege and severance
42 tax clearing account in the manner prescribed by this section and by sections
43 42-5164, 42-5205, 42-5353 and 42-5409, after deducting warrants drawn against
44 the account pursuant to sections 42-1118 and 42-1254.

1 D. Of the monies designated as distribution base the department shall:

2 1. Pay twenty-five per cent to the various incorporated municipalities
3 in this state in proportion to their population to be used by the
4 municipalities for any municipal purpose.

5 2. Pay 38.08 per cent to the counties in this state by averaging the
6 following proportions:

7 (a) The proportion that the population of each county bears to the
8 total state population.

9 (b) The proportion that the distribution base monies collected during
10 the calendar month in each county under this article, section 42-5164,
11 subsection B, section 42-5205, subsection B and sections 42-5353 and 42-5409
12 bear to the total distribution base monies collected under this article,
13 section 42-5164, subsection B, section 42-5205, subsection B and sections
14 42-5353 and 42-5409 throughout the state for the calendar month.

15 3. Pay an additional 2.43 per cent to the counties in this state as
16 follows:

17 (a) Average the following proportions:

18 (i) The proportion that the assessed valuation used to determine
19 secondary property taxes of each county, after deducting that part of the
20 assessed valuation that is exempt from taxation at the beginning of the month
21 for which the amount is to be paid, bears to the total assessed valuations
22 used to determine secondary property taxes of all the counties after
23 deducting that portion of the assessed valuations that is exempt from
24 taxation at the beginning of the month for which the amount is to be paid.
25 Property of a city or town that is not within or contiguous to the municipal
26 corporate boundaries and from which water is or may be withdrawn or diverted
27 and transported for use on other property is considered to be taxable
28 property in the county for purposes of determining assessed valuation in the
29 county under this item.

30 (ii) The proportion that the distribution base monies collected during
31 the calendar month in each county under this article, section 42-5164,
32 subsection B, section 42-5205, subsection B and sections 42-5353 and 42-5409
33 bear to the total distribution base monies collected under this article,
34 section 42-5164, subsection B, section 42-5205, subsection B and sections
35 42-5353 and 42-5409 throughout the state for the calendar month.

36 (b) If the proportion computed under subdivision (a) of this paragraph
37 for any county is greater than the proportion computed under paragraph 2 of
38 this subsection, the department shall compute the difference between the
39 amount distributed to that county under paragraph 2 of this subsection and
40 the amount that would have been distributed under paragraph 2 of this
41 subsection using the proportion computed under subdivision (a) of this
42 paragraph and shall pay that difference to the county from the amount
43 available for distribution under this paragraph. Any monies remaining after
44 all payments under this subdivision shall be distributed among the counties
45 according to the proportions computed under paragraph 2 of this subsection.

1 4. After any distributions required by sections 42-5030, 42-5030.01,
2 42-5031, 42-5032 and 42-5032.01, and after making any transfer to the water
3 quality assurance revolving fund as required by section 49-282, subsection B,
4 credit the remainder of the monies designated as distribution base to the
5 state general fund. From this amount:

6 (a) The legislature shall annually appropriate to:

7 (i) The department of revenue sufficient monies to administer and
8 enforce this article and articles 5, 8 and 9 of this chapter.

9 (ii) The department of economic security monies to be used for the
10 purposes stated in title 46, chapter 1.

11 (iii) The Arizona arts endowment fund established by section 41-986,
12 the full amount by which revenues derived from the amusement classification
13 pursuant to section 42-5073 for the current fiscal year exceed the revenues
14 that were derived from that classification in fiscal year 1993-1994, except
15 that this amount shall not exceed two million dollars through fiscal year
16 2008-2009.

17 (iv) The firearms safety and ranges fund established by section
18 17-273, fifty thousand dollars derived from the taxes collected from the
19 retail classification pursuant to section 42-5061 for the current fiscal
20 year.

21 (b) The state treasurer shall transfer to the tourism fund an amount
22 equal to the sum of the following:

23 (i) Three and one-half per cent of the gross revenues derived from the
24 transient lodging classification pursuant to section 42-5070 during the
25 preceding fiscal year.

26 (ii) Three per cent of the gross revenues derived from the amusement
27 classification pursuant to section 42-5073 during the preceding fiscal year.

28 (iii) Two per cent of the gross revenues derived from the restaurant
29 classification pursuant to section 42-5074 during the preceding fiscal year.

30 E. If approved by the qualified electors voting at a statewide general
31 election, all monies collected pursuant to section 42-5010, subsection G and
32 section 42-5155, subsection D shall be distributed each fiscal year pursuant
33 to this subsection. The monies distributed pursuant to this subsection are
34 in addition to any other appropriation, transfer or other allocation of
35 public or private monies from any other source and shall not supplant,
36 replace or cause a reduction in other school district, charter school,
37 university or community college funding sources. The monies shall be
38 distributed as follows:

39 1. If there are outstanding state school facilities revenue bonds
40 pursuant to title 15, chapter 16, article 7, each month one-twelfth of the
41 amount that is necessary to pay the fiscal year's debt service on outstanding
42 state school improvement revenue bonds for the current fiscal year shall be
43 transferred each month to the school improvement revenue bond debt service
44 fund established by section 15-2084. The total amount of bonds for which
45 these monies may be allocated for the payment of debt service shall not

1 exceed a principal amount of eight hundred million dollars exclusive of
2 refunding bonds and other refinancing obligations.

3 2. After any transfer of monies pursuant to paragraph 1 of this
4 subsection, twelve per cent of the remaining monies collected during the
5 preceding month shall be transferred to the technology and research
6 initiative fund established by section 15-1648 to be distributed among the
7 universities for the purpose of investment in technology and research-based
8 initiatives.

9 3. After the transfer of monies pursuant to paragraph 1 of this
10 subsection, three per cent of the remaining monies collected during the
11 preceding month shall be transferred to the workforce development account
12 established in each community college district pursuant to section 15-1472
13 for the purpose of investment in workforce development programs.

14 4. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
15 subsection, one-twelfth of the amount a community college that is owned,
16 operated or chartered by a qualifying Indian tribe on its own Indian
17 reservation would receive pursuant to section 15-1472, subsection D,
18 paragraph 2 if it were a community college district shall be distributed each
19 month to the treasurer or other designated depository of a qualifying Indian
20 tribe. Monies distributed pursuant to this paragraph are for the exclusive
21 purpose of providing support to one or more community colleges owned,
22 operated or chartered by a qualifying Indian tribe and shall be used in a
23 manner consistent with section 15-1472, subsection B. For purposes of this
24 paragraph, "qualifying Indian tribe" has the same meaning as defined in
25 section 42-5031.01, subsection D.

26 5. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
27 subsection, one-twelfth of the following amounts shall be transferred each
28 month to the department of education for the increased cost of basic state
29 aid under section 15-971 due to added school days and associated teacher
30 salary increases enacted in 2000:

31 (a) In fiscal year 2001-2002, \$15,305,900.

32 (b) In fiscal year 2002-2003, \$31,530,100.

33 (c) In fiscal year 2003-2004, \$48,727,700.

34 (d) In fiscal year 2004-2005, \$66,957,200.

35 (e) In fiscal year 2005-2006 and each fiscal year thereafter,
36 \$86,280,500.

37 6. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
38 subsection, seven million eight hundred thousand dollars is appropriated each
39 fiscal year, to be paid in monthly installments, to the department of
40 education to be used for school safety as provided in section 15-154 and two
41 hundred thousand dollars is appropriated each fiscal year, to be paid in
42 monthly installments to the department of education to be used for the
43 character education matching grant program as provided in section 15-154.01.

1 7. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
2 subsection, no more than seven million dollars may be appropriated by the
3 legislature each fiscal year to the department of education to be used for
4 accountability purposes as described in section 15-241 and title 15, chapter
5 9, article 8.

6 8. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
7 subsection, one million five hundred thousand dollars is appropriated each
8 fiscal year, to be paid in monthly installments, to the failing schools
9 tutoring fund established by section 15-241.

10 9. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
11 subsection, twenty-five million dollars shall be transferred each fiscal year
12 to the state general fund to reimburse the general fund for the cost of the
13 income tax credit allowed by section 43-1072.01.

14 10. After the payment of monies pursuant to paragraphs 1 through 9 of
15 this subsection, the remaining monies collected during the preceding month
16 shall be transferred to the classroom site fund established by section
17 15-977. The monies shall be allocated as follows in the manner prescribed by
18 section 15-977:

19 (a) Forty per cent shall be allocated for teacher compensation based
20 on performance.

21 (b) Twenty per cent shall be allocated for increases in teacher base
22 compensation and employee related expenses.

23 (c) Forty per cent shall be allocated for maintenance and operation
24 purposes.

25 F. The department shall credit the remainder of the monies in the
26 transaction privilege and severance tax clearing account to the state general
27 fund, subject to any distribution required by section 42-5030.01.

28 G. Notwithstanding subsection D of this section, if a court of
29 competent jurisdiction finally determines that tax monies distributed under
30 this section were illegally collected under this article or articles 5, 8 and
31 9 of this chapter and orders the monies to be refunded to the taxpayer, the
32 department shall compute the amount of such monies that was distributed to
33 each city, town and county under this section. The department shall notify
34 the state treasurer of that amount plus the proportionate share of additional
35 allocated costs required to be paid to the taxpayer. Each city's, town's and
36 county's proportionate share of the costs shall be based on the amount of the
37 original tax payment each municipality and county received. Each month the
38 state treasurer shall reduce the amount otherwise distributable to the city,
39 town and county under this section by one thirty-sixth of the total amount to
40 be recovered from the city, town or county until the total amount has been
41 recovered, but the monthly reduction for any city, town or county shall not
42 exceed ten per cent of the full monthly distribution to that entity. The
43 reduction shall begin for the first calendar month after the final
44 disposition of the case and shall continue until the total amount, including
45 interest and costs, has been recovered.

1 H. On receiving a certificate of default from the greater Arizona
2 development authority pursuant to section 41-1554.06 or 41-1554.07 and to the
3 extent not otherwise expressly prohibited by law, the state treasurer shall
4 withhold from the next succeeding distribution of monies pursuant to this
5 section due to the defaulting political subdivision the amount specified in
6 the certificate of default and immediately deposit the amount withheld in the
7 greater Arizona development authority revolving fund. The state treasurer
8 shall continue to withhold and deposit the monies until the greater Arizona
9 development authority certifies to the state treasurer that the default has
10 been cured. In no event may the state treasurer withhold any amount that the
11 defaulting political subdivision certifies to the state treasurer and the
12 authority as being necessary to make any required deposits then due for the
13 payment of principal and interest on bonds of the political subdivision that
14 were issued before the date of the loan repayment agreement or bonds and that
15 have been secured by a pledge of distributions made pursuant to this section.

16 I. Except as provided by sections 42-5033 and 42-5033.01, the
17 population of a county, city or town as determined by the most recent United
18 States decennial census plus any revisions to the decennial census certified
19 by the United States bureau of the census shall be used as the basis for
20 apportioning monies pursuant to subsection D of this section.

21 J. For the purposes of this section, "community college district"
22 means a community college district THAT IS established pursuant to sections
23 15-1402 and 15-1403 AND that is a political subdivision of this state AND
24 INCLUDES PROVISIONAL COMMUNITY COLLEGE DISTRICTS ESTABLISHED PURSUANT TO
25 SECTION 15-1409.

26 Sec. 4. Requirements for enactment; three-fourths vote

27 Pursuant to article IV, part 1, section 1, subsection (6), Constitution
28 of Arizona, section 42-5029, Arizona Revised Statutes, as amended by this
29 act, is effective only on the affirmative vote of at least three-fourths of
30 the members of each house of the legislature.