

REFERENCE TITLE: general revenues; budget reconciliation.

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HB 2871

Introduced by
Representative Weiers J (with permission of committee on Rules)

AN ACT

REPEALING SECTION 15-1306, ARIZONA REVISED STATUTES; AMENDING SECTIONS 36-1947, 41-704, 42-1116, 42-5014, 42-5033.01, 42-5252 AND 42-5253, ARIZONA REVISED STATUTES; AMENDING SECTION 42-5014, ARIZONA REVISED STATUTES, AS AMENDED BY THIS ACT; MAKING APPROPRIATIONS; RELATING TO GENERAL REVENUES BUDGET RECONCILIATION; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Repeal

3 Section ~~15-1306~~, Arizona Revised Statutes, is repealed.

4 Sec. 2. Section 36-1947, Arizona Revised Statutes, is amended to read:
5 ~~36-1947.~~ Telecommunication devices for the deaf and the hearing
6 and speech impaired; fund

7 A. The commission shall establish and administer a statewide program
8 to purchase, repair and distribute telecommunication devices to residents of
9 this state who are deaf or severely hearing or speech impaired and establish
10 a dual party relay system making all phases of public telephone service
11 available to persons who are deaf or severely hearing or speech impaired.

12 B. The commission may adopt administrative procedures, rules, criteria
13 and forms to establish and administer the telecommunication device program
14 under this section.

15 C. Telecommunication devices furnished by the commission under this
16 section remain the property of this state. A person who receives a
17 telecommunication device from the commission under this section is liable for
18 the loss of or damage to the device. The commission may impose a civil
19 penalty against the person in an amount equal to the cost of the device or
20 the amount of damage done to the device. If a person objects to the
21 imposition of a civil penalty, the commission shall conduct a hearing as
22 prescribed in title 41, chapter 6, article 10. Monies collected by the
23 commission under this subsection shall be deposited in the telecommunication
24 fund for the deaf established by subsection D of this section.

25 D. The telecommunication fund for the deaf is established. The
26 commission shall administer the fund. Monies in the fund shall be derived
27 from the telecommunication services excise tax ~~levied under~~ REVENUES
28 ~~DISTRIBUTED PURSUANT TO~~ section 42-5252, subsection ~~A B~~, ~~paragraph 4~~.
29 Interest accruing to the fund shall be deposited in the fund. Monies in the
30 fund are exempt from section 35-190 relating to lapsing of appropriations.
31 Subject to legislative appropriation, the commission shall use fund monies to
32 purchase and repair telecommunication devices, to administer the program
33 established by this section and for the operating costs of the commission.

34 Sec. 3. Section 41-704, Arizona Revised Statutes, is amended to read:
35 ~~41-704.~~ Emergency telecommunication services; administration;
36 revolving fund

37 A. The director of the department of administration shall:

38 1. Adopt rules and procedures for administering and disbursing monies
39 deposited in the emergency telecommunication services revolving fund, and at
40 least quarterly review and approve requests by political subdivisions of this
41 state for payment for operating emergency telecommunication service systems.

42 2. In fiscal year 2001-2002 and every two years thereafter, recommend
43 to the legislature the amount of the telecommunication services excise tax
44 that will be required during the following two fiscal years for purposes of
45 this section, with supporting documentation and information. The legislature

1 shall review the recommendation and take legislative action regarding the
2 recommendation.

3 ~~3. Separately account for costs associated with wireless access~~
4 ~~service for emergency telecommunication service systems and report those~~
5 ~~costs to the president of the senate and the speaker of the house of~~
6 ~~representatives by December 31, 2002.~~

7 B. An emergency telecommunication services revolving fund is
8 established to be administered by the director. The fund shall be used for:

9 1. Necessary or appropriate equipment or service for implementing and
10 operating emergency telecommunication services through political subdivisions
11 of this state. Priority shall be given to establishing emergency
12 telecommunication services in those areas of the state that are without
13 emergency telecommunication services.

14 2. Necessary or appropriate administrative costs or fees for
15 consultants' services, not to exceed three per cent of the amounts deposited
16 annually in the revolving fund. For fiscal years beginning after June 30,
17 2001, the department may use up to two-thirds of the three per cent of the
18 amounts deposited annually in the revolving fund for administrative costs.
19 The remainder of the three per cent may be allocated for local network
20 management of contracts with public safety answering points for emergency
21 telecommunication services.

22 3. Monthly recurring costs of emergency telecommunication services,
23 including expenditures for capital, maintenance and operation purposes.

24 4. A wireless carrier's costs associated with the provision,
25 development, design, construction and maintenance of the wireless emergency
26 telecommunication services in an amount that the wireless carrier has not
27 recovered through the deduction mechanism specified in federal law.

28 C. At the end of each fiscal year, any unexpended monies in the fund,
29 including interest, shall be carried over and do not revert to the general
30 fund but shall be applied to the extent possible to reduce the levy under
31 section 42-5252, subsection A, ~~paragraphs 1, 2 and 3~~ for the following fiscal
32 year.

33 Sec. 4. Section 42-1116, Arizona Revised Statutes, is amended to read:

34 42-1116. Disposition of tax revenues

35 A. The department shall promptly deposit, pursuant to sections 35-146
36 and 35-147, all monies it collects from the taxes administered pursuant to
37 this article except the telecommunication services excise tax, separately
38 accounting for each type of tax and each tax classification within each type
39 of tax. At the same time the department of revenue shall also furnish copies
40 of the transmittal schedules to the director of the department of
41 administration.

42 B. Except as provided by subsection C of this section, the department
43 shall deposit all monies and remittances received under this section to the
44 credit of the following specific funds and accounts:

1 after December 31, 1998, the department may, for any taxpayer whose estimated
2 annual liability for taxes imposed by this article is five hundred dollars or
3 less, authorize such taxpayer to pay such taxes on an annual basis.

4 C. The department may require a taxpayer whose business is of a
5 transient character to file the return and remit the taxes imposed by this
6 article on a daily, a weekly or a transaction by transaction basis, and those
7 returns and payments are due and payable on the date fixed by the department
8 without a grace period otherwise allowed by this section. For purposes of
9 this subsection, "business of a transient character" means sales activity by
10 a taxpayer not regularly engaged in selling within the state conducted from
11 vehicles, portable stands, rented spaces, structures or booths, or
12 concessions at fairs, carnivals, circuses, festivals or similar activities
13 for not more than thirty consecutive days.

14 D. If the business entity under which a taxpayer reports and pays
15 income tax under title 43 has an annual total tax liability under this
16 article, article 6 of this chapter and chapter 6, article 3 of this title of
17 ~~one hundred thousand~~ TWO HUNDRED FIFTY THOUSAND dollars or more, based on the
18 actual tax liability in the preceding calendar year, regardless of the number
19 of offices at which the taxes imposed by this article, article 6 of this
20 chapter or chapter 6, article 3 of this title are collected, or if the
21 taxpayer can reasonably anticipate such liability in the current year, the
22 taxpayer shall report on a form prescribed by the department and pay an
23 estimated tax payment each June. Any other taxpayer may voluntarily elect to
24 pay the estimated tax payment pursuant to this subsection. The payment shall
25 be made on or before June 20 and is delinquent if not postmarked on or before
26 that date or if not received by the department on or before the business day
27 preceding the last business day of June for those taxpayers electing to file
28 by mail, or delinquent if not received by the department on the business day
29 preceding the last business day of June for those taxpayers electing to file
30 in person. A taxpayer paying by using the method prescribed in subsection A,
31 paragraph 4 of this section shall make the estimated tax payments on or
32 before June 25, and the payment is delinquent if not transferred by the last
33 day to make the estimated payment. The estimated tax paid shall be credited
34 against the taxpayer's tax liability under this article, article 6 of this
35 chapter and chapter 6, article 3 of this title for the month of June for the
36 current calendar year. The estimated tax payment shall equal either:

37 1. One-half of the actual tax liability under this article plus
38 one-half of any tax liability under article 6 of this chapter and chapter 6,
39 article 3 of this title for May of the current calendar year.

40 2. The actual tax liability under this article plus any tax liability
41 under article 6 of this chapter and chapter 6, article 3 of this title for
42 the first fifteen days of June of the current calendar year.

43 E. The taxpayer shall prepare a return showing the amount of the tax
44 for which the taxpayer is liable for the preceding month, and shall mail or
45 deliver the return to the department in the same manner and time as

1 prescribed for the payment of taxes in subsection A of this section. The
2 return shall be verified by the oath of the taxpayer or an authorized agent
3 or as prescribed by the department pursuant to section 42-1105, subsection B.

4 F. Any person taxable under this article making cash and credit sales
5 shall report such cash and credit sales separately and upon making
6 application may obtain from the department an extension of time for payment
7 of taxes due on the credit sales. The extension shall be granted by the
8 department under such rules as the department prescribes. When the extension
9 is granted, the taxpayer shall thereafter include in each monthly report all
10 collections made on such credit sales during the month next preceding, and
11 shall pay the taxes due at the time of filing such report.

12 G. The returns required under this article shall be made upon forms
13 prescribed by the department.

14 H. The department, for good cause, may extend the time for making any
15 return required by this article, and may grant such reasonable additional
16 time within which to make the return as it deems proper, but the time for
17 filing the return shall not be extended beyond the first day of the third
18 month next succeeding the regular due date of the return.

19 I. The department, with the approval of the attorney general, may
20 abate small tax balances if the administration costs exceed the amount of tax
21 due.

22 J. For the purposes of subsection D of this section, "taxpayer" means
23 the business entity under which the business reports and pays state income
24 taxes regardless of the number of offices at which the taxes imposed by this
25 article, article 6 of this chapter or chapter 6, article 3 of this title are
26 collected.

27 Sec. 6. Section 42-5014, Arizona Revised Statutes, as amended by
28 section 5 of this act, is amended to read:

29 42-5014. Return and payment of tax; estimated tax; extensions;
30 abatements

31 A. Except as provided in subsection B, C or D of this section, the
32 taxes levied under this article are due and payable monthly in the form
33 required by section 42-5018 for the amount of the tax, to the department, on
34 or before the twentieth day of the month next succeeding the month in which
35 the tax accrues and are delinquent:

36 1. If not postmarked on or before the twenty-fifth day of that month.

37 2. If not received by the department on or before the business day
38 preceding the last business day of that month for those taxpayers electing to
39 file by mail.

40 3. If not received by the department on the business day preceding the
41 last business day of that month for those taxpayers electing to file in
42 person.

43 4. If not received by the department on or before the twenty-fifth day
44 of that month for those taxpayers required or electing to pay in immediately
45 available monies pursuant to section 42-1129.

1 B. For tax reporting periods that begin from and after December 31,
2 1998, the department, for any taxpayer whose estimated annual liability for
3 taxes imposed by this article is between five hundred dollars and one
4 thousand two hundred fifty dollars, may authorize such taxpayer to pay such
5 taxes on a quarterly basis. For tax reporting periods that begin from and
6 after December 31, 1998, the department may, for any taxpayer whose estimated
7 annual liability for taxes imposed by this article is five hundred dollars or
8 less, authorize such taxpayer to pay such taxes on an annual basis.

9 C. The department may require a taxpayer whose business is of a
10 transient character to file the return and remit the taxes imposed by this
11 article on a daily, a weekly or a transaction by transaction basis, and those
12 returns and payments are due and payable on the date fixed by the department
13 without a grace period otherwise allowed by this section. For purposes of
14 this subsection, "business of a transient character" means sales activity by
15 a taxpayer not regularly engaged in selling within the state conducted from
16 vehicles, portable stands, rented spaces, structures or booths, or
17 concessions at fairs, carnivals, circuses, festivals or similar activities
18 for not more than thirty consecutive days.

19 D. If the business entity under which a taxpayer reports and pays
20 income tax under title 43 has an annual total tax liability under this
21 article, article 6 of this chapter and chapter 6, article 3 of this title of
22 ~~two hundred fifty thousand~~ ONE MILLION dollars or more, based on the actual
23 tax liability in the preceding calendar year, regardless of the number of
24 offices at which the taxes imposed by this article, article 6 of this chapter
25 or chapter 6, article 3 of this title are collected, or if the taxpayer can
26 reasonably anticipate such liability in the current year, the taxpayer shall
27 report on a form prescribed by the department and pay an estimated tax
28 payment each June. Any other taxpayer may voluntarily elect to pay the
29 estimated tax payment pursuant to this subsection. The payment shall be made
30 on or before June 20 and is delinquent if not postmarked on or before that
31 date or if not received by the department on or before the business day
32 preceding the last business day of June for those taxpayers electing to file
33 by mail, or delinquent if not received by the department on the business day
34 preceding the last business day of June for those taxpayers electing to file
35 in person. A taxpayer paying by using the method prescribed in subsection A,
36 paragraph 4 of this section shall make the estimated tax payments on or
37 before June 25, and the payment is delinquent if not transferred by the last
38 day to make the estimated payment. The estimated tax paid shall be credited
39 against the taxpayer's tax liability under this article, article 6 of this
40 chapter and chapter 6, article 3 of this title for the month of June for the
41 current calendar year. The estimated tax payment shall equal either:

42 1. One-half of the actual tax liability under this article plus
43 one-half of any tax liability under article 6 of this chapter and chapter 6,
44 article 3 of this title for May of the current calendar year.

1 to sections 28-5808, 28-6540, 42-5029 and 43-206 to the city, town or county
2 beginning July 1, 2006 through June 30, 2011.

3 2. A city, town or county may contract with the United States bureau
4 of the census to conduct a sample survey that results in a 2005 resident
5 population and submit the results of that survey to the director of the
6 department of revenue, the director of the department of transportation and
7 the state treasurer. The survey shall also report total resident population
8 in housing units, total resident population in group quarters, total housing
9 units and total occupied housing units for the city, town or county. On
10 submittal, that 2005 resident population, plus any revisions due to
11 annexations certified by the United States bureau of the census, shall be
12 used as the base for the calculation of population estimates for 2006 through
13 2010 by the department of economic security and for distribution of state
14 shared tax revenues pursuant to sections 28-5808, 28-6540, 42-5029 and 43-206
15 to the city, town or county beginning July 1, 2006 through June 30,
16 2011. Any city, town or county contracting for the survey may not exercise
17 the option provided in ~~subsection A~~, paragraph 1 of this ~~section~~ SUBSECTION.

18 3. A city, town or county may request the director of the department
19 of revenue, the director of the department of transportation and the state
20 treasurer to continue to use the 2000 United States decennial census through
21 June 30, 2011 for distribution of state shared tax revenues pursuant to
22 sections 28-5808, 28-6540, 42-5029 and 43-206.

23 B. No later than ~~June 30~~ JULY 31, 2006, the joint legislative budget
24 committee shall prepare a report on the use of population estimates pursuant
25 to this section and shall include a comparison of:

26 1. The population estimate data produced by the department of economic
27 security for purposes of this section with any available census data.

28 2. State shared revenue amounts distributed to cities, towns and
29 counties using the special census or sample survey population data with
30 amounts that would have been distributed using the population estimate data
31 produced by the department of economic security for the purposes of this
32 section.

33 Sec. 8. Section 42-5252, Arizona Revised Statutes, is amended to read:
34 42-5252. Levy of tax

35 A. A tax is levied on every provider in an amount as follows:

36 1. For the fiscal years beginning from and after June 30, 2001 and
37 ending before July 1, 2006, thirty-seven cents per month for each activated
38 wire and wireless service account for the purpose of financing emergency
39 telecommunication services.

40 2. For fiscal year 2006-2007, twenty-eight cents per month for each
41 activated wire and wireless service account for the purpose of financing
42 emergency telecommunication services.

43 3. For the fiscal years beginning from and after June 30, 2007, twenty
44 cents per month for each activated wire and wireless service account for the
45 purpose of financing emergency telecommunication services.

1 B. A TAX IS LEVIED ON EVERY PROVIDER AT THE RATE OF 1.1 PER CENT OF
2 THE PROVIDERS' GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM THE
3 BUSINESS OF PROVIDING EXCHANGE ACCESS SERVICES. REVENUES FROM THE TAX SHALL
4 BE USED

5 ~~4. 0.68 per cent of the provider's gross proceeds of sales or gross~~
6 ~~income derived from the business of providing exchange access services~~ for
7 the purpose of financing telecommunication devices for the deaf and the
8 severely hearing and speech impaired under the program established pursuant
9 to section 36-1947.

10 ~~5. 0.25 per cent of the provider's gross proceeds of sales or gross~~
11 ~~income derived from the business of providing exchange access services~~ for
12 the purpose of financing the Arizona poison control system. These monies
13 shall be deposited in the poison control fund administered by the department
14 of health services and are subject to legislative appropriation.

15 ~~6. 0.16 per cent of the provider's gross proceeds of sales or gross~~
16 ~~income derived from the business of providing exchange access services~~ for
17 the purpose of financing the operating expenses of the Arizona state schools
18 for the deaf and the blind pursuant to section 15-1306.

19 ~~7. 0.01 per cent of the provider's gross proceeds of sales or gross~~
20 ~~income derived from the business of providing exchange access services~~ for
21 the purpose of financing the teratogen information program at the university
22 of Arizona. These monies shall be deposited in the teratogen information
23 program fund administered by the university of Arizona health sciences
24 center.

25 ~~B.~~ C. Each provider shall state on the invoice to customers a
26 separate line item stating the amount of tax levied pursuant to ~~subsection~~
27 ~~SUBSECTIONS A AND B~~ of this section.

28 ~~C.~~ D. Unless the context otherwise requires, article 1 of this
29 chapter governs the administration of the tax imposed under this section.

30 Sec. 9. Section 42-5253, Arizona Revised Statutes, is amended to read:
31 42-5253. Remission and distribution of revenues

32 A. Each provider shall remit monthly to the department the amount of
33 tax due pursuant to section 42-5252, accompanied by an information return as
34 prescribed by the department.

35 B. The department shall deposit, pursuant to sections 35-146 and
36 35-147, all monies remitted pursuant to this article as follows:

37 1. Section 42-5252, subsection A, ~~paragraphs 1, 2 and 3~~ in the
38 emergency telecommunication services revolving fund.

39 2. Section 42-5252, subsection ~~A~~ B, ~~paragraph 4~~ in the
40 telecommunication fund for the deaf.

41 Sec. 10. Lottery deposits

42 Notwithstanding section 5-505, subsection B, Arizona Revised Statutes,
43 for fiscal year 2006-2007, at least 31.6 per cent of the total annual
44 revenues accruing from the sale of multistate lottery tickets shall be
45 deposited in the state lottery fund established by section 5-521, Arizona

1 Revised Statutes, to be used as prescribed in section 5-522, Arizona Revised
2 Statutes, including deposits to the state general fund pursuant to section
3 5-522, subsection F, Arizona Revised Statutes.

4 Sec. 11. Unrestricted federal monies

5 Any unrestricted federal monies received from May 1, 2006 through June
6 30, 2007 shall be deposited in the state general fund. The monies shall be
7 used for the payment of essential governmental services.

8 Sec. 12. Appropriation; towns; population

9 A. The sum of \$850,000 is appropriated from the state general fund in
10 fiscal year 2006-2007 to the department of revenue for distribution to towns
11 with a population of one thousand five hundred persons or less.

12 B. The appropriated monies shall be distributed in the following
13 amounts to the qualifying towns in fiscal year 2006-2007, based
14 proportionately on the difference between each town's 2004 population
15 estimate from the department of economic security and the population of a
16 hypothetical incorporated municipality of one thousand five hundred persons:

17	1. Fredonia	\$ 73,750.
18	2. Patagonia	\$110,620.
19	3. Hayden	\$116,300.
20	4. Duncan	\$131,420.
21	5. Winkleman	\$196,660.
22	6. Jerome	\$221,250.

23 Sec. 13. Urban revenue sharing fund; appropriation; deposit

24 A. The sum of \$684,277,600 is appropriated from the state general fund
25 in fiscal year 2008-2009 for deposit in the urban revenue sharing fund
26 established by section 43-206, subsection A, Arizona Revised Statutes.

27 B. Notwithstanding section 43-206, subsection A, Arizona Revised
28 Statutes, the appropriation in subsection A of this section is in lieu of the
29 transfer of the state income tax revenues to the urban revenue sharing fund
30 in fiscal year 2008-2009 as provided by section 43-206, subsection A, Arizona
31 Revised Statutes.

32 C. The \$684,277,600 deposited in the urban revenue sharing fund
33 pursuant to subsection A of this section shall be distributed to incorporated
34 cities and towns pursuant to section 43-206, subsections B, C, D and E.

35 Sec. 14. Effective date

36 Section 42-1116, Arizona Revised Statutes, as amended by this act, is
37 effective from and after June 30, 2007.

38 Sec. 15. Retroactivity

39 A. Sections 36-1947, 41-704, 42-5033.01, 42-5252 and 42-5253, Arizona
40 Revised Statutes, as amended by this act, apply retroactively to June 30,
41 2006.

42 B. Section 11 of this act, relating to unrestricted federal monies, is
43 effective retroactively to from and after April 30, 2006.

1 Sec. 16. Conditional enactment; notice
2 A. State general fund revenue for fiscal year 2005-2006, not including
3 the beginning balance and including one-time revenues, is forecasted to be
4 \$8,878,726,500. The state general fund revenue forecast for fiscal year
5 2005-2006 includes \$10,000,000 from the transfer of in lieu vehicle
6 inspection fees as part of one-time revenue and \$108,004,400 for
7 disproportionate share revenue. The staff director of the joint legislative
8 budget committee and the governor's office of strategic planning and
9 budgeting may adjust the state general fund revenue forecast for fiscal year
10 2005-2006 to reflect changes in the actual amount of in lieu fee transfers
11 and disproportionate share revenue.
12 B. In addition to any other conditional enactment or appropriation in
13 a budget reconciliation act by the forty-seventh legislature, second regular
14 session, if, as determined by the staff director of the joint legislative
15 budget committee and the governor's office of strategic planning and
16 budgeting, the actual state general fund revenue from fiscal year 2005-2006
17 exceeds the forecast by \$226,000,000 or more, section 42-5014, Arizona
18 Revised Statutes, as amended by section 6 of this act, is effective on the
19 later of the following if the director of the joint legislative budget
20 committee notifies in writing the director of the legislative council that
21 the condition is met:
22 1. The effective date of this act.
23 2. The date the director of the legislative council receives the
24 notice.