

## HOUSE FLOOR AMENDMENT EXPLANATION



Bill Number: **HB 2673**

Olson Floor Amendment

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HB 2673 makes temporary and permanent statutory changes relating to state revenues in order to implement the Fiscal Year (FY) 2016 state budget.

Your 6 page amendment dated 03/07/2015 makes the following changes:

### *Tax Recovery Program (Program)*

- Requires the Director of Department of Revenue (DOR) to establish the Program.
- Requires the Director of DOR to abate or waive all civil penalties and interest for tax liabilities that have been or could be assessed for any taxable period during the applicable liability period if a taxpayer complies with specified requirements.
- Contain provisions relating to program administration, application, Director's authority and definitions.
- Repeals the Program on January 1, 2016.

### *Miscellaneous*

- Removes a section permitting individual and business tax amnesty.
- Removes language requiring the Department of Insurance to report Insurance Premiums Tax collection information periodically during the Fiscal Year (FY) to the Joint Legislative Budget Committee and the Governor's Office of Strategic Planning and Budgeting.
- Removes a portion of language in regard to DOR assessing a fee to each county, city and town that receives state shared revenues, the removal includes language that states:
  - The amount of the fees assessed in each jurisdiction is in proportion to the aggregate amount of monies distributed to the jurisdiction in the preceding FY.
  - Fees may not exceed a total amount of \$20,755,835 from all jurisdictions in any FY.
- Alters language in regard to DOR assessing a fee to each city or town that DOR does not administer and collect transaction privilege tax, the alteration includes language that:

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3/7/2015

- Removes the amount of the fees as \$.76 multiplied by the population of the city or town used for the purposes of computing state shared revenues payable each FY.
- Limits the fee to FY 2016.
- Permits counties, cities and towns to use any fund source to meet their cost sharing obligation and excludes these contributions from applicable expenditure limitations.
- Adds an intent clause that states DOR imposed fees to recover a portion of administrative, program and other operating costs incurred in providing TPT administrative and collection services to local governments:
  - May not exceed \$20,755,835 in any FY.
  - That the share of fees assessed to all counties must be in proportion to the aggregate amount of monies distributed to counties in the preceding two FYs as a percentage of aggregate distributions to all counties, cities and towns in the preceding two FYs.
  - The share of all fees assessed to all cities and towns must be in proportion to the aggregate amount of monies distributed to cities and towns in the preceding two FYs as a percentage of aggregate distribution to all counties, cities and towns in the preceding two FYs.
  - The population of a county, city or town as determined by the most recent United States decennial census plus any revision to the decennial census certified by the United States Census Bureau must be used as the basis for apportioning monies.
  - That fees are payable each FY in an amount equal to \$.76 multiplied by the population of the city or town used for the purpose of computing state shared revenues.

OLSON FLOOR AMENDMENT  
HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2673  
(Reference to printed bill)

1 Page 3, strike lines 1 through 5

2 Reletter to conform

3 Page 11, line 36, after "AS" insert "DETERMINED BY THE DIRECTOR AND AS"

4 Line 42, after the period strike remainder of line; strike lines 43 through 45

5 Page 12, strike lines 1 through 3

6 Line 4, strike "FROM AND AFTER JUNE 30, 2015" insert "IN FISCAL YEAR 2015-2016"

7 Line 6, after the period strike remainder of line; strike lines 7 through 9

8 Between lines 24 and 25, insert:

9 "G. COUNTIES, CITIES AND TOWNS MAY MEET THEIR COST SHARING OBLIGATION  
10 FROM ANY SOURCE OF COUNTY, CITY OR TOWN REVENUE DESIGNATED BY THE APPROPRIATE  
11 COUNTY, CITY OR TOWN. THE COUNTY SOURCES MAY INCLUDE MONIES OF ANY  
12 COUNTYWIDE SPECIAL TAXING JURISDICTION IN WHICH THE BOARD OF SUPERVISORS  
13 SERVES AS THE BOARD OF DIRECTORS.

14 H. COUNTY, CITY AND TOWN CONTRIBUTIONS MADE PURSUANT TO THIS SECTION  
15 ARE EXCLUDED FROM THE APPLICABLE EXPENDITURE LIMITATIONS."

16 Page 17, strike lines 15 through 45

17 Page 18, strike lines 1 through 16, insert:

18 "Sec. 19. Tax recovery; report; delayed repeal; definitions

19 A. Notwithstanding title 42, chapter 1, article 3, Arizona Revised  
20 Statutes, the director of the department of revenue shall establish a tax  
21 recovery program as provided in this section.

22 B. If a taxpayer complies with the requirements of this section by  
23 applying to the department for recovery during the recovery period and  
24 complying with the applicable tax requirements in the time and manner

1 prescribed in this section, the director shall abate or waive all the civil  
2 penalties and interest for tax liabilities that have been or could be  
3 assessed for any taxable period during the applicable liability period  
4 without the need for the taxpayer to show reasonable cause or the absence of  
5 wilful neglect. For the purposes of this subsection, "liability period"  
6 means:

7 1. For taxpayers filing annually, any taxable period ending before  
8 January 1, 2014.

9 2. For all other taxpayers, any taxable period ending before February  
10 1, 2015.

11 C. The director may grant recovery only for the taxable periods and  
12 tax liabilities identified in the application and only if the taxpayer  
13 satisfies all of the recovery conditions and requirements prescribed by this  
14 section.

15 D. To qualify for recovery, the taxpayer must submit a complete and  
16 correct application as provided by subsection F of this section during the  
17 recovery period.

18 E. A taxpayer does not qualify for recovery under this section if:

19 1. The taxpayer is a party to any criminal investigation or to any  
20 criminal administrative proceeding or criminal litigation that is pending on  
21 January 1, 2015 in any court of the United States or of this state for  
22 failure to file or failure to pay, or for fraud with respect to, any tax  
23 imposed by any law of this state and required to be collected by the  
24 department.

25 2. The taxpayer has been the subject of a past tax-related criminal  
26 investigation, indictment or prosecution if the investigation, indictment or  
27 prosecution resulted in a conviction, a guilty plea or a plea of no contest.

28 3. The taxpayer has been convicted of a crime relating to any period  
29 or assessment of a tax that is the basis of the penalty or interest with  
30 respect to which recovery is sought.

31 4. The taxpayer is a party to a closing agreement with the department  
32 for the tax periods included in the recovery application.

1           5. The taxpayer submits an application for recovery that does not  
2 include any amount of unpaid tax.

3           F. An application for recovery:

4           1. Must be on an application form provided by the department that  
5 requires the applicant to identify the tax, the qualifying taxable period and  
6 the tax liability for which recovery is sought and to provide other  
7 information prescribed by the director. The taxpayer shall include any  
8 returns and reports, including amended returns and reports, for the tax and  
9 taxable periods. Any return or report filed under this section is subject to  
10 verification as provided by law. A taxpayer who has insufficient information  
11 to file a full income tax return may file a gross income return and compute  
12 the tax pursuant to established rate brackets based on average tax rates for  
13 the applicable taxable years.

14           2. If the application for recovery is based on an established and  
15 unpaid tax liability, must include a copy of the latest applicable billing  
16 notice or any other documentation required by the department.

17           3. Must be filed with the department as prescribed by the director  
18 during the recovery period.

19           4. Must include payment of the tax due.

20           G. An application for recovery constitutes an express and absolute  
21 waiver of all administrative and judicial rights of appeal available at that  
22 time that have not run or otherwise expired as of the date of application.  
23 The state board of tax appeals and any court shall dismiss each such action  
24 or proceeding before that body on receiving a notification from the director  
25 that recovery has been granted for the taxable period for that taxpayer. If  
26 the audit determination is not final, the taxpayer must withdraw from the  
27 proceeding or litigation before recovery is granted. A taxpayer that files  
28 an application for recovery retains all administrative and judicial rights of  
29 appeal with respect to any additional tax assessed in a subsequent audit by  
30 the department.

31           H. On reviewing the application and determining compliance with the  
32 requirements of the recovery program under this section:

1           1. The director shall notify the taxpayer regarding the application  
2 for recovery, waiving or abating the civil penalties and interest for tax  
3 liabilities that were or could have been assessed for the taxable periods  
4 covered by the application.

5           2. An administrative, civil or criminal action may not be brought for  
6 failure to comply with the tax requirements for the taxable periods covered  
7 by the application.

8           I. A grant of recovery under this section does not entitle any  
9 affected taxpayer or other person to a refund or credit of any amount  
10 previously paid.

11           J. The director shall deny or revoke the recovery of a person who  
12 files a false or fraudulent application, return or report for purposes of  
13 this section, or otherwise attempts to defeat or evade a tax through the  
14 recovery program.

15           K. The director may:

16           1. Do all things necessary to provide for the timely implementation of  
17 this section.

18           2. Adopt emergency rules pursuant to section 41-1026, Arizona Revised  
19 Statutes, as necessary to administer this section.

20           L. The tax revenues collected pursuant to recovery payments shall be  
21 distributed by the department as provided by law.

22           M. On or before January 1, 2016, the department shall submit a report  
23 to the governor, the speaker of the house of representatives and the  
24 president of the senate. The report shall include:

25           1. The number of taxpayers that have applied for recovery under this  
26 section.

27           2. The number of taxpayers that have been granted recovery.

28           3. The amount of revenue received from taxpayers for the recovery  
29 period.

30           N. This section is repealed from and after December 31, 2015.

31           O. For the purposes of this section:

32           1. "Recovery period" means September 1, 2015 through October 31, 2015.

1           2. "Tax" means any tax or surcharge administered or collected by the  
2 department of revenue as provided under title 42, chapter 1, article 3,  
3 Arizona Revised Statutes or under sections 5-839, 5-840, 48-4022, 48-4234 and  
4 48-5805, Arizona Revised Statutes, except luxury tax and withholding tax.

5           3. "Tax requirement" means:

6           (a) Timely filing a complete and correct tax return or report required  
7 by law.

8           (b) Timely paying a tax liability."

9 Page 18, between lines 24 and 25, insert:

10           "Sec. 21. Legislative intent

11           A. It is the intent of the legislature that the fees prescribed in  
12 section 42-5041, subsection B, Arizona Revised Statutes, be assessed and  
13 collected pursuant to the following guidelines:

14           1. The total fees for all counties, cities and towns may not exceed  
15 \$20,755,835 in any fiscal year.

16           2. The share of fees assessed to all counties pursuant to paragraph 1  
17 of this subsection shall be in proportion to the aggregate amount of monies  
18 distributed to counties in the preceding two fiscal years pursuant to title  
19 42, chapter 6, article 3, Arizona Revised Statutes, and section 42-5029,  
20 Arizona Revised Statutes, as a percentage of aggregate distributions to all  
21 counties, cities and towns in the preceding two fiscal years pursuant to  
22 title 42, chapter 6, article 3, Arizona Revised Statutes, and sections  
23 42-5029, 42-6001 and 43-206, Arizona Revised Statutes.

24           3. The share of fees assessed to all cities and towns pursuant to  
25 paragraph 1 of this subsection shall be in proportion to the aggregate amount  
26 of monies distributed to cities and towns in the preceding two fiscal years  
27 pursuant to title 42, chapter 6, article 3, Arizona Revised Statutes, and  
28 section 42-5029, Arizona Revised Statutes, as a percentage of aggregate  
29 distributions to all counties, cities and towns in the preceding two fiscal  
30 years pursuant to title 42, chapter 6, article 3, Arizona Revised Statutes,  
31 and sections 42-5029, 42-6001 and 43-206, Arizona Revised Statutes.

1           4. Except as provided by sections 42-5033 and 42-5033.01, Arizona  
2 Revised Statutes, the population of a county as determined by the most recent  
3 United States decennial census plus any revision to the decennial census  
4 certified by the United States census bureau shall be used as the basis for  
5 apportioning monies pursuant to paragraph 2 of this subsection.

6           5. Except as provided by sections 42-5033 and 42-5033.01, Arizona  
7 Revised Statutes, the population of a city or town as determined by the most  
8 recent United States decennial census plus any revision to the decennial  
9 census certified by the United States census bureau shall be used as the  
10 basis for apportioning monies pursuant to paragraph 3 of this subsection.

11           B. It is the intent of the legislature that the fees prescribed in  
12 section 42-5041, subsection C, Arizona Revised Statutes, be payable in an  
13 amount equal to seventy-six cents multiplied by the population of the city or  
14 town used for the purposes of computing state share revenues pursuant to  
15 sections 42-5029 and 43-206, Arizona Revised Statutes."

16 Renumber to conform

17 Amend title to conform

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JUSTIN OLSON

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