REFERENCE TITLE: revenue; budget reconciliation; 2016-2017

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

HB 2708

Introduced by
Representative Montenegro (with permission of Committee on Rules)

AN ACT

AMENDING SECTIONS 42-1116, 42-3104, 42-3458 AND 42-17401, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 2, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-224; AMENDING LAWS 2013, FIRST SPECIAL SESSION, CHAPTER 9, SECTION 16, AS AMENDED BY LAWS 2014, CHAPTER 9, SECTION 2 AND LAWS 2015, CHAPTER 10, SECTION 11; APPROPRIATING MONIES; RELATING TO REVENUE BUDGET RECONCILIATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 42-1116, Arizona Revised Statutes, is amended to read:

42-1116. Disposition of tax revenues

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

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

1. Amounts sufficient to meet the requirements for tax refunds to the tax refund account established ~~in~~ BY section 42-1117.

2. Amounts sufficient to meet the requirements of urban revenue sharing to the urban revenue sharing fund established ~~in~~ BY section 43-206.

3. Amounts collected pursuant to chapter 5, articles 1 and 5 of this title and section 42-5352, subsection A to the transaction privilege and severance tax clearing account established by section 42-5029.

4. ~~Through June 30, 2015~~ Amounts sufficient to meet the requirements of section 42-3104 to the corrections fund.

5. Amounts sufficient to meet the requirements of section 49-282, subsection B relating to the water quality assurance revolving fund.

6. All remaining monies to the state general fund.

C. From the monies and remittances received under this section, each month beginning July~~,~~ 2001 the state treasurer shall transmit to the tourism and sports authority, established by title 5, chapter 8, for deposit in its facility revenue clearing account established by section 5-834 one-twelfth of the amount reported by the department pursuant to section 43-209.

Sec. 2. Section 42-3104, Arizona Revised Statutes, is amended to read:

42-3104. Monies allocated to the corrections fund

~~Through June 30, 2015,~~ The department shall deposit, pursuant to sections 35-146, 35-147 and 42-1116, the following monies in the corrections fund established by section 41-1641:

1. 20 ~~per cent~~ PERCENT of the monies collected pursuant to section 42-3052, paragraph 1.

2. 50 ~~per cent~~ PERCENT of the monies collected pursuant to section 42-3052, paragraph 2.

3. 50 ~~per cent~~ PERCENT of the monies collected pursuant to section 42-3052, paragraph 3.

4. 50 ~~per cent~~ PERCENT of the monies collected pursuant to section 42-3052, paragraph 4.

5. 11.11 ~~per cent~~ PERCENT of the monies collected pursuant to section 42-3052, paragraph 5.

6. 50 ~~per cent~~ PERCENT of the monies collected pursuant to section 42-3052, paragraph 6.

7. 50 ~~per cent~~ PERCENT of the monies collected pursuant to section 42-3052, paragraph 7.

8. 50 ~~per cent~~ PERCENT of the monies collected pursuant to section 42-3052, paragraph 8.

9. 50 ~~per cent~~ PERCENT of the monies collected pursuant to section 42-3052, paragraph 9.

Sec. 3. Section 42-3458, Arizona Revised Statutes, is amended to read:

42-3458. Discount purchases of tax stamps; refund, redemption and rebate amounts

A. The official stamps to be affixed to packages of cigarettes shall be obtainable from the department by each licensed distributor by purchase OR AS MAY BE ACQUIRED PURSUANT TO DEPARTMENT PROCEDURES:

1. On or before September 30, 2014, at the following discount rates:

(a) Ninety-six percent of the face value for the first thirty-six thousand dollars worth of stamps purchased by the distributor in any month.

(b) Ninety-seven percent of the face value for the second thirty-six thousand dollars worth of stamps purchased by the distributor in any month.

(c) Ninety-eight percent of the face value on all stamps in excess of seventy-two thousand dollars purchased by the distributor in any month, except that if a distributor purchases more than one hundred sixty-five thousand dollars worth of stamps in one month, the department shall offset against the discount under this subdivision, or the distributor shall refund to the department, the difference between the face value and the discounted value of the first seventy-two thousand dollars worth of stamps under subdivisions (a) and (b) of this paragraph.

2. After September 30, 2014 THROUGH SEPTEMBER 30, 2016, at the rate of ninety-six percent of the face value of the stamps.

~~B. Any refund of or rebates on tax stamps requested by a licensed distributor must be issued in an amount of the total face value of the stamps minus four percent of the total face value of the stamps.~~

3. AFTER SEPTEMBER 30, 2016, AT THE DISCOUNT RATE OF 96.48 PERCENT OF THE FACE VALUE OF ALL CATEGORIES OF STAMPS, EXCEPT THAT:

(a) FOR THOSE CATEGORIES OF STAMPS WITH A FACE VALUE OF ZERO, 3.52 CENTS PER STAMP SHALL BE REMITTED TO THE ACQUIRING DISTRIBUTOR AS AN ADMINISTRATIVE ALLOWANCE SUBJECT TO THE REPORTING OF THE AFFIXATION OF SUCH STAMPS PURSUANT TO SECTION 42-3462.

(b) FOR THOSE CATEGORIES OF STAMPS FOR WHICH THE TAX IS NOT PRECOLLECTED PURSUANT TO ARTICLE 7 OF THIS CHAPTER, 3.52 CENTS PER STAMP SHALL BE REMITTED TO THE ACQUIRING DISTRIBUTOR AS AN ADMINISTRATIVE ALLOWANCE SUBJECT TO THE REPORTING OF THE AFFIXATION OF SUCH STAMPS PURSUANT TO SECTION 42-3462.

B. ANY REFUND OF TAX STAMPS REQUESTED BY A LICENSED DISTRIBUTOR PURSUANT TO SECTION 42-3008 OR REDEMPTION OF UNUSED OR SPOILED TAX STAMPS PURSUANT TO SECTION 42-3460 SHALL BE ISSUED IN AN AMOUNT OF:

1. THE TOTAL FACE VALUE OF THE STAMPS MINUS FOUR PERCENT IF SUBSECTION A, PARAGRAPH 2 OF THIS SECTION APPLIES TO THE STAMPS.

2. THE TOTAL FACE VALUE OF THE STAMPS MINUS 3.52 PERCENT IF SUBSECTION A, PARAGRAPH 3 OF THIS SECTION APPLIES TO THE STAMPS.

C. ANY REBATE OF TAX STAMPS REQUESTED BY A LICENSED DISTRIBUTOR FOR WHICH THE TAX IS PRECOLLECTED PURSUANT TO ARTICLE 7 OF THIS CHAPTER SHALL BE AT THE FULL FACE VALUE OF THE STAMPS.

Sec. 4. Section 42-17401, Arizona Revised Statutes, is amended to read:

42-17401. Elderly assistance fund; primary school district tax reduction; definition

A. An elderly assistance fund shall be established by the board of supervisors in a county with a population of more than two million persons to be administered by the county treasurer. The fund shall be used to reduce the primary school district taxes pursuant to subsection ~~B~~ C of this section.

B. THE BOARD OF SUPERVISORS SHALL SPEND ANY UNSPENT MONIES THAT REMAIN IN THE ELDERLY ASSISTANCE FUND FROM AND AFTER DECEMBER 31, 2015 SOLELY ON THE ELDERLY ASSISTANCE PROGRAM. ANY SUBSEQUENT APPROPRIATIONS MADE TO THE ELDERLY ASSISTANCE FUND SHALL ALSO BE SPENT SOLELY ON THE ELDERLY ASSISTANCE PROGRAM.

~~B.~~ C. On June 30 of each year, the county treasurer shall determine the total amount of monies in the elderly assistance fund and the total number of qualified individuals who live in the county. The county treasurer shall use the monies in the fund to proportionately reduce the primary school district taxes that are levied against the property of all qualified individuals in the county for the following tax year.

~~C.~~ D. The county treasurer shall invest monies in the fund. Interest earned on fund monies shall be deposited in the taxpayer's information fund established by section 11-495.

~~D.~~ E. For the purposes of this section, "qualified individual" means an individual who lives in an organized school district and who is approved for the property valuation protection option pursuant to article IX, section 18, subsection (7), Constitution of Arizona.

Sec. 5. Title 43, chapter 2, article 2, Arizona Revised Statutes, is amended by adding section 43-224, to read:

43-224. Individual and corporate income tax credits; annual report

ON OR BEFORE SEPTEMBER 30 OF EACH YEAR, THE DEPARTMENT SHALL REPORT TO THE DIRECTORS OF THE JOINT LEGISLATIVE BUDGET COMMITTEE AND THE GOVERNOR'S OFFICE OF STRATEGIC PLANNING AND BUDGETING ON THE AMOUNT OF INDIVIDUAL INCOME

TAX CREDITS AND CORPORATE INCOME TAX CREDITS THAT WERE CLAIMED IN THE PREVIOUS FISCAL YEAR.

Sec. 6. Laws 2013, first special session, chapter 9, section 16, as amended by Laws 2014, chapter 9, section 2 and Laws 2015, chapter 10, section 11, is amended to read:

Sec. 16. Department receivership revolving fund; use; intent

A. Notwithstanding section 6-135.01, Arizona Revised Statutes, in fiscal years 2013-2014, 2014-2015, ~~and~~ 2015-2016 AND 2016-2017, the superintendent of the department of financial institutions may use monies in the department receivership revolving fund established by section 6-135.01, Arizona Revised Statutes, for expenditures on an electronic licensing system.

B. It is the intent of the legislature that expenditures in fiscal years 2013-2014, 2014-2015, ~~and~~ 2015-2016 AND 2016-2017 on an electronic licensing system as prescribed in subsection A of this section not exceed a total of $850,000.

Sec. 7. Department of insurance; fee and assessment adjustment suspension

Notwithstanding section 20-167, subsection F, Arizona Revised Statutes, and section 20-466, subsection J, Arizona Revised Statutes, the director of insurance may not revise fees or assessments in fiscal year 2016-2017 for the purpose of meeting the requirement to recover at least ninety-five percent but not more than one hundred ten percent of the department of insurance's appropriated budget.

Sec. 8. Arizona highway user revenue fund; distributions; fiscal year 2017-2018

A. Notwithstanding any other law, before the distribution of revenues of the Arizona highway user revenue fund pursuant to section 28-6538, Arizona Revised Statutes, the department of transportation shall allocate and the state treasurer shall distribute $30,000,000 in fiscal year 2017-2018 as follows:

1. To the counties, 33.231 percent.

2. To the incorporated cities and towns, 48.097 percent.

3. To incorporated cities with a population of three hundred thousand or more persons, 5.247 percent.

4. To counties with a population of more than eight hundred thousand persons, 13.425 percent.

B. The allocation and distributions made pursuant to subsection A, paragraphs 1, 2 and 3 of this section shall be made as prescribed in section 28-6540, Arizona Revised Statutes. The allocation and distribution made pursuant to subsection A, paragraph 4 of this section shall be made as prescribed in section 28-6538, subsection B, Arizona Revised Statutes.

C. The amount appropriated in this section may be used only for the direct costs of constructing, reconstructing, maintaining or repairing public highways, streets or bridges and direct costs of rights-of-way acquisitions and expenses related thereto.

Sec. 9. Appropriation; department of transportation; local governments; highways

A. The sum of $30,000,000 is appropriated on a one-time basis from the state general fund in fiscal year 2016-2017 to the department of transportation for distribution as follows:

1. To the counties, 33.231 percent.

2. To the incorporated cities and towns, 48.097 percent.

3. To incorporated cities with a population of three hundred thousand or more persons, 5.247 percent.

4. To counties with a population of more than eight hundred thousand persons, 13.425 percent.

B. The allocation and distribution made pursuant to subsection A, paragraphs 1, 2 and 3 of this section shall be made as prescribed in section 28-6540, Arizona Revised Statutes. The allocation and distribution made pursuant to subsection A, paragraph 4 of this section shall be made as prescribed in section 28-6538, subsection B, Arizona Revised Statutes.

C. The amount appropriated in this section may be used only for the direct costs of constructing, reconstructing, maintaining or repairing public highways, streets or bridges and direct costs of rights-of-way acquisitions and expenses related thereto.

Sec. 10. Radiation regulatory agency; fees; increases; intent; rulemaking exemption

A. Notwithstanding any other law, the director of the radiation regulatory agency may increase fees in fiscal year 2016-2017 for services provided in fiscal year 2016-2017.

B. It is the intent of the legislature that the revenue generated by the fees collected pursuant to subsection A of this section not exceed $561,000.

C. The radiation regulatory agency shall deposit monies received from any fees increased pursuant to subsection A of this section in the radiation regulatory fee fund established by section 30-658, Arizona Revised Statutes.

D. The radiation regulatory agency is exempt from the rulemaking requirements of title 41, chapter 6, Arizona Revised Statutes, for the purpose of increasing fees pursuant to this section until July 1, 2017.

Sec. 11. Agricultural fees; continuation; intent; rulemaking exemption

A. Notwithstanding any other law, the director of the Arizona department of agriculture, with the assistance of the department of agriculture advisory council, may continue existing fees from fiscal year 2015-2016 in fiscal year 2016-2017 for services provided in fiscal year 2016-2017.

B. It is the intent of the legislature that the additional revenue generated by the fees prescribed in subsection A of this section not exceed $218,000 to the state general fund, $113,000 to the pesticide trust fund established by section 3-350, Arizona Revised Statutes, and $26,000 to the

dangerous plants, pests and diseases trust fund established by section 3-214.01, Arizona Revised Statutes, in fiscal year 2016-2017.

C. The Arizona department of agriculture is exempt from the rulemaking requirements of title 41, chapter 6, Arizona Revised Statutes, for the purpose of establishing fees pursuant to this section until July 1, 2017.

Sec. 12. Department of liquor licenses and control; fiscal years 2014-2015 and 2015-2016; exemption

A. The appropriation of $626,700 from the liquor licenses fund established by section 4-120, Arizona Revised Statutes, in fiscal year 2014-2015 to the department of liquor licenses and control for a licensing replacement system pursuant to Laws 2014, chapter 18, section 55 is exempt from the provisions of section 35-190, Arizona Revised Statutes, relating to lapsing of appropriations until June 30, 2017.

B. The appropriation of $400,000 from the liquor licenses fund established by section 4-120, Arizona Revised Statutes, in fiscal year 2015-2016 to the department of liquor licenses and control for a licensing replacement system pursuant to Laws 2015, chapter 8, section 63 is exempt from the provisions of section 35-190, Arizona Revised Statutes, relating to lapsing of appropriations until June 30, 2017.

Sec. 13. Department of financial institutions; financial services fund

Notwithstanding any other law, the department of financial institutions may use the financial services fund established by section 6-991.21, Arizona Revised Statutes, in fiscal year 2016-2017 for general operating expenditures of the department.

Sec. 14. County fiscal obligations; report

A. Notwithstanding any other law, for fiscal year 2016-2017, a county with a population of less than two hundred thousand persons according to the 2010 United States decennial census may meet any county fiscal obligation from any source of county revenue designated by the county, including monies of any countywide special taxing jurisdiction of which the board of supervisors serves as the board of directors. Under the authority provided in this subsection, a county may not use more than $1,000,000 for purposes other than the purposes of the revenue source.

B. On or before October 1, 2016, all counties with a population of less than two hundred thousand persons according to the 2010 United States decennial census shall report to the director of the joint legislative budget committee whether the county used a revenue source for purposes other than the purposes of the revenue source to meet a county fiscal obligation pursuant to subsection A of this section and, if so, the specific source and amount of revenues that the county intends to use in fiscal year 2016-2017.

Sec. 15. Racing administration fund; transfer

On or before October 1, 2016, the department of gaming shall transfer the remaining balance of $23,700 from the racing administration fund to the

racing regulation fund established by section 5-113.01, Arizona Revised Statutes.

Sec. 16. La Paz county; expenditure limitation; waiver

Notwithstanding section 41-1279.07, subsection H, Arizona Revised Statutes, the reduction in the allowable levy of primary property taxes for La Paz county related to the contract with Los Angeles county to import incinerator ash for disposal is waived for fiscal years 2013-2014, 2014-2015 and 2015-2016.

Sec. 17. Tax recovery; report; delayed repeal; definitions

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

B. If a taxpayer complies with the requirements of this section by applying to the department for recovery during the recovery period and complying with the applicable tax requirements in the time and manner prescribed in this section, the director shall abate or waive all the civil penalties and interest for tax liabilities that have been or could be assessed for any taxable period during the applicable liability period without the need for the taxpayer to show reasonable cause or the absence of wilful neglect. For the purposes of this subsection, "liability period" means:

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

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

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

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

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

1. The taxpayer is a party to any criminal investigation or to any criminal administrative proceeding or criminal litigation that is pending on January 1, 2016 in any court of the United States or of this state for failure to file or failure to pay, or for fraud with respect to, any tax imposed by any law of this state and required to be collected by the department.

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

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

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

5. The taxpayer's tax liability due is the subject of an audit being conducted by the department.

6. The taxpayer submits an application for recovery that does not include the amount of unpaid tax required by subsection G of this section.

F. An application for recovery:

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

2. Must require the taxpayer to select one of the following options to pay tax liability:

(a) Payment in full during the recovery period.

(b) Payment in full over three years.

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

4. Must be filed with the department as prescribed by the director during the recovery period.

5. Must include payment of the tax due pursuant to subsection G of this section.

G. If the taxpayer elects to pay the tax liability in full during the recovery period, the taxpayer shall pay the full tax liability on or before October 31, 2016. If the taxpayer elects to pay the tax liability in full over three years, the taxpayer shall pay the full tax liability as follows:

1. At least thirty-three percent of the full tax liability on or before October 31, 2016.

2. At least sixty-six percent of the full tax liability on or before October 31, 2017.

3. One hundred percent of the full tax liability on or before October 31, 2018.

H. The taxpayer shall pay the tax liability and the department shall accept payments pursuant to subsection G of this section beginning September 1 through October 31 of each year.

I. An application for recovery constitutes an express and absolute waiver of all administrative and judicial rights of appeal available at that time that have not run or otherwise expired as of the date of application. The state board of tax appeals and any court shall dismiss each such action

or proceeding before that body on receiving a notification from the director that recovery has been granted for the taxable period for that taxpayer. If the audit determination is not final, the taxpayer must withdraw from the proceeding or litigation before recovery is granted. A taxpayer that files an application for recovery retains all administrative and judicial rights of appeal with respect to any additional tax assessed in a subsequent audit by the department.

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

1. The director shall notify the taxpayer regarding the application for recovery and waiving or abating the civil penalties and interest for tax liabilities that were or could have been assessed for the taxable periods covered by the application. If the taxpayer elects to pay the tax liability in full over three years, the civil penalties and interest for tax liabilities may not be abated or waived until the full tax liability is paid pursuant to subsection G, paragraph 3 of this section.

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

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

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

M. The director may:

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

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

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

O. On or before January 1 of each year, the department shall submit a report to the governor, the speaker of the house of representatives and the president of the senate. The report shall include the following information, reported separately for taxpayers who have applied for recovery pursuant to subsection F, paragraph 2, subdivision (a) of this section and subsection F, paragraph 2, subdivision (b) of this section:

1. The number of taxpayers that have applied for recovery.

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

3. The amount of revenue received from taxpayers on or before October 31 of the prior calendar year.

P. This section is repealed from and after December 31, 2018.

Q. For the purposes of this section:

1. "Recovery period" means September 1, 2016 through October 31, 2016.
2. "Tax" means any tax or surcharge administered or collected by the department of revenue as provided under title 42, chapter 1, article 3, Arizona Revised Statutes, or under sections 5-839, 5-840, 48-4022, 48-4234 and 48-5805, Arizona Revised Statutes, except luxury tax and withholding tax.
3. "Tax requirement" means:
(a) Timely filing a complete and correct tax return or report required by law.
(b) Timely paying a tax liability.
Sec. 18. Legislative intent
It is the intent of the legislature that in fiscal year 2016-2017 the fees prescribed in section 42-5041, subsection B, Arizona Revised Statutes, be assessed and collected pursuant to the following guidelines:
1. The total fees for all counties, cities, towns, councils of governments and regional transportation authorities may not exceed $20,755,835 in any fiscal year.
2. The share of fees assessed to all counties pursuant to paragraph 1 of this section shall be in proportion to the aggregate amount of monies distributed to counties for the fiscal year two years preceding the current fiscal year pursuant to sections 42-5029, 42-6103, 42-6107, 42-6108, 42-6108.01, 42-6109, 42-6109.01, 42-6110, 42-6111 and 42-6112, Arizona Revised Statutes, as a percentage of aggregate distributions to all counties, cities, towns, councils of governments and regional transportation authorities located in a county with a population of more than four hundred thousand persons for the fiscal year two years preceding the current fiscal year pursuant to sections 42-5029, 42-6001, 42-6103, 42-6105, 42-6106, 42-6107, 42-6108, 42-6108.01, 42-6109, 42-6109.01, 42-6110, 42-6111, 42-6112 and 43-206, Arizona Revised Statutes.
3. The share of fees assessed to all cities and towns pursuant to paragraph 1 of this section shall be in proportion to the aggregate amount of monies distributed to cities and towns for the fiscal year two years preceding the current fiscal year pursuant to sections 42-5029, 42-6001 and 43-206, Arizona Revised Statutes, as a percentage of aggregate distributions to all counties, cities, towns, councils of governments and regional transportation authorities located in a county with a population of more than four hundred thousand persons for the fiscal year two years preceding the current fiscal year pursuant to sections 42-5029, 42-6001, 42-6103, 42-6105, 42-6106, 42-6107, 42-6108, 42-6108.01, 42-6109, 42-6109.01, 42-6110, 42-6111, 42-6112 and 43-206, Arizona Revised Statutes.
4. The share of fees assessed to all councils of governments pursuant to paragraph 1 of this section shall be in proportion to the aggregate amount of monies distributed to all councils of governments for the fiscal year two years preceding the current fiscal year pursuant to section 42-6105, Arizona Revised Statutes, as a percentage of aggregate distributions to all counties, cities, towns, councils of governments and regional transportation

authorities located in a county with a population of more than four hundred thousand persons for the fiscal year two years preceding the current fiscal year pursuant to sections 42-5029, 42-6001, 42-6103, 42-6105, 42-6106, 42-6107, 42-6108, 42-6108.01, 42-6109, 42-6109.01, 42-6110, 42-6111, 42-6112 and 43-206, Arizona Revised Statutes.

5. The share of fees assessed to all regional transportation authorities located in a county with a population of more than four hundred thousand persons pursuant to paragraph 1 of this section shall be in proportion to the aggregate amount of monies distributed to all regional transportation authorities located in a county with a population of more than four hundred thousand persons for the fiscal year two years preceding the current fiscal year pursuant to section 42-6106, Arizona Revised Statutes, as a percentage of aggregate distributions to all counties, cities, towns, councils of governments and regional transportation authorities located in a county with a population of more than four hundred thousand persons for the fiscal year two years preceding the current fiscal year pursuant to sections 42-5029, 42-6001, 42-6103, 42-6105, 42-6106, 42-6107, 42-6108, 42-6108.01, 42-6109, 42-6109.01, 42-6110, 42-6111, 42-6112 and 43-206, Arizona Revised Statutes.

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

7. Except as provided by sections 42-5033 and 42-5033.01, Arizona Revised Statutes, the population of a 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 shall be used as the basis for apportioning monies pursuant to paragraph 3 of this section.

Sec. 19. Veterans income tax; findings and intent

A. Veterans of the armed forces of the United States who were domiciled within the boundaries of their tribal lands or of their spouse's tribal lands while in active military service may have been exempt from paying income tax to this state, but may have had state income taxes mistakenly withheld from their military pay.

B. Veterans may be barred from claiming refunds of those erroneously withheld tax payments due to the passage of time or by the difficulty in meeting the strict legal standards of proof of entitlement to refunds.

C. The intent of this section and sections 19 through 26 of this act is to establish a process to enable certain veterans to recover the state income taxes that were erroneously withheld from their military pay.

Sec. 20. Definitions

In sections 19 through 27 of this act, unless the context otherwise requires:

1. "Claimant" means a person who files a claim for an income tax settlement refund under section 22 of this act and who is either a Native American veteran or, if the veteran is deceased, the veteran's surviving spouse, personal representative, executor or other official representative of the estate, as designated pursuant to applicable state or tribal law or tradition.

2. "Domicile" means a true, fixed and permanent established home in which an individual resides or to which an individual intends to return after a temporary definite or indefinite absence.

3. "Fund" means the veterans' income tax settlement fund established by section 21 of this act.

4. "Native American" means an individual Native American Indian who is duly registered on the tribal rolls of the tribe for whose benefit an Indian reservation was established.

5. "Tribe" means any organized nation, tribe, band or community that is recognized as a Native American tribe by the United States department of the interior and includes any entity formed under tribal law.

6. "Veteran" means a Native American citizen of the United States who was enlisted, drafted, inducted or commissioned and who was accepted for and assigned to active duty in the armed forces of the United States.

Sec. 21. Veterans' income tax settlement fund; exemption from lapsing

A. The veterans' income tax settlement fund is established consisting of monies appropriated by the legislature and other monies donated or accruing to the fund. Monies in the fund are continuously appropriated to the department of revenue for the purposes of sections 19 through 27 of this act.

B. The department of revenue shall administer the fund. On notice from the department, the state treasurer shall invest and divest monies in the fund as provided by section 35-313, Arizona Revised Statutes, and monies earned from investment shall be credited to the fund. Monies in the fund are exempt from the provisions of section 35-190, Arizona Revised Statutes, relating to lapsing of appropriations, except that unexpended and unencumbered monies remaining in the fund on June 30, 2019 revert to the state general fund.

C. Five percent of the monies in the fund at the beginning of each fiscal year are appropriated separately to both the department of revenue and the department of veterans' services for administrative costs incurred under sections 19 through 27 of this act during the fiscal year. Any unexpended and unencumbered balance of either appropriation remaining at the end of the fiscal year reverts to the fund.

Sec. 22. Income tax settlement claims; requirements; procedure; approval or denial of claim

A. A veteran or, if the veteran is deceased, the veteran's surviving spouse, personal representative, executor or other official representative of

the estate, as designated pursuant to applicable state or tribal law or tradition, may file a claim for a settlement payment for any period of active duty in the armed forces of the United States during which the veteran:

1. Was an enrolled member of a tribe.

2. Maintained a domicile within the boundaries of the veteran's reservation or the reservation of the veteran's spouse or within the boundaries of lands held in trust by the United States for the benefit of the veteran, the veteran's spouse or the tribe of the veteran or spouse.

3. Had Arizona state income tax withheld from the veteran's active duty military pay and the amount withheld:

(a) Has not already been refunded to the veteran or the deceased veteran's estate.

(b) Cannot be claimed as a refund by filing a state income tax return because the period for filing a claim for refund has lapsed under the applicable statute of limitations.

B. The claim for a settlement payment must include evidence of the veteran's eligibility for and the amount of the claim as follows:

1. The claimant must provide a copy of the veteran's certificate of release or discharge from active duty (DD Form 214) or other proof of service provided by the United States department of defense and approved by the department of veterans' services. If a claimant does not have a copy of the veteran's DD Form 214 or other proof of service, the claimant may request that the department of veterans' services request the veteran's DD Form 214 or other proof of service from the United States department of defense.

2. The claimant must provide a statement, signed by the claimant, that the veteran is or was duly registered on the tribal rolls of a tribe during the period or periods of the veteran's active duty in the armed forces.

3. The claimant must provide evidence of domicile within the boundaries of the veteran's reservation or the reservation of the veteran's spouse or within the boundaries of lands held in trust by the United States for the benefit of the veteran, the veteran's spouse or the tribe of the veteran or spouse during the taxable years the state income tax was withheld from active duty military pay. If the veteran's address shown on the veteran's DD Form 214 or other proof of service:

(a) Is on the veteran's tribal land, that evidence is sufficient for the purposes of this paragraph.

(b) Is not on the veteran's tribal land or if the veteran has no DD Form 214 and the claimant cannot otherwise establish that the veteran's domicile was on the veteran's tribal land, the claimant must provide a signed statement, under penalty of perjury, that the veteran was domiciled on tribal land during the period or periods the state income tax was withheld. The statement must include the veteran's address on the tribal land for each period, and an official designated by the tribe must attest that each address is on tribal land.

4. The claimant must provide evidence of the amount of state income tax withheld from active duty military pay by providing copies of the United States internal revenue service Form W-2 covering active duty military pay for the year or years during which state personal income tax was withheld. If the claimant does not have copies of the applicable Form W-2 for one or more of those years, the claimant may request that the department of revenue obtain the veteran's Form W-2, or other withholding information in a form approved by the department of revenue, from the United States department of defense.

5. The claimant must provide a signed statement attesting, under penalty of perjury, that the veteran has not received a refund of the state income tax withheld for the years for which the claimant is filing a claim for a settlement payment.

C. A claim for settlement payment under this section must be filed by the eligible veteran or, if the veteran is deceased, by the veteran's surviving spouse, successor or other personal representative. The following apply if the claim is made for a deceased veteran:

1. The claimant must include a copy of the veteran's death certificate or other proof of death.

2. If the veteran's estate exceeds thirty thousand dollars, only the surviving spouse, personal representative, executor or other official representative of the estate, as designated pursuant to applicable state or tribal law or tradition, may file the claim.

3. If the claimant is a successor who is not the surviving spouse, personal representative, executor or other official representative of the estate, the claimant must include a dated and notarized statement, signed under penalty of perjury, that:

(a) The value of the entire probate estate of the deceased veteran, wherever located, minus liens and encumbrances, does not exceed thirty thousand dollars.

(b) At least thirty days have elapsed since the veteran's death.

(c) The successor is entitled to receive the settlement payment.

4. If the claimant is a personal representative, executor or other official representative of the estate, the claimant must include:

(a) A signed, dated and notarized statement that the claimant has been duly appointed as the personal representative, executor or other representative of the veteran's estate pursuant to applicable state or tribal law or tradition.

(b) A copy of the claimant's appointment.

D. A claim for a settlement payment shall be denied for any amount of withholding tax that can be claimed as a refund by filing a state income tax return pursuant to title 43, Arizona Revised Statutes. A state income tax return may be filed by a veteran to claim the refund by the later of December 31 of the year three years after:

1. The veteran separated from military service.

2. The year in which Arizona withholding tax was withheld from the veteran's active duty pay.

E. A claim for a settlement payment must be made on a claim form prescribed by the department of revenue and filed with the department of veterans' services.

F. The department of veterans' services shall not accept claims submitted from and after December 31, 2017.

G. Within two hundred ten days after receiving a complete and correct claim form, the department of veterans' services shall determine whether the claim meets the requirements of subsection B, paragraphs 1, 2 and 3 of this section, transmit qualifying claim forms to the department of revenue and notify the claimant of the department's approval or denial. The failure of the department of veterans' services to respond within two hundred ten days after receiving a complete and correct claim form is considered to be a denial.

H. Within two hundred ten days after receiving the claim form from the department of veterans' services, the department of revenue shall determine whether the claim meets the requirements of subsection B, paragraphs 4 and 5 of this section and notify the claimant and the department of veterans' services of its approval or denial. The failure of the department of revenue to respond within two hundred ten days after receiving the claim form is considered to be a denial.

Sec. 23. Payment of claims; computation of interest

A. The department of revenue shall pay approved claims under section 22 of this act:

1. From the veterans' income tax settlement fund on a first-come, first-served basis until the fund is exhausted or until there are no further approved claims to pay.

2. In the same manner as refunds granted under section 42-1118, Arizona Revised Statutes. Payments made pursuant to this section are subject to setoff as provided by section 42-1122, Arizona Revised Statutes.

B. Settlement payments under this section shall include interest computed on a daily basis from the date of withholding through the date the payment warrant is issued at the rate determined under section 6621 of the internal revenue code, as defined by section 42-1001, Arizona Revised Statutes, on the date of withholding. The date of withholding is determined as follows:

1. For withholding that occurred over an entire calendar year, one-twelfth of the amount withheld during the year is considered to have been paid on the last day of each calendar month of the year.

2. For withholding that occurred over a period of less than an entire calendar year, the amount withheld during the period shall be divided by the number of full and partial months in the period. The resulting amount is considered to have been paid on the last day of each calendar month during the period.

Sec. 24. Veterans' income tax settlement; appeals of agency decisions

Notwithstanding any other administrative proceedings established by law or by rule, all appealable agency actions, as defined by section 41-1092, Arizona Revised Statutes, and contested cases, as defined by section 41-1001, Arizona Revised Statutes, shall be governed by title 41, chapter 6, article 10, Arizona Revised Statutes.

Sec. 25. Veterans' income tax settlement; administrative rules

The director of the department of revenue and the director of the department of veterans' services shall collaborate in adopting any additional administrative rules that are considered to be necessary to administer sections 19 through 27 of this act.

Sec. 26. Veterans' income tax settlement; annual reports

The director of the department of revenue shall report the following information to the senate appropriations and finance committees and to the house of representatives appropriations and ways and means committees on or before October 1 in each of years 2017 through 2019:

1. Estimates of the amount of state income tax withholdings subject to payments under sections 22 and 23 of this act.

2. The number of veterans affected by withholdings subject to payments under sections 22 and 23 of this act.

3. Expenditures from the veterans' income tax settlement fund during the previous fiscal year.

4. Anticipated expenditures from the veterans' income tax settlement fund during the current fiscal year.

5. Anticipated appropriations to the fund necessary to meet expected payments in the next fiscal year.

Sec. 27. Appropriation; veterans' income tax settlement fund

The sum of $2,000,000 is appropriated from the state general fund in fiscal year 2016-2017 to the veterans' income tax settlement fund established by section 21 of this act.

Sec. 28. Repeal

Sections 19 through 26 of this act are repealed from and after December 31, 2019.

Sec. 29. Retroactivity

A. Sections 42-1116 and 42-3104, Arizona Revised Statutes, as amended by this act, apply retroactively to from and after June 30, 2015.

B. Section 42-17401, Arizona Revised Statutes, as amended by this act, applies retroactively to from and after December 31, 2015.