

REFERENCE TITLE: budget reconciliation; revenue; 2016-2017

State of Arizona
Senate
Fifty-second Legislature
Second Regular Session
2016

SB 1539

Introduced by
Senators Biggs, Yarbrough (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)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 42-1116, Arizona Revised Statutes, is amended to
3 read:
4 42-1116. Disposition of tax revenues
5 A. The department OF REVENUE shall promptly deposit, pursuant to
6 sections 35-146 and 35-147, all monies it collects from the taxes
7 administered pursuant to this article except the telecommunication services
8 excise tax, separately accounting for each type of tax and each tax
9 classification within each type of tax. At the same time the department of
10 revenue shall also furnish copies of the transmittal schedules to the
11 director of the department of administration.
12 B. Except as provided by subsection C of this section, the department
13 shall deposit all monies and remittances received under this section to the
14 credit of the following specific funds and accounts:
15 1. Amounts sufficient to meet the requirements for tax refunds to the
16 tax refund account established ~~in~~ BY section 42-1117.
17 2. Amounts sufficient to meet the requirements of urban revenue
18 sharing to the urban revenue sharing fund established ~~in~~ BY section 43-206.
19 3. Amounts collected pursuant to chapter 5, articles 1 and 5 of this
20 title and section 42-5352, subsection A to the transaction privilege and
21 severance tax clearing account established by section 42-5029.
22 4. ~~Through June 30, 2015~~ Amounts sufficient to meet the requirements
23 of section 42-3104 to the corrections fund.
24 5. Amounts sufficient to meet the requirements of section 49-282,
25 subsection B relating to the water quality assurance revolving fund.
26 6. All remaining monies to the state general fund.
27 C. From the monies and remittances received under this section, each
28 month beginning July, ~~2001~~ the state treasurer shall transmit to the tourism
29 and sports authority, established by title 5, chapter 8, for deposit in its
30 facility revenue clearing account established by section 5-834 one-twelfth of
31 the amount reported by the department pursuant to section 43-209.
32 Sec. 2. Section 42-3104, Arizona Revised Statutes, is amended to read:
33 42-3104. Monies allocated to the corrections fund
34 ~~Through June 30, 2015,~~ The department shall deposit, pursuant to
35 sections 35-146, 35-147 and 42-1116, the following monies in the corrections
36 fund established by section 41-1641:
37 1. 20 ~~per cent~~ PERCENT of the monies collected pursuant to section
38 42-3052, paragraph 1.
39 2. 50 ~~per cent~~ PERCENT of the monies collected pursuant to section
40 42-3052, paragraph 2.
41 3. 50 ~~per cent~~ PERCENT of the monies collected pursuant to section
42 42-3052, paragraph 3.
43 4. 50 ~~per cent~~ PERCENT of the monies collected pursuant to section
44 42-3052, paragraph 4.

- 1 5. 11.11 ~~per cent~~ PERCENT of the monies collected pursuant to section
- 2 42-3052, paragraph 5.
- 3 6. 50 ~~per cent~~ PERCENT of the monies collected pursuant to section
- 4 42-3052, paragraph 6.
- 5 7. 50 ~~per cent~~ PERCENT of the monies collected pursuant to section
- 6 42-3052, paragraph 7.
- 7 8. 50 ~~per cent~~ PERCENT of the monies collected pursuant to section
- 8 42-3052, paragraph 8.
- 9 9. 50 ~~per cent~~ PERCENT of the monies collected pursuant to section
- 10 42-3052, paragraph 9.

11 Sec. 3. Section 42-3458, Arizona Revised Statutes, is amended to read:
12 42-3458. Discount purchases of tax stamps; refund amount

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

- 16 1. On or before September 30, 2014, at the following discount rates:
- 17 (a) Ninety-six percent of the face value for the first thirty-six
- 18 thousand dollars worth of stamps purchased by the distributor in any month.
- 19 (b) Ninety-seven percent of the face value for the second thirty-six
- 20 thousand dollars worth of stamps purchased by the distributor in any month.
- 21 (c) Ninety-eight percent of the face value on all stamps in excess of
- 22 seventy-two thousand dollars purchased by the distributor in any month,
- 23 except that if a distributor purchases more than one hundred sixty-five
- 24 thousand dollars worth of stamps in one month, the department shall offset
- 25 against the discount under this subdivision, or the distributor shall refund
- 26 to the department, the difference between the face value and the discounted
- 27 value of the first seventy-two thousand dollars worth of stamps under
- 28 subdivisions (a) and (b) of this paragraph.

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

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

34 3. AFTER SEPTEMBER 30, 2016, AT THE DISCOUNT RATE OF 96.48 PERCENT OF
35 THE FACE VALUE OF ALL CATEGORIES OF STAMPS. FOR THOSE CATEGORIES OF STAMPS
36 WITH A FACE VALUE OF ZERO, 3.52 CENTS PER STAMP SHALL BE REMITTED TO THE
37 ACQUIRING DISTRIBUTOR AS AN ADMINISTRATIVE ALLOWANCE ON THE REPORTING OF THE
38 AFFIXATION OF SUCH STAMPS PURSUANT TO SECTION 42-3462.

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

- 42 1. THE TOTAL FACE VALUE OF THE STAMPS MINUS FOUR PERCENT IF SUBSECTION
- 43 A, PARAGRAPH 2 OF THIS SECTION APPLIES TO THE STAMPS.
- 44 2. THE TOTAL FACE VALUE OF THE STAMPS MINUS 3.52 PERCENT IF SUBSECTION
- 45 A, PARAGRAPH 3 OF THIS SECTION APPLIES TO THE STAMPS.

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

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

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

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

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

- 20 1. To the counties, 33.231 percent.
- 21 2. To the incorporated cities and towns, 48.097 percent.
- 22 3. To incorporated cities with a population of three hundred thousand
23 or more persons, 5.247 percent.
- 24 4. To counties with a population of more than eight hundred thousand
25 persons, 13.425 percent.

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

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

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

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

- 40 1. To the counties, 33.231 percent.
- 41 2. To the incorporated cities and towns, 48.097 percent.
- 42 3. To incorporated cities with a population of three hundred thousand
43 or more persons, 5.247 percent.
- 44 4. To counties with a population of more than eight hundred thousand
45 persons, 13.425 percent.

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

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

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

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

15 B. It is the intent of the legislature that the revenue generated by
16 the fees collected pursuant to subsection A of this section not exceed
17 \$561,000.

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

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

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

26 A. Notwithstanding any other law, the director of the Arizona
27 department of agriculture, with the assistance of the department of
28 agriculture advisory council, may continue existing fees from fiscal year
29 2015-2016 in fiscal year 2016-2017 for services provided in fiscal year
30 2016-2017.

31 B. It is the intent of the legislature that the additional revenue
32 generated by the fees prescribed in subsection A of this section not exceed
33 \$218,000 to the state general fund, \$113,000 to the pesticide trust fund
34 established by section 3-350, Arizona Revised Statutes, and \$26,000 to the
35 dangerous plants, pests and diseases trust fund established by section
36 3-214.01, Arizona Revised Statutes, in fiscal year 2016-2017.

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

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

42 A. The appropriation of \$626,700 from the liquor licenses fund
43 established by section 4-120, Arizona Revised Statutes, in fiscal year
44 2014-2015 to the department of liquor licenses and control for a licensing
45 replacement system pursuant to Laws 2014, chapter 18, section 55 is exempt

1 from the provisions of section 35-190, Arizona Revised Statutes, relating to
2 lapsing of appropriations until June 30, 2017.

3 B. The appropriation of \$400,000 from the liquor licenses fund
4 established by section 4-120, Arizona Revised Statutes, in fiscal year
5 2015-2016 to the department of liquor licenses and control for a licensing
6 replacement system pursuant to Laws 2015, chapter 8, section 63 is exempt
7 from the provisions of section 35-190, Arizona Revised Statutes, relating to
8 lapsing of appropriations until June 30, 2017.

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

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

15 Sec. 14. County fiscal obligations; report

16 A. Notwithstanding any other law, for fiscal year 2016-2017, a county
17 with a population of less than two hundred thousand persons according to the
18 2010 United States decennial census may meet any county fiscal obligation
19 from any source of county revenue designated by the county, including monies
20 of any countywide special taxing jurisdiction of which the board of
21 supervisors serves as the board of directors. Under the authority provided
22 in this subsection, a county may not use more than \$1,000,000 for purposes
23 other than the purposes of the revenue source.

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

31 Sec. 15. Racing administration fund; transfer

32 On or before October 1, 2016, the department of gaming shall transfer
33 the remaining balance of \$23,700 from the racing administration fund to the
34 racing regulation fund established by section 5-113.01, Arizona Revised
35 Statutes.

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

37 Notwithstanding section 41-1279.07, subsection H, Arizona Revised
38 Statutes, the reduction in the allowable levy of primary property taxes for
39 La Paz county is waived for fiscal years 2013-2014, 2014-2015 and 2015-2016.

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

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

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

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

12 2. For all other taxpayers, any taxable period ending before February
13 1, 2015.

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

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

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

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

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

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

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

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

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

40 F. An application for recovery:

41 1. Must be on an application form provided by the department that
42 requires the applicant to identify the tax, the qualifying taxable period and
43 the tax liability for which recovery is sought and to provide other
44 information prescribed by the director. The taxpayer shall include any
45 returns and reports, including amended returns and reports, for the tax and

1 taxable periods. Any return or report filed under this section is subject to
2 verification as provided by law. A taxpayer who has insufficient information
3 to file a full income tax return may file a gross income return and compute
4 the tax pursuant to established rate brackets based on average tax rates for
5 the applicable taxable years.

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

8 (a) Payment in full during the recovery period.

9 (b) Payment in full over three years.

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

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

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

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

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

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

25 3. One hundred percent of the full tax liability on or before October
26 31, 2018.

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

30 I. An application for recovery constitutes an express and absolute
31 waiver of all administrative and judicial rights of appeal available at that
32 time that have not run or otherwise expired as of the date of application.
33 The state board of tax appeals and any court shall dismiss each such action
34 or proceeding before that body on receiving a notification from the director
35 that recovery has been granted for the taxable period for that taxpayer. If
36 the audit determination is not final, the taxpayer must withdraw from the
37 proceeding or litigation before recovery is granted. A taxpayer that files
38 an application for recovery retains all administrative and judicial rights of
39 appeal with respect to any additional tax assessed in a subsequent audit by
40 the department.

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

43 1. The director shall notify the taxpayer regarding the application
44 for recovery and waiving or abating the civil penalties and interest for tax
45 liabilities that were or could have been assessed for the taxable periods

1 covered by the application. If the taxpayer elects to pay the tax liability
2 in full over three years, the civil penalties and interest for tax
3 liabilities may not be abated or waived until the full tax liability is paid
4 pursuant to subsection G, paragraph 3 of this section.

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

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

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

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

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

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

33 Q. For the purposes of this section:

34 1. "Recovery period" means September 1, 2016 through October 31, 2016.

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

39 3. "Tax requirement" means:

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

42 (b) Timely paying a tax liability.

1 Sec. 18. Legislative intent

2 It is the intent of the legislature that in fiscal year 2016-2017 the
3 fees prescribed in section 42-5041, subsection B, Arizona Revised Statutes,
4 be assessed and collected pursuant to the following guidelines:

5 1. The total fees for all counties, cities, towns, councils of
6 governments and regional transportation authorities may not exceed
7 \$20,755,835 in any fiscal year.

8 2. The share of fees assessed to all counties pursuant to paragraph 1
9 of this section shall be in proportion to the aggregate amount of monies
10 distributed to counties for the fiscal year two years preceding the current
11 fiscal year pursuant to sections 42-5029, 42-6103, 42-6107, 42-6108,
12 42-6108.01, 42-6109, 42-6109.01, 42-6110, 42-6111 and 42-6112, Arizona
13 Revised Statutes, as a percentage of aggregate distributions to all counties,
14 cities, towns, councils of governments and regional transportation
15 authorities located in a county with a population of more than four hundred
16 thousand persons for the fiscal year two years preceding the current fiscal
17 year pursuant to sections 42-5029, 42-6001, 42-6103, 42-6105, 42-6106,
18 42-6107, 42-6108, 42-6108.01, 42-6109, 42-6109.01, 42-6110, 42-6111, 42-6112
19 and 43-206, Arizona Revised Statutes.

20 3. The share of fees assessed to all cities and towns pursuant to
21 paragraph 1 of this section shall be in proportion to the aggregate amount of
22 monies distributed to cities and towns for the fiscal year two years
23 preceding the current fiscal year pursuant to sections 42-5029, 42-6001 and
24 43-206, Arizona Revised Statutes, as a percentage of aggregate distributions
25 to all counties, cities, towns, councils of governments and regional
26 transportation authorities located in a county with a population of more than
27 four hundred thousand persons for the fiscal year two years preceding the
28 current fiscal year pursuant to sections 42-5029, 42-6001, 42-6103, 42-6105,
29 42-6106, 42-6107, 42-6108, 42-6108.01, 42-6109, 42-6109.01, 42-6110, 42-6111,
30 42-6112 and 43-206, Arizona Revised Statutes.

31 4. The share of fees assessed to all councils of governments pursuant
32 to paragraph 1 of this section shall be in proportion to the aggregate amount
33 of monies distributed to all councils of governments for the fiscal year two
34 years preceding the current fiscal year pursuant to section 42-6105, Arizona
35 Revised Statutes, as a percentage of aggregate distributions to all counties,
36 cities, towns, councils of governments and regional transportation
37 authorities located in a county with a population of more than four hundred
38 thousand persons for the fiscal year two years preceding the current fiscal
39 year pursuant to sections 42-5029, 42-6001, 42-6103, 42-6105, 42-6106,
40 42-6107, 42-6108, 42-6108.01, 42-6109, 42-6109.01, 42-6110, 42-6111, 42-6112
41 and 43-206, Arizona Revised Statutes.

42 5. The share of fees assessed to all regional transportation
43 authorities located in a county with a population of more than four hundred
44 thousand persons pursuant to paragraph 1 of this section shall be in
45 proportion to the aggregate amount of monies distributed to all regional

1 transportation authorities located in a county with a population of more than
2 four hundred thousand persons for the fiscal year two years preceding the
3 current fiscal year pursuant to section 42-6106, Arizona Revised Statutes, as
4 a percentage of aggregate distributions to all counties, cities, towns,
5 councils of governments and regional transportation authorities located in a
6 county with a population of more than four hundred thousand persons for the
7 fiscal year two years preceding the current fiscal year pursuant to sections
8 42-5029, 42-6001, 42-6103, 42-6105, 42-6106, 42-6107, 42-6108, 42-6108.01,
9 42-6109, 42-6109.01, 42-6110, 42-6111, 42-6112 and 43-206, Arizona Revised
10 Statutes.

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

16 7. Except as provided by sections 42-5033 and 42-5033.01, Arizona
17 Revised Statutes, the population of a city or town as determined by the most
18 recent United States decennial census plus any revision to the decennial
19 census certified by the United States census bureau shall be used as the
20 basis for apportioning monies pursuant to paragraph 3 of this section.

21 Sec. 19. Veterans income tax; findings and intent

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

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

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

33 Sec. 20. Definitions

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

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

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

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

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

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

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

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

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

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

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

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

35 A. A veteran or, if the veteran is deceased, the veteran's surviving
36 spouse, personal representative, executor or other official representative of
37 the estate, as designated pursuant to applicable state or tribal law or
38 tradition, may file a claim for a settlement payment for any period of active
39 duty in the armed forces of the United States during which the veteran:

40 1. Was an enrolled member of a tribe.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 D. A claim for a settlement payment shall be denied for any amount of
32 withholding tax that can be claimed as a refund by filing a state income tax
33 return pursuant to title 43, Arizona Revised Statutes. A state income tax
34 return may be filed by a veteran to claim the refund by the later of December
35 31 of the year three years after:

36 1. The veteran separated from military service.

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

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

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

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

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

16 Sec. 23. Payment of claims; computation of interest

17 A. The department of revenue shall pay approved claims under section
18 22 of this act:

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

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

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

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

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

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

41 Notwithstanding any other administrative proceedings established by law
42 or by rule, all appealable agency actions, as defined by section 41-1092,
43 Arizona Revised Statutes, and contested cases, as defined by section 41-1001,
44 Arizona Revised Statutes, shall be governed by title 41, chapter 6, article
45 10, Arizona Revised Statutes.

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

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

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

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

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

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

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

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

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

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

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

25 Sec. 28. Repeal

26 Sections 19 through 26 of this act are repealed from and after December
27 31, 2019.

28 Sec. 29. Retroactivity

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

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