

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

CHAPTER 125
HOUSE BILL 2708

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.

45 5. 11.11 ~~per cent~~ PERCENT of the monies collected pursuant to section
46 42-3052, paragraph 5.

1 6. 50 ~~per cent~~ PERCENT of the monies collected pursuant to section
2 42-3052, paragraph 6.

3 7. 50 ~~per cent~~ PERCENT of the monies collected pursuant to section
4 42-3052, paragraph 7.

5 8. 50 ~~per cent~~ PERCENT of the monies collected pursuant to section
6 42-3052, paragraph 8.

7 9. 50 ~~per cent~~ PERCENT of the monies collected pursuant to section
8 42-3052, paragraph 9.

9 Sec. 3. Section 42-3458, Arizona Revised Statutes, is amended to read:
10 42-3458. Discount purchases of tax stamps; refund, redemption
11 and rebate amounts

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

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

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

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

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

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

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

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

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

39 (b) **FOR THOSE CATEGORIES OF STAMPS FOR WHICH THE TAX IS NOT**
40 **PRECOLLECTED PURSUANT TO ARTICLE 7 OF THIS CHAPTER, 3.52 CENTS PER STAMP**
41 **SHALL BE REMITTED TO THE ACQUIRING DISTRIBUTOR AS AN ADMINISTRATIVE ALLOWANCE**
42 **SUBJECT TO THE REPORTING OF THE AFFIXATION OF SUCH STAMPS PURSUANT TO SECTION**
43 **42-3462.**

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

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

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

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

6 B. The allocation and distribution made pursuant to subsection A,
7 paragraphs 1, 2 and 3 of this section shall be made as prescribed in section
8 28-6540, Arizona Revised Statutes. The allocation and distribution made
9 pursuant to subsection A, paragraph 4 of this section shall be made as
10 prescribed in section 28-6538, subsection B, Arizona Revised Statutes.

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

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

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

20 B. It is the intent of the legislature that the revenue generated by
21 the fees collected pursuant to subsection A of this section not exceed
22 \$561,000.

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

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

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

31 A. Notwithstanding any other law, the director of the Arizona
32 department of agriculture, with the assistance of the department of
33 agriculture advisory council, may continue existing fees from fiscal year
34 2015-2016 in fiscal year 2016-2017 for services provided in fiscal year
35 2016-2017.

36 B. It is the intent of the legislature that the additional revenue
37 generated by the fees prescribed in subsection A of this section not exceed
38 \$218,000 to the state general fund, \$113,000 to the pesticide trust fund
39 established by section 3-350, Arizona Revised Statutes, and \$26,000 to the
40 dangerous plants, pests and diseases trust fund established by section
41 3-214.01, Arizona Revised Statutes, in fiscal year 2016-2017.

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

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

1 A. The appropriation of \$626,700 from the liquor licenses fund
2 established by section 4-120, Arizona Revised Statutes, in fiscal year
3 2014-2015 to the department of liquor licenses and control for a licensing
4 replacement system pursuant to Laws 2014, chapter 18, section 55 is exempt
5 from the provisions of section 35-190, Arizona Revised Statutes, relating to
6 lapsing of appropriations until June 30, 2017.

7 B. The appropriation of \$400,000 from the liquor licenses fund
8 established by section 4-120, Arizona Revised Statutes, in fiscal year
9 2015-2016 to the department of liquor licenses and control for a licensing
10 replacement system pursuant to Laws 2015, chapter 8, section 63 is exempt
11 from the provisions of section 35-190, Arizona Revised Statutes, relating to
12 lapsing of appropriations until June 30, 2017.

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

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

19 Sec. 14. County fiscal obligations; report

20 A. Notwithstanding any other law, for fiscal year 2016-2017, a county
21 with a population of less than two hundred fifty thousand persons according
22 to the 2010 United States decennial census may meet any county fiscal
23 obligation from any source of county revenue designated by the county,
24 including monies of any countywide special taxing jurisdiction of which the
25 board of supervisors serves as the board of directors. Under the authority
26 provided in this subsection, a county may not use more than \$1,250,000 for
27 purposes other than the purposes of the revenue source.

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

35 Sec. 15. Racing administration fund; transfer

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

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

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

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

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

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

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

15 2. For all other taxpayers, any taxable period ending before February
16 1, 2015.

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

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

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

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

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

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

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

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

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

43 F. An application for recovery:

44 1. Must be on an application form provided by the department that
45 requires the applicant to identify the tax, the qualifying taxable period and
46 the tax liability for which recovery is sought and to provide other

1 information prescribed by the director. The taxpayer shall include any
2 returns and reports, including amended returns and reports, for the tax and
3 taxable periods. Any return or report filed under this section is subject to
4 verification as provided by law. A taxpayer who has insufficient information
5 to file a full income tax return may file a gross income return and compute
6 the tax pursuant to established rate brackets based on average tax rates for
7 the applicable taxable years.

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

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

11 (b) Payment in full over three years.

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

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

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

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

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

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

27 3. One hundred percent of the full tax liability on or before October
28 31, 2018.

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

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

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

45 1. The director shall notify the taxpayer regarding the application
46 for recovery and waiving or abating the civil penalties and interest for tax

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

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

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

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

16 M. The director may:

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

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

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

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

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

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

31 3. The amount of revenue received from taxpayers on or before October
32 31 of the prior calendar year.

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

34 Q. For the purposes of this section:

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

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

40 3. "Tax requirement" means:

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

43 (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
46 transportation authorities located in a county with a population of more than

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

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

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

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

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

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

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

32 Sec. 20. Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

38 1. Was an enrolled member of a tribe.

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

43 3. Had Arizona state income tax withheld from the veteran's active
44 duty military pay on or after September 1, 1993 and before January 1, 2006,
45 and the amount withheld:

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

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

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

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

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

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

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

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

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

44 5. The claimant must provide a signed statement attesting, under
45 penalty of perjury, that the veteran has not received a refund of the state

1 income tax withheld for the years for which the claimant is filing a claim
2 for a settlement payment.

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

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

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

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

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

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

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

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

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

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

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

34 1. The veteran separated from military service.

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

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

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

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

1 the department of veterans' services to respond within two hundred ten days
2 after receiving a complete and correct claim form is considered to be a
3 denial.

4 H. Within two hundred ten days after receiving the claim form from the
5 department of veterans' services, the department of revenue shall determine
6 whether the claim meets the requirements of subsection A, paragraph 3 and
7 subsection B, paragraphs 4 and 5 of this section and notify the claimant and
8 the department of veterans' services of its approval or denial. The failure
9 of the department of revenue to respond within two hundred ten days after
10 receiving the claim form is considered to be a denial.

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

12 A. The department of revenue shall pay approved claims under section
13 22 of this act:

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

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

20 B. Settlement payments under this section shall include interest
21 computed on a daily basis from the date of a timely filed return for the
22 applicable taxable period through the date the payment warrant is issued at
23 the rate determined under section 6621 of the internal revenue code, as
24 defined by section 42-1001, Arizona Revised Statutes.

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

27 Notwithstanding any other administrative proceedings established by law
28 or by rule, all appealable agency actions, as defined by section 41-1092,
29 Arizona Revised Statutes, and contested cases, as defined by section 41-1001,
30 Arizona Revised Statutes, shall be governed by title 41, chapter 6, article
31 10, Arizona Revised Statutes.

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

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

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

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

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

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

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

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

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

7 Sec. 27. Appropriation: veterans' income tax settlement fund

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

11 Sec. 28. Repeal

12 Sections 19 through 26 of this act are repealed from and after December
13 31, 2019.

14 Sec. 29. Retroactivity

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

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

APPROVED BY THE GOVERNOR MAY 10, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 10, 2016.