



# HOUSE OF REPRESENTATIVES

## HB 2708/SB 1539

revenue; budget reconciliation; 2016-2017

Prime Sponsor: Representative Montenegro, LD 13/Senator Biggs, LD 12

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**DPA** Committee on Appropriations

**DPA** Caucus and COW

**X** Transmitted to the Governor

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### OVERVIEW

HB 2708 makes temporary and permanent statutory changes relating to state revenues in order to implement the Fiscal Year (FY) 2017 budget.

### PROVISIONS

#### *Department of Agriculture (ADA)*

1. Allows the Director of ADA, with the assistance of the ADA Advisory Council, to continue existing fees from FY 2016 into FY 2017.
2. Declares that it is the intent of the Legislature that the additional revenues generated by fees do not exceed:
  - a. \$218,000 to the state General Fund (GF).
  - b. \$113,000 to the Pesticide Trust Fund.
  - c. \$26,000 to the Dangerous Plants, Pests and Diseases Trust Fund.
3. Exempts ADA from rulemaking requirements for the purpose of establishing fees until July 1, 2017.

#### *Department of Corrections*

4. Extends the distribution of luxury tax revenues to the Corrections Fund, permanently, retroactive to July 1, 2015.
  - a. *Allocation of revenues ended in FY 2015.*

#### *Counties and Municipalities*

5. Permits a county with a population of less than 250,000 to use any source of county revenue to meet its fiscal obligations in FY 2017.
  - a. Prohibits a county from using more than \$1.5 million for purposes other than the purposes of the revenue source.
  - b. Stipulates that the county must report the specific source and amount of revenues the county intends to use to the Joint Legislative Budget Committee (JLBC) by October 1, 2016.
6. Requires the Maricopa County Board of Supervisors to spend all remaining monies in the Elderly Assistance Fund after December 31, 2015 solely on the Elderly Assistance Program.
  - a. Specifies that all subsequent appropriations made to the Fund must be spent on the Program.
  - b. Applies retroactively to January 1, 2016.

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7. Exempts La Paz County from penalties for exceeding its expenditure limit in FY 2014, FY 2015 and FY 2016 due to its contract with Los Angeles County to import incinerator ash for disposal.

***Department of Financial Institutions (DFI)***

8. Allows the Superintendent of DFI to use monies in the Receivership Revolving Fund for expenditures on an electronic licensing system through FY 2017.
  - a. Declares that it is the Legislature's intent that expenditures on the electronic licensing system do not exceed \$850,000.
9. Allows DFI to use the Financial Services Fund for general operating expenditures in FY 2017.

***Department of Gaming***

10. Requires the Department of Gaming to transfer the remaining balance of \$23,700 from the Racing Administration Fund to the Racing Regulation Fund.

***Department of Insurance (DOI)***

11. Prohibits the Director of DOI from modifying fees or assessments in FY 2017 for the purpose of meeting the statutory requirement that DOI recover at least 95%, but not more than 110% of its appropriated budget.

***Department of Liquor Licenses and Control (DLLC)***

12. Exempts the \$626,700 appropriation in FY 2015 and the \$400,000 appropriation in FY 2016 received by DLLC for a licensing replacement system from the statutory lapsing of appropriations restriction.

***Radiation Regulatory Agency (ARRA)***

13. Permits the Director of ARRA to increase fees in FY 2017.
14. Declares that it is the intent of the Legislature that the revenues generated by collected fees do not exceed \$561,000.
15. Requires ARRA to deposit monies generated from fees in the Radiation Regulatory Fee Fund.
16. Exempts ARRA from rulemaking for the purpose of increasing fees until July 1, 2017.

***Department of Transportation (ADOT)***

17. Requires, prior to Highway User Revenue Fund distribution, ADOT to allocate and the Treasurer to distribute \$30 million in FY 2018, used only for the direct costs of construction and maintenance of roads and bridges and acquisitions of rights-of-way, as follows:
  - a. 33.231% to counties.
  - b. 48.097% to incorporated cities and towns.
  - c. 5.247% to incorporated cities with a population of 300,000 or more persons.
  - d. 13.425% to counties with a population greater than 800,000 persons.
18. Appropriates \$30 million on a one-time basis from the GF in FY 2017 to ADOT to distribute in the same manner and for the same purpose as outlined above.

*Department of Revenue*

19. Requires DOR to report the amount of individual and corporate income tax credits claimed in the preceding FY to the Director of JLBC and the Director of the Governor's Office of Strategic Planning and Budgeting, by September 30<sup>th</sup> of each year.
20. Declares that it is the Legislature's intent that the total fees collected by DOR for administrative costs do not exceed \$20,755,835 in any FY and that the fees assessed to each local government be in proportion to the distribution of revenues in the FY two years prior.
  - a. Specifies that the population of a county, city or town as determined by the most recent decennial census plus any revision by the U.S. Census bureau is to be the basis for apportioning money.

*Tobacco Stamps*

21. Allows a tobacco distributor to purchase tobacco stamps from DOR at the following rates:
  - a. 96% of the stamp's face value if purchased between October 1, 2014 and September 30, 2016.
  - b. 96.48% of the stamp's face value if purchased after September 30, 2016.
22. Requires DOR to remit ¢3.52 per stamp to each distributor as an administrative allowance, upon confirmation of affixation of stamps for the following stamp categories:
  - a. Stamps with a face value of \$0.
  - b. Stamps that do not require a precollected tax.
23. Stipulates that any refunded stamps or redemption of unused or spoiled stamps must be issued as follows:
  - a. The total face value of the stamps, minus 4% if the stamps were purchased or acquired between October 1, 2014 and September 30, 2016.
  - b. The total face value of the stamps, minus 3.52%, if the stamps were purchased or acquired after September 30, 2016.
24. Specifies that any rebate of stamps in which no precollected tax was required is to be reimbursed at the full face value of the stamps.
25. Allows tobacco distributors to *acquire* tobacco stamps from DOR pursuant to DOR procedures.

*Tax Recovery Program (Program)*

26. Requires DOR to establish a Program through December 31, 2018 for the purposes of abating and waiving civil penalties and interest for unpaid tax liabilities.
  - a. Taxpayers may only seek a waiving or abatement of tax penalties for any taxable period ending before:
    - i. January 1, 2014 for taxpayers filing annually; and
    - ii. February 1, 2015 for all other taxpayers.
27. Outlines qualifications and application requirements for the Program.
28. Allows a taxpayer to pay their unpaid tax liability in full at one time or over a period of three years.
29. Specifies the requirements and responsibilities of DOR with regards to the Program.
30. Requires DOR to submit a report to the Governor, President of the Senate and the Speaker of the House of Representatives, including specified information, by January 1<sup>st</sup> of each year.

*Veterans Income Tax Settlement*

31. Establishes the Veteran's Income Tax Settlement Fund (Fund), which consists of legislative appropriations and donations.
  - a. Monies in the Fund are continuously appropriated to DOR.
32. Appropriates \$2 million from the GF in FY 2017 to the Fund.
33. Requires DOR to administer the Fund.
34. Directs the state Treasurer to invest and divest monies in the Fund.
35. Specifies that Fund monies are exempt from laws relating to the lapsing of appropriations.
36. Stipulates that unexpended and unencumbered monies remaining in the Fund on June 30, 2019 revert back to the GF.
37. Allows 5% of Fund monies to be used for administrative purposes.
38. Permits a veteran or the veterans' surviving spouse, personal representative, executor or other official of the estate to file a claim for a settlement payment for any period of active duty if the veteran:
  - a. was an enrolled member of a Native American tribe;
  - b. maintained a domicile within the reservation boundaries of the veteran or veteran's spouse; and
  - c. had taxes withheld from their active duty military pay between September 1, 1993 and January 1, 2006.
39. Requires a claim to provide evidence of eligibility, the amount of the claim and all of the following:
  - a. A copy of the veteran's DD Form 214 or other proof of service;
  - b. A signed statement attesting to the veteran's tribal status;
  - c. Evidence that the veteran's domicile meets eligibility requirements;
  - d. Evidence of the amount of state income taxes withheld from the veteran's military pay; and
  - e. A signed statement, under the penalty of perjury, specifying that the veteran has not received an income tax refund.
40. States that a claim must be filed by an eligible individual.
41. Specifies that if an eligible veteran is deceased and a claim is filed by another person, the following criteria must be met:
  - a. A death certificate must be provided;
  - b. A claim may only be filed by a surviving spouse, representative, executor or other official representative of the estate, if the decedent's estate is valued at more than \$30,000; and
  - c. A claim filed by a successor must include a notarized and dated statement that:
    - i. Indicates the value of the estate;
    - ii. Verifies that at least 30 days has passed since the veteran's death; and
    - iii. Verifies the individual's eligibility to receive the settlement.
  - d. A claim filed by a personal representative, executor or other official representative of the estate, must provide:
    - i. A signed and notarized statement which states that the claimant has been appointed to represent the estate; and
    - ii. A copy of the claimant's appointment.

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42. Provides that a settlement claim must be denied for any amount of withholding tax that can be claimed as a refund pursuant to statute.
  - a. A refund may be filed by a veteran by the later of December 31<sup>st</sup> of the year three years after separation from service or the year in which state taxes were withheld from the veteran's active duty pay.
43. Specifies that a settlement payment claim must be made on a claim form prescribed by DOR and filed with Department of Veterans Services (DVS) by December 31, 2017.
44. Requires DVS to determine whether a submitted claim form meets the prescribed requirements within 210 days and transmit the claim form to DOR.
  - a. States that a failure to respond by DVS within 210 days is considered to be a denial.
45. Requires DOR, within 210 days, to validate a claim and inform the claimant and DVS of its approval or denial.
  - a. Specifies that a failure to respond by DOR within 210 days is considered to be a denial.
46. Requires DOR to pay approved claims, on a first come first serve basis, from the Fund and in a manner prescribed by statute.
47. Specifies that settlement payments must include interest, computed daily, from the date a tax return was filed for the applicable taxable period through the date of payment.
48. Requires all appealable agency actions and contested cases to be governed pursuant to statute.
49. Requires the Directors of DOR and DVS to collaborate in adopting any additional rules deemed necessary to administer the provisions of this Act.
50. States that the Director of DOR is required to report the following information to the Legislature by October 1, each year from 2017 to 2019:
  - a. Estimates of the amount of taxes subject to payment;
  - b. The number of eligible veterans affected by withholdings subject to payment;
  - c. Expenditures from the Fund during the previous fiscal year;
  - d. Anticipated expenditures from the Fund during the current fiscal year; and
  - e. Anticipated appropriations to the Fund needed to meet expected payments in the next fiscal year.
51. Contains an intent clause.
52. Repeals Veterans Income Tax Settlement provisions on January 1, 2020.

### *Miscellaneous*

53. Defines terms.
54. Makes technical and conforming changes.