AN ACT

AMENDING TITLE 41, CHAPTER 1, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-194.01; AMENDING SECTIONS 42-5029 AND 43-206, ARIZONA REVISED STATUTES; RELATING TO STATE SHARED REVENUES.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 41, chapter 1, article 5, Arizona Revised Statutes, is amended by adding section 41-194.01, to read:

41-194.01. Violations of state law by counties, cities and towns; attorney general investigation; report; withholding of state shared revenues

A. At the request of one or more members of the legislature, the attorney general shall investigate any ordinance, regulation, order or other official action adopted or taken by the governing body of a county, city or town that the member alleges violates state law or the constitution of Arizona.

B. The attorney general shall make a written report of findings and conclusions as a result of the investigation within thirty days after receipt of the request and shall provide a copy of the report to the governor, the president of the Senate, the speaker of the house of representatives, the member or members of the legislature making the original request and the secretary of state. If the attorney general concludes that the ordinance, regulation, order or other action under investigation:

1. Violates any provision of state law or the constitution of Arizona, the attorney general shall provide notice to the county, city or town, by certified mail, of the violation and shall indicate that the county, city or town has thirty days to resolve the violation. If the attorney general determines that the county, city or town has failed to resolve the violation within thirty days, the attorney general shall:

   (a) Notify the state treasurer who shall withhold and redistribute state shared monies from the county, city or town as provided by section 42-5029, subsection L and from the city or town as provided by section 43-206, subsection F.

   (b) Continue to monitor the response of the governing body, and when the offending ordinance, regulation, order or action is repealed or the violation is otherwise resolved, the attorney general shall notify:

       (i) The governor, the president of the Senate, the speaker of the house of representatives and the member or members of the legislature making the original request that the violation has been resolved.

       (ii) The state treasurer to restore the distribution of state shared revenues to the county, city or town.

2. May violate a provision of state law or the constitution of Arizona, the attorney general shall file a special action in supreme court to resolve the issue, and the supreme court shall give the action precedence over all other cases. The court shall require the county, city or town to post a bond equal to the amount of state shared revenue paid to the county, city or town pursuant to section 42-5029 and 43-206 in the preceding six months.

3. Does not violate any provision of state law or the constitution of Arizona, the attorney general shall take no further action pursuant to this section.
Sec. 2. Section 42-5029, Arizona Revised Statutes, is amended to read:

42-5029. Remission and distribution of monies; withholding;

A. The department shall deposit, pursuant to sections 35-146 and 35-147, all revenues collected under this article and articles 4, 5 and 8 of this chapter pursuant to section 42-1116, separately accounting for:

1. Payments of estimated tax under section 42-5014, subsection D.
2. Revenues collected pursuant to section 42-5070.
3. Revenues collected under this article and article 5 of this chapter from and after June 30, 2000 from sources located on Indian reservations in this state.
4. Revenues collected pursuant to section 42-5010, subsection G and section 42-5155, subsection D.

B. The department shall credit payments of estimated tax to an estimated tax clearing account and each month shall transfer all monies in the estimated tax clearing account to a fund designated as the transaction privilege and severance tax clearing account. The department shall credit all other payments to the transaction privilege and severance tax clearing account, separately accounting for the monies designated as distribution base under sections 42-5010, 42-5164, 42-5205 and 42-5353. Each month the department shall report to the state treasurer the amount of monies collected pursuant to this article and articles 4, 5 and 8 of this chapter.

C. On notification by the department, the state treasurer shall distribute the monies deposited in the transaction privilege and severance tax clearing account in the manner prescribed by this section and by sections 42-5164, 42-5205 and 42-5353, after deducting warrants drawn against the account pursuant to sections 42-1118 and 42-1254.

D. Of the monies designated as distribution base, and subject to the requirements of section 42-5041, the department shall:

1. Pay twenty-five percent to the various incorporated municipalities in this state in proportion to their population to be used by the municipalities for any municipal purpose.
2. Pay 38.08 percent to the counties in this state by averaging the following proportions:
   (a) The proportion that the population of each county bears to the total state population.
   (b) The proportion that the distribution base monies collected during the calendar month in each county under this article, section 42-5164, subsection B, section 42-5205, subsection B and section 42-5353 bear to the total distribution base monies collected under this article, section 42-5164, subsection B, section 42-5205, subsection B and section 42-5353 throughout the state for the calendar month.
3. Pay an additional 2.43 percent to the counties in this state as follows:
   (a) Average the following proportions:
(i) The proportion that the assessed valuation used to determine secondary property taxes of each county, after deducting that part of the assessed valuation that is exempt from taxation at the beginning of the month for which the amount is to be paid, bears to the total assessed valuations used to determine secondary property taxes of all the counties after deducting that portion of the assessed valuations that is exempt from taxation at the beginning of the month for which the amount is to be paid. Property of a city or town that is not within or contiguous to the municipal corporate boundaries and from which water is or may be withdrawn or diverted and transported for use on other property is considered to be taxable property in the county for purposes of determining assessed valuation in the county under this item.

(ii) The proportion that the distribution base monies collected during the calendar month in each county under this article, section 42-5164, subsection B, section 42-5205, subsection B and section 42-5353 bear to the total distribution base monies collected under this article, section 42-5164, subsection B, section 42-5205, subsection B and section 42-5353 throughout the state for the calendar month.

(b) If the proportion computed under subdivision (a) of this paragraph for any county is greater than the proportion computed under paragraph 2 of this subsection, the department shall compute the difference between the amount distributed to that county under paragraph 2 of this subsection and the amount that would have been distributed under paragraph 2 of this subsection using the proportion computed under subdivision (a) of this paragraph and shall pay that difference to the county from the amount available for distribution under this paragraph. Any monies remaining after all payments under this subdivision shall be distributed among the counties according to the proportions computed under paragraph 2 of this subsection.

4. After any distributions required by sections 42-5030, 42-5030.01, 42-5031, 42-5032, 42-5032.01 and 42-5032.02, and after making any transfer to the water quality assurance revolving fund as required by section 49-282, subsection B, credit the remainder of the monies designated as distribution base to the state general fund. From this amount the legislature shall annually appropriate to:

(a) The department of revenue sufficient monies to administer and enforce this article and articles 5 and 8 of this chapter.

(b) The department of economic security monies to be used for the purposes stated in title 46, chapter 1.

(c) The firearms safety and ranges fund established by section 17-273, fifty thousand dollars derived from the taxes collected from the retail classification pursuant to section 42-5061 for the current fiscal year.

E. If approved by the qualified electors voting at a statewide general election, all monies collected pursuant to section 42-5010, subsection G and section 42-5155, subsection D shall be distributed each fiscal year pursuant to this subsection. The monies distributed pursuant to this subsection are in addition to any other appropriation, transfer or other allocation of
public or private monies from any other source and shall not supplant, replace or cause a reduction in other school district, charter school, university or community college funding sources. The monies shall be distributed as follows:

1. If there are outstanding state school facilities revenue bonds pursuant to title 15, chapter 16, article 7, each month one-twelfth of the amount that is necessary to pay the fiscal year's debt service on outstanding state school improvement revenue bonds for the current fiscal year shall be transferred each month to the school improvement revenue bond debt service fund established by section 15-2084. The total amount of bonds for which these monies may be allocated for the payment of debt service shall not exceed a principal amount of eight hundred million dollars exclusive of refunding bonds and other refinancing obligations.

2. After any transfer of monies pursuant to paragraph 1 of this subsection, twelve per cent of the remaining monies collected during the preceding month shall be transferred to the technology and research initiative fund established by section 15-1648 to be distributed among the universities for the purpose of investment in technology and research-based initiatives.

3. After the transfer of monies pursuant to paragraph 1 of this subsection, three per cent of the remaining monies collected during the preceding month shall be transferred to the workforce development account established in each community college district pursuant to section 15-1472 for the purpose of investment in workforce development programs.

4. After transferring monies pursuant to paragraphs 1, 2 and 3 of this subsection, one-twelfth of the amount a community college that is owned, operated or chartered by a qualifying Indian tribe on its own Indian reservation would receive pursuant to section 15-1472, subsection D, paragraph 2 if it were a community college district shall be distributed each month to the treasurer or other designated depository of a qualifying Indian tribe. Monies distributed pursuant to this paragraph are for the exclusive purpose of providing support to one or more community colleges owned, operated or chartered by a qualifying Indian tribe and shall be used in a manner consistent with section 15-1472, subsection B. For the purposes of this paragraph, "qualifying Indian tribe" has the same meaning as defined in section 42-5031.01, subsection D.

5. After transferring monies pursuant to paragraphs 1, 2 and 3 of this subsection, one-twelfth of the following amounts shall be transferred each month to the department of education for the increased cost of basic state aid under section 15-971 due to added school days and associated teacher salary increases enacted in 2000:

(a) In fiscal year 2001-2002, $15,305,900.
(b) In fiscal year 2002-2003, $31,530,100.
(c) In fiscal year 2003-2004, $48,727,700.
(d) In fiscal year 2004-2005, $66,957,200.
(e) In fiscal year 2005-2006 and each fiscal year thereafter, $86,280,500.

6. After transferring monies pursuant to paragraphs 1, 2 and 3 of this subsection, seven million eight hundred thousand dollars is appropriated each fiscal year, to be paid in monthly installments, to the department of education to be used for school safety as provided in section 15-154 and two hundred thousand dollars is appropriated each fiscal year, to be paid in monthly installments to the department of education to be used for the character education matching grant program as provided in section 15-154.01.

7. After transferring monies pursuant to paragraphs 1, 2 and 3 of this subsection, no more than seven million dollars may be appropriated by the legislature each fiscal year to the department of education to be used for accountability purposes as described in section 15-241 and title 15, chapter 9, article 8.

8. After transferring monies pursuant to paragraphs 1, 2 and 3 of this subsection, one million five hundred thousand dollars is appropriated each fiscal year, to be paid in monthly installments, to the failing schools tutoring fund established by section 15-241.

9. After transferring monies pursuant to paragraphs 1, 2 and 3 of this subsection, twenty-five million dollars shall be transferred each fiscal year to the state general fund to reimburse the general fund for the cost of the income tax credit allowed by section 43-1072.01.

10. After the payment of monies pursuant to paragraphs 1 through 9 of this subsection, the remaining monies collected during the preceding month shall be transferred to the classroom site fund established by section 15-977. The monies shall be allocated as follows in the manner prescribed by section 15-977:

(a) Forty per cent shall be allocated for teacher compensation based on performance.
(b) Twenty per cent shall be allocated for increases in teacher base compensation and employee related expenses.
(c) Forty per cent shall be allocated for maintenance and operation purposes.

F. The department shall credit the remainder of the monies in the transaction privilege and severance tax clearing account to the state general fund, subject to any distribution required by section 42-5030.01.

G. Notwithstanding subsection D of this section, if a court of competent jurisdiction finally determines that tax monies distributed under this section were illegally collected under this article or articles 5 and 8 of this chapter and orders the monies to be refunded to the taxpayer, the department shall compute the amount of such monies that was distributed to each city, town and county under this section. Each city's, town's and county's proportionate share of the costs shall be based on the amount of the original tax payment each municipality and county received. Each month the state treasurer shall reduce the amount otherwise distributable to the city, town and county under this section by one thirty-sixth of the total amount to
be recovered from the city, town or county until the total amount has been recovered, but the monthly reduction for any city, town or county shall not exceed ten per cent of the full monthly distribution to that entity. The reduction shall begin for the first calendar month after the final disposition of the case and shall continue until the total amount, including interest and costs, has been recovered.

H. On receiving a certificate of default from the greater Arizona development authority pursuant to section 41-2257 or 41-2258 and to the extent not otherwise expressly prohibited by law, the state treasurer shall withhold from the next succeeding distribution of monies pursuant to this section due to the defaulting political subdivision the amount specified in the certificate of default and immediately deposit the amount withheld in the greater Arizona development authority revolving fund. The state treasurer shall continue to withhold and deposit the monies until the greater Arizona development authority certifies to the state treasurer that the default has been cured. In no event may the state treasurer withhold any amount that the defaulting political subdivision certifies to the state treasurer and the authority as being necessary to make any required deposits then due for the payment of principal and interest on bonds of the political subdivision that were issued before the date of the loan repayment agreement or bonds and that have been secured by a pledge of distributions made pursuant to this section.

I. Except as provided by sections 42-5033 and 42-5033.01, the population of a county, city or town as determined by the most recent United States decennial census plus any revisions to the decennial census certified by the United States bureau of the census shall be used as the basis for apportioning monies pursuant to subsection D of this section.

J. Except as otherwise provided by this subsection, on notice from the department of revenue pursuant to section 42-6010, subsection B, the state treasurer shall withhold from the distribution of monies pursuant to this section to the affected city or town the amount of the penalty for business location municipal tax incentives provided by the city or town to a business entity that locates a retail business facility in the city or town. The state treasurer shall continue to withhold monies pursuant to this subsection until the entire amount of the penalty has been withheld. The state treasurer shall credit any monies withheld pursuant to this subsection to the state general fund as provided by subsection D, paragraph 4 of this section. The state treasurer shall not withhold any amount that the city or town certifies to the department of revenue and the state treasurer as being necessary to make any required deposits or payments for debt service on bonds or other long-term obligations of the city or town that were issued or incurred before the location incentives provided by the city or town.

K. On notice from the auditor general pursuant to section 9-626, subsection D, the state treasurer shall withhold from the distribution of monies pursuant to this section to the affected city the amount computed pursuant to section 9-626, subsection D. The state treasurer shall continue to withhold monies pursuant to this subsection until the entire amount...
specified in the notice has been withheld. The state treasurer shall credit any monies withheld pursuant to this subsection to the state general fund as provided by subsection D, paragraph 4 of this section.

L. EXCEPT AS OTHERWISE PROVIDED BY THIS SUBSECTION, ON NOTICE FROM THE ATTORNEY GENERAL PURSUANT TO SECTION 41-194.01, SUBSECTION B, PARAGRAPH 1 THAT AN ORDINANCE, REGULATION, ORDER OR OTHER OFFICIAL ACTION ADOPTED OR TAKEN BY THE GOVERNING BODY OF A COUNTY, CITY OR TOWN VIOLATES STATE LAW OR THE CONSTITUTION OF ARIZONA, THE STATE TREASURER SHALL WITHHOLD THE DISTRIBUTION OF MONIES PURSUANT TO THIS SECTION TO THE AFFECTED COUNTY, CITY OR TOWN AND SHALL CONTINUE TO WITHHOLD MONIES PURSUANT TO THIS SUBSECTION UNTIL THE ATTORNEY GENERAL CERTIFIES TO THE STATE TREASURER THAT THE VIOLATION HAS BEEN RESOLVED. THE STATE TREASURER SHALL REDISTRIBUTE THE MONIES WITHHELD PURSUANT TO THIS SUBSECTION AMONG ALL OTHER COUNTIES, CITIES AND TOWNS IN PROPORTION TO THEIR POPULATION AS PROVIDED BY SUBSECTION D OF THIS SECTION. THE STATE TREASURER SHALL NOT WITHHOLD ANY AMOUNT THAT THE COUNTY, CITY OR TOWN CERTIFIES TO THE ATTORNEY GENERAL AND THE STATE TREASURER AS BEING NECESSARY TO MAKE ANY REQUIRED DEPOSITS OR PAYMENTS FOR DEBT SERVICE ON BONDS OR OTHER LONG-TERM OBLIGATIONS OF THE COUNTY, CITY OR TOWN THAT WERE ISSUED OR INCURRED BEFORE COMMITTING THE VIOLATION.

M. For the purposes of this section, "community college district" means a community college district that is established pursuant to sections 15-1402 and 15-1403 and that is a political subdivision of this state and, unless otherwise specified, includes a community college tuition financing district established pursuant to section 15-1409.

Sec. 3. Section 43-206, Arizona Revised Statutes, is amended to read:

43-206. Urban revenue sharing fund; allocation; distribution; withholding

A. There is established an urban revenue sharing fund. The fund shall consist of an amount equal to fifteen percent of the net proceeds of the state income taxes for the fiscal year two years preceding the current fiscal year. The fund shall be distributed to incorporated cities and towns as provided in this section, except that a city or town shall receive at least an amount equal to what a city or town with a population of fifteen hundred or more persons would receive. The transfer of net proceeds prescribed by section 49-282, subsection B does not affect the calculation of net proceeds prescribed by this subsection.

B. Each city or town shall share in the urban revenue sharing fund in the proportion that the population of each bears to the population of all. Except as provided by sections 42-5033 and 42-5033.01, the population of a city or town as determined by the most recent United States decennial census plus any revisions to the decennial census certified by the United States bureau of the census shall be used as the basis for apportioning monies pursuant to this subsection.

C. The treasurer, upon instruction from the department, shall transmit, no later than the tenth day of each month, to each city or town an amount equal to one-twelfth of that city's or town's total entitlement for
the current fiscal year from the urban revenue sharing fund as determined by
the department.

D. A newly incorporated city or town shall share in the urban revenue
sharing fund beginning the first month of the first full fiscal year
following incorporation.

E. On receipt of a certificate of default from the greater Arizona
development authority pursuant to section 41-2257 or 41-2258, the state
treasurer, to the extent not otherwise expressly prohibited by law, shall
withhold from the next succeeding distribution of monies pursuant to this
section due to the city or town the amount specified in the certificate of
default and immediately deposit the amount withheld in the greater Arizona
development authority revolving fund. The state treasurer shall continue to
withhold and deposit the monies until the authority certifies to the state
treasurer that the default has been cured. In no event shall the state
treasurer withhold any amount that is necessary, as certified by the
defaulting political subdivision to the state treasurer and the authority, to
make any required deposits then due for the payment of principal and interest
on bonds of the political subdivision that were issued prior to the date of
the loan repayment agreement or bonds and that have been secured by a pledge
distributions made pursuant to this section.

F. EXCEPT AS OTHERWISE PROVIDED BY THIS SUBSECTION, ON NOTICE FROM THE
ATTORNEY GENERAL PURSUANT TO SECTION 41-194.01, SUBSECTION B, PARAGRAPH 1
THAT AN ORDINANCE, REGULATION, ORDER OR OTHER OFFICIAL ACTION ADOPTED OR
TAKEN BY THE GOVERNING BODY OF A CITY OR TOWN VIOLATES STATE LAW OR THE
CONSTITUTION OF ARIZONA, THE STATE TREASURER SHALL WITHHOLD THE DISTRIBUTION
OF MONIES PURSUANT TO THIS SECTION TO THE AFFECTED CITY OR TOWN AND SHALL
CONTINUE TO WITHHOLD MONIES PURSUANT TO THIS SUBSECTION UNTIL THE ATTORNEY
GENERAL CERTIFIES TO THE STATE TREASURER THAT THE VIOLATION HAS BEEN
RESOLVED. THE STATE TREASURER SHALL REDISTRIBUTE THE MONIES WITHHELD
PURSUANT TO THIS SUBSECTION AMONG ALL OTHER CITIES AND TOWNS IN PROPORTION TO
THEIR POPULATION AS PROVIDED BY SUBSECTION B OF THIS SECTION. THE STATE
TREASURER SHALL NOT WITHHOLD ANY AMOUNT THAT THE CITY OR TOWN CERTIFIES TO
THE ATTORNEY GENERAL AND THE STATE TREASURER AS BEING NECESSARY TO MAKE ANY
REQUIRED DEPOSITS OR PAYMENTS FOR DEBT SERVICE ON BONDS OR OTHER LONG-TERM
OBLIGATIONS OF THE CITY OR TOWN THAT WERE ISSUED OR INCURRED BEFORE
COMMITTING THE VIOLATION.