

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

CHAPTER 35
SENATE BILL 1487

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)

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

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

4 41-194.01. Violations of state law by counties, cities and
5 towns; attorney general investigation; report;
6 withholding of state shared revenues

7 A. AT THE REQUEST OF ONE OR MORE MEMBERS OF THE LEGISLATURE, THE
8 ATTORNEY GENERAL SHALL INVESTIGATE ANY ORDINANCE, REGULATION, ORDER OR OTHER
9 OFFICIAL ACTION ADOPTED OR TAKEN BY THE GOVERNING BODY OF A COUNTY, CITY OR
10 TOWN THAT THE MEMBER ALLEGES VIOLATES STATE LAW OR THE CONSTITUTION OF
11 ARIZONA.

12 B. THE ATTORNEY GENERAL SHALL MAKE A WRITTEN REPORT OF FINDINGS AND
13 CONCLUSIONS AS A RESULT OF THE INVESTIGATION WITHIN THIRTY DAYS AFTER RECEIPT
14 OF THE REQUEST AND SHALL PROVIDE A COPY OF THE REPORT TO THE GOVERNOR, THE
15 PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, THE
16 MEMBER OR MEMBERS OF THE LEGISLATURE MAKING THE ORIGINAL REQUEST AND THE
17 SECRETARY OF STATE. IF THE ATTORNEY GENERAL CONCLUDES THAT THE ORDINANCE,
18 REGULATION, ORDER OR OTHER ACTION UNDER INVESTIGATION:

19 1. VIOLATES ANY PROVISION OF STATE LAW OR THE CONSTITUTION OF ARIZONA,
20 THE ATTORNEY GENERAL SHALL PROVIDE NOTICE TO THE COUNTY, CITY OR TOWN, BY
21 CERTIFIED MAIL, OF THE VIOLATION AND SHALL INDICATE THAT THE COUNTY, CITY OR
22 TOWN HAS THIRTY DAYS TO RESOLVE THE VIOLATION. IF THE ATTORNEY GENERAL
23 DETERMINES THAT THE COUNTY, CITY OR TOWN HAS FAILED TO RESOLVE THE VIOLATION
24 WITHIN THIRTY DAYS, THE ATTORNEY GENERAL SHALL:

25 (a) NOTIFY THE STATE TREASURER WHO SHALL WITHHOLD AND REDISTRIBUTE
26 STATE SHARED MONIES FROM THE COUNTY, CITY OR TOWN AS PROVIDED BY SECTION
27 42-5029, SUBSECTION L AND FROM THE CITY OR TOWN AS PROVIDED BY SECTION
28 43-206, SUBSECTION F.

29 (b) CONTINUE TO MONITOR THE RESPONSE OF THE GOVERNING BODY, AND WHEN
30 THE OFFENDING ORDINANCE, REGULATION, ORDER OR ACTION IS REPEALED OR THE
31 VIOLATION IS OTHERWISE RESOLVED, THE ATTORNEY GENERAL SHALL NOTIFY:

32 (i) THE GOVERNOR, THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE
33 HOUSE OF REPRESENTATIVES AND THE MEMBER OR MEMBERS OF THE LEGISLATURE MAKING
34 THE ORIGINAL REQUEST THAT THE VIOLATION HAS BEEN RESOLVED.

35 (ii) THE STATE TREASURER TO RESTORE THE DISTRIBUTION OF STATE SHARED
36 REVENUES TO THE COUNTY, CITY OR TOWN.

37 2. MAY VIOLATE A PROVISION OF STATE LAW OR THE CONSTITUTION OF
38 ARIZONA, THE ATTORNEY GENERAL SHALL FILE A SPECIAL ACTION IN SUPREME COURT TO
39 RESOLVE THE ISSUE, AND THE SUPREME COURT SHALL GIVE THE ACTION PRECEDENCE
40 OVER ALL OTHER CASES. THE COURT SHALL REQUIRE THE COUNTY, CITY OR TOWN TO
41 POST A BOND EQUAL TO THE AMOUNT OF STATE SHARED REVENUE PAID TO THE COUNTY,
42 CITY OR TOWN PURSUANT TO SECTION 42-5029 AND 43-206 IN THE PRECEDING SIX
43 MONTHS.

44 3. DOES NOT VIOLATE ANY PROVISION OF STATE LAW OR THE CONSTITUTION OF
45 ARIZONA, THE ATTORNEY GENERAL SHALL TAKE NO FURTHER ACTION PURSUANT TO THIS
46 SECTION.

1 assessed valuation that is exempt from taxation at the beginning of the month
2 for which the amount is to be paid, bears to the total assessed valuations
3 used to determine secondary property taxes of all the counties after
4 deducting that portion of the assessed valuations that is exempt from
5 taxation at the beginning of the month for which the amount is to be paid.
6 Property of a city or town that is not within or contiguous to the municipal
7 corporate boundaries and from which water is or may be withdrawn or diverted
8 and transported for use on other property is considered to be taxable
9 property in the county for purposes of determining assessed valuation in the
10 county under this item.

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

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

27 4. After any distributions required by sections 42-5030, 42-5030.01,
28 42-5031, 42-5032, 42-5032.01 and 42-5032.02, and after making any transfer to
29 the water quality assurance revolving fund as required by section 49-282,
30 subsection B, credit the remainder of the monies designated as distribution
31 base to the state general fund. From this amount the legislature shall
32 annually appropriate to:

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

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

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

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

1 university or community college funding sources. The monies shall be
2 distributed as follows:

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

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

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

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

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

40 (a) In fiscal year 2001-2002, \$15,305,900.

41 (b) In fiscal year 2002-2003, \$31,530,100.

42 (c) In fiscal year 2003-2004, \$48,727,700.

43 (d) In fiscal year 2004-2005, \$66,957,200.

44 (e) In fiscal year 2005-2006 and each fiscal year thereafter,
45 \$86,280,500.

46 6. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
47 subsection, seven million eight hundred thousand dollars is appropriated each

1 fiscal year, to be paid in monthly installments, to the department of
2 education to be used for school safety as provided in section 15-154 and two
3 hundred thousand dollars is appropriated each fiscal year, to be paid in
4 monthly installments to the department of education to be used for the
5 character education matching grant program as provided in section 15-154.01.

6 7. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
7 subsection, no more than seven million dollars may be appropriated by the
8 legislature each fiscal year to the department of education to be used for
9 accountability purposes as described in section 15-241 and title 15, chapter
10 9, article 8.

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

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

19 10. After the payment of monies pursuant to paragraphs 1 through 9 of
20 this subsection, the remaining monies collected during the preceding month
21 shall be transferred to the classroom site fund established by section
22 15-977. The monies shall be allocated as follows in the manner prescribed by
23 section 15-977:

24 (a) Forty per cent shall be allocated for teacher compensation based
25 on performance.

26 (b) Twenty per cent shall be allocated for increases in teacher base
27 compensation and employee related expenses.

28 (c) Forty per cent shall be allocated for maintenance and operation
29 purposes.

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

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

1 disposition of the case and shall continue until the total amount, including
2 interest and costs, has been recovered.

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

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

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

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

46 L. EXCEPT AS OTHERWISE PROVIDED BY THIS SUBSECTION, ON NOTICE FROM THE
47 ATTORNEY GENERAL PURSUANT TO SECTION 41-194.01, SUBSECTION B, PARAGRAPH 1

1 THAT AN ORDINANCE, REGULATION, ORDER OR OTHER OFFICIAL ACTION ADOPTED OR
2 TAKEN BY THE GOVERNING BODY OF A COUNTY, CITY OR TOWN VIOLATES STATE LAW OR
3 THE CONSTITUTION OF ARIZONA, THE STATE TREASURER SHALL WITHHOLD THE
4 DISTRIBUTION OF MONIES PURSUANT TO THIS SECTION TO THE AFFECTED COUNTY, CITY
5 OR TOWN AND SHALL CONTINUE TO WITHHOLD MONIES PURSUANT TO THIS SUBSECTION
6 UNTIL THE ATTORNEY GENERAL CERTIFIES TO THE STATE TREASURER THAT THE
7 VIOLATION HAS BEEN RESOLVED. THE STATE TREASURER SHALL REDISTRIBUTE THE
8 MONIES WITHHELD PURSUANT TO THIS SUBSECTION AMONG ALL OTHER COUNTIES, CITIES
9 AND TOWNS IN PROPORTION TO THEIR POPULATION AS PROVIDED BY SUBSECTION D OF
10 THIS SECTION. THE STATE TREASURER SHALL NOT WITHHOLD ANY AMOUNT THAT THE
11 COUNTY, CITY OR TOWN CERTIFIES TO THE ATTORNEY GENERAL AND THE STATE
12 TREASURER AS BEING NECESSARY TO MAKE ANY REQUIRED DEPOSITS OR PAYMENTS FOR
13 DEBT SERVICE ON BONDS OR OTHER LONG-TERM OBLIGATIONS OF THE COUNTY, CITY OR
14 TOWN THAT WERE ISSUED OR INCURRED BEFORE COMMITTING THE VIOLATION.

15 ~~↳~~ M. For the purposes of this section, "community college district"
16 means a community college district that is established pursuant to sections
17 15-1402 and 15-1403 and that is a political subdivision of this state and,
18 unless otherwise specified, includes a community college tuition financing
19 district established pursuant to section 15-1409.

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

21 43-206. Urban revenue sharing fund; allocation; distribution;
22 withholding

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

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

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

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

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

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

APPROVED BY THE GOVERNOR MARCH 17, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 18, 2016.