

REFERENCE TITLE: TPT; services; tuition surcharge

State of Arizona  
House of Representatives  
Fifty-sixth Legislature  
Second Regular Session  
2024

## **HB 2360**

Introduced by

Representatives Sandoval: Aguilar, Austin, Contreras P, Crews, De Los Santos, Mathis, Ortiz, Peshlakai, Schwiebert, Seaman, Stahl Hamilton, Villegas; Senator Diaz

AN ACT

AMENDING SECTIONS 15-977 AND 15-1642, ARIZONA REVISED STATUTES; AMENDING TITLE 15, CHAPTER 13, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 15-1642.01; AMENDING TITLE 15, CHAPTER 13, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 15-1705; AMENDING TITLE 41, CHAPTER 1, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-181; REPEALING SECTION 41-194.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 403, SECTION 18; AMENDING SECTION 41-194.01, ARIZONA REVISED STATUTES, AS ADDED BY LAWS 2016, CHAPTER 35, SECTION 1; AMENDING SECTION 42-5010, ARIZONA REVISED STATUTES; AMENDING SECTION 42-5029, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 411, SECTION 2; AMENDING TITLE 42, CHAPTER 5, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-5077; AMENDING SECTION 42-6010, ARIZONA REVISED STATUTES; APPROPRIATING MONIES; RELATING TO STATE REVENUES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 15-977, Arizona Revised Statutes, is amended to  
3 read:

4 15-977. Classroom site fund; definitions

5 A. The classroom site fund is established consisting of monies  
6 transferred to the fund pursuant to section 37-521, subsection B, section  
7 42-5029, subsection E, paragraph 10, SECTION 42-5029, SUBSECTION F,  
8 PARAGRAPH 1 and section 42-5029.02, subsection A. The department of  
9 education shall administer the fund. School districts and charter schools  
10 may not supplant existing school site funding with revenues from the  
11 fund. All monies distributed from the fund are intended for use at the  
12 school site. Teacher compensation distributed pursuant to this section  
13 shall supplement, and not supplant, teacher compensation monies from any  
14 other sources. The school district or charter school shall notify each  
15 school principal of the amount available to the school by April 15 of each  
16 year. The district or charter school shall request from the school's  
17 principal each school's priority for the allocation of the funds available  
18 to the school for each program listed under subsection H of this  
19 section. The amount budgeted by the school district or charter school  
20 pursuant to this section shall not be included in the allowable budget  
21 balance carryforward calculated pursuant to section 15-943.01.

22 B. A school district governing board must adopt a performance based  
23 compensation system at a public hearing to allocate funding from the  
24 classroom site fund pursuant to subsection A of this section. Individual  
25 teacher performance shall be a component of allocation for teacher  
26 compensation.

27 C. A school district governing board shall vote on a performance  
28 based compensation system that includes the following elements:

- 29 1. School district performance and school performance.
- 30 2. Individual teacher performance.
- 31 3. Measures of academic progress toward the academic standards  
32 adopted by the state board of education.
- 33 4. Other measures of academic progress.
- 34 5. Dropout or graduation rates.
- 35 6. Attendance rates.
- 36 7. Ratings of school quality by parents.
- 37 8. Ratings of school quality by students.
- 38 9. The input of teachers and administrators.
- 39 10. Approval of the performance based compensation system based on  
40 an affirmative vote of at least seventy percent of the teachers eligible  
41 to participate in the performance based compensation system.
- 42 11. An appeals process for teachers who have been denied  
43 performance based compensation.
- 44 12. Regular evaluation for effectiveness.

1 D. A performance based compensation system shall include teacher  
2 professional development programs that are aligned with the elements of  
3 the performance based compensation system.

4 E. A school district governing board may modify the elements  
5 contained in subsection C of this section and consider additional elements  
6 when adopting a performance based compensation system. A school district  
7 governing board shall adopt any modifications or additional elements and  
8 specify the criteria used at a public hearing.

9 F. Until December 31, 2009, each school district shall develop an  
10 assessment plan for its performance based compensation system and submit  
11 the plan to the department of education by December 31 of each year. A  
12 copy of the performance based compensation system and assessment plan  
13 adopted by the school district governing board shall be included in the  
14 report submitted to the department of education.

15 G. Monies in the fund are continuously appropriated, are exempt  
16 from the provisions of section 35-190 relating to lapsing of  
17 appropriations and shall be distributed as follows:

18 1. By March 30 of each year, the staff of the joint legislative  
19 budget committee shall determine a per pupil amount from the fund for the  
20 budget year using the estimated statewide weighted count for the current  
21 year pursuant to section 15-943, paragraph 2, subdivision (a) and based on  
22 estimated available resources in the classroom site fund for the budget  
23 year adjusted for any prior year carryforward or shortfall.

24 2. The allocation to each charter school and school district for a  
25 fiscal year shall equal the per pupil amount established in paragraph 1 of  
26 this subsection for the fiscal year multiplied by the weighted student  
27 count for the school district or charter school for the fiscal year  
28 pursuant to section 15-943, paragraph 2, subdivision (a). For the  
29 purposes of this paragraph, the weighted student count for a school  
30 district that serves as the district of attendance for nonresident pupils  
31 shall be increased to include nonresident pupils who attend school in the  
32 school district.

33 H. Monies distributed from the classroom site fund shall be spent  
34 for the following purposes:

- 35 1. Class size reduction.
- 36 2. Teacher compensation, including a base pay and performance pay  
37 component.
- 38 3. Assessment intervention programs.
- 39 4. Teacher development.
- 40 5. Dropout prevention programs.
- 41 6. Teacher liability insurance premiums.
- 42 7. Student support services.

43 I. The district governing board or charter school shall allocate  
44 the classroom site fund monies to include, if possible, the priorities  
45 identified by the principals of the schools while ensuring that the monies

1 maximize classroom opportunities and conform to the authorized  
 2 expenditures identified in subsection A of this section.

3 J. School districts and charter schools that receive monies from  
 4 the classroom site fund shall submit a report by November 15 of each year  
 5 to the superintendent of public instruction that provides an accounting of  
 6 the expenditures of monies distributed from the fund during the previous  
 7 fiscal year and a summary of the results of district and school programs  
 8 funded with monies distributed from the fund. The department of education  
 9 in conjunction with the auditor general shall prescribe the format of the  
 10 report under this subsection.

11 K. School districts and charter schools that receive monies from  
 12 the classroom site fund shall receive these monies monthly in an amount  
 13 not to exceed one-twelfth of the monies estimated pursuant to subsection G  
 14 of this section, except that if there are insufficient monies in the fund  
 15 that month to make payments, the distribution for that month shall be  
 16 prorated for each school district or charter school. The department of  
 17 education may make an additional payment in the current month for any  
 18 prior month or months in which school districts or charter schools  
 19 received a prorated payment if there are sufficient monies in the fund  
 20 that month for the additional payments. The state is not required to make  
 21 payments to a school district or charter school classroom site fund if the  
 22 state classroom site fund revenue collections are insufficient to meet the  
 23 estimated allocations to school districts and charter schools pursuant to  
 24 subsection G of this section.

25 L. The state education system for committed youth shall receive  
 26 monies from the classroom site fund in the same manner as school districts  
 27 and charter schools. The Arizona state schools for the deaf and the blind  
 28 shall receive monies from the classroom site fund in an amount that  
 29 corresponds to the weighted student count for the current year pursuant to  
 30 section 15-943, paragraph 2, subdivision (b) for each pupil enrolled in  
 31 the Arizona state schools for the deaf and the blind. Except as otherwise  
 32 provided in this subsection, the Arizona state schools for the deaf and  
 33 the blind and the state education system for committed youth are subject  
 34 to this section in the same manner as school districts and charter  
 35 schools.

36 M. Each school district and charter school, including school  
 37 districts that unify pursuant to section 15-448 or consolidate pursuant to  
 38 section 15-459, shall establish a local level classroom site fund to  
 39 receive allocations from the state level classroom site fund. The local  
 40 level classroom site fund shall be a budgetary controlled account.  
 41 Interest charges for any registered warrants for the local level classroom  
 42 site fund shall be a charge against the local level classroom site fund.  
 43 Interest earned on monies in the local level classroom site fund shall be  
 44 added to the local level classroom site fund as provided in section  
 45 15-978. This state shall not be required to make payments to a school

1 district or charter school local level classroom site fund that are in  
2 addition to monies transferred to the state level classroom site fund  
3 pursuant to section 37-521, subsection B, section 42-5029, subsection E,  
4 paragraph 10 and section 42-5029.02, subsection A.

5 N. Monies distributed from the classroom site fund for class size  
6 reduction, assessment intervention and dropout prevention programs shall  
7 only be used for instructional purposes in the instruction function as  
8 defined in the uniform system of financial records, except that monies  
9 shall not be used for school-sponsored athletics.

10 O. For the purposes of this section:

11 1. "Assessment intervention" means summer programs, after school  
12 programs, before school programs or tutoring programs that are  
13 specifically designed to ensure that pupils meet the Arizona academic  
14 standards as measured by the statewide assessment prescribed by section  
15 15-741.

16 2. "Class size reduction" means any maintenance and operations  
17 expenditure that is designed to reduce the ratio of pupils to classroom  
18 teachers, including the use of persons who serve as aides to classroom  
19 teachers.

20 3. "Student support services" means any expenditure in the student  
21 support services function as defined in the uniform system of financial  
22 records.

23 Sec. 2. Section 15-1642, Arizona Revised Statutes, is amended to  
24 read:

25 15-1642. Financial aid trust fund; aid to students with  
26 verifiable financial need; endowment; report

27 A. The Arizona board of regents may establish a financial aid trust  
28 fund for the purposes of providing immediate aid to students with  
29 verifiable financial need, including students who are underrepresented in  
30 the population of university students or who by virtue of their special  
31 circumstances present unique needs for financial aid, and creating an  
32 endowment for future financial aid. Subject to the limits provided in  
33 subsection B, paragraph 3 of this section, the board may assess a  
34 surcharge on registration fees paid by students for deposit in the fund.  
35 The fund shall also consist of monies deposited pursuant to **THIS SECTION**  
36 **AND** section 15-1670, subsection F **AND MONIES TRANSFERRED PURSUANT TO**  
37 **SECTION 42-5029, SUBSECTION F, PARAGRAPH 2.**

38 B. The board shall adopt rules to govern the financial aid trust  
39 fund, including the following:

40 1. Twenty-five percent of the monies received each year shall be  
41 placed in the trust fund as a permanent endowment. The remaining monies  
42 received shall be used for immediate aid for students with verifiable  
43 financial need. At least fifty percent of the immediate aid monies shall  
44 be used for grant aid.

1           2. The immediate aid monies shall be distributed to the  
2 universities on a pro rata basis based on relative student contributions  
3 to the fund.

4           3. The surcharge on student registration shall not exceed one  
5 percent of the registration fee for students taking more than six credit  
6 surcharge hours. The surcharge hours for students taking fewer than seven  
7 credit hours shall equal one-half the surcharge assessed students taking  
8 more than six credit hours.

9           C. Each dollar raised pursuant to the surcharge on student  
10 registration shall be matched by \$2 appropriated by the legislature.

11           D. The board shall report every three years to the legislature on  
12 the status of the financial aid trust fund. The report shall include the  
13 use to which the monies have been put and the impact of such use.

14           E. Fund monies shall only be used in university assistance programs  
15 approved by the board, and such monies shall be in addition to, and not in  
16 replacement of, existing state or institutional financial aid monies.  
17 Assistance may be provided to full-time or part-time students. Monies  
18 appropriated by this state shall not be used to provide assistance to  
19 students who are not residents of this state.

20           Sec. 3. Title 15, chapter 13, article 2, Arizona Revised Statutes,  
21 is amended by adding section 15-1642.01, to read:

22           15-1642.01. Surcharge on out-of-state students; transfer

23           THE ARIZONA BOARD OF REGENTS SHALL ASSESS A SURCHARGE OF \$300 EACH  
24 YEAR ON TUITION PAID BY EACH STUDENT WHO IS NOT A RESIDENT OF THIS STATE.  
25 MONIES COLLECTED PURSUANT TO THIS SECTION SHALL BE DEPOSITED, PURSUANT TO  
26 SECTIONS 35-146 AND 35-147, IN THE ARIZONA HIGHER EDUCATION FINANCIAL AID  
27 PROGRAM FUND ESTABLISHED BY SECTION 41-181.

28           Sec. 4. Title 15, chapter 13, article 6, Arizona Revised Statutes,  
29 is amended by adding section 15-1705, to read:

30           15-1705. Arizona higher education financial aid program;  
31           requirements; distribution fund; rules

32           A. THE ARIZONA BOARD OF REGENTS SHALL ESTABLISH THE ARIZONA HIGHER  
33 EDUCATION FINANCIAL AID PROGRAM.

34           B. THE BOARD SHALL ESTABLISH APPLICATION, EVALUATION AND APPROVAL  
35 PROCEDURES AND CRITERIA FOR PERSONS TO APPLY TO PARTICIPATE IN THE ARIZONA  
36 HIGHER EDUCATION FINANCIAL AID PROGRAM.

37           C. THE ARIZONA HIGHER EDUCATION FINANCIAL AID PROGRAM DISTRIBUTION  
38 FUND IS ESTABLISHED CONSISTING OF LEGISLATIVE APPROPRIATIONS AND MONIES  
39 DEPOSITED PURSUANT TO SECTION 41-181. THE BOARD SHALL ADMINISTER THE  
40 FUND. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED. THE BOARD MAY  
41 ANNUALLY RETAIN UP TO FIVE PERCENT OF THE MONIES IN THE FUND FOR  
42 ADMINISTRATIVE PURPOSES. THE BOARD SHALL DISTRIBUTE MONIES IN THE FUND TO  
43 QUALIFYING STUDENTS AS PROVIDED IN THIS SECTION.

1 D. IN ORDER TO QUALIFY FOR DISTRIBUTIONS FROM THE ARIZONA HIGHER  
2 EDUCATION FINANCIAL AID PROGRAM DISTRIBUTION FUND, A PERSON MUST MEET AT  
3 LEAST ALL OF THE FOLLOWING CRITERIA:

4 1. BE A RESIDENT OF THIS STATE.

5 2. BE CURRENTLY ENROLLED IN OR ACCEPTED FOR ENROLLMENT IN EITHER:

6 (a) A UNIVERSITY UNDER THE JURISDICTION OF THE ARIZONA BOARD OF  
7 REGENTS.

8 (b) A COMMUNITY COLLEGE UNDER THE JURISDICTION OF A COMMUNITY  
9 COLLEGE DISTRICT GOVERNING BOARD.

10 3. MAINTAIN A GRADE POINT AVERAGE OF AT LEAST 2.0 ON A 4.0 SCALE,  
11 OR THE EQUIVALENT, AT THE UNIVERSITY OR COMMUNITY COLLEGE WHERE THE  
12 STUDENT IS ENROLLED. IF THE GRADE POINT AVERAGE OF AN OTHERWISE  
13 QUALIFYING STUDENT FALLS BELOW 2.0 ON A 4.0 SCALE, THE STUDENT IS NO  
14 LONGER ELIGIBLE FOR A DISTRIBUTION FROM THE FUND UNTIL THAT STUDENT MEETS  
15 THE GRADE POINT REQUIREMENT PRESCRIBED IN THIS PARAGRAPH.

16 E. BEGINNING IN 2025, THE BOARD SHALL DISTRIBUTE MONIES FROM THE  
17 ARIZONA HIGHER EDUCATION FINANCIAL AID PROGRAM DISTRIBUTION FUND ON OR  
18 BEFORE AUGUST 1 OF EACH YEAR TO QUALIFYING STUDENTS TO COVER THE FULL  
19 AMOUNT OF EACH QUALIFYING STUDENT'S TUITION AND FEES AT THE UNIVERSITY OR  
20 COMMUNITY COLLEGE WHERE THE QUALIFYING STUDENT IS ENROLLED. IF THERE ARE  
21 INSUFFICIENT MONIES AVAILABLE IN THE ARIZONA HIGHER EDUCATION FINANCIAL  
22 AID PROGRAM DISTRIBUTION FUND DURING ANY FISCAL YEAR TO COVER THE TUITION  
23 AND FEES OF ALL QUALIFYING STUDENTS, THE BOARD SHALL DISTRIBUTE THE MONIES  
24 IN THE FUND TO QUALIFYING STUDENTS ON A FIRST-COME, FIRST-SERVED BASIS.

25 F. THE BOARD SHALL ADOPT RULES TO CARRY OUT THE PURPOSES OF THIS  
26 SECTION.

27 Sec. 5. Title 41, chapter 1, article 4, Arizona Revised Statutes,  
28 is amended by adding section 41-181, to read:

29 41-181. Arizona higher education financial aid program fund

30 A. THE ARIZONA HIGHER EDUCATION FINANCIAL AID PROGRAM FUND IS  
31 ESTABLISHED CONSISTING OF MONIES TRANSFERRED PURSUANT TO SECTION 42-5029,  
32 SUBSECTION F, PARAGRAPH 4. THE STATE TREASURER SHALL ADMINISTER THE FUND.  
33 MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED. THE STATE TREASURER  
34 SHALL INVEST AND DIVEST MONIES IN THE FUND AS PROVIDED BY SECTION 35-313,  
35 AND MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO THE FUND.

36 B. BEGINNING IN 2025, THE STATE TREASURER SHALL TRANSFER ON OR  
37 BEFORE AUGUST 1 OF EACH YEAR MONIES IN THE ARIZONA HIGHER EDUCATION  
38 FINANCIAL AID PROGRAM FUND TO THE ARIZONA BOARD OF REGENTS FOR DEPOSIT IN  
39 THE ARIZONA HIGHER EDUCATION FINANCIAL AID PROGRAM DISTRIBUTION FUND  
40 ESTABLISHED BY SECTION 15-1705.

41 Sec. 6. Repeal

42 Section 41-194.01, Arizona Revised Statutes, as amended by Laws  
43 2021, chapter 403, section 18, is repealed.



1           Sec. 7. Section 41-194.01, Arizona Revised Statutes, as added by  
2 Laws 2016, chapter 35, section 1, is amended to read:

3           41-194.01. Violations of state law by counties, cities and  
4           towns; attorney general investigation; report;  
5           withholding of state shared revenues; notice of  
6           violation

7           A. At the request of one or more members of the legislature, the  
8 attorney general shall investigate any ordinance, regulation, order or  
9 other official action adopted or taken by the governing body of a county,  
10 city or town or any written policy, written rule or written regulation  
11 adopted by any agency, department or other entity of the county, city or  
12 town that the member alleges violates state law or the Constitution of  
13 Arizona.

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

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

28           (a) Notify the state treasurer who shall withhold and redistribute  
29 state shared monies from the county, city or town as provided by section  
30 42-5029, subsection ~~M~~ and from the city or town as provided by section  
31 43-206, subsection F.

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

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

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

40           2. May violate a provision of state law or the Constitution of  
41 Arizona, the attorney general shall file a special action in the supreme  
42 court to resolve the issue, and the supreme court shall give the action  
43 precedence over all other cases. The court shall require the county, city  
44 or town to post a bond equal to the amount of state shared revenues paid

1 to the county, city or town pursuant to sections 42-5029 and 43-206 in the  
2 preceding six months.

3 3. Does not violate any provision of state law or the Constitution  
4 of Arizona, the attorney general shall take no further action pursuant to  
5 this section.

6 C. Before a member of the legislature may request an investigation  
7 by the attorney general of any written policy, written rule or written  
8 regulation adopted by any agency, department or other entity of a county,  
9 city or town pursuant to subsection A of this section, the member of the  
10 legislature shall first provide a written notification of the alleged  
11 violation of state law or the Constitution of Arizona to the chief  
12 executive officer or governing body of the county, city or town. If the  
13 county, city or town does not repeal or otherwise resolve the violation  
14 within sixty days after receiving the notification, the member or members  
15 of the legislature may request an investigation by the attorney general  
16 pursuant to this section.

17 Sec. 8. Section 42-5010, Arizona Revised Statutes, is amended to  
18 read:

19 42-5010. Rates; distribution base

20 A. The tax imposed by this article is levied and shall be collected  
21 at the following rates:

22 1. Five percent of the tax base as computed for the business of  
23 every person engaging or continuing in this state in the following  
24 business classifications described in article 2 of this chapter:

25 (a) Transporting classification.

26 (b) Utilities classification.

27 (c) Telecommunications classification.

28 (d) Pipeline classification.

29 (e) Private car line classification.

30 (f) Publication classification.

31 (g) Job printing classification.

32 (h) Prime contracting classification.

33 (i) Amusement classification.

34 (j) Restaurant classification.

35 (k) Personal property rental classification.

36 (l) Retail classification and amounts equal to retail transaction  
37 privilege tax due pursuant to section 42-5008.01.

38 2. Five and one-half percent of the tax base as computed for the  
39 business of every person engaging or continuing in this state in:

40 (a) The transient lodging classification described in section  
41 42-5070.

42 (b) The online lodging marketplace classification described in  
43 section 42-5076 who has entered into an agreement with the department to  
44 register for, or has otherwise obtained from the department, a license to  
45 collect tax pursuant to section 42-5005, subsection L.

1           3. Three and one-eighth percent of the tax base as computed for the  
2 business of every person engaging or continuing in this state in the  
3 mining classification described in section 42-5072.

4           4. ONE PERCENT OF THE TAX BASE AS COMPUTED FOR THE BUSINESS OF  
5 EVERY PERSON ENGAGING OR CONTINUING IN THIS STATE IN THE SERVICES  
6 CLASSIFICATION DESCRIBED IN SECTION 42-5077.

7           ~~4.~~ 5. Zero percent of the tax base as computed for the business of  
8 every person engaging or continuing in this state in the commercial lease  
9 classification described in section 42-5069.

10          B. Except as provided by subsection J of this section, twenty  
11 percent of the tax revenues collected at the rate prescribed by subsection  
12 A, paragraph 1 of this section from persons on account of engaging in  
13 business under the business classifications listed in subsection A,  
14 paragraph 1, subdivisions (a) through (h) of this section is designated as  
15 distribution base for THE purposes of section 42-5029.

16          C. Forty percent of the tax revenues collected at the rate  
17 prescribed by subsection A, paragraph 1 of this section from persons on  
18 account of engaging in business under the business classifications listed  
19 in subsection A, paragraph 1, subdivisions (i) through (l) of this section  
20 is designated as distribution base for THE purposes of section 42-5029.

21          D. Thirty-two percent of the tax revenues collected from persons on  
22 account of engaging in business under the business classification listed  
23 in subsection A, paragraph 3 of this section is designated as distribution  
24 base for THE purposes of section 42-5029.

25          E. Fifty-three and one-third percent of the tax revenues collected  
26 from persons on account of engaging in business under the business  
27 classification listed in subsection A, paragraph ~~4.~~ 5 of this section is  
28 designated as distribution base for THE purposes of section 42-5029.

29          F. Fifty percent of the tax revenues collected from persons on  
30 account of engaging in business under the business classification listed  
31 in subsection A, paragraph 2 of this section is designated as distribution  
32 base for THE purposes of section 42-5029.

33          G. In addition to the rates prescribed by subsection A of this  
34 section, if approved by the qualified electors voting at a statewide  
35 general election, an additional rate increment is imposed and shall be  
36 collected through June 30, 2021. The taxpayer shall pay taxes pursuant to  
37 this subsection at the same time and in the same manner as under  
38 subsection A of this section. The department shall separately account for  
39 the revenues collected with respect to the rates imposed pursuant to this  
40 subsection and the state treasurer shall distribute all of those revenues  
41 in the manner prescribed by section 42-5029, subsection E. The rates  
42 imposed pursuant to this subsection shall not be considered local revenues  
43 for purposes of article IX, section 21, Constitution of Arizona. The  
44 additional tax rate increment is levied at the rate of six-tenths of one  
45 per cent of the tax base of every person engaging or continuing in this

1 state in a business classification listed in subsection A, paragraph 1 of  
2 this section.

3 H. Any increase in the rate of tax that is imposed by this chapter  
4 and that is enacted by the legislature or by a vote of the people does not  
5 apply with respect to contracts entered into by prime contractors or  
6 pursuant to written bids made by prime contractors on or before the  
7 effective date of the legislation or the date of the election enacting the  
8 increase. To qualify for the exemption under this subsection, the prime  
9 contractor must maintain sufficient documentation, in a manner and form  
10 prescribed by the department, to verify the date of the contract or  
11 written bid.

12 I. For taxpayers **THAT ARE** taxable under this chapter other than  
13 prime contractors taxable pursuant to section 42-5075:

14 1. Any increase in the rate of tax that is levied by this article  
15 or article 2 of this chapter enacted by the legislature or by a vote of  
16 the people does not apply for a period of one hundred twenty days from the  
17 date of the tax rate increase to the gross proceeds of sales or gross  
18 income from the business of the taxpayer with respect to written contracts  
19 entered into before the effective date of the tax rate increase unless the  
20 taxpayer has entered into a contract that contains a provision that  
21 entitles the taxpayer to recover from the purchaser the amount of the  
22 additional tax levied.

23 2. The provisions of this subsection apply without regard to the  
24 accounting method used by the taxpayer to report the taxes imposed under  
25 article 2 of this chapter.

26 3. The provisions of this subsection shall not be considered in  
27 determining the rate of tax imposed under chapter 6, article 3 of this  
28 title.

29 J. Zero percent of the tax revenues that are collected at the rate  
30 prescribed by subsection A, paragraph 1 of this section from persons on  
31 account of engaging in business under the business classification listed  
32 in:

33 1. Subsection A, paragraph 1, subdivision (h) of this section, ~~and~~  
34 that are subject to any distribution required by section 42-5032.02, ~~is~~  
35 designated as distribution base for the purposes of section 42-5029 until  
36 the total amount subject to distribution pursuant to section 42-5032.02  
37 has reached the maximum amount prescribed by section 42-5032.02,  
38 subsection C. Thereafter, twenty percent of the remaining tax revenues is  
39 designated as distribution base for the purposes of section 42-5029 as  
40 provided by subsection B of this section.

41 2. **SUBSECTION A, PARAGRAPH 4 OF THIS SECTION IS DESIGNATED AS**  
42 **DISTRIBUTION BASE FOR THE PURPOSES OF SECTION 42-5029, SUBSECTION D, BUT**  
43 **THE STATE TREASURER SHALL DISTRIBUTE ALL OF THOSE REVENUES IN THE MANNER**  
44 **PRESCRIBED BY SECTION 42-5029, SUBSECTION F.**



1 subsection B and section 42-5205, subsection B throughout the state for  
2 the calendar month.

3 3. Pay an additional 2.43 percent to the counties in this state as  
4 follows:

5 (a) Average the following proportions:

6 (i) The proportion that the assessed valuation used to determine  
7 secondary property taxes of each county, after deducting that part of the  
8 assessed valuation that is exempt from taxation at the beginning of the  
9 month for which the amount is to be paid, bears to the total assessed  
10 valuations used to determine secondary property taxes of all the counties  
11 after deducting that portion of the assessed valuations that is exempt  
12 from taxation at the beginning of the month for which the amount is to be  
13 paid. Property of a city or town that is not within or contiguous to the  
14 municipal corporate boundaries and from which water is or may be withdrawn  
15 or diverted and transported for use on other property is considered to be  
16 taxable property in the county for purposes of determining assessed  
17 valuation in the county under this item.

18 (ii) The proportion that the distribution base monies collected  
19 during the calendar month in each county under this article, section  
20 42-5164, subsection B and section 42-5205, subsection B bear to the total  
21 distribution base monies collected under this article, section 42-5164,  
22 subsection B and section 42-5205, subsection B throughout ~~the~~ THIS state  
23 for the calendar month.

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

35 4. After any distributions required by sections 42-5030,  
36 42-5030.01, 42-5031, 42-5032, 42-5032.01 and 42-5032.02, and after making  
37 any transfer to the water quality assurance revolving fund as required by  
38 section 49-282, subsection B, credit the remainder of the monies  
39 designated as distribution base to the state general fund. From this  
40 amount the legislature shall annually appropriate to:

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

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

1 (c) The firearms safety and ranges fund established by section  
2 17-273, ~~fifty thousand dollars~~ \$50,000 derived from the taxes collected  
3 from the retail classification pursuant to section 42-5061 for the current  
4 fiscal year.

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

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

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

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

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

1 tribe" has the same meaning as defined in section 42-5031.01,  
2 subsection D.

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

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

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

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

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

12 (e) In fiscal year 2005-2006 and each fiscal year thereafter,  
13 \$86,280,500.

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

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

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

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

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

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

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

44 (c) Forty per cent shall be allocated for maintenance and operation  
45 purposes.



1 F. ALL MONIES COLLECTED PURSUANT TO SECTION 42-5010, SUBSECTION A,  
2 PARAGRAPH 4, SECTION 42-5010, SUBSECTION J, PARAGRAPH 2 AND SECTION  
3 42-5077 SHALL BE DISTRIBUTED EACH FISCAL YEAR PURSUANT TO THIS SUBSECTION  
4 AS FOLLOWS:

5 1. TWENTY-FIVE PERCENT OF THE MONIES COLLECTED EACH MONTH SHALL BE  
6 TRANSFERRED TO THE CLASSROOM SITE FUND ESTABLISHED BY SECTION 15-977 FOR  
7 THE PURPOSE OF TEACHER COMPENSATION INCREASES.

8 2. TWENTY-FIVE PERCENT OF THE MONIES COLLECTED EACH MONTH SHALL BE  
9 TRANSFERRED TO THE FINANCIAL AID TRUST FUND ESTABLISHED PURSUANT TO  
10 SECTION 15-1642 FOR THE PURPOSE OF PROVIDING FINANCIAL AID TO RESIDENT  
11 STUDENTS AT THE UNIVERSITIES UNDER THE JURISDICTION OF THE ARIZONA BOARD  
12 OF REGENTS.

13 3. TWENTY-FIVE PERCENT OF THE MONIES COLLECTED EACH MONTH SHALL BE  
14 TRANSFERRED TO THE PUBLIC SAFETY PERSONNEL RETIREMENT FUND ESTABLISHED  
15 PURSUANT TO TITLE 38, CHAPTER 5, ARTICLE 4 FOR THE PURPOSE OF PAYING THE  
16 UNFUNDED ACCRUED LIABILITY UNDER THE PUBLIC SAFETY PERSONNEL RETIREMENT  
17 SYSTEM.

18 4. TWENTY-FIVE PERCENT OF THE MONIES COLLECTED EACH MONTH SHALL BE  
19 TRANSFERRED TO THE ARIZONA HIGHER EDUCATION FINANCIAL AID PROGRAM FUND  
20 ESTABLISHED BY SECTION 41-181.

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

24 ~~G.~~ H. Notwithstanding subsection D of this section, if a court of  
25 competent jurisdiction finally determines that tax monies distributed  
26 under this section were illegally collected under this article or articles  
27 5 and 8 of this chapter and orders the monies to be refunded to the  
28 taxpayer, the department shall compute the amount of such monies that was  
29 distributed to each city, town and county under this section. Each  
30 city's, town's and county's proportionate share of the costs shall be  
31 based on the amount of the original tax payment each municipality and  
32 county received. Each month the state treasurer shall reduce the amount  
33 otherwise distributable to the city, town and county under this section by  
34 one thirty-sixth of the total amount to be recovered from the city, town  
35 or county until the total amount has been recovered, but the monthly  
36 reduction for any city, town or county shall not exceed ten percent of the  
37 full monthly distribution to that entity. The reduction shall begin for  
38 the first calendar month after the final disposition of the case and shall  
39 continue until the total amount, including interest and costs, has been  
40 recovered.

41 ~~H.~~ I. On receiving a certificate of default from the greater  
42 Arizona development authority pursuant to section 41-2257 or 41-2258 and  
43 to the extent not otherwise expressly prohibited by law, the state  
44 treasurer shall withhold from the next succeeding distribution of monies  
45 pursuant to this section due to the defaulting political subdivision the

1 amount specified in the certificate of default and immediately deposit the  
 2 amount withheld in the greater Arizona development authority revolving  
 3 fund. The state treasurer shall continue to withhold and deposit the  
 4 monies until the greater Arizona development authority certifies to the  
 5 state treasurer that the default has been cured. In no event may the  
 6 state treasurer withhold any amount that the defaulting political  
 7 subdivision certifies to the state treasurer and the authority as being  
 8 necessary to make any required deposits then due for the payment of  
 9 principal and interest on bonds of the political subdivision that were  
 10 issued before the date of the loan repayment agreement or bonds and that  
 11 have been secured by a pledge of distributions made pursuant to this  
 12 section.

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

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

34 ~~K.~~ L. On notice from the auditor general pursuant to section  
 35 9-626, subsection D, the state treasurer shall withhold from the  
 36 distribution of monies pursuant to this section to the affected city the  
 37 amount computed pursuant to section 9-626, subsection D. The state  
 38 treasurer shall continue to withhold monies pursuant to this subsection  
 39 until the entire amount specified in the notice has been withheld. The  
 40 state treasurer shall credit any monies withheld pursuant to this  
 41 subsection to the state general fund as provided by subsection D,  
 42 paragraph 4 of this section.

43 ~~L.~~ M. Except as otherwise provided by this subsection, on notice  
 44 from the attorney general pursuant to section 41-194.01, subsection B,  
 45 paragraph 1 that an ordinance, regulation, order or other official action

1 adopted or taken by the governing body of a county, city or town violates  
2 state law or the Constitution of Arizona, the state treasurer shall  
3 withhold the distribution of monies pursuant to this section to the  
4 affected county, city or town and shall continue to withhold monies  
5 pursuant to this subsection until the attorney general certifies to the  
6 state treasurer that the violation has been resolved. The state treasurer  
7 shall redistribute the monies withheld pursuant to this subsection among  
8 all other counties, cities and towns in proportion to their population as  
9 provided by subsection D of this section. The state treasurer shall not  
10 withhold any amount that the county, city or town certifies to the  
11 attorney general and the state treasurer as being necessary to make any  
12 required deposits or payments for debt service on bonds or other long-term  
13 obligations of the county, city or town that were issued or incurred  
14 before committing the violation.

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

20 Sec. 10. Title 42, chapter 5, article 2, Arizona Revised Statutes,  
21 is amended by adding section 42-5077, to read:

22 42-5077. Services classification

23 A. THE SERVICES CLASSIFICATION INCLUDES THE FOLLOWING BUSINESSES  
24 THAT ARE NOT OTHERWISE CLASSIFIED FOR TAXATION UNDER THIS ARTICLE:

- 25 1. LEGAL SERVICES.
- 26 2. ARCHITECTURE, LANDSCAPE ARCHITECTURE, ENGINEERING, ENGINEERING  
27 DESIGN AND LAND SURVEYOR SERVICES.
- 28 3. HOME INSPECTION SERVICES.
- 29 4. BUILDING AND PROPERTY ALARM AGENCIES AND SECURITY GUARDS AND  
30 AGENCIES.
- 31 5. INVESTIGATION AND SECURITY SERVICES.
- 32 6. STRUCTURAL, PROPERTY AND AGRICULTURAL PEST CONTROL SERVICES.
- 33 7. OTHER SERVICES TO BUILDINGS, DWELLINGS AND REAL ESTATE.
- 34 8. REAL ESTATE AGENCIES, AGENTS AND BROKERS.
- 35 9. REAL ESTATE APPRAISERS AND PROPERTY TAX AGENTS.
- 36 10. BARBER SERVICES.
- 37 11. BEAUTY AND COSMETIC SALON SERVICES, INCLUDING COSMETOLOGISTS,  
38 AESTHETICIANS AND NAIL TECHNICIANS.
- 39 12. OTHER PERSONAL CARE SERVICES.
- 40 13. ACCOUNTING, TAX PREPARATION AND BOOKKEEPING SERVICES.
- 41 14. MEDICAL, OSTEOPATHIC MEDICINE, CHIROPRACTIC, PODIATRIC,  
42 NATUROPATHIC, HOMEOPATHIC, DENTAL, OPTOMETRIC, OPTICIAN AND OTOLOGY  
43 SERVICES.
- 44 15. ACUPUNCTURE THERAPISTS AND PRACTITIONERS.
- 45 16. BEHAVIORAL AND MENTAL HEALTH PRACTITIONER SERVICES.

- 1           17. PHYSICAL, OCCUPATIONAL AND SPEECH THERAPY AND REHABILITATION
- 2 SERVICES.
- 3           18. HOSPITAL AND URGENT CARE SERVICES.
- 4           19. AMBULANCE AND OTHER MEDICAL OR DISABILITY TRANSPORTATION
- 5 SERVICES.
- 6           20. OTHER HEALTH PRACTITIONER SERVICES.
- 7           21. OUTPATIENT CARE SERVICES.
- 8           22. RADIOLOGY SERVICES.
- 9           23. MEDICAL DIAGNOSTIC LAB SERVICES.
- 10          24. HOME HEALTH SERVICES.
- 11          25. OTHER AMBULATORY HEALTH SERVICES.
- 12          26. NURSING AND RESIDENTIAL CARE FACILITY SERVICES.
- 13          27. ATHLETIC AND PHYSICAL FITNESS TRAINERS AND MASSAGE THERAPISTS.
- 14          28. INDIVIDUAL AND FAMILY PSYCHOLOGY AND SOCIAL SERVICES.
- 15          29. FUNERAL, EMBALMER, CREMATORY, CEMETERY AND OTHER DEATH CARE
- 16 SERVICES.
- 17          30. VETERINARY SERVICES.
- 18          31. PET CARE SERVICES THAT ARE NOT CONSIDERED VETERINARY SERVICES.
- 19          32. COMMUNITY FOOD, EMERGENCY HOUSING AND HOMELESS RELIEF SERVICES.
- 20          33. COMPUTER SYSTEM DESIGN AND RELATED SERVICES.
- 21          34. MANAGEMENT, SCIENTIFIC AND TECHNICAL CONSULTING SERVICES.
- 22          35. MARKET RESEARCH AND POLLING SERVICES.
- 23          36. PHOTOGRAPHIC SERVICES.
- 24          37. COLLECTION, REPOSSESSION AND RECOVERY AGENCIES.
- 25          38. PROPERTY AND BUSINESS MANAGEMENT SERVICES.
- 26          39. ADMINISTRATIVE AND SUPPORT SERVICES.
- 27          40. BUSINESS SUPPORT SERVICES.
- 28          41. MANAGEMENT OF COMPANIES.
- 29          42. OTHER SUPPORT SERVICES.
- 30          43. WASTE MANAGEMENT SERVICES.
- 31          44. DRY CLEANING AND LAUNDRY SERVICES.
- 32          45. PARKING LOT AND GARAGE SERVICES.
- 33          46. BUSINESS, COMPUTER AND MANAGEMENT TRAINING.
- 34          47. PRIVATE FOR-PROFIT POSTSECONDARY UNIVERSITY, TECHNICAL AND
- 35 TRADE SCHOOLS.
- 36          48. DANCE SCHOOLS.
- 37          49. EXAMINATION PREPARATION SERVICES.
- 38          50. DRIVING SCHOOL SERVICES.
- 39          51. OTHER MISCELLANEOUS SCHOOL SERVICES.
- 40          52. AUTOMOTIVE REPAIR AND MAINTENANCE SERVICES.
- 41          53. ELECTRONIC AND PRECISION REPAIR AND MAINTENANCE SERVICES.
- 42          54. COMMERCIAL AND INDUSTRIAL MACHINERY REPAIR AND MAINTENANCE
- 43 SERVICES.
- 44          55. PERSONAL AND HOUSEHOLD GOODS AND JEWELRY REPAIR AND MAINTENANCE
- 45 SERVICES.

1 B. THE TAX BASE FOR THE SERVICES CLASSIFICATION IS THE GROSS  
2 PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM THE BUSINESS.

3 Sec. 11. Section 42-6010, Arizona Revised Statutes, is amended to  
4 read:

5 42-6010. Retail business location municipal tax incentives;  
6 prohibition; penalty; exceptions; definitions

7 A. If at least sixty-five ~~per cent~~ PERCENT of the land area within  
8 a city's or town's exterior boundaries is located within the exterior  
9 boundary of a metropolitan statistical area having a population of more  
10 than two million persons, the city or town shall not offer or provide a  
11 tax incentive to a business entity as an inducement or in exchange for  
12 locating or relocating a retail business facility in the city or town.

13 B. A city or town that violates this section is subject to a  
14 penalty equal to the amount of the incentive realized by the taxpayer,  
15 extended over a period of sixty months. The department of revenue shall  
16 notify the state treasurer to withhold the amount of the penalty from  
17 monies otherwise payable to the city or town as provided by section  
18 42-5029, subsection ~~J~~ K.

19 C. The city or town shall report to the department of revenue the  
20 value of any tax incentive used as an inducement or in exchange for  
21 locating or relocating a retail business facility in the city or town.  
22 For the purposes of this subsection, the value includes all negotiated  
23 amounts, in any form and whether actual, realized or contingent, over the  
24 term of the incentive agreement.

25 D. This section does not apply with respect to:

26 1. Municipal services and benefits generally afforded by ordinance  
27 to all new businesses in the city or town, having no direct ~~affect~~ EFFECT  
28 on municipal tax levies.

29 2. Tax incentives that are afforded to all existing retail business  
30 facilities in the city or town.

31 3. Tax incentives for locating retail business facilities in an  
32 area designated as a redevelopment project pursuant to title 36, chapter  
33 12, article 3 where the average household income is less than the average  
34 city household income as determined by the United States census bureau.

35 4. Incentives consisting of reimbursement for public infrastructure  
36 dedicated to and accepted and controlled ~~upon~~ ON completion of the project  
37 by the city or town, county, ~~or~~ OR state or a private utility where no other  
38 political subdivision provides ~~such~~ THE utility for transportation, water,  
39 sewer, electrical, drainage, the fair market value of real property  
40 necessary for the public infrastructure and other necessary public  
41 infrastructure. This paragraph does not apply to parking lots, parking  
42 structures or parking facilities or other structures or amenities ~~that are~~  
43 owned or controlled by a private entity.

44 5. Incentives that are offered for the purpose of preserving  
45 historical buildings and other structures.

1           6. Incentives that are offered for cleanup or other remediation  
2 activities at a brownfields site under title 49, chapter 2, article 1.1 or  
3 the comprehensive environmental response, compensation, and liability act  
4 of 1980 (P.L. 96-510, 94 Stat. 2767; 42 United States Code sections 9601  
5 through 9657), commonly known as "superfund".

6           E. To qualify as exempt from the penalty, an incentive under  
7 subsection D of this section that is offered in exchange for expenses  
8 incurred by the business entity must be in the form of a reimbursement of  
9 the expenses and may not exceed or otherwise be disproportional to the  
10 actual cost incurred.

11           F. This section does not apply to tax incentives that were referred  
12 to a vote of the qualified electors of the city or town before July 1,  
13 2007 and approved by the qualified electors of the city or town.

14           G. For the purposes of this section:

15           1. "Metropolitan statistical area" means a ~~geographical~~ GEOGRAPHIC  
16 area consisting of cities, towns and other populated areas defined for  
17 federal statistical and census purposes by the United States office of  
18 management and budget with technical assistance from the United States  
19 CENSUS bureau ~~of the census~~.

20           2. "Retail business facility" means a store, warehouse or other  
21 improvement to real estate where at least one-half of the business  
22 conducted on the premises consists of retail sales of tangible personal  
23 property to the ultimate consumer, measured by either the number of  
24 employees assigned to retail sales or the square footage of the facility  
25 used for retail sales. For the purposes of this paragraph, retail sales  
26 do not include:

27           (a) Sales of food and beverage for consumption on the premises of  
28 the facility.

29           (b) The distribution without charge of promotional products that  
30 display the company logo or trademark.

31           (c) Sales solely to company employees.

32           3. "Tax incentive" means any waiver, exemption, deduction, credit,  
33 rebate, discount, deferral or other abatement or reduction of the normal  
34 municipal tax liability of an individual taxpayer that otherwise applies  
35 to similar existing taxpayers and properties in the city or town, however  
36 denominated, computed or applied, ~~and~~ THAT IS generally understood ~~as~~ TO  
37 BE an inducement for the taxpayer to locate a business facility or other  
38 operation in the city or town.

39           Sec. 12. Conforming legislation

40           The legislative council staff shall prepare proposed legislation  
41 conforming the Arizona Revised Statutes to the provisions of this act for  
42 consideration in the fifty-seventh legislature, first regular session.

43           Sec. 13. Applicability

44           This act applies to taxable periods beginning on or after the first  
45 day of the month following the effective date of this act.

