

REFERENCE TITLE: TPT; services; tuition surcharge

State of Arizona
House of Representatives
Fifty-third Legislature
Second Regular Session
2018

HB 2145

Introduced by
Representative Cardenas

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 14, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 15-1857; AMENDING TITLE 41, CHAPTER 1, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-175; AMENDING SECTIONS 41-194.01, 42-5010 AND 42-5029, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 5, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-5077; AMENDING SECTION 42-6010, ARIZONA REVISED STATUTES; 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 and
7 section 42-5029, subsection E, paragraph 10 **AND SUBSECTION F, PARAGRAPH 1.**
8 The department of education shall administer the fund. School districts
9 and charter schools may not supplant existing school site funding with
10 revenues from the fund. All monies distributed from the fund are intended
11 for use at the school site. Each school district or charter school shall
12 allocate forty percent of the monies for teacher compensation increases
13 based on performance and employment related expenses, twenty percent of
14 the monies for teacher base salary increases and employment related
15 expenses and forty percent of the monies for maintenance and operation
16 purposes as prescribed in subsection H of this section. Teacher
17 compensation increases based on performance or teacher base salary
18 increases distributed pursuant to this subsection shall supplement, and
19 not supplant, teacher compensation monies from any other sources. The
20 school district or charter school shall notify each school principal of
21 the amount available to the school by April 15 of each year. The district
22 or charter school shall request from the school's principal each school's
23 priority for the allocation of the funds available to the school for each
24 program listed under subsection H of this section. The amount budgeted by
25 the school district or charter school pursuant to this section shall not
26 be included in the allowable budget balance carryforward calculated
27 pursuant to section 15-943.01.

28 B. A school district governing board must adopt a performance based
29 compensation system at a public hearing to allocate funding from the
30 classroom site fund pursuant to subsection A of this section. Individual
31 teacher performance as measured by the teacher's performance
32 classification pursuant to section 15-203, subsection A, paragraph 38
33 shall be a component of the school district's portion of the forty percent
34 allocation for teacher compensation based on performance and employment
35 related expenses.

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

38 1. School district performance and school performance.

39 2. Individual teacher performance as measured by the teacher's
40 performance classification pursuant to section 15-203, subsection A,
41 paragraph 38. The individual teacher performance component shall account
42 for thirty-three percent of the forty percent allocation for teacher
43 compensation based on performance and employment related expenses.

44 3. Measures of academic progress toward the academic standards
45 adopted by the state board of education.

- 1 4. Other measures of academic progress.
- 2 5. Dropout or graduation rates.
- 3 6. Attendance rates.
- 4 7. Ratings of school quality by parents.
- 5 8. Ratings of school quality by students.
- 6 9. The input of teachers and administrators.
- 7 10. Approval of the performance based compensation system based on
- 8 an affirmative vote of at least seventy percent of the teachers eligible
- 9 to participate in the performance based compensation system.
- 10 11. An appeals process for teachers who have been denied
- 11 performance based compensation.
- 12 12. Regular evaluation for effectiveness, which shall comply with
- 13 section 15-203, subsection A, paragraph 38.
- 14 D. A performance based compensation system shall include teacher
- 15 professional development programs that are aligned with the elements of
- 16 the performance based compensation system.
- 17 E. A school district governing board may modify the elements
- 18 contained in subsection C of this section and consider additional elements
- 19 when adopting a performance based compensation system. A school district
- 20 governing board shall adopt any modifications or additional elements and
- 21 specify the criteria used at a public hearing.
- 22 F. Until December 31, 2009, each school district shall develop an
- 23 assessment plan for its performance based compensation system and submit
- 24 the plan to the department of education by December 31 of each year. A
- 25 copy of the performance based compensation system and assessment plan
- 26 adopted by the school district governing board shall be included in the
- 27 report submitted to the department of education.
- 28 G. Monies in the fund are continuously appropriated, are exempt
- 29 from the provisions of section 35-190 relating to lapsing of
- 30 appropriations and shall be distributed as follows:
- 31 1. By March 30 of each year, the staff of the joint legislative
- 32 budget committee shall determine a per pupil amount from the fund for the
- 33 budget year using the estimated statewide weighted count for the current
- 34 year pursuant to section 15-943, paragraph 2, subdivision (a) and based on
- 35 estimated available resources in the classroom site fund for the budget
- 36 year adjusted for any prior year carryforward or shortfall.
- 37 2. The allocation to each charter school and school district for a
- 38 fiscal year shall equal the per pupil amount established in paragraph 1 of
- 39 this subsection for the fiscal year multiplied by the weighted student
- 40 count for the school district or charter school for the fiscal year
- 41 pursuant to section 15-943, paragraph 2, subdivision (a). For the
- 42 purposes of this paragraph, the weighted student count for a school
- 43 district that serves as the district of attendance for nonresident pupils
- 44 shall be increased to include nonresident pupils who attend school in the
- 45 school district.

1 H. Monies distributed from the classroom site fund shall be spent
2 for the following maintenance and operation purposes:

- 3 1. Class size reduction.
- 4 2. Teacher compensation increases.
- 5 3. Assessment intervention programs.
- 6 4. Teacher development.
- 7 5. Dropout prevention programs.
- 8 6. Teacher liability insurance premiums.

9 I. The district governing board or charter school shall allocate
10 the classroom site fund monies to include, wherever possible, the
11 priorities identified by the principals of the schools while assuring that
12 the funds maximize classroom opportunities and conform to the authorized
13 expenditures identified in subsection A of this section.

14 J. School districts and charter schools that receive monies from
15 the classroom site fund shall submit a report by November 15 of each year
16 to the superintendent of public instruction that provides an accounting of
17 the expenditures of monies distributed from the fund during the previous
18 fiscal year and a summary of the results of district and school programs
19 funded with monies distributed from the fund. The department of education
20 in conjunction with the auditor general shall prescribe the format of the
21 report under this subsection.

22 K. School districts and charter schools that receive monies from
23 the classroom site fund shall receive these monies monthly in an amount
24 not to exceed one-twelfth of the monies estimated pursuant to subsection G
25 of this section, except that if there are insufficient monies in the fund
26 that month to make payments, the distribution for that month shall be
27 prorated for each school district or charter school. The department of
28 education may make an additional payment in the current month for any
29 prior month or months in which school districts or charter schools
30 received a prorated payment if there are sufficient monies in the fund
31 that month for the additional payments. The state is not required to make
32 payments to a school district or charter school classroom site fund if the
33 state classroom site fund revenue collections are insufficient to meet the
34 estimated allocations to school districts and charter schools pursuant to
35 subsection G of this section.

36 L. The state education system for committed youth shall receive
37 monies from the classroom site fund in the same manner as school districts
38 and charter schools. The Arizona state schools for the deaf and the blind
39 shall receive monies from the classroom site fund in an amount that
40 corresponds to the weighted student count for the current year pursuant to
41 section 15-943, paragraph 2, subdivision (b) for each pupil enrolled in
42 the Arizona state schools for the deaf and the blind. Except as otherwise
43 provided in this subsection, the Arizona state schools for the deaf and
44 the blind and the state education system for committed youth are subject

1 to this section in the same manner as school districts and charter
2 schools.

3 M. Each school district and charter school, including school
4 districts that unify pursuant to section 15-448 or consolidate pursuant to
5 section 15-459, shall establish a local level classroom site fund to
6 receive allocations from the state level classroom site fund. The local
7 level classroom site fund shall be a budgetary controlled account.
8 Interest charges for any registered warrants for the local level classroom
9 site fund shall be a charge against the local level classroom site fund.
10 Interest earned on monies in the local level classroom site fund shall be
11 added to the local level classroom site fund as provided in section
12 15-978. This state shall not be required to make payments to a school
13 district or charter school local level classroom site fund that are in
14 addition to monies transferred to the state level classroom site fund
15 pursuant to section 37-521, subsection B and section 42-5029, subsection
16 E, paragraph 10.

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

22 O. For the purposes of this section:

23 1. "Assessment intervention" means summer programs, after school
24 programs, before school programs or tutoring programs that are
25 specifically designed to ensure that pupils meet the Arizona academic
26 standards as measured by the statewide assessment prescribed by section
27 15-741.

28 2. "Class size reduction" means any maintenance and operations
29 expenditure that is designed to reduce the ratio of pupils to classroom
30 teachers, including the use of persons who serve as aides to classroom
31 teachers.

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

34 15-1642. Financial aid trust fund; aid to students with
35 verifiable financial need; endowment

36 A. The Arizona board of regents may establish a financial aid trust
37 fund for the purposes of providing immediate aid to students with
38 verifiable financial need, including students who are underrepresented in
39 the population of university students or who by virtue of their special
40 circumstances present unique needs for financial aid, and creating an
41 endowment for future financial aid. **THE FUND CONSISTS OF MONIES DEPOSITED**
42 **PURSUANT TO THIS SECTION AND MONIES TRANSFERRED PURSUANT TO SECTION**
43 **42-5029, SUBSECTION F, PARAGRAPH 2.** Subject to the limitations provided
44 in subsection B, paragraph 3 **OF THIS SECTION**, the board may assess a

1 surcharge ~~upon~~ ON registration fees paid by students for deposit in the
2 fund.

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

5 1. Twenty-five ~~per cent~~ PERCENT of the monies received each year
6 shall be placed in the trust fund as a permanent endowment. The remaining
7 monies received shall be used for immediate aid for students with
8 verifiable financial need. At least fifty ~~per cent~~ PERCENT of the
9 immediate aid monies shall be used for grant aid.

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

13 3. The surcharge on student registration shall not exceed one ~~per~~
14 ~~cent~~ PERCENT of the registration fee for students taking more than six
15 credit surcharge hours. The surcharge hours for students taking fewer
16 than seven credit hours shall equal one-half the surcharge assessed
17 students taking more than six credit hours.

18 C. Each dollar raised pursuant to the surcharge on student
19 registration shall be matched by two dollars appropriated by the
20 legislature.

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

24 E. Fund monies shall only be used in university assistance programs
25 approved by the board and such monies shall be in addition to, and not in
26 replacement of, existing state or institutional financial aid
27 monies. Assistance may be provided to full-time or part-time
28 students. Monies appropriated by this state shall not be used to provide
29 assistance to students who are not residents of this state.

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

32 15-1642.01. Surcharge on out-of-state students; transfer

33 THE ARIZONA BOARD OF REGENTS SHALL ASSESS A SURCHARGE OF THREE
34 HUNDRED DOLLARS EACH YEAR ON TUITION PAID BY EACH STUDENT WHO IS NOT A
35 RESIDENT OF THIS STATE. MONIES COLLECTED PURSUANT TO THIS SECTION SHALL
36 BE DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE ARIZONA
37 HIGHER EDUCATION FINANCIAL AID PROGRAM FUND ESTABLISHED BY SECTION 41-175.

38 Sec. 4. Title 15, chapter 14, article 5, Arizona Revised Statutes,
39 is amended by adding section 15-1857, to read:

40 15-1857. Arizona higher education financial aid program;
41 requirements; distribution fund; rules; program
42 termination

43 A. THE COMMISSION FOR POSTSECONDARY EDUCATION SHALL ESTABLISH THE
44 ARIZONA HIGHER EDUCATION FINANCIAL AID PROGRAM.

1 B. THE COMMISSION SHALL ESTABLISH APPLICATION, EVALUATION AND
2 APPROVAL PROCEDURES AND CRITERIA FOR PERSONS TO APPLY TO PARTICIPATE IN
3 THE ARIZONA HIGHER EDUCATION FINANCIAL AID PROGRAM.

4 C. THE ARIZONA HIGHER EDUCATION FINANCIAL AID PROGRAM DISTRIBUTION
5 FUND IS ESTABLISHED CONSISTING OF MONIES DEPOSITED PURSUANT TO SECTION
6 41-175. THE COMMISSION SHALL ADMINISTER THE FUND. MONIES IN THE FUND ARE
7 CONTINUOUSLY APPROPRIATED. THE COMMISSION MAY ANNUALLY RETAIN UP TO FIVE
8 PERCENT OF THE MONIES IN THE FUND FOR ADMINISTRATIVE PURPOSES. THE
9 COMMISSION SHALL DISTRIBUTE MONIES IN THE FUND TO QUALIFYING STUDENTS AS
10 PROVIDED IN THIS SECTION.

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

14 1. BE A RESIDENT OF THIS STATE.

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

16 (a) A UNIVERSITY UNDER THE JURISDICTION OF THE ARIZONA BOARD OF
17 REGENTS.

18 (b) A COMMUNITY COLLEGE UNDER THE JURISDICTION OF A COMMUNITY
19 COLLEGE DISTRICT GOVERNING BOARD.

20 3. MAINTAIN A GRADE POINT AVERAGE OF AT LEAST 2.5 ON A 4.0 SCALE,
21 OR THE EQUIVALENT, AT THE UNIVERSITY OR COMMUNITY COLLEGE WHERE THE PERSON
22 IS ENROLLED. IF THE GRADE POINT AVERAGE OF AN OTHERWISE QUALIFYING
23 STUDENT FALLS BELOW 2.5 ON A 4.0 SCALE, THE STUDENT IS NO LONGER ELIGIBLE
24 FOR A DISTRIBUTION FROM THE FUND UNTIL THAT STUDENT MEETS THE GRADE POINT
25 REQUIREMENT PRESCRIBED IN THIS PARAGRAPH.

26 E. BEGINNING IN 2023, THE COMMISSION SHALL DISTRIBUTE MONIES FROM
27 THE ARIZONA HIGHER EDUCATION FINANCIAL AID PROGRAM DISTRIBUTION FUND ON OR
28 BEFORE AUGUST 1 OF EACH YEAR TO QUALIFYING STUDENTS TO COVER THE FULL
29 AMOUNT OF EACH QUALIFYING STUDENT'S TUITION AND FEES AT THE UNIVERSITY OR
30 COMMUNITY COLLEGE WHERE THE QUALIFYING STUDENT IS ENROLLED. IF THERE ARE
31 INSUFFICIENT MONIES AVAILABLE IN THE ARIZONA HIGHER EDUCATION FINANCIAL
32 AID PROGRAM DISTRIBUTION FUND DURING ANY FISCAL YEAR TO COVER THE TUITION
33 AND FEES OF ALL QUALIFYING STUDENTS, THE COMMISSION SHALL DISTRIBUTE THE
34 MONIES IN THE FUND TO QUALIFYING STUDENTS ON A FIRST-COME, FIRST-SERVED
35 BASIS.

36 F. THE COMMISSION SHALL ADOPT RULES TO CARRY OUT THE PURPOSES OF
37 THIS SECTION.

38 G. THE PROGRAM ESTABLISHED PURSUANT TO THIS SECTION ENDS ON JULY 1,
39 2028 PURSUANT TO SECTION 41-3102.

40 Sec. 5. Title 41, chapter 1, article 4, Arizona Revised Statutes,
41 is amended by adding section 41-175, to read:

42 41-175. Arizona higher education financial aid program fund

43 A. THE ARIZONA HIGHER EDUCATION FINANCIAL AID PROGRAM FUND IS
44 ESTABLISHED CONSISTING OF MONIES TRANSFERRED PURSUANT TO SECTION 42-5029,
45 SUBSECTION F, PARAGRAPH 4. THE STATE TREASURER SHALL ADMINISTER THE FUND.

1 MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED. THE STATE TREASURER
2 SHALL INVEST AND DIVEST MONIES IN THE FUND AS PROVIDED BY SECTION 35-313,
3 AND MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO THE FUND.

4 B. BEGINNING IN 2023, THE STATE TREASURER SHALL TRANSFER ON OR
5 BEFORE AUGUST 1 OF EACH YEAR MONIES IN THE ARIZONA HIGHER EDUCATION
6 FINANCIAL AID PROGRAM FUND TO THE COMMISSION FOR POSTSECONDARY EDUCATION
7 FOR DEPOSIT IN THE ARIZONA HIGHER EDUCATION FINANCIAL AID PROGRAM
8 DISTRIBUTION FUND ESTABLISHED BY SECTION 15-1857.

9 Sec. 6. Section 41-194.01, Arizona Revised Statutes, is amended to
10 read:

11 41-194.01. Violations of state law by counties, cities and
12 towns; attorney general investigation; report;
13 withholding of state shared revenues

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

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

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

33 (a) Notify the state treasurer who shall withhold and redistribute
34 state shared monies from the county, city or town as provided by section
35 42-5029, subsection ~~+~~ M and from the city or town as provided by section
36 43-206, subsection F.

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

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

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

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

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

11 Sec. 7. Section 42-5010, Arizona Revised Statutes, is amended to
12 read:

13 42-5010. Rates; distribution base

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

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

- 19 (a) Transporting classification.
- 20 (b) Utilities classification.
- 21 (c) Telecommunications classification.
- 22 (d) Pipeline classification.
- 23 (e) Private car line classification.
- 24 (f) Publication classification.
- 25 (g) Job printing classification.
- 26 (h) Prime contracting classification.
- 27 (i) Amusement classification.
- 28 (j) Restaurant classification.
- 29 (k) Personal property rental classification.
- 30 (l) Retail classification and amounts equal to retail transaction
31 privilege tax due pursuant to section 42-5008.01.

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

34 (a) The transient lodging classification described in section
35 42-5070.

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

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

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

1 ~~4~~ 5. Zero percent of the tax base as computed for the business of
2 every person engaging or continuing in this state in the commercial lease
3 classification described in section 42-5069.

4 B. Except as provided by subsection J of this section, twenty
5 percent of the tax revenues collected at the rate prescribed by subsection
6 A, paragraph 1 of this section from persons on account of engaging in
7 business under the business classifications listed in subsection A,
8 paragraph 1, subdivisions (a) through (h) of this section is designated as
9 distribution base for purposes of section 42-5029.

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

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

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

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

27 G. In addition to the rates prescribed by subsection A of this
28 section, if approved by the qualified electors voting at a statewide
29 general election, an additional rate increment is imposed and shall be
30 collected through June 30, 2021. The taxpayer shall pay taxes pursuant to
31 this subsection at the same time and in the same manner as under
32 subsection A of this section. The department shall separately account for
33 the revenues collected with respect to the rates imposed pursuant to this
34 subsection and the state treasurer shall distribute all of those revenues
35 in the manner prescribed by section 42-5029, subsection E. The rates
36 imposed pursuant to this subsection shall not be considered local revenues
37 for purposes of article IX, section 21, Constitution of Arizona. The
38 additional tax rate increment is levied at the rate of six-tenths of one
39 per cent of the tax base of every person engaging or continuing in this
40 state in a business classification listed in subsection A, paragraph 1 of
41 this section.

42 H. Any increase in the rate of tax that is imposed by this chapter
43 and that is enacted by the legislature or by a vote of the people does not
44 apply with respect to contracts entered into by prime contractors or
45 pursuant to written bids made by prime contractors on or before the

1 effective date of the legislation or the date of the election enacting the
2 increase. To qualify for the exemption under this subsection, the prime
3 contractor must maintain sufficient documentation, in a manner and form
4 prescribed by the department, to verify the date of the contract or
5 written bid.

6 I. For taxpayers taxable under this chapter other than prime
7 contractors taxable pursuant to section 42-5075:

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

17 2. The provisions of this subsection apply without regard to the
18 accounting method used by the taxpayer to report the taxes imposed under
19 article 2 of this chapter.

20 3. The provisions of this subsection shall not be considered in
21 determining the rate of tax imposed under chapter 6, article 3 of this
22 title.

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

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

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

39 Sec. 8. Section 42-5029, Arizona Revised Statutes, is amended to
40 read:

41 42-5029. Remission and distribution of monies; withholding;
42 definition

43 A. The department shall deposit, pursuant to sections 35-146 and
44 35-147, all revenues collected under this article and articles 4, 5 and 8
45 of this chapter pursuant to section 42-1116, separately accounting for:

1 1. Payments of estimated tax under section 42-5014, subsection D.

2 2. Revenues collected pursuant to section 42-5070.

3 3. Revenues collected under this article and article 5 of this
4 chapter from and after June 30, 2000 from sources located on Indian
5 reservations in this state.

6 4. Revenues collected pursuant to section 42-5010, subsection G and
7 section 42-5155, subsection D.

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

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

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

25 1. Pay twenty-five percent to the various incorporated
26 municipalities in this state in proportion to their population to be used
27 by the municipalities for any municipal purpose.

28 2. Pay 38.08 percent to the counties in this state by averaging the
29 following proportions:

30 (a) The proportion that the population of each county bears to the
31 total state population.

32 (b) The proportion that the distribution base monies collected
33 during the calendar month in each county under this article, section
34 42-5164, subsection B and section 42-5205, subsection B bear to the total
35 distribution base monies collected under this article, section 42-5164,
36 subsection B and section 42-5205, subsection B throughout the state for
37 the calendar month.

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

40 (a) Average the following proportions:

41 (i) The proportion that the assessed valuation used to determine
42 secondary property taxes of each county, after deducting that part of the
43 assessed valuation that is exempt from taxation at the beginning of the
44 month for which the amount is to be paid, bears to the total assessed
45 valuations used to determine secondary property taxes of all the counties

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

8 (ii) The proportion that the distribution base monies collected
9 during the calendar month in each county under this article, section
10 42-5164, subsection B and section 42-5205, subsection B bear to the total
11 distribution base monies collected under this article, section 42-5164,
12 subsection B and section 42-5205, subsection B throughout the state for
13 the calendar month.

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

25 4. After any distributions required by sections 42-5030,
26 42-5030.01, 42-5031, 42-5032, 42-5032.01 and 42-5032.02, and after making
27 any transfer to the water quality assurance revolving fund as required by
28 section 49-282, subsection B, credit the remainder of the monies
29 designated as distribution base to the state general fund. From this
30 amount the legislature shall annually appropriate to:

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

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

35 (c) The firearms safety and ranges fund established by section
36 17-273, fifty thousand dollars derived from the taxes collected from the
37 retail classification pursuant to section 42-5061 for the current fiscal
38 year.

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

1 charter school, university or community college funding sources. The
2 monies shall be 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
6 outstanding state school improvement revenue bonds for the current fiscal
7 year shall be transferred each month to the school improvement revenue
8 bond debt service fund established by section 15-2084. The total amount
9 of bonds for which these monies may be allocated for the payment of debt
10 service shall not exceed a principal amount of eight hundred million
11 dollars exclusive of 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
17 research-based 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
24 this subsection, one-twelfth of the amount a community college that is
25 owned, operated or chartered by a qualifying Indian tribe on its own
26 Indian reservation would receive pursuant to section 15-1472, subsection
27 D, paragraph 2 if it were a community college district shall be
28 distributed each month to the treasurer or other designated depository of
29 a qualifying Indian tribe. Monies distributed pursuant to this paragraph
30 are for the exclusive purpose of providing support to one or more
31 community colleges owned, operated or chartered by a qualifying Indian
32 tribe and shall be used in a manner consistent with section 15-1472,
33 subsection B. For the purposes of this paragraph, "qualifying Indian
34 tribe" has the same meaning as defined in section 42-5031.01,
35 subsection D.

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

- 41 (a) In fiscal year 2001-2002, \$15,305,900.
- 42 (b) In fiscal year 2002-2003, \$31,530,100.
- 43 (c) In fiscal year 2003-2004, \$48,727,700.
- 44 (d) In fiscal year 2004-2005, \$66,957,200.

1 (e) In fiscal year 2005-2006 and each fiscal year thereafter,
2 \$86,280,500.

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

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

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

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

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

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

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

33 (c) Forty per cent shall be allocated for maintenance and operation
34 purposes.

35 F. ALL MONIES COLLECTED PURSUANT TO SECTION 42-5077 AND SECTION
36 42-5010, SUBSECTION A, PARAGRAPH 4 AND SUBSECTION J, PARAGRAPH 2 SHALL BE
37 DISTRIBUTED EACH FISCAL YEAR PURSUANT TO THIS SUBSECTION AS FOLLOWS:

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

41 2. TWENTY-FIVE PERCENT OF THE MONIES COLLECTED EACH MONTH SHALL BE
42 TRANSFERRED TO THE FINANCIAL AID TRUST FUND ESTABLISHED PURSUANT TO
43 SECTION 15-1642 FOR THE PURPOSE OF PROVIDING FINANCIAL AID TO RESIDENT
44 STUDENTS AT THE UNIVERSITIES UNDER THE JURISDICTION OF THE ARIZONA BOARD
45 OF REGENTS.

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

6 4. TWENTY-FIVE PERCENT OF THE MONIES COLLECTED EACH MONTH SHALL BE
7 TRANSFERRED TO THE ARIZONA HIGHER EDUCATION FINANCIAL AID PROGRAM FUND
8 ESTABLISHED BY SECTION 41-175.

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

12 ~~G.~~ H. Notwithstanding subsection D of this section, if a court of
13 competent jurisdiction finally determines that tax monies distributed
14 under this section were illegally collected under this article or articles
15 5 and 8 of this chapter and orders the monies to be refunded to the
16 taxpayer, the department shall compute the amount of such monies that was
17 distributed to each city, town and county under this section. Each
18 city's, town's and county's proportionate share of the costs shall be
19 based on the amount of the original tax payment each municipality and
20 county received. Each month the state treasurer shall reduce the amount
21 otherwise distributable to the city, town and county under this section by
22 one thirty-sixth of the total amount to be recovered from the city, town
23 or county until the total amount has been recovered, but the monthly
24 reduction for any city, town or county shall not exceed ten per cent of
25 the full monthly distribution to that entity. The reduction shall begin
26 for the first calendar month after the final disposition of the case and
27 shall continue until the total amount, including interest and costs, has
28 been recovered.

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

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

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

22 ~~L.~~ L. On notice from the auditor general pursuant to section
 23 9-626, subsection D, the state treasurer shall withhold from the
 24 distribution of monies pursuant to this section to the affected city the
 25 amount computed pursuant to section 9-626, subsection D. The state
 26 treasurer shall continue to withhold monies pursuant to this subsection
 27 until the entire amount specified in the notice has been withheld. The
 28 state treasurer shall credit any monies withheld pursuant to this
 29 subsection to the state general fund as provided by subsection D,
 30 paragraph 4 of this section.

31 ~~M.~~ M. Except as otherwise provided by this subsection, on notice
 32 from the attorney general pursuant to section 41-194.01, subsection B,
 33 paragraph 1 that an ordinance, regulation, order or other official action
 34 adopted or taken by the governing body of a county, city or town violates
 35 state law or the Constitution of Arizona, the state treasurer shall
 36 withhold the distribution of monies pursuant to this section to the
 37 affected county, city or town and shall continue to withhold monies
 38 pursuant to this subsection until the attorney general certifies to the
 39 state treasurer that the violation has been resolved. The state treasurer
 40 shall redistribute the monies withheld pursuant to this subsection among
 41 all other counties, cities and towns in proportion to their population as
 42 provided by subsection D of this section. The state treasurer shall not
 43 withhold any amount that the county, city or town certifies to the
 44 attorney general and the state treasurer as being necessary to make any
 45 required deposits or payments for debt service on bonds or other long-term

1 obligations of the county, city or town that were issued or incurred
2 before committing the violation.

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

8 Sec. 9. Title 42, chapter 5, article 2, Arizona Revised Statutes,
9 is amended by adding section 42-5077, to read:

10 42-5077. Services classification

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

- 13 1. LEGAL SERVICES.
- 14 2. ARCHITECTURE, LANDSCAPE ARCHITECTURE, ENGINEERING, ENGINEERING
15 DESIGN AND LAND SURVEYOR SERVICES.
- 16 3. HOME INSPECTION SERVICES.
- 17 4. BUILDING AND PROPERTY ALARM AGENCIES AND SECURITY GUARDS AND
18 AGENCIES.
- 19 5. INVESTIGATION AND SECURITY SERVICES.
- 20 6. STRUCTURAL, PROPERTY AND AGRICULTURAL PEST CONTROL SERVICES.
- 21 7. OTHER SERVICES TO BUILDINGS, DWELLINGS AND REAL ESTATE.
- 22 8. REAL ESTATE AGENCIES, AGENTS AND BROKERS.
- 23 9. REAL ESTATE APPRAISERS AND PROPERTY TAX AGENTS.
- 24 10. BARBER SERVICES.
- 25 11. BEAUTY AND COSMETIC SALON SERVICES, INCLUDING COSMETOLOGISTS,
26 AESTHETICIANS AND NAIL TECHNICIANS.
- 27 12. OTHER PERSONAL CARE SERVICES.
- 28 13. ACCOUNTING, TAX PREPARATION AND BOOKKEEPING SERVICES.
- 29 14. MEDICAL, OSTEOPATHIC MEDICINE, CHIROPRACTIC, PODIATRIC,
30 NATUROPATHIC, HOMEOPATHIC, DENTAL, OPTOMETRIC, OPTICIAN AND OTOLOGY
31 SERVICES.
- 32 15. ACUPUNCTURE THERAPISTS AND PRACTITIONERS.
- 33 16. BEHAVIORAL AND MENTAL HEALTH PRACTITIONER SERVICES.
- 34 17. PHYSICAL, OCCUPATIONAL AND SPEECH THERAPY AND REHABILITATION
35 SERVICES.
- 36 18. HOSPITAL AND URGENT CARE SERVICES.
- 37 19. AMBULANCE AND OTHER MEDICAL OR DISABILITY TRANSPORTATION
38 SERVICES.
- 39 20. OTHER HEALTH PRACTITIONER SERVICES.
- 40 21. OUTPATIENT CARE SERVICES.
- 41 22. RADIOLOGY SERVICES.
- 42 23. MEDICAL DIAGNOSTIC LAB SERVICES.
- 43 24. HOME HEALTH SERVICES.
- 44 25. OTHER AMBULATORY HEALTH SERVICES.
- 45 26. NURSING AND RESIDENTIAL CARE FACILITY SERVICES.

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

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

36 Sec. 10. Section 42-6010, Arizona Revised Statutes, is amended to
37 read:

38 42-6010. Retail business location municipal tax incentives;
39 prohibition; penalty; exceptions; definitions

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

1 B. A city or town that violates this section is subject to a
2 penalty equal to the amount of the incentive realized by the taxpayer,
3 extended over a period of sixty months. The department of revenue shall
4 notify the state treasurer to withhold the amount of the penalty from
5 monies otherwise payable to the city or town as provided by section
6 42-5029, subsection ~~J~~ K.

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

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

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

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

19 3. Tax incentives for locating retail business facilities in an
20 area designated as a redevelopment project pursuant to title 36, chapter
21 12, article 3 where the average household income is less than the average
22 city household income as determined by the United States census bureau.

23 4. Incentives consisting of reimbursement for public infrastructure
24 dedicated to and accepted and controlled upon completion of the project by
25 the city or town, county, state or a private utility where no other
26 political subdivision provides such utility for transportation, water,
27 sewer, electrical, drainage, the fair market value of real property
28 necessary for the public infrastructure and other necessary public
29 infrastructure. This paragraph does not apply to parking lots, parking
30 structures or parking facilities or other structures or amenities owned or
31 controlled by a private entity.

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

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

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

1 F. This section does not apply to tax incentives that were referred
2 to a vote of the qualified electors of the city or town before July 1,
3 2007 and approved by the qualified electors of the city or town.

4 G. For the purposes of this section:

5 1. "Metropolitan statistical area" means a geographical area
6 consisting of cities, towns and other populated areas defined for federal
7 statistical and census purposes by the United States office of management
8 and budget with technical assistance from the United States bureau of the
9 census.

10 2. "Retail business facility" means a store, warehouse or other
11 improvement to real estate where at least one-half of the business
12 conducted on the premises consists of retail sales of tangible personal
13 property to the ultimate consumer, measured by either the number of
14 employees assigned to retail sales or the square footage of the facility
15 used for retail sales. For the purposes of this paragraph, retail sales
16 do not include:

17 (a) Sales of food and beverage for consumption on the premises of
18 the facility.

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

21 (c) Sales solely to company employees.

22 3. "Tax incentive" means any waiver, exemption, deduction, credit,
23 rebate, discount, deferral or other abatement or reduction of the normal
24 municipal tax liability of an individual taxpayer that otherwise applies
25 to similar existing taxpayers and properties in the city or town, however
26 denominated, computed or applied, and generally understood as an
27 inducement for the taxpayer to locate a business facility or other
28 operation in the city or town.

29 Sec. 11. Conforming legislation

30 The legislative council staff shall prepare proposed legislation
31 conforming the Arizona Revised Statutes to the provisions of this act for
32 consideration in the fifty-fourth legislature, first regular session.

33 Sec. 12. Requirements for enactment; two-thirds vote

34 Pursuant to article IX, section 22, Constitution of Arizona, this
35 act is effective only on the affirmative vote of at least two-thirds of
36 the members of each house of the legislature and is effective immediately
37 on the signature of the governor or, if the governor vetoes this act, on
38 the subsequent affirmative vote of at least three-fourths of the members
39 of each house of the legislature.