

REFERENCE TITLE: state shared revenues; withholding; repeal

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HB 2362

Introduced by
Representatives Sun: Aguilar, Cano, Contreras L, Contreras P, De Los
Santos, Hernandez L, Mathis, Sandoval, Tsosie

AN ACT

REPEALING SECTION 41-194.01, ARIZONA REVISED STATUTES; AMENDING SECTIONS
42-5029 AND 43-206, ARIZONA REVISED STATUTES; RELATING TO STATE SHARED
REVENUES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Repeal

3 Section 41-194.01, Arizona Revised Statutes, is repealed.

4 Sec. 2. Section 42-5029, Arizona Revised Statutes, is amended to
5 read:

6 42-5029. Remission and distribution of monies; withholding;
7 definition

8 A. The department shall deposit, pursuant to sections 35-146 and
9 35-147, all revenues collected under this article and articles 4, 5 and 8
10 of this chapter pursuant to section 42-1116, separately accounting for:

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

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

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

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

18 5. Revenues collected pursuant to section 42-5010.01 and section
19 42-5155, subsection E.

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

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

35 D. Of the monies designated as distribution base, the department
36 shall:

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

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

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

44 (b) The proportion that the distribution base monies collected
45 during the calendar month in each county under this article, section

1 42-5164, subsection B and section 42-5205, subsection B bear to the total
2 distribution base monies collected under this article, section 42-5164,
3 subsection B and section 42-5205, subsection B throughout the state for
4 the calendar month.

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

7 (a) Average the following proportions:

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

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

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

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

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

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

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

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

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

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

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

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

1 subsection B. For the purposes of this paragraph, "qualifying Indian
2 tribe" has the same meaning as defined in section 42-5031.01,
3 subsection D.

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

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

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

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

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

13 (e) In fiscal year 2005-2006 and each fiscal year thereafter,
14 \$86,280,500.

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

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

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

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

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

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

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

1 (c) Forty per cent shall be allocated for maintenance and operation
2 purposes.

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

6 G. Notwithstanding subsection D of this section, if a court of
7 competent jurisdiction finally determines that tax monies distributed
8 under this section were illegally collected under this article or articles
9 5 and 8 of this chapter and orders the monies to be refunded to the
10 taxpayer, the department shall compute the amount of such monies that was
11 distributed to each city, town and county under this section. Each
12 city's, town's and county's proportionate share of the costs shall be
13 based on the amount of the original tax payment each municipality and
14 county received. Each month the state treasurer shall reduce the amount
15 otherwise distributable to the city, town and county under this section by
16 one thirty-sixth of the total amount to be recovered from the city, town
17 or county until the total amount has been recovered, but the monthly
18 reduction for any city, town or county shall not exceed ten percent of the
19 full monthly distribution to that entity. The reduction shall begin for
20 the first calendar month after the final disposition of the case and shall
21 continue until the total amount, including interest and costs, has been
22 recovered.

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

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

44 J. Except as otherwise provided by this subsection, on notice from
45 the department of revenue pursuant to section 42-6010, subsection B, the

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

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

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

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

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

3 43-206. Urban revenue sharing fund; allocation; distribution;
4 withholding

5 A. The urban revenue sharing fund is established. Through fiscal
6 year 2022-2023, the fund consists of an amount equal to fifteen percent of
7 the net proceeds of the state income taxes for the fiscal year two years
8 preceding the current fiscal year. Beginning in fiscal year 2023-2024,
9 the fund consists of an amount equal to eighteen percent of the net
10 proceeds of the state income taxes for the fiscal year two years preceding
11 the current fiscal year. The fund shall be distributed to incorporated
12 cities and towns as provided in this section, except that a city or town
13 shall receive at least an amount equal to what a city or town with a
14 population of fifteen hundred or more persons would receive. The transfer
15 of net proceeds prescribed by section 49-282, subsection B does not affect
16 the calculation of net proceeds prescribed by this subsection.

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

24 C. The treasurer, on instruction from the department, shall
25 transmit, not later than the tenth day of each month, to each city or town
26 an amount equal to one-twelfth of that city's or town's total entitlement
27 for the current fiscal year from the urban revenue sharing fund as
28 determined by the department.

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

32 E. On receipt of a certificate of default from the greater Arizona
33 development authority pursuant to section 41-2257 or 41-2258, the state
34 treasurer, to the extent not otherwise expressly prohibited by law, shall
35 withhold from the next succeeding distribution of monies pursuant to this
36 section due to the city or town the amount specified in the certificate of
37 default and immediately deposit the amount withheld in the greater Arizona
38 development authority revolving fund. The state treasurer shall continue
39 to withhold and deposit the monies until the authority certifies to the
40 state treasurer that the default has been cured. The state treasurer may
41 not withhold any amount that is necessary, as certified by the defaulting
42 political subdivision to the state treasurer and the authority, to make
43 any required deposits then due for the payment of principal and interest
44 on bonds of the political subdivision that were issued before the date of

1 the loan repayment agreement or bonds and that have been secured by a
2 pledge of distributions made pursuant to this section.

3 ~~F. Except as otherwise provided by this subsection, on notice from~~
4 ~~the attorney general pursuant to section 41-194.01, subsection B,~~
5 ~~paragraph 1 that an ordinance, regulation, order or other official action~~
6 ~~adopted or taken by the governing body of a city or town violates state~~
7 ~~law or the Constitution of Arizona, the state treasurer shall withhold the~~
8 ~~distribution of monies pursuant to this section to the affected city or~~
9 ~~town and shall continue to withhold monies pursuant to this subsection~~
10 ~~until the attorney general certifies to the state treasurer that the~~
11 ~~violation has been resolved. The state treasurer shall redistribute the~~
12 ~~monies withheld pursuant to this subsection among all other cities and~~
13 ~~towns in proportion to their population as provided by subsection B of~~
14 ~~this section. The state treasurer shall not withhold any amount that the~~
15 ~~city or town certifies to the attorney general and the state treasurer as~~
16 ~~being necessary to make any required deposits or payments for debt service~~
17 ~~on bonds or other long-term obligations of the city or town that were~~
18 ~~issued or incurred before committing the violation.~~