

State of Arizona
Senate
Forty-eighth Legislature
Second Regular Session
2008

SENATE BILL 1027

AN ACT

AMENDING SECTION 42-5029, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2006, CHAPTER 351, SECTION 7 AND CHAPTER 354, SECTION 27; REPEALING SECTION 42-5029, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2007, CHAPTER 276, SECTION 1; RELATING TO TAX INCENTIVES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 42-5029, Arizona Revised Statutes, as amended by
3 Laws 2006, chapter 351, section 7 and chapter 354, section 27, is amended to
4 read:

5 42-5029. Remission and distribution of monies; definition

6 A. The department shall deposit, pursuant to sections 35-146 and
7 35-147, all revenues collected under this article and articles 4, 5, 8 and 9
8 of this chapter pursuant to section 42-1116, separately accounting for:

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

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

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

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

16 B. The department shall credit payments of estimated tax to an
17 estimated tax clearing account and each month shall transfer all monies in
18 the estimated tax clearing account to a fund designated as the transaction
19 privilege and severance tax clearing account. The department shall credit
20 all other payments to the transaction privilege and severance tax clearing
21 account, separately accounting for the monies designated as distribution base
22 under sections 42-5010, 42-5164, 42-5205, 42-5353 and 42-5409. Each month
23 the department shall report to the state treasurer the amount of monies
24 collected pursuant to this article and articles 4, 5, 8 and 9 of this
25 chapter.

26 C. On notification by the department, the state treasurer shall
27 distribute the monies deposited in the transaction privilege and severance
28 tax clearing account in the manner prescribed by this section and by sections
29 42-5164, 42-5205, 42-5353 and 42-5409, after deducting warrants drawn against
30 the account pursuant to sections 42-1118 and 42-1254.

31 D. Of the monies designated as distribution base the department shall:

32 1. Pay twenty-five per cent to the various incorporated municipalities
33 in this state in proportion to their population to be used by the
34 municipalities for any municipal purpose.

35 2. Pay 38.08 per cent to the counties in this state by averaging the
36 following proportions:

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

39 (b) The proportion that the distribution base monies collected during
40 the calendar month in each county under this article, section 42-5164,
41 subsection B, section 42-5205, subsection B and sections 42-5353 and 42-5409
42 bear to the total distribution base monies collected under this article,
43 section 42-5164, subsection B, section 42-5205, subsection B and sections
44 42-5353 and 42-5409 throughout the state for the calendar month.

1 3. Pay an additional 2.43 per cent to the counties in this state as
2 follows:

3 (a) Average the following proportions:

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

16 (ii) The proportion that the distribution base monies collected during
17 the calendar month in each county under this article, section 42-5164,
18 subsection B, section 42-5205, subsection B and sections 42-5353 and 42-5409
19 bear to the total distribution base monies collected under this article,
20 section 42-5164, subsection B, section 42-5205, subsection B and sections
21 42-5353 and 42-5409 throughout the state for the calendar month.

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

32 4. After any distributions required by sections 42-5030, 42-5030.01,
33 42-5031, 42-5032 and 42-5032.01, and after making any transfer to the water
34 quality assurance revolving fund as required by section 49-282, subsection B,
35 credit the remainder of the monies designated as distribution base to the
36 state general fund. From this amount:

37 (a) The legislature shall annually appropriate to:

38 (i) The department of revenue sufficient monies to administer and
39 enforce this article and articles 5, 8 and 9 of this chapter.

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

42 (iii) The firearms safety and ranges fund established by section
43 17-273, fifty thousand dollars derived from the taxes collected from the
44 retail classification pursuant to section 42-5061 for the current fiscal
45 year.

1 (b) The state treasurer shall transfer to the tourism fund an amount
2 equal to the sum of the following:

3 (i) Three and one-half per cent of the gross revenues derived from the
4 transient lodging classification pursuant to section 42-5070 during the
5 preceding fiscal year.

6 (ii) Three per cent of the gross revenues derived from the amusement
7 classification pursuant to section 42-5073 during the preceding fiscal year.

8 (iii) Two per cent of the gross revenues derived from the restaurant
9 classification pursuant to section 42-5074 during the preceding fiscal year.

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

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

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

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

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

1 purpose of providing support to one or more community colleges owned,
2 operated or chartered by a qualifying Indian tribe and shall be used in a
3 manner consistent with section 15-1472, subsection B. For THE purposes of
4 this paragraph, "qualifying Indian tribe" has the same meaning as defined in
5 section 42-5031.01, subsection D.

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

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

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

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

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

15 (e) In fiscal year 2005-2006 and each fiscal year thereafter,
16 \$86,280,500.

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

24 7. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
25 subsection, no more than seven million dollars may be appropriated by the
26 legislature each fiscal year to the department of education to be used for
27 accountability purposes as described in section 15-241 and title 15, chapter
28 9, article 8.

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

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

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

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

44 (b) Twenty per cent shall be allocated for increases in teacher base
45 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 general
5 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 under
8 this section were illegally collected under this article or articles 5, 8 and
9 of this chapter and orders the monies to be refunded to the taxpayer, the
10 department shall compute the amount of such monies that was distributed to
11 each city, town and county under this section. The department shall notify
12 the state treasurer of that amount plus the proportionate share of additional
13 allocated costs required to be paid to the taxpayer. Each city's, town's and
14 county's proportionate share of the costs shall be based on the amount of the
15 original tax payment each municipality and county received. Each month the
16 state treasurer shall reduce the amount otherwise distributable to the city,
17 town and county under this section by one thirty-sixth of the total amount to
18 be recovered from the city, town or county until the total amount has been
19 recovered, but the monthly reduction for any city, town or county shall not
20 exceed ten per cent of the full monthly distribution to that entity. The
21 reduction shall begin for the first calendar month after the final
22 disposition of the case and shall continue until the total amount, including
23 interest and costs, has been recovered.

24 H. On receiving a certificate of default from the greater Arizona
25 development authority pursuant to section 41-1554.06 or 41-1554.07 and to the
26 extent not otherwise expressly prohibited by law, the state treasurer shall
27 withhold from the next succeeding distribution of monies pursuant to this
28 section due to the defaulting political subdivision the amount specified in
29 the certificate of default and immediately deposit the amount withheld in the
30 greater Arizona development authority revolving fund. The state treasurer
31 shall continue to withhold and deposit the monies until the greater Arizona
32 development authority certifies to the state treasurer that the default has
33 been cured. In no event may the state treasurer withhold any amount that the
34 defaulting political subdivision certifies to the state treasurer and the
35 authority as being necessary to make any required deposits then due for the
36 payment of principal and interest on bonds of the political subdivision that
37 were issued before the date of the loan repayment agreement or bonds and that
38 have been secured 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 United
41 States decennial census plus any revisions to the decennial census certified
42 by the United States bureau of the census shall be used as the basis for
43 apportioning monies pursuant to subsection D of this section.

1 J. EXCEPT AS OTHERWISE PROVIDED BY THIS SUBSECTION, ON NOTICE FROM THE
2 DEPARTMENT OF REVENUE PURSUANT TO SECTION 42-6010, SUBSECTION B, THE STATE
3 TREASURER SHALL WITHHOLD FROM THE DISTRIBUTION OF MONIES PURSUANT TO THIS
4 SECTION TO THE AFFECTED CITY OR TOWN THE AMOUNT OF THE PENALTY FOR BUSINESS
5 LOCATION MUNICIPAL TAX INCENTIVES PROVIDED BY THE CITY OR TOWN TO A BUSINESS
6 ENTITY THAT LOCATES A RETAIL BUSINESS FACILITY IN THE CITY OR TOWN. THE
7 STATE TREASURER SHALL CONTINUE TO WITHHOLD MONIES PURSUANT TO THIS SUBSECTION
8 UNTIL THE ENTIRE AMOUNT OF THE PENALTY HAS BEEN WITHHELD. THE STATE
9 TREASURER SHALL CREDIT ANY MONIES WITHHELD PURSUANT TO THIS SUBSECTION TO THE
10 STATE GENERAL FUND AS PROVIDED BY SUBSECTION D, PARAGRAPH 4 OF THIS SECTION.
11 THE STATE TREASURER SHALL NOT WITHHOLD ANY AMOUNT THAT THE CITY OR TOWN
12 CERTIFIES TO THE DEPARTMENT OF REVENUE AND THE STATE TREASURER AS BEING
13 NECESSARY TO MAKE ANY REQUIRED DEPOSITS OR PAYMENTS FOR DEBT SERVICE ON BONDS
14 OR OTHER LONG-TERM OBLIGATIONS OF THE CITY OR TOWN THAT WERE ISSUED OR
15 INCURRED BEFORE THE LOCATION INCENTIVES PROVIDED BY THE CITY OR TOWN.

16 ~~J.~~ K. For the purposes of this section, "community college district"
17 means a community college district that is established pursuant to sections
18 15-1402 and 15-1403 and that is a political subdivision of this state.

19 Sec. 2. Repeal

20 Section 42-5029, Arizona Revised Statutes, as amended by Laws 2007,
21 chapter 276, section 1, is repealed.

22 Sec. 3. Retroactivity

23 This act applies retroactively to from and after January 1, 2008.