

House Engrossed Senate Bill

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

CHAPTER 249

SENATE BILL 1217

AN ACT

AMENDING SECTIONS 15-1472 AND 42-5029, ARIZONA REVISED STATUTES; RELATING TO
COMMUNITY COLLEGES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 15-1472, Arizona Revised Statutes, is amended to
3 read:

4 15-1472. Community college district workforce development
5 accounts; reports

6 A. Each community college district shall establish a separate
7 workforce development account to receive only tax revenues authorized
8 pursuant to section 42-5029, subsection E, paragraph 3. Each community
9 college district board shall approve the expenditure of these monies in
10 accordance with section 15-1461 and consistent with subsection B of this
11 section.

12 B. Monies received pursuant to subsection A of this section shall be
13 expended for workforce development and job training purposes. These
14 expenditures may include:

15 1. Partnerships with businesses and educational institutions.

16 2. Additional faculty for improved and expanded classroom instruction
17 and course offerings.

18 3. Technology, equipment and technology infrastructure for advanced
19 teaching and learning in classrooms or laboratories.

20 4. Student services such as assessment, advisement and counseling for
21 new and expanded job opportunities.

22 5. The purchase, lease or lease-purchase of real property, for new
23 construction, remodeling or repair of buildings or facilities on real
24 property.

25 C. The state treasurer shall transfer monies under this section into
26 each district's workforce development account by the fifteenth day of each
27 month. The state treasurer shall also allocate and distribute any pooled
28 interest earnings earned from revenues authorized in section 42-5029,
29 subsection E, paragraph 3 to each district in accordance with the method
30 prescribed in subsection D, paragraph 2 of this section.

31 D. Revenues authorized for community college districts in section
32 42-5029, subsection E, paragraph 3 shall be distributed by the state in the
33 following manner:

34 1. For thirteen fiscal years beginning in fiscal year 2001-2002 the
35 state treasurer shall allocate one million dollars per fiscal year for the
36 purpose of bringing this state into compliance with the matching capital
37 requirements prescribed in section 15-1463. The state treasurer shall
38 distribute the monies authorized in this subsection to each district in the
39 order in which each campus qualified for funding pursuant to section 15-1463.

40 2. After the monies have been paid each year to the eligible district
41 DISTRICTS pursuant to paragraph 1 of this subsection, the state treasurer
42 shall distribute monies from the workforce development fund to each community
43 college district in the following manner:

44 (a) Each district shall receive the sum of two hundred thousand
45 dollars.

1 (b) After each district has received the payments prescribed in
2 subdivision (a), the remainder of monies in the fund shall be distributed to
3 each district according to each district's full-time equivalent student
4 enrollment percentage of the total ~~state-wide~~ STATEWIDE audited full-time
5 equivalent student enrollment in the preceding fiscal year prescribed in
6 section 15-1466.01. FOR THE PURPOSES OF THIS SUBDIVISION, THE FULL-TIME
7 EQUIVALENT STUDENT ENROLLMENT OF A PROVISIONAL COMMUNITY COLLEGE DISTRICT
8 SHALL BE ADDED TO THE FULL-TIME EQUIVALENT STUDENT ENROLLMENT OF THE
9 COMMUNITY COLLEGE DISTRICT THAT CONTRACTS WITH THE PROVISIONAL COMMUNITY
10 COLLEGE DISTRICT PURSUANT TO SECTION 15-1409, SUBSECTION A, AND THAT PORTION
11 OF THE MONIES DISTRIBUTED UNDER THIS SUBDIVISION TO THAT COMMUNITY COLLEGE
12 DISTRICT SHALL BE USED TO PROVIDE SERVICES TO STUDENTS ENROLLED IN THAT
13 PROVISIONAL COMMUNITY COLLEGE DISTRICT AS APPROVED BY THE PROVISIONAL
14 COMMUNITY COLLEGE DISTRICT'S GOVERNING BOARD AS PART OF THE ANNUAL BUDGET
15 PROCESS PURSUANT TO SECTION 15-1461. The percentage distribution under this
16 subdivision shall be adjusted annually on October 1 of each year.

17 E. Revenues received by community college districts shall not be used
18 by the legislature to supplant or reduce any state aid authorized in this
19 chapter or supplant any proceeds from the sale of bonds authorized in this
20 article and article 5 of this chapter.

21 F. Monies received under this section shall not be considered to be
22 local revenues for purposes of article IX, section 21, Constitution of
23 Arizona.

24 G. Each community college district shall submit a workforce
25 development plan by April 1 of each year to the department of commerce. The
26 plan shall outline the purpose and goals for which workforce development
27 monies are to be expended by the district.

28 H. Each community college district or community college that is owned,
29 operated or chartered by a qualifying Indian tribe on its own Indian
30 reservation shall submit a report once every two years of its workforce
31 development plan activities and the expenditures authorized in this section
32 to the governor, president of the senate, speaker of the house of
33 representatives, joint legislative budget committee and department of
34 commerce by December 1 of every even-numbered year. The report shall include
35 the purpose and goals for which the workforce development monies were
36 expended by each district or community college together with a general
37 accounting of the expenditures authorized in subsection B of this section. A
38 copy of the final report shall also be provided to the secretary of state and
39 ~~the director of the Arizona state library, archives and public records.~~ For
40 the purposes of this subsection, "qualifying Indian tribe" has the same
41 meaning prescribed in section 42-5031.01.

1 Sec. 2. Section 42-5029, Arizona Revised Statutes, is amended to read:
2 42-5029. Remission and distribution of monies; definition

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

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

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

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

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

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

22 C. On notification by the department, the state treasurer shall
23 distribute the monies deposited in the transaction privilege and severance
24 tax clearing account in the manner prescribed by this section and by sections
25 42-5164, 42-5205 and 42-5353, after deducting warrants drawn against the
26 account pursuant to sections 42-1118 and 42-1254.

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

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

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

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

35 (b) The proportion that the distribution base monies collected during
36 the calendar month in each county under this article, section 42-5164,
37 subsection B, section 42-5205, subsection B and section 42-5353 bear to the
38 total distribution base monies collected under this article, section 42-5164,
39 subsection B, section 42-5205, subsection B and section 42-5353 throughout
40 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 section 42-5353 bear to the
19 total distribution base monies collected under this article, section 42-5164,
20 subsection B, section 42-5205, subsection B and section 42-5353 throughout
21 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 and 8 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) Subject to separate initial legislative authorization, each year
2 the state treasurer shall transfer to the tourism fund an amount equal to the
3 sum of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (e) In fiscal year 2005-2006 and each fiscal year thereafter,
17 \$86,280,500.

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

25 7. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
26 subsection, no more than seven million dollars may be appropriated by the
27 legislature each fiscal year to the department of education to be used for
28 accountability purposes as described in section 15-241 and title 15, chapter
29 9, article 8.

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

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

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

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

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

3 (c) Forty per cent shall be allocated for maintenance and operation
4 purposes.

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

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

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

41 I. Except as provided by sections 42-5033 and 42-5033.01, the
42 population of a county, city or town as determined by the most recent United
43 States decennial census plus any revisions to the decennial census certified
44 by the United States bureau of the census shall be used as the basis for
45 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 K. On notice from the auditor general pursuant to section 9-626,
17 subsection D, the state treasurer shall withhold from the distribution of
18 monies pursuant to this section to the affected city the amount computed
19 pursuant to section 9-626, subsection D. The state treasurer shall continue
20 to withhold monies pursuant to this subsection until the entire amount
21 specified in the notice has been withheld. The state treasurer shall credit
22 any monies withheld pursuant to this subsection to the state general fund as
23 provided by subsection D, paragraph 4 of this section.

24 L. For the purposes of this section, "community college district"
25 means a community college district that is established pursuant to sections
26 15-1402 and 15-1403 and that is a political subdivision of this state AND,
27 SUBJECT TO THE DISTRIBUTION PROCEDURES SPECIFIED IN SECTION 15-1472,
28 SUBSECTION D, PARAGRAPH 2, SUBDIVISION (b), INCLUDES A PROVISIONAL COMMUNITY
29 COLLEGE DISTRICT ESTABLISHED PURSUANT TO SECTION 15-1409.

30 Sec. 3. Effective date

31 This act is effective from and after September 30, 2011.

APPROVED BY THE GOVERNOR APRIL 26, 2011.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 26, 2011.

Passed the House April 18, 2011,

Passed the Senate March 2, 2011,

by the following vote: 38 Ayes,

by the following vote: 21 Ayes,

20 Nays, 2 Not Voting

9 Nays, 0 Not Voting

[Signature]
Speaker of the House

[Signature]
President of the Senate

Cheryl Laube
Chief Clerk of the House

[Signature]
Secretary of the Senate

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR**

This Bill was received by the Governor this
_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of
_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE**

This Bill was received by the Secretary of State
this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

S.B. 1217

SENATE CONCURS IN HOUSE .
AMENDMENTS AND FINAL PASSAGE

Passed the Senate April 19, 2011

by the following vote: 20 Ayes,

10 Nays, 0 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

20 day of April, 20 11

at 12:00 o'clock P. M.

[Signature]
Secretary to the Governor

Approved this 26th day of

April

at 10:32 o'clock A. M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 26th day of April, 20 11

at 2:55 o'clock P. M.

[Signature]
Secretary of State

S.B. 1217