# Board of Supervisors Memorandum

June 12, 2018

**Senate Bill (SB) 1529 Tucson Unified School District Desegregation Tax Levy Transfer to the Secondary Property Tax Levy**

Background

The Arizona Constitution, as amended in 1980, limits the cumulative property taxes levied by the county, city or town, school district, and community college district, within which a parcel of residential property is located, to one-percent of the residential property's full cash value. Ariz. Const. art. 9, § 18. The only exceptions are for taxes levied to pay off debt and taxes that are approved by voters in an override election of some type. In order to implement this limitation, the State passed a statute—A.R.S. § 15-972—that requires the County to give residential property owners a credit on their property tax bill for any amount in excess of the one-percent limit; that amount is deducted from the school district's levy, and the State provides additional state funding to the school district to compensate for the reduction. The State has paid this amount each year since the Constitution was amended. TUSD is the largest recipient of this aid.

The State has now twice attempted to transfer this obligation. The State's first attempt was three years ago, when they passed legislation that would have required Pima County to provide TUSD most of this funding, approximately $18 million per year. The County believed, and the State Court concluded that this attempt was unconstitutional and declared it invalid.

In the closing hours of the most recent Legislative Session, the legislature again passed a bill that seems intended to shift liability for this funding back to the residential property owners within the school district. This legislation, in the form of Senate Bill (SB) 1529, added a paragraph to the statute that deals with desegregation-program funding—A.R.S. § 15-910—that requires desegregation expenses to be paid from the school district's "secondary" property tax rather than its "primary" property tax. It also requires this tax to be itemized separately on the property tax bills. It appears to be an attempt by the Legislature to exempt this tax from the one-percent limit, thus avoiding the State's obligation to pay the additional state aid, and instead placing the burden back on the taxpayer.

The County Attorney's Office has explained the legal problems with this legislation in a May 22, 2018 memorandum from Deputy County Attorney Regina Nassen (with respect to which this Board waived the attorney-client privilege)—simply labeling the tax "secondary" doesn't take it outside the Constitutional limit, nor does it even clearly alter the way the County calculates the one-percent credit and resulting additional-state-aid under § 11-972, which wasn't amended.

But this last minute legislation signed into law by the Governor, does create some ambiguity and uncertainty, which causes an immediate dilemma for both Pima County and TUSD.

An Immediate Solution Needed

The County is responsible, under § 11-972, for calculating the one-percent Constitutional overage for each owner-occupied residence within TUSD and informing the State Department of Revenue of the additional state aid that it must then pay TUSD. The County can certainly list the desegregation portion of TUSD's tax levy (the "Desegregation Tax") as a line item on tax bills, labeling it something like "TUSD Secondary Tax for Desegregation Program." But Pima County must decide whether—despite the "secondary" label—to treat the tax as subject to the one-percent limit. Should the County exclude the tax from the calculation and face the consequences of being sued by taxpayers for levying an illegal property tax in excess of the constitutional limit? Or should it include the tax in the calculation, and risk leaving TUSD short nearly $17 million in their budget, if the State Department of Revenue disagrees with our reading of the statutes?

This dilemma will occur on August 20, 2018, when Pima County is required to adopt the property tax rates of all property taxing jurisdictions within Pima County, including TUSD, and begin calculating tax bills. The dilemma for TUSD is the adoption of their budget on or before July 1, 2018. Can they assume that the State will indeed pay the additional state aid? Or will Pima County's compliance with the Constitution, and refusal to increase the secondary property tax bill for homeowners within TUSD, result in a $17 million shortfall during the course of the year?

The Board of Supervisors directed County staff to seek an opinion of the Attorney General through a member of the Legislature to address this issue. Legislators have been approached, but a formal request has not yet been submitted. Meanwhile, the uncertainty continues. While we hope a responsible member of the Legislature will request an opinion from the Attorney General regarding the Constitutionality of this law, such may not occur or may occur in an untimely manner with respect to the deadlines associated with property tax rates and levy requirements (August 20, 2018).

Meeting with Tucson Unified School District (TUSD) Superintendent and Legal Counsel to Discuss the Issue

On May 30, 2018, a meeting was held with Pima County Deputy County Attorney Regina Nassen, Chief Deputy County Administrator Jan Lesher, Deputy County Administrator Tom Burke, TUSD legal counsel Rob Ross, TUSD Superintendent Dr. Gabriel Trujillo, and myself. The purpose of the meeting was to explore options to resolve the current uncertainty for both parties.

We agreed that, ideally, we would receive some assurance, in the form of an Attorney General's opinion, that the State's interpretation of the law is consistent with Pima County's. But time is running short and, if that cannot be obtained quickly, it may be necessary to initiate a legal action and ask a court to resolve the issue, hopefully on an expedited basis. Our lawyers have advised us that there is not yet a "ripe" controversy that would give Pima County, TUSD, or taxpayers, standing to file a legal action. Specific action by the Board of Supervisors telling County staff how to calculate tax rates and the one-percent credit after the levy adoption on August 20, 2018, would provide the basis for a legal action.

Therefore, as discussed with the TUSD Superintendent and TUSD general counsel, it would be appropriate for the Board to give that direction now. The Board can direct staff to (1) list the Desegregation Tax separately on tax bills, but continue to calculate the one-percent credits and additional state aid in compliance with Constitutional requirements, or (2) list the Desegregation Tax separately on tax bills, and also *exclude* that "secondary" tax from the one-percent limit calculation, thus increasing the total tax bills for residential property owners in TUSD. Taking the second option opens the County to law suits by taxpayers for imposing an illegal tax; taking the first option puts TUSD at risk of being approximately $17 million short of meeting its Federal court ordered desegregation obligations.

Recommendation

I recommend:

a) the Board of Supervisors take the first option and direct staff to calculate the one-percent-limit credit, and resulting additional state aid, in compliance with the Constitution and § 15-972, by including the ostensibly "secondary" property tax with the other taxes that are subject to the limit.

b) the Board take this action at the Board of Supervisors meeting of June 12, 2018. The TUSD Board may then choose to file a declaratory judgement against the County and the State asking the Court to either order Pima County to levy what we believe is an unconstitutional secondary property tax, or order the Department of Revenue to pay the additional-state-aid as they have for almost 40 years.

c) the Board instruct staff to notify the Tucson Unified School District (TUSD) Board and Superintendent that the County intends to include the Desegregation Tax in the one-percent calculation, rather than increase TUSD homeowners' secondary tax liability, and invite TUSD to request the Superior Court to determine whether SB 1529 effectively changed that methodology, and if so, whether that change is constitutional, and direct the County and State accordingly.

This may also get the Federal court involved in this matter since the net effect of SB 1529 and our refusal to illegally increase TUSD homeowners' secondary tax liability, may—if the State's interpretation of SB 1529 differs from ours—leave TUSD without the necessary funds to fully comply with the federal desegregation court order.

Inviting a legal action is an unusual step. But in this case, without some assurances from the State regarding their interpretation of SB 1529's impact, some sort of legal action seems almost inevitable. Allowing it to be initiated sooner rather than later will hopefully lessen the period of uncertainty for taxpayers, the County, and TUSD.

Sincerely,

C.H. Huckelberry
County Administrator

CHH/anc – June 4, 2018

Attachment

# MEMORANDUM

Pima County Attorney's Office
Civil Division
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Phone 520.724.5700 Fax 520.620.6556

**This is a privileged attorney-client communication and should not be disclosed to persons other than Pima County officials and employees involved in the matter that is the subject of the communication. The privilege is held by Pima County and can be waived only by an official action of the Board of Supervisors.**

To: Hon. Chairman and Members, Pima County Board of Supervisors

From: Regina L. Nassen, Deputy County Attorney

Date: May 22, 2018

Re: SB 1529; TUSD Desegregation Costs as Part of Secondary Levy

At the end of this year's legislative session, the Legislature passed SB 1529, attached. It requires a school district to "use[] revenues from secondary property taxes rather than primary property taxes to fund expenses of complying with or continuing to implement activities" required by a court desegregation order. It requires the secondary tax levied for these desegregation expenses to be "separately delineated on a property owner's property tax statement."

This mandate conflicts, in certain respects, with other statutory provisions left intact by the Legislature, and appears to be inconsistent with an applicable Constitutional limitation. That conflict creates some questions that the County will have to address as part of its process of levying taxes and preparing tax bills. *Why* that is the case is quite complicated; we explain the issue below and make some recommendations regarding how to proceed.

Section 18 and the 1% Limit.

The Arizona Constitution, in section 18 of article 9 ("Section 18") limits the total amount of property taxes levied by the county, city or town (in an incorporated area), school district, and community college district, on a parcel of residential real property, to 1% of the property's full cash value (the "1% Limit").[1] The only exceptions are for taxes levied to pay debt service on bonds or other debt instruments, and taxes that are approved by voters in an override election of some type[2]; *those* taxes are not included in the calculation, but the total of all *other* county, city/town, school, and community-college property taxes that apply to a particular parcel of

[1]Ariz. Const. art. 9, § 18(1).
[2]Ariz. Const. art. 9, § 18(2).

residential real property cannot exceed the 1% Limit.

Enabling Legislation for Section 18.

The 1% Limit was added to the Arizona Constitution, along with others,[3] in 1980, as part of "Prop 13." Section 18 requires the Arizona Legislature to "provide by law a system of property taxation consistent with the provisions of this section." Ariz. Const. art. 9, § 18(8). As part of the enabling legislation for Section 18 and other restrictions added by Prop 13, the Legislature added the terms "primary property tax" and "secondary property tax" to the statutes, as a shorthand way to distinguish between the property taxes subject to the new limits, and those that are exempt from those limits.[4]

In order to enact the 1% Limit, specifically, the Legislature enacted provisions in Title 15 (the school-district title) that have remained largely unchanged since that time.[5] As part of that scheme, A.R.S. § 15-972 makes boards of supervisors responsible for determining, for each parcel of residential property, whether the 1% Limit will be exceeded by the cumulative, applicable taxes of the county, city or town, school district, and community college district in which the property is located. If the 1% Limit is in fact exceeded, the statute requires the board to "apply a credit against the primary property taxes due from each such parcel in the amount in excess of article IX, section 18, Constitution of Arizona."[6] This amount is then deducted from the *school district's* levy, and the State provides "additional state aid for education ["Additional State Aid"] for the school district or districts in which such parcel of property is located" to make up for the reduction.[7]

SB 1529.

In SB 1529, the Legislature added a new subsection to A.R.S. § 15-910 that requires desegregation-related expenses to be paid from a district's "secondary levy." It *appears* that the Legislature *intended* to place the burden of these expenses on taxpayers within TUSD—including residential property owners who would otherwise have at least a portion of that responsibility offset by the 1% Limit credit—and as a result reduce the State's responsibility for providing this funding in the form of Additional State Aid under § 15-972.

The problem is that the Legislature did *not*, as part of SB 1529, change the language in § 15-972 regarding how the board of supervisors is required to determine the 1% Limit credit, and the resulting amount of Additional State Aid that the State is obligated to pay. Nor did it change the definition of "secondary property taxes," which clearly does not include a school district property tax levied to pay desegregation expenses. Such a tax is just as clearly subject to the

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[3]This includes the levy limit in Ariz. Const. art. 9, § 19. That limit applies to essentially the same county, community college, and city/town proper taxes as the limit in Section 18; it does *not* apply to school district tax levies.

[4]See *Mountain States Legal Found. v. Apache County*, 146 Ariz. 479, 481 (App. 1985) (referring to the addition of these terms as part of the enabling legislation for Prop 13). The current definitions are found in A.R.S. § 42-11001. "'Primary property taxes' means all ad valorem taxes except for secondary taxes." § 42-11001(11). "Secondary property taxes" includes essentially the same taxes exempted from the operation of the 1% Limit by Section 18.

[5]A.R.S. § 15-972.

[6]A.R.S. § 15-972(E) (emphasis added).

[7]*Id.*

constitutional 1% Limit, which the Legislature did not—and of course *could not*—change. Such a tax is not levied for the payment of long-term debt obligations, or pursuant to an override election. Therefore, despite the *apparent* Legislative intent, there appears to be no actual legal basis on which the Board of Supervisors can alter the way it calculates the 1% Limit credit and the corresponding Additional State Aid.[8]

Consequences and Recommendations.

It is the opinion of this office that the Board's obligations are in fact quite clear regarding how to calculate the 1% Limit credit and resulting Additional State Aid for TUSD. Unfortunately, the 2016 passage of SB 1487 (relevant passages of which are codified at A.R.S. § 41-194.01), raises the stakes for a board of supervisors that attempts to follow the statutes as currently configured, in possible contravention of an *implied* legislative intent that was not adequately codified and is inconsistent with controlling Constitutional provisions. Based on the allegation of a single member of the Legislature that Pima County—despite the absence of *any* pecuniary interest in the issue—is incorrectly applying State law by including TUSD's desegregation expenses in the taxes subject to the 1% Limit, the Arizona Attorney General can unilaterally cause payment of the County's state shared revenues to be suspended (subject, however, to legal challenge by the County).

Opposite that potential fire is the proverbial frying pan—if the County, following the *implied* legislative intent, does not include TUSD's "secondary" desegregation tax in the 1% Limit calculation, and this results in a violation of the 1% Limit with respect to residential properties within TUSD, it will potentially be liable to those residential property owners for reimbursement of an arguably illegal secondary property tax. A successful defense to *that* lawsuit may be more difficult to formulate.

Under these circumstances, we believe it would be in the County's interest to proactively address the issue with the Arizona Attorney General, hopefully gaining some assurance, in advance of the levy and the subsequent tax-bill preparation, that an action under § 41-194.01 won't be forthcoming if the County follows the Constitutional mandate. Accordingly, we recommend that the Board authorize Staff and the County Attorney's Office to coordinate in an effort to obtain an opinion from the Arizona Attorney General, in as expedited a manner as possible, about how that office believes the Board should calculate the 1% Limit under § 15-972(E) and Section 18.

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[8]It is true that § 15-972(E) says the Board is supposed to determine whether the "total *primary* property taxes to be levied" (emphasis added) would cause the 1% Limit to be exceeded, and under SB 1529 the desegregation tax is denominated part of the secondary levy. But, as noted above, the tax still does not meet the statutory definition of a secondary tax and, more importantly, the Board is still required—by virtue of both § 15-972(E)'s language and the superiority of the Arizona Constitution, to which § 15-972(E) explicitly refers—to calculate the 1% Limit in accordance with Section 18. The only way the Board can do that is by including the desegregation tax in that calculation.

2018 Ariz. Legis. Serv. Ch. 283 (S.B. 1529) (WEST)

ARIZONA 2018 LEGISLATIVE SERVICE

Second Regular Session of the Fifty-Third Legislature

Additions are indicated by **Text**; deletions by
~~Text~~ .
Vetoes are indicated by ~~Text~~ ;
stricken material by ~~**Text**~~ .

CHAPTER 283
S.B. 1529
APPROPRIATIONS

AN ACT AMENDING SECTIONS 6–991.21, 15–910, 43–409 AND 43–1022, ARIZONA REVISED STATUTES; AMENDING LAWS 2017, CHAPTER 312, SECTIONS 7, 8 AND 9; APPROPRIATING MONIES; RELATING TO REVENUE BUDGET RECONCILIATION.

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

Section 1. Section 6–991.21, Arizona Revised Statutes, is amended to read:

<< AZ ST § 6–991.21 >>

**§ 6–991.21. Financial services fund; use of fund**

**A.** The financial services fund is established consisting of loan originator fees collected pursuant to this article. The superintendent shall administer the fund for the ~~supervision and regulation of loan originators~~ **purpose of discharging the duties imposed by law on the department**.

**B.** Monies deposited in the financial services fund are subject to section 35–143.01.

Sec. 2. Section 15–910, Arizona Revised Statutes, is amended to read:

<< AZ ST § 15–910 >>

**§ 15–910. School district budgets; excess utility costs; desegregation costs; tuition costs for bond issues; costs for registering warrants; report**

**A.** The governing board may budget for the district's excess utility costs that are specifically exempt from the district's revenue control limit. If approved by the qualified electors voting at a statewide general election, the exemption from the revenue control limit under this subsection expires at the end of the 2008–2009 budget year. The uniform system of financial records shall specify expenditure items allowable as excess utility costs, which are limited to direct operational costs of heating, cooling, water and electricity, telephone communications and sanitation fees. The department of education and the auditor general shall include in the maintenance and operation section of the budget format, as provided in section 15–903, a separate line for utility expenditures and a special excess utility cost category. The special excess utility cost category shall contain budgeted expenditures for excess utility costs, determined as follows:

1. Determine the lesser of the total budgeted or total actual utility expenditures for fiscal year 1984–1985.

2. Multiply the amount in paragraph 1 of this subsection by the total percentage increase or decrease in the revenue control limit and the capital outlay revenue limit for the budget year over the revenue control limit and the capital outlay revenue limit for fiscal year 1984–1985 excluding monies available from a teacher compensation program provided for in section 15–952.

3. The sum of the amounts in paragraphs 1 and 2 of this subsection is the amount budgeted in the utility expenditure line.

4. Additional expenditures for utilities are budgeted in the excess utility cost category.

**B.** The governing board shall apply the same percentage increase or decrease allowed in the revenue control limit and the capital outlay revenue limit as provided in section 15–905, subsection E to the utility expenditure line of the budget.

**C.** The governing board may expend from the excess utility cost category only after it has expended for utility purposes the full amount budgeted in the utility expenditure line of the budget.

**D.** The governing board, after notice is given and a public meeting is held as provided in section 15–905, subsection D, may revise at any time before May 15 the amount budgeted in the excess utility cost category for the current year. Not later than May 18, the budget as revised shall be submitted electronically to the superintendent of public instruction.

**E.** If the revised excess utility cost category results in an expenditure of monies in excess of school district revenues for the current year, the county school superintendent shall include within the revenue estimate for the budget year monies necessary to meet the liabilities incurred by the school district in the current year in excess of revenues received for the current year.

**F.** If a school district receives a refund of utility expenditures or a rebate on energy saving devices or services, the refund or rebate shall be applied against utility expenditures for the current year as a reduction of the expenditures, except that the reduction of expenditures shall not exceed the amount of actual utility expenditures.

**G.** The governing board may budget for expenses of complying with or continuing to implement activities that were required or permitted by a court order of desegregation or administrative agreement with the United States department of education office for civil rights directed toward remediating alleged or proven racial discrimination that are specifically exempt in whole or in part from the revenue control limit and district additional assistance. This exemption applies only to expenses incurred for activities that are begun before the termination of the court order or administrative agreement. If a district is levying a ~~primary~~ property tax on February 23, 2006 and using those monies to administer an English language learner program to remedy alleged or proven discrimination under title VI of the civil rights act of 1964 (42 United States Code section 2000d), the district may spend those monies to remedy a violation of the equal educational opportunities act of 1974 (20 United States Code section 1703(f)). Nothing in this subsection allows a school district to levy a ~~primary~~ property tax for violations of the equal educational opportunities act of 1974 (20 United States Code section 1703(f)) in the absence of an alleged or proven discrimination under title VI of the civil rights act of 1964 (42 United States Code section 2000d).

**H.** If a governing board chooses to budget monies outside of the revenue control limit as provided in subsection G of this section, the governing board may do one of the following:

1. Use monies from the maintenance and operation fund equal to any excess desegregation or compliance expenses beyond the revenue control limit before June 30 of the current year.

2. Notify the county school superintendent to include the cost of the excess expenses in the county school superintendent's estimate of the additional amount needed for the school district from the ~~primary~~ **secondary** property tax as provided in section 15–991.

3. Employ the provisions of both paragraphs 1 and 2 of this subsection, provided that the total amount transferred and included in the amount needed from property taxes does not exceed the total amount budgeted as prescribed in subsection J, paragraph 1 of this section.

**I.** If a governing board chooses to budget monies outside of district additional assistance as provided in subsection G of this section, the governing board may notify the county school superintendent to include the cost of the excess expenses in the county school superintendent's estimate of the additional amount needed for the school district from the ~~primary~~ **secondary** property tax as provided in section 15–991.

**J.** A governing board using subsections G, H and I of this section:

1. Shall prepare and employ a separate maintenance and operation desegregation budget and capital outlay desegregation budget on a form prescribed by the superintendent of public instruction in conjunction with the auditor general. The budget format shall be designed to allow a school district to plan and provide in detail for expenditures to be incurred solely as a result of compliance with or continuing to implement activities that were required or permitted by a court order of desegregation or administrative agreement with the United States department of education office for civil rights directed toward remediating alleged or proven racial discrimination.

2. Shall prepare as a part of the annual financial report a detailed report of expenditures incurred solely as a result of compliance with or continuing to implement activities that were required or permitted by a court order of desegregation or administrative agreement with the United States department of education office for civil rights directed toward remediating alleged or proven racial discrimination, in a format prescribed by the auditor general in conjunction with the Arizona department of education as provided by section 15–904.

3. On or before July 15 each year, shall collect and report data regarding activities related to a court order of desegregation or an administrative agreement with the United States department of education office for civil rights directed toward remediating alleged or proven racial discrimination in a format prescribed by the Arizona department of education. The Arizona department of education shall compile and submit copies of the reports to the governor, the president of the senate, the speaker of the house of representatives and the chairpersons of the education committees of the senate and the house of representatives and shall submit a copy to the secretary of state. A school district that becomes subject to a new court order of desegregation or a party to an administrative agreement with the United States department of education office for civil rights directed toward remediating alleged or proven racial discrimination shall submit these reports on or before July 15 or within ninety days of the date of the court order or administrative agreement, whichever occurs first. The Arizona department of education, in consultation with the auditor general, shall develop reporting requirements to ensure that school districts submit at least the following information and documentation to the Arizona department of education:

(a) A district-wide budget summary and a budget summary on a school-by-school basis for each school in the school district that lists the sources and uses of monies that are designated for desegregation purposes.

(b) A detailed list of desegregation activities on a district-wide basis and on a school-by-school basis for each school in the school district.

(c) The date that the school district was determined to be out of compliance with title VI of the civil rights act of 1964 (42 United States Code section 2000d) and the basis for that determination.

(d) The initial date that the school district began to levy property taxes to provide funding for desegregation expenses and any dates that these property tax levies were increased.

(e) If applicable, a current and accurate description of all magnet type programs that are in operation pursuant to the court order during the current school year on a district-wide basis and on a school-by-school basis. This information shall contain the eligibility and attendance criteria of each magnet type program, the capacity of each magnet type program, the ethnic composition goals of each magnet type program, the actual attending ethnic composition of each magnet type program and the specific activities offered in each magnet type program.

(f) The number of pupils who participate in desegregation activities on a district-wide basis and on a school-by-school basis for each school in the school district.

(g) A detailed summary of the academic achievement of pupils on a district-wide basis and on a school-by-school basis for each school in the school district.

(h) The number of employees, including teachers and administrative personnel, on a district-wide basis and on a school-by-school basis for each school in the school district that is necessary to conduct desegregation activities.

(i) The number of employees, including teachers and administrative personnel, on a district-wide basis and on a school-by-school basis for each school in the school district and the number of employees at school district administrative offices that are funded in whole or in part with desegregation monies received pursuant to this section.

(j) The amount of monies that is not derived through a primary or secondary property tax levy and that is budgeted and spent on desegregation activities on a district-wide basis and on a school-by-school basis for each school in the school district.

(k) Verification that the desegregation funding will supplement and not supplant funding for other academic and extracurricular activities.

(l) Verification that the desegregation funding is educationally justifiable.

(m) Any documentation that supports the proposition that the requested desegregation funding is intended to result in equal education opportunities for all pupils in the school district.

(n) Verification that the desegregation funding will be used to promote systemic and organizational changes within the school district.

(o) Verification that the desegregation funding will be used in accordance with the academic standards adopted by the state board of education pursuant to sections 15–701 and 15–701.01.

(p) Verification that the desegregation funding will be used to accomplish specific actions to remediate proven discrimination pursuant to title VI of the civil rights act of 1964 (42 United States Code section 2000d) as specified in the court order or administrative agreement.

(q) An evaluation by the school district of the effectiveness of the school district's desegregation measures.

(r) An estimate of when the school district will be in compliance with the court order or administrative agreement and a detailed account of the steps that the school district will take to achieve compliance.

(s) Any other information that the Arizona department of education deems necessary to carry out the purposes of this paragraph.

**K.** If a school district governing board budgets for expenses of complying with a court order of desegregation or an administrative agreement with the United States department of education office for civil rights directed toward remediating alleged or proven racial discrimination, the governing board shall ensure that the desegregation expenses will:

1. Be educationally justifiable.

2. Result in equal education opportunities for all pupils in the school district.

3. Be used to promote systemic and organizational changes within the school district.

4. Be used in accordance with the academic standards adopted by the state board of education pursuant to sections 15–701 and 15–701.01.

5. Be used to accomplish specific actions to remediate proven discrimination pursuant to title VI of the civil rights act of 1964 (42 United States Code section 2000d) as specified in the court order or administrative agreement.

6. Be used in accordance with a plan submitted to the department of education that includes an estimate of the amount of monies that will be required to bring the school district into compliance with the court order or administrative agreement and an estimate of when the school district will be in compliance with the court order or administrative agreement.

7. Each fiscal year, not exceed the amount budgeted by the school district for desegregation expenses in fiscal year 2008–2009.

**L. Beginning in fiscal year 2018–2019, subsections G through K of this section apply only if the governing board uses revenues from secondary property taxes rather than primary property taxes to fund expenses of complying with or continuing to implement activities that were required or allowed by a court order of desegregation or administrative agreement with the United States department of education office for civil rights directed toward remediating alleged or proven racial discrimination that are specifically exempt in whole or in part from the revenue control limit and district additional assistance. Secondary property taxes levied pursuant to this subsection do not require voter approval, but shall be separately delineated on a property owner's property tax statement.**

~~**L.**~~ **M.** The governing board may budget for the bond issues portion of the cost of tuition charged the district as provided in section 15–824 for the pupils attending school in another school district, except that if the district is a common school district not within a high school district, the district may only include that part of tuition that is excluded from the revenue control limit and district support level as provided in section 15–951. The bond issues portion of the cost of tuition charged is specifically exempt from the revenue control limit of the school district of residence, and the primary property tax rate set to fund this amount shall not be included in the computation of additional state aid for education as provided in section 15–972, except as provided in section 15–972, subsection E. The department of education and the auditor general shall include in the maintenance and operation section of the budget format, as provided in section 15–903, a separate category for the bond issues portion of the cost of tuition.

~~**M.**~~ **N.** The governing board may budget for interest expenses it incurred for registering warrants drawn against a fund of the school district or net interest expense on tax anticipation notes as prescribed in section 35–465.05, subsection C for the fiscal year preceding the current year if the county treasurer pooled all school district monies for investment as

provided in section 15–996 for the fiscal year preceding the current year and, in those school districts that receive state aid, the school districts applied for an apportionment of state aid before the date set for the apportionment as provided in section 15–973 for the fiscal year preceding the current year. The governing board may budget an amount for interest expenses for registering warrants or issuing tax anticipation notes equal to or less than the amount of the warrant interest expense or net interest expense on tax anticipation notes as prescribed in section 35–465.05, subsection C for the fiscal year preceding the current year as provided in this subsection that is specifically exempt from the revenue control limit. For the purposes of this subsection, "state aid" means state aid as determined in sections 15–971 and 15–972.

Sec. 3. Section 43–409, Arizona Revised Statutes, is amended to read:

<< AZ ST § 43–409 >>

**§ 43–409. Job creation withholdings clearing account**

**A.** The job creation withholdings clearing account is established consisting of the sum of ~~twenty-six million five hundred thousand dollars of withholding tax revenues in fiscal year 2015–2016 and twenty-one million five hundred thousand dollars for~~ **$21,500,000 in fiscal year 2018–2019 and $15,500,000 in** each fiscal year after ~~2015–2016~~ **fiscal year 2018–2019**.

**B.** On the twentieth day of each month, the state treasurer shall credit the following amounts from the clearing account:

1. To the Arizona commerce authority fund established by section 41–1506, one-twelfth of the annual sum of ~~ten million dollars~~ **$10,000,000** in each fiscal year.

2. To the Arizona competes fund established by section 41–1545.01, one-twelfth of the annual sum of ~~sixteen million five hundred thousand dollars in fiscal year 2015–2016 and eleven million five hundred thousand dollars for~~ **$11,500,000 in fiscal year 2018–2019 and $5,500,000 in** each fiscal year after ~~2015–2016~~ **fiscal year 2018–2019**.

Sec. 4. Section 43–1022, Arizona Revised Statutes, is amended to read:

<< AZ ST § 43–1022 >>

**§ 43–1022. Subtractions from Arizona gross income**

In computing Arizona adjusted gross income, the following amounts shall be subtracted from Arizona gross income:

1. The amount of exemptions allowed by section 43–1023.

2. Benefits, annuities and pensions in an amount totaling not more than two thousand five hundred dollars received from one or more of the following:

(a) The United States government service retirement and disability fund, ~~retired or retainer pay of the uniformed services of the United States,~~ the United States foreign service retirement and disability system and any other retirement system or plan established by federal law.

(b) The Arizona state retirement system, the corrections officer retirement plan, the public safety personnel retirement system, the elected officials' retirement plan, an optional retirement program established by the Arizona board of regents under section 15–1628, an optional retirement program established by a community college district board under section 15–1451 or a retirement plan established for employees of a county, city or town in this state.

3. A beneficiary's share of the fiduciary adjustment to the extent that the amount determined by section 43–1333 decreases the beneficiary's Arizona gross income.

4. Interest income received on obligations of the United States, less any interest on indebtedness, or other related expenses, and deducted in arriving at Arizona gross income, which were incurred or continued to purchase or carry such obligations.

5. The excess of a partner's share of income required to be included under section 702(a)(8) of the internal revenue code over the income required to be included under chapter 14, article 2 of this title.

6. The excess of a partner's share of partnership losses determined pursuant to chapter 14, article 2 of this title over the losses allowable under section 702(a)(8) of the internal revenue code.

7. The amount allowed by section 43–1025 for contributions during the taxable year of agricultural crops to charitable organizations.

8. The portion of any wages or salaries paid or incurred by the taxpayer for the taxable year that is equal to the amount of the federal work opportunity credit, the empowerment zone employment credit, the credit for employer paid social security taxes on employee cash tips and the Indian employment credit that the taxpayer received under sections 45A, 45B, 51(a) and 1396 of the internal revenue code.

9. The amount of prizes or winnings less than five thousand dollars in a single taxable year from any of the state lotteries established and operated pursuant to title 5, chapter 5.1, article 1.

10. The amount of exploration expenses that is determined pursuant to section 617 of the internal revenue code, that has been deferred in a taxable year ending before January 1, 1990 and for which a subtraction has not previously been made. The subtraction shall be made on a ratable basis as the units of produced ores or minerals discovered or explored as a result of this exploration are sold.

11. The amount included in federal adjusted gross income pursuant to section 86 of the internal revenue code, relating to taxation of social security and railroad retirement benefits.

12. To the extent not already excluded from Arizona gross income under the internal revenue code, compensation received for active service as a member of the reserves, the national guard or the armed forces of the United States, including compensation for service in a combat zone as determined under section 112 of the internal revenue code.

13. The amount of unreimbursed medical and hospital costs, adoption counseling, legal and agency fees and other nonrecurring costs of adoption not to exceed three thousand dollars. In the case of a husband and wife who file separate returns, the subtraction may be taken by either taxpayer or may be divided between them, but the total subtractions allowed both husband and wife shall not exceed three thousand dollars. The subtraction under this paragraph may be taken for the costs that are described in this paragraph and that are incurred in prior years, but the subtraction may be taken only in the year during which the final adoption order is granted.

14. The amount authorized by section 43–1027 for the taxable year relating to qualified wood stoves, wood fireplaces or gas fired fireplaces.

15. The amount by which a net operating loss carryover or capital loss carryover allowable pursuant to section 43–1029, subsection F exceeds the net operating loss carryover or capital loss carryover allowable pursuant to section 1341(b)(5) of the internal revenue code.

16. Any amount of qualified educational expenses that is distributed from a qualified state tuition program determined pursuant to section 529 of the internal revenue code and that is included in income in computing federal adjusted gross income.

17. Any item of income resulting from an installment sale that has been properly subjected to income tax in another state in a previous taxable year and that is included in Arizona gross income in the current taxable year.

18. The amount authorized by section 43–1030 relating to holocaust survivors.

19. For property placed in service:

(a) In taxable years beginning before December 31, 2012, an amount equal to the depreciation allowable pursuant to section 167(a) of the internal revenue code for the taxable year computed as if the election described in section 168(k)(2)(D)(iii) of the internal revenue code had been made for each applicable class of property in the year the property was placed in service.

(b) In taxable years beginning from and after December 31, 2012 through December 31, 2013, an amount determined in the year the asset was placed in service based on the calculation in subdivision (a) of this paragraph. In the first taxable year beginning from and after December 31, 2013, the taxpayer may elect to subtract the amount necessary to make the depreciation claimed to date for the purposes of this title the same as it would have been if subdivision (c) of this paragraph had applied for the entire time the asset was in service. Subdivision (c) of this paragraph applies for the remainder of the asset's life. If the taxpayer does not make the election under this subdivision, subdivision (a) of this paragraph applies for the remainder of the asset's life.

(c) In taxable years beginning from and after December 31, 2013 through December 31, 2015, an amount equal to the depreciation allowable pursuant to section 167(a) of the internal revenue code for the taxable year as computed as if the additional allowance for depreciation had been ten percent of the amount allowed pursuant to section 168(k) of the internal revenue code.

(d) In taxable years beginning from and after December 31, 2015 through December 31, 2016, an amount equal to the depreciation allowable pursuant to section 167(a) of the internal revenue code for the taxable year as computed as if the additional allowance for depreciation had been fifty-five percent of the amount allowed pursuant to section 168(k) of the internal revenue code.

(e) In taxable years beginning from and after December 31, 2016, an amount equal to the depreciation allowable pursuant to section 167(a) of the internal revenue code for the taxable year as computed as if the additional allowance for depreciation had been the full amount allowed pursuant to section 168(k) of the internal revenue code.

20. With respect to property that is sold or otherwise disposed of during the taxable year by a taxpayer that complied with section 43–1021, paragraph 14 with respect to that property, the amount of depreciation that has been allowed pursuant to section 167(a) of the internal revenue code to the extent that the amount has not already reduced Arizona taxable income in the current or prior taxable years.

21. With respect to property for which an adjustment was made under section 43–1021, paragraph 15, an amount equal to one-fifth of the amount of the adjustment pursuant to section 43–1021, paragraph 15 in the year in which the amount was adjusted under section 43–1021, paragraph 15 and in each of the following four years.

22. The amount contributed during the taxable year to college savings plans established pursuant to section 529 of the internal revenue code to the extent that the contributions were not deducted in computing federal adjusted gross income. The amount subtracted shall not exceed:

(a) Two thousand dollars for a single individual or a head of household.

(b) Four thousand dollars for a married couple filing a joint return. In the case of a husband and wife who file separate returns, the subtraction may be taken by either taxpayer or may be divided between them, but the total subtractions allowed both husband and wife shall not exceed four thousand dollars.

23. The amount of any original issue discount that was deferred and not allowed to be deducted in computing federal adjusted gross income in the current taxable year pursuant to section 108(i) of the internal revenue code as added by section 1231 of the American recovery and reinvestment act of 2009 (P.L. 111–5).

24. The amount of previously deferred discharge of indebtedness income that is included in the computation of federal adjusted gross income in the current taxable year pursuant to section 108(i) of the internal revenue code as added by section 1231 of the American recovery and reinvestment act of 2009 (P.L. 111–5), to the extent that the amount was previously added to Arizona gross income pursuant to section 43–1021, paragraph 17.

25. The portion of the net operating loss carryforward that would have been allowed as a deduction in the current year pursuant to section 172 of the internal revenue code if the election described in section 172(b)(1)(H) of the internal revenue code had not been made in the year of the loss that exceeds the actual net operating loss carryforward that was deducted in arriving at federal adjusted gross income. This subtraction only applies to taxpayers who made an election under section 172(b)(1)(H) of the internal revenue code as amended by section 1211 of the American recovery and reinvestment act of 2009 (P.L. 111–5) or as amended by section 13 of the worker, homeownership, and business assistance act of 2009 (P.L. 111–92).

26. For taxable years beginning from and after December 31, 2013, the amount of any net capital gain included in federal adjusted gross income for the taxable year derived from investment in a qualified small business as determined by the Arizona commerce authority pursuant to section 41–1518.

27. An amount of any net long-term capital gain included in federal adjusted gross income for the taxable year that is derived from an investment in an asset acquired after December 31, 2011, as follows:

(a) For taxable years beginning from and after December 31, 2012 through December 31, 2013, ten percent of the net long-term capital gain included in federal adjusted gross income.

(b) For taxable years beginning from and after December 31, 2013 through December 31, 2014, twenty percent of the net long-term capital gain included in federal adjusted gross income.

(c) For taxable years beginning from and after December 31, 2014, twenty-five percent of the net long-term capital gain included in federal adjusted gross income. For the purposes of this paragraph, a transferee that receives an asset by gift or at the death of a transferor is considered to have acquired the asset when the asset was acquired by the transferor. If the date an asset is acquired cannot be verified, a subtraction under this paragraph is not allowed.

28. If an individual is not claiming itemized deductions pursuant to section 43–1042, the amount of premium costs for long-term care insurance, as defined in section 20–1691.

29. With respect to a long-term health care savings account established pursuant to section 43–1032, the amount deposited by the taxpayer in the account during the taxable year to the extent that the taxpayer's contributions are included in the taxpayer's federal adjusted gross income.

30. The amount of eligible access expenditures paid or incurred during the taxable year to comply with the requirements of the Americans with disabilities act of 1990 (P.L. 101–336) or title 41, chapter 9, article 8 as provided by section 43–1024.

31. For taxable years beginning from and after December 31, 2017, the amount of any net capital gain included in Arizona gross income for the taxable year that is derived from the exchange of one kind of legal tender for another kind of legal tender. For the purposes of this paragraph:

(a) "Legal tender" means a medium of exchange, including specie, that is authorized by the United States Constitution or Congress for the payment of debts, public charges, taxes and dues.

(b) "Specie" means coins having precious metal content.

**32. Benefits, annuities and pensions received as retired or retainer pay of the uniformed services of the United States in amounts as follows:**

**(a) For taxable years through December 31, 2018, an amount totaling not more than two thousand five hundred dollars.**

**(b) For taxable years beginning from and after December 31, 2018, an amount totaling not more than three thousand five hundred dollars.**

Sec. 5. Laws 2017, chapter 312, section 7 is amended to read:

**Sec. 7. Department of gaming; regulatory assessment; pari–mutuel pool**

Notwithstanding ~~section 5–104, Arizona Revised Statutes~~ **any other law**, in fiscal ~~year~~ **years** 2017–2018 **and 2018–2019**, the department of gaming shall establish and collect a regulatory assessment from each commercial racing permittee, payable from amounts deducted from pari-mutuel pools by the permittee, in addition to the amounts the permittee is authorized to deduct pursuant to section 5–111, subsection B, Arizona Revised Statutes, from amounts wagered on live and simulcast races from in-state and out-of-state wagering handled by the permittee, in the amount of 0.5 percent of the amounts wagered.

Sec. 6. Laws 2017, chapter 312, section 8 is amended to read:

**Sec. 8. Appropriation; department of transportation; local governments; highways; fiscal year 2017–2018**

**A.** Notwithstanding any other law, the sum of $30,000,000 is appropriated on a onetime basis from the highway expansion and extension loan program fund established by section 28–7674, Arizona Revised Statutes, in ~~each of~~ fiscal ~~years~~ **year** 2017–2018 ~~and 2018–2019~~ to the department of transportation for distribution as follows:

1. To the counties, 33.231 percent.

2. To the incorporated cities and towns, 48.097 percent.

3. To incorporated cities with a population of three hundred thousand or more persons, 5.247 percent.

4. To counties with a population of more than eight hundred thousand persons, 13.425 percent.

**B.** The allocation and distribution made pursuant to subsection A, paragraphs 1, 2 and 3 of this section shall be made as prescribed in section 28–6540, Arizona Revised Statutes. The allocation and distribution made pursuant to subsection A, paragraph 4 of this section shall be made as prescribed in section 28–6538, subsection B, Arizona Revised Statutes.

**C.** The ~~amounts~~ **amount** appropriated in this section may be used only for the direct costs of constructing, reconstructing, maintaining or repairing public highways, streets or bridges and direct costs of rights-of-way acquisitions and expenses related thereto.

Sec. 7. Laws 2017, chapter 312, section 9 is amended to read:

**Sec. 9. Arizona highway user revenue fund; distributions; fiscal years 2018–2019 and 2019–2020**

**A.** Notwithstanding any other law, before the distribution of revenues of the Arizona highway user revenue fund pursuant to section 28–6538, Arizona Revised Statutes, the department of transportation shall allocate and the state treasurer shall distribute $30,000,000 in **each of** fiscal ~~year~~ **years** 2018–2019 and ~~$60,000,000 in fiscal year~~ 2019–2020 as follows:

1. To the counties, 33.231 percent.

2. To the incorporated cities and towns, 48.097 percent.

3. To incorporated cities with a population of three hundred thousand or more persons, 5.247 percent.

4. To counties with a population of more than eight hundred thousand persons, 13.425 percent.

**B.** The allocation and distributions made pursuant to subsection A, paragraphs 1, 2 and 3 of this section shall be made as prescribed in section 28–6540, Arizona Revised Statutes. The allocation and distribution made pursuant to subsection A, paragraph 4 of this section shall be made as prescribed in section 28–6538, subsection B, Arizona Revised Statutes.

**C.** The amounts appropriated in this section may be used only for the direct costs of constructing, reconstructing, maintaining or repairing public highways, streets or bridges and direct costs of rights-of-way acquisitions and expenses related thereto.

~~**D.** It is the intent of the legislature that the fiscal year 2019–2020 distribution be matched by a $30,000,000 reduction to the Arizona highway user revenue fund appropriation to the department of public safety. It is also the intent of the legislature that the state general fund appropriation to the department of public safety be increased by $30,000,000 in fiscal year 2019–2020 so as to not allow the shift to impact the operations of the department.~~

**Sec. 8. Department of gaming; boxing and mixed martial arts revenues; unarmed combat subaccount**

Notwithstanding any other law, the director of the department of gaming shall deposit amounts received in fiscal year 2018–2019 from all sources, except licensing fees, related to the conduct of boxing and mixed martial arts under title 5, Arizona Revised Statutes, including the levy of the tax on gross receipts imposed on boxing or mixed martial events, cash bonds and surety bonds, in an unarmed combat subaccount within the racing regulation fund established by section 5–113.01, Arizona Revised Statutes. Monies deposited in the racing regulation fund pursuant to this section shall be used exclusively to administer and regulate boxing, mixed martial arts and other unarmed combat events.

**Sec. 9. Department of insurance; fee and assessment adjustment suspension**

Notwithstanding section 20–167, subsection E, Arizona Revised Statutes, and section 20–466, subsection J, Arizona Revised Statutes, the director of insurance may not revise fees or assessments in fiscal year 2018–2019 for the purpose of meeting the requirement to recover at least ninety-five percent but not more than one hundred ten percent of the department of insurance's appropriated budget.

**Sec. 10. Agricultural fees; continuation; intent; rulemaking exemption**

**A.** Notwithstanding any other law, the director of the Arizona department of agriculture, with the assistance of the department of agriculture advisory council, may continue, increase or lower existing fees from fiscal years 2016–2017 and 2017–2018 in fiscal year 2018–2019 for services provided in fiscal year 2018–2019.

**B.** It is the intent of the legislature that the additional revenue generated by the fees prescribed in subsection A of this section not exceed $218,000 to the state general fund, $113,000 to the pesticide trust fund established by section 3–350, Arizona Revised Statutes, and $26,000 to the dangerous plants, pests and diseases trust fund established by section 3–214.01, Arizona Revised Statutes, in fiscal year 2018–2019.

**C.** The Arizona department of agriculture is exempt from the rulemaking requirements of title 41, chapter 6, Arizona Revised Statutes, until July 1, 2019 for the purpose of establishing fees pursuant to this section.

**Sec. 11. County fiscal obligations; report**

**A.** Notwithstanding any other law, for fiscal year 2018–2019, a county with a population of less than two hundred fifty thousand persons according to the 2010 United States decennial census may meet any county fiscal obligation from any source of county revenue designated by the county, including monies of any countywide special taxing jurisdiction of which the board of supervisors serves as the board of directors. Under the authority provided in this subsection, a county may not use more than $1,250,000 for purposes other than the purposes of the revenue source.

**B.** On or before October 1, 2018, all counties with a population of less than two hundred fifty thousand persons according to the 2010 United States decennial census shall report to the director of the joint legislative budget committee whether the county used a revenue source for purposes other than the purposes of the revenue source to meet a county fiscal obligation pursuant to subsection A of this section and, if so, the specific source and amount of revenues that the county intends to use in fiscal year 2018–2019.

**Sec. 12. Legislative intent**

It is the intent of the legislature that in fiscal year 2018–2019 the fee prescribed in section 42–5041, subsection B, Arizona Revised Statutes, be assessed and collected pursuant to the following guidelines:

1. The total amount of fees for all counties, cities, towns, councils of governments and regional transportation authorities may not exceed $20,755,835 in any fiscal year.

2. The share of fees assessed to all counties pursuant to paragraph 1 of this section shall be in proportion to the aggregate amount of monies distributed to counties for the fiscal year two years preceding the current fiscal year pursuant to sections 42–5029, 42–6103, 42–6107, 42–6108, 42–6108.01, 42–6109, 42–6109.01, 42–6110, 42–6111 and 42–6112,

Arizona Revised Statutes, as a percentage of aggregate distributions to all counties, cities, towns, councils of governments and regional transportation authorities located in a county with a population of more than four hundred thousand persons for the fiscal year two years preceding the current fiscal year pursuant to sections 42–5029, 42–6001, 42–6103, 42–6105, 42–6106, 42–6107, 42–6108, 42–6108.01, 42–6109, 42–6109.01, 42–6110, 42–6111, 42–6112 and 43–206, Arizona Revised Statutes.

3. The share of fees assessed to all cities and towns pursuant to paragraph 1 of this section shall be in proportion to the aggregate amount of monies distributed to cities and towns for the fiscal year two years preceding the current fiscal year pursuant to sections 42–5029, 42–6001 and 43–206, Arizona Revised Statutes, as a percentage of aggregate distributions to all counties, cities, towns, councils of governments and regional transportation authorities located in a county with a population of more than four hundred thousand persons for the fiscal year two years preceding the current fiscal year pursuant to sections 42–5029, 42–6001, 42–6103, 42–6105, 42–6106, 42–6107, 42–6108, 42–6108.01, 42–6109, 42–6109.01, 42–6110, 42–6111, 42–6112 and 43–206, Arizona Revised Statutes.

4. The share of fees assessed to all councils of governments pursuant to paragraph 1 of this section shall be in proportion to the aggregate amount of monies distributed to all councils of governments for the fiscal year two years preceding the current fiscal year pursuant to section 42–6105, Arizona Revised Statutes, as a percentage of aggregate distributions to all counties, cities, towns, councils of governments and regional transportation authorities located in a county with a population of more than four hundred thousand persons for the fiscal year two years preceding the current fiscal year pursuant to sections 42–5029, 42–6001, 42–6103, 42–6105, 42–6106, 42–6107, 42–6108, 42–6108.01, 42–6109, 42–6109.01, 42–6110, 42–6111, 42–6112 and 43–206, Arizona Revised Statutes.

5. The share of fees assessed to all regional transportation authorities located in a county with a population of more than four hundred thousand persons pursuant to paragraph 1 of this section shall be in proportion to the aggregate amount of monies distributed to all regional transportation authorities located in a county with a population of more than four hundred thousand persons for the fiscal year two years preceding the current fiscal year pursuant to section 42–6106, Arizona Revised Statutes, as a percentage of aggregate distributions to all counties, cities, towns, councils of governments and regional transportation authorities located in a county with a population of more than four hundred thousand persons for the fiscal year two years preceding the current fiscal year pursuant to sections 42–5029, 42–6001, 42–6103, 42–6105, 42–6106, 42–6107, 42–6108, 42–6108.01, 42–6109, 42–6109.01, 42–6110, 42–6111, 42–6112 and 43–206, Arizona Revised Statutes.

6. Except as provided by sections 42–5033 and 42–5033.01, Arizona Revised Statutes, the population of a county as determined by the most recent United States decennial census plus any revision to the decennial census certified by the United States census bureau shall be used as the basis for apportioning monies pursuant to paragraph 2 of this section.

7. Except as provided by sections 42–5033 and 42–5033.01, Arizona Revised Statutes, the population of a city or town as determined by the most recent United States decennial census plus any revision to the decennial census certified by the United States census bureau shall be used as the basis for apportioning monies pursuant to paragraph 3 of this section.

<< Note: AZ ST § 15–910 >>

**Sec. 13. Retroactivity**

Section 15–910, Arizona Revised Statutes, as amended by this act, Laws 2017, chapter 312, sections 7 and 8, as amended by this act, and section 8 of this act apply retroactively to from and after June 30, 2018.

Approved by the Governor, May 3, 2018.

Filed in the Office of the Secretary of State, May 3, 2018.

End of Document

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**§ 18. Residential ad valorem tax limits; limit on increase in values; definitions**

Section 18. (1) The maximum amount of ad valorem taxes that may be collected from residential property in any tax year shall not exceed one per cent of the property's full cash value as limited by this section.

(2) The limitation provided in subsection (1) does not apply to:

(a) Ad valorem taxes or special assessments levied to pay the principal of and interest and redemption charges on bonded indebtedness or other lawful long-term obligations issued or incurred for a specific purpose.

(b) Ad valorem taxes or assessments levied by or for property improvement assessment districts, improvement districts and other special purpose districts other than counties, cities, towns, school districts and community college districts.

(c) Ad valorem taxes levied pursuant to an election to exceed a budget, expenditure or tax limitation.

**...**

**A.R.S. § 42-11001. Definitions**

In chapters 11 through 19 of this title,[1] unless the context otherwise requires:

...

11. "Primary property taxes" means all ad valorem taxes except for secondary property taxes.

...

15. "Secondary property taxes" means:

(a) Ad valorem taxes or special property assessments that are used to pay the principal of and the interest and redemption charges on bonded indebtedness or other lawful long-term obligations that are issued or incurred for a specific capital purpose by a municipality, county or taxing district.

(b) Ad valorem taxes or assessments levied by or for special taxing districts and assessment districts other than school districts and community college districts.

(c) Amounts levied pursuant to an election to exceed a budget, expenditure or tax limitation.

**§ 15-972. State limitation on homeowner property taxes; additional state aid to school districts; definitions**

...

**E.** Prior to the levying of taxes for school purposes the board of supervisors shall determine whether the total primary property taxes to be levied for all taxing jurisdictions on each parcel of residential property, in lieu of the provisions of this subsection, violate article IX, section 18, Constitution of Arizona. For those properties that qualify for property tax exemptions pursuant to article IX, sections 2, 2.1 and 2.2, Constitution of Arizona, eligibility for the credit is determined on the basis of the limited

property value that corresponds to the taxable assessed value after reduction for the applicable exemption. If the board of supervisors determines that such a situation exists, the board shall apply a credit against the primary property taxes due from each such parcel in the amount in excess of article IX, section 18, Constitution of Arizona. Such excess amounts shall also be additional state aid for education for the school district or districts in which such parcel of property is located.

**F.** The clerk of the board of supervisors shall report to the department of revenue not later than September 5 of each year the amount by school district of additional state aid for education and the data used for computing the amount as provided in subsection B of this section. The department of revenue shall verify all of the amounts and report to the board of supervisors not later than September 10 of each year the property tax rate that shall be used for property tax reduction as provided in subsection E of this section.

**G.** The clerk of the board of supervisors shall report to the department of revenue not later than September 30 of each year in writing the following:

1. The data processing specifications used in the calculations provided for in subsections B and E of this section.

2. At a minimum, copies of two actual tax bills for residential property for each distinct tax area.

**H.** The department of revenue shall report to the state board of education not later than October 12 of each year the amount by school district of additional state aid for education as provided in this section. The additional state aid for education provided in this section shall be apportioned as provided in § 15-973.

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L. Beginning in fiscal year 2018–2019, subsections G through K of this section apply only if the governing board uses revenues from secondary property taxes rather than primary property taxes to fund expenses of complying with or continuing to implement activities that were required or allowed by a court order of desegregation or administrative agreement with the United States department of education office for civil rights directed toward remediating alleged or proven racial discrimination that are specifically exempt in whole or in part from the revenue control limit and district additional assistance. Secondary property taxes levied pursuant to this subsection do not require voter approval, but shall be separately delineated on a property owner's property tax statement.