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Attorneys for Plaintiffs

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA**

KAREN FANN, an individual; RUSSELL
"RUSTY" BOWERS, an individual;
DAVID GOWAN, an individual; VENDEN
LEACH, an individual; REGINA COBB,
an individual; JOHN KAVANAUGH, an
individual; MONTIE LEE, an individual;
STEVE PIERCE, an individual; FRANCIS
SURDAKOWSKI, M.D., an individual;
NO ON 208, an Arizona political action
committee; ARIZONA FREE
ENTERPRISE CLUB, an Arizona non-
profit corporation,

Plaintiffs,

v.

STATE OF ARIZONA; KIMBERLY YEE,
in her official capacity as Arizona State
Treasurer; CARLTON WOODRUFF,
Director of the Arizona Department of
Revenue; ARIZONA DEPARTMENT OF
REVENUE, an agency of the State of
Arizona,

Defendants.

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No.

**VERIFIED SPECIAL ACTION
COMPLAINT**

(Special Action Petition for Declarative
and Injunctive Relief Enjoining
Implementation and Enforcement of
Amended A.R.S. §§ 15-1281, 15-1282,
15-1283, 15-1284, 15-1285, 15-1655, and
43-1013)

1 For their Verified Complaint, Plaintiffs allege as follows:

2 **PRELIMINARY STATEMENT**

3 1. This is a challenge to the constitutionality of an initiative titled “Invest in
4 Education Act” (“Proposition 208”), bearing the initiative serial number I-31-2020. The
5 application for this initiative was filed on February 14, 2020 with the Arizona Secretary of
6 State, and it was approved by voters as Proposition 208 on November 3, 2020. Proposition
7 208 was approved via statewide canvass and adopted by proclamation on November 30,
8 2020. An accurate copy of Proposition 208 is attached as Exhibit A.

9 2. Proposition 208 is a statutory initiative, not a constitutional one. More
10 specifically, Proposition 208 amends various Arizona statutes to impose a new income tax
11 “surcharge” and to use that surcharge’s proceeds to only fund teacher and classroom support
12 staff salaries, teacher mentoring and retention programs, career and technical education
13 programs, and the Arizona Teachers Academy.

14 3. This action seeks a declaratory judgment that Proposition 208 violates the
15 Arizona Constitution, and therefore may not be implemented or enforced, for four separate
16 reasons.

17 4. First, Proposition 208 seeks to exempt itself from the expenditure limitations
18 for school districts specified in the Arizona Constitution. Ariz. Const. art. IX, § 21. This
19 unconstitutional provision cannot be rationally severed from the remainder of Proposition
20 208.

21 5. Second, Proposition 208 violates the Arizona Constitution’s requirement
22 (Ariz. Const. art. IX, § 22) that any new tax to be imposed by statute can only be imposed
23 (1) by the legislature (2) through a two-thirds majority. Because Proposition 208 did not
24 meet either requirement, its new tax was not constitutionally enacted.

25 6. Third, Proposition 208 violates the Revenue Source Rule in the Arizona
26 Constitution (art. IX, § 23) because its new source of funding does not cover all
27 appropriations mandated.
28

7. Fourth, Proposition 208 violates the Arizona Constitution (Ariz. Const. art. IV) because it attempts to restrict the legislature's ability to exercise its constitutional authority to appropriate general funds.

PARTIES

8. Plaintiff Karen Fann is a qualified elector and taxpayer in the State of Arizona. As an Arizona taxpayer, she is also obligated to replenish the public coffers for the unlawful expenditures that will occur as a result of Proposition 208. In addition, Fann is the President of the Senate and serves on the Senate rules committee. Among other responsibilities, Fann is obligated to ensure that Senate bills are constitutional and do not conflict with other statutes. Because Proposition 208 unconstitutionally interferes with these and other responsibilities of her office, Fann must obtain a judgment regarding the constitutionality of Proposition 208 before it becomes effective.

9. Plaintiff Russell “Rusty” Bowers is a qualified elector and taxpayer in the State of Arizona. As an Arizona taxpayer, he is also obligated to replenish the public coffers for the unlawful expenditures that will occur as a result of Proposition 208. In addition, Bowers is Speaker of the House of Representatives and serves on the House rules committee. Among other responsibilities, Bowers is obligated to ensure that House bills are constitutional and do not conflict with other statutes. Because Proposition 208 unconstitutionally interferes with these and other responsibilities of his office, Bowers must obtain a judgment regarding the constitutionality of Proposition 208 before it becomes effective.

10. Plaintiff David Gowan is a qualified elector and taxpayer in the State of Arizona. As an Arizona taxpayer, he is also obligated to replenish the public coffers for the unlawful expenditures that will occur as a result of Proposition 208. In addition, Gowan is a member of the Senate, and serves as the chair of the Senate appropriation committee, with responsibility for initially allocating the state's resources in accordance with statutory and constitutional mandates, including, but not limited to, article IV, part 1, section (1)(6)(d); article IV, part 2, section 20; and article IX, sections 21 and 22 of the Arizona Constitution.

1 Among other responsibilities, Gowan is obligated to ensure that any bill that provides for a
2 net increase in state revenues include the provision required by article IX, section 22(D).
3 Because Proposition 208 unconstitutionally interferes with these and other responsibilities
4 of his office and chairmanship, Gowan must obtain a judgment regarding the
5 constitutionality of Proposition 208 before it becomes effective.

6 11. Plaintiff Venden Leach is a qualified elector and taxpayer in the State of
7 Arizona. As an Arizona taxpayer, he is also obligated to replenish the public coffers for the
8 unlawful expenditures that will occur as a result of Proposition 208. In addition, Leach is
9 a member of the Senate, and serves as the vice-chair of the Senate appropriation committee,
10 with responsibility for allocating the state's resources in accordance with statutory and
11 constitutional mandates, including, but not limited to, article IV, part 1, section (1)(6)(d);
12 article IV, part 2, section 20; and article IX, sections 21 and 22 of the Arizona Constitution.
13 Among other responsibilities, Leach is obligated to ensure that any bill that provides for a
14 net increase in state revenues include the provision required by article IX, section 22(D).
15 Because Proposition 208 unconstitutionally interferes with these and other responsibilities
16 of office, Leach must obtain a judgment regarding the constitutionality of Proposition 208
17 before it becomes effective.

18 12. Plaintiff Regina Cobb is a qualified elector and taxpayer in the State of
19 Arizona. As an Arizona taxpayer, she is also obligated to replenish the public coffers for
20 the unlawful expenditures that will occur as a result of Proposition 208. In addition, Cobb
21 is a member of the House of Representatives, and serves as the chair of the House
22 appropriation committee, with responsibility for allocating the state's resources in
23 accordance with statutory and constitutional mandates, including, but not limited to, article
24 IV, part 1, section (1)(6)(d); article IV, part 2, section 20; and article IX, sections 21 and 22
25 of the Arizona Constitution. Among other responsibilities, Cobb is obligated to ensure that
26 any bill that provides for a net increase in state revenues include the provision required by
27 article IX, section 22(D). Because Proposition 208 unconstitutionally interferes with these
28

1 and other responsibilities of office, Cobb must obtain a judgment regarding the
2 constitutionality of Proposition 208 before it becomes effective.

3 13. Plaintiff John Kavanaugh is a qualified elector and taxpayer in the State of
4 Arizona. As an Arizona taxpayer, he is also obligated to replenish the public coffers for the
5 unlawful expenditures that will occur as a result of Proposition 208. In addition, Kavanaugh
6 is a member of the House of Representatives, and serves as the vice-chair of the House
7 appropriation committee, with responsibility for allocating the state's resources in
8 accordance with statutory and constitutional mandates, including, but not limited to, article
9 IV, part 1, section (1)(6)(d); article IV, part 2, section 20; and article IX, sections 21 and 22
10 of the Arizona Constitution. Among other responsibilities, Kavanaugh is obligated to
11 ensure that any bill that provides for a net increase in state revenues include the provision
12 required by article IX, section 22(D). Because Proposition 208 unconstitutionally interferes
13 with these and other responsibilities of office, Kavanaugh must obtain a judgment regarding
14 the constitutionality of Proposition 208 before it becomes effective.

15 14. Plaintiff Montie Lee is a qualified elector and taxpayer in the State of Arizona.
16 Lee owns and operates Lee Farms which produces several crops, including broccoli,
17 cauliflower, mix leaf lettuce, romaine lettuce, iceberg lettuce, alfalfa, cotton, and durum
18 wheat and serves as an important source of these commodities to Arizonans. Lee Farms is
19 a pass-through tax entity. Lee is married. His annual income has consistently exceeded
20 \$500,000 in recent years, and is expected to exceed this amount going forward. As such,
21 Lee would be subject to increased taxes under Proposition 208. As an Arizona taxpayer
22 and as a taxpayer subject to the Proposition 208 surcharge, he is also obligated to replenish
23 the public coffers for the unlawful expenditures that will occur as a result of Proposition
24 208.

25 15. Plaintiff Steve Pierce is a qualified elector and taxpayer in the State of
26 Arizona. Pierce is a current member of the state House of Representatives, and previously
27 served as Senate President. Pierce owns and operates a 5,000-deeded acre ranch and
28 commercial real estate investments. Pierce is married. His annual income has consistently

1 exceeded \$500,000 in recent years, and is expected to exceed this amount going forward.
2 As such, Pierce would be subject to increased taxes under Proposition 208. As an Arizona
3 taxpayer and as a taxpayer subject to the Proposition 208 surcharge, he is also obligated to
4 replenish the public coffers for the unlawful expenditures that will occur as a result of
5 Proposition 208.

6 16. Plaintiff Francis Surdakowski, M.D. is a qualified elector and taxpayer in the
7 State of Arizona. Dr. Surdakowski is a cardiac specialist currently caring for Arizona
8 residents. He is married. His annual income has exceeded \$500,000 in recent years, and is
9 expected to exceed this amount going forward. As an Arizona taxpayer and as a taxpayer
10 subject to the Proposition 208 surcharge, he is also obligated to replenish the public coffers
11 for the unlawful expenditures that will occur as a result of Proposition 208. As such, Dr.
12 Surdakowski and other medical specialty doctors would be subject to increased taxes under
13 Proposition 208. The medical specialty doctors serve an important role in the healthcare
14 industry and, if Proposition 208 is implemented, it could cause such medical specialists to
15 take their talents to another state, impacting Dr. Surdakowski's and the healthcare industry's
16 ability to serve Arizona patients when they are most in need due to the COVID-19
17 pandemic. *See also* Exhibit B, Joint Legislative Budget Committee Fiscal Analysis,
18 Proposition 208.

19 17. Plaintiff No on 208 is an Arizona political action committee properly
20 registered with the Arizona Secretary of State's Office. Through substantial ballot measure
21 expenditures, No on 208 and its supporters opposed the passage of Proposition 208 because
22 of the negative impact it will have on Arizona's schools and economy. In addition, No on
23 208 officers brought a pre-election challenge against Proposition 208.

24 18. Plaintiff Arizona Free Enterprise Club ("AFEC") is an Arizona non-profit
25 corporation. AFEC's core organization mission is to reduce the income and property tax
26 burden in Arizona, oppose subsidies and special interest carve-outs in Arizona's tax code,
27 and ensure the constitutionality of statutes that impact fiscal discipline by governmental
28

officials, all of which are impacted by Proposition 208. Through substantial ballot measure expenditures, AFEC opposed the passage of Proposition 208.

19. Defendant State of Arizona is a body politic. Under Section 8 of Proposition 208, any post-election challenge is to “be defended by the State of Arizona.”

20. Defendant Kimberly Yee is the duly elected Arizona State Treasurer, and is sued in her official capacity. Under A.R.S. §§ 15-1281 and 15-1282 of Proposition 208, the Treasurer is required to administer the “student support and safety” and “career training and workforce” funds and transfer unconstitutionally acquired taxpayer money to those funds.

21. Defendant Carlton Woodruff is the duly appointed Director of the Arizona Department of Revenue (“ADOR”) and is sued in his official capacity. Under § 43-1013 of Proposition 208, ADOR is tasked with accounting for the revenues collected pursuant to the unconstitutional income tax surcharge. Further, under Section 7 of Proposition 208, ADOR is exempt from certain executive orders and rulemaking requirements.

22. Defendant ADOR is a state agency established by A.R.S. § 42-1002. Under § 43-1013 of Proposition 208, ADOR is tasked with accounting for the revenues collected pursuant to the unconstitutional income tax surcharge. Further, under Section 7 of Proposition 208, ADOR is exempt from certain executive orders and rulemaking requirements.

JURISDICTION AND VENUE

23. This Court has jurisdiction and venue pursuant to article VI, section 14 of the Arizona Constitution; A.R.S. §§ 12-123, 12-1801, *et seq.*, 12-1831, *et seq.*, 12-2021, *et seq.*, and Rules 3(b) and 4(a) of the Arizona Rules of Procedure for Special Actions (a) because it seeks a declaration that Proposition 208 is unconstitutional under the Arizona Constitution; (b) because if Defendants were to carry out their duties under Proposition 208 they would be acting in excess of their legal authority; and (c) because it seeks an injunction enjoining Proposition 208 from taking effect.

24. A justiciable controversy exists because, without Court intervention, the Defendants stand to violate under color of state law the rights of Plaintiffs under the Arizona Constitution, and Plaintiffs will suffer immediate and irreparable injury and loss of rights. *Tilson v. Mofford*, 153 Ariz. 468, 473 (1987) (concluding that the proper time to consider the constitutionality of a proposed initiative is after its adoption when affected litigants can present the issue).

25. This Court has personal jurisdiction over Defendants.

26. Venue is proper in Maricopa County pursuant to A.R.S. § 12-401.

GENERAL ALLEGATIONS

I. Overview of Statutory Amendments in Proposition 208.

27. Proposition 208 amends Arizona statutes by implementing a new “income tax surcharge to advance public education” “for taxable years beginning from and after December 31, 2020.” A.R.S. § 41-1013.¹

28. This new income tax surcharge applies to “a single person or a married person filing separately . . . at the rate of three and one-half percent of taxable income in excess of \$250,000” and to married couples filing jointly at the same rate to “income in excess of \$500,000.” *Id.*

29. Proposition 208 instructs ADOR to deposit the revenue accrued as a result of the new income tax surcharge into the student support and safety fund. *Id.*

30. Proposition 208 also creates the student support and safety fund. *See* A.R.S. § 15-1281. After paying certain administration fees, the monies in the student support and safety fund are allocated as follows:

- a. 50% to school districts and charter schools (proportionate to the weighted student count) “for the purpose of hiring teachers and classroom support personnel and increasing base compensation for teachers and classroom support personnel”;

¹ Unless otherwise noted, all citations are to the provisions of the Arizona Statutes created by or amended by, Proposition 208.

- b. 25% to school districts and charter schools (proportionate to the weighted student count) “for the purpose of hiring student support services personnel and increasing base compensation for student support services personnel”;
- c. 10% to school districts and charter schools (proportionate to the weighted student count) “for the purpose of providing mentoring and retention programming for new classroom teachers to increase retention”;
- d. 12% “to the career training and workforce fund”; and
- e. 3% “to the Arizona teachers academy fund.” A.R.S. § 15-1281.

31. Monies raised by Proposition 208 cannot be used for any other purpose besides those listed in A.R.S. § 15-1281.

32. Proposition 208 also creates the career training and workforce fund. A.R.S. § 15-1282. This fund is to be used “at the direction of the Department of Education in accordance with Section 15-1283.” *Id.*

33. Under Proposition 208, a school district or charter school receiving a grant from the student support and safety fund or career training and workforce fund “shall establish a separate local level fund” to manage those monies. *Id.* § 15-1284. The monies received from either fund “are in addition to any other appropriation, transfer or allocation of public or private monies from any other source and may not supplant, replace or cause a reduction in *other* funding sources.” *Id.* (emphasis added).

34. Proposition 208 also states that “monies received by school districts and career technical education districts pursuant to this chapter . . . are not considered local revenues for the purposes of article IX, section 21, Arizona Constitution” and “are exempt from any budgetary, expenditure or revenue control limit that would limit the ability of school districts or career technical education districts to accept or expend those monies.” A.R.S. § 15-1285.

1 **II. Proposition 208 Violates the Arizona Constitution.**

2 **A. Proposition 208’s “Exemption” from the Aggregate School District**
3 **Expenditure Limitation Violates Article IX, Section 21 of the Arizona**
4 **Constitution.**

5 35. The Arizona Constitution establishes an “aggregate expenditure limitation”
6 for school districts “except as provided in subsection (3) of this section.” Ariz. Const. art.
7 IX, § 21(2). These spending limitations are “determined by adjusting the total amount of
8 expenditures of local revenues for all school districts . . . to reflect the changes in student
9 population in the school districts and the cost of living.” *Id.*

10 36. The expenditure cap applies to “local revenues,” which is defined as “all
11 monies, revenues, funds, property and receipts of *any kind whatsoever received by or for*
12 *the account of a school district.*” *Id.* art. IX, § 21(4)(c) (emphasis added). The Arizona
13 Constitution also enumerates several exceptions to the local revenue definition. *Id.* art. IX,
14 § 21(4)(c)-(d). None of these exceptions apply to the revenues raised by Proposition 208.

15 37. Proposition 208 purports to exempt the revenues that its new tax will yield
16 from the expenditure limitations of the Constitution. Specifically, A.R.S. § 15-1285(1)
17 states that the revenues obtained “are not considered local revenues for purposes of article
18 IX, section 21, Arizona Constitution,” and A.R.S. § 15-1285(2) provides that these revenues
19 “are exempt from *any* budgetary, expenditure or revenue control limit that would limit the
20 ability” of recipients “to accept or expend those monies.” (emphasis added).

21 38. Combined with the “Voter Protection Act,” Ariz. Const. art. IV, pt. 1, § 1(6),
22 the statutory provisions added by Proposition 208 would be unrepealable by the legislature,
23 and the legislature could not “amend” these new statutory provisions unless such
24 amendment “further[ed] the purpose” of Proposition 208. Consequently, Proposition 208’s
25 exemption from “any budgetary, expenditure or revenue control limit[s]” would, if
26 effective, also forbid the legislature from adopting any new budgetary, expenditure or
27 revenue control limit in the future.

1 39. Notwithstanding this attempted exemption, the monies appropriated to school
2 districts under A.R.S. § 15-1284 fall within the plain language of the constitutional
3 expenditure limitation, and no constitutional exception applies. Ariz. Const. art. IX,
4 § 21(2), (4)(c).

5 40. Accordingly, the provision of Proposition 208 is in direct conflict with the
6 plain text of the Arizona Constitution, and this unconstitutional attempted exemption from
7 the school district expenditure limitation is not severable from the rest of Proposition 208.

8 **B. Proposition 208 violates Article IX, Section 22 of the Arizona Constitution**
9 **By Promulgating a New Tax Without Complying with Either**
10 **Constitutionally Prescribed Method.**

11 41. Under the Arizona Constitution, “any act that provides for a net increase in
12 state revenues,” (i.e., a new tax) is subject to heightened enactment requirements. Ariz.
13 Const. art. IX, § 22(B). Such an act can become law only if it receives “the affirmative vote
14 of two-thirds of the members of each house of the legislature.” *Id.* art IX, § 22(A).

15 42. Proposition 208 attempts to create a new tax through a statute. It did not,
16 however, receive the affirmative vote of two-thirds of the members of each house of the
17 legislature. Accordingly, the voter initiative did not meet the constitutional requirements
18 and is therefore invalid.

19 43. Alternatively, even if the voters stood in the shoes of the legislature, *cf. Ariz.*
20 *State Legislature v. Ariz. Indep. Redistricting Comm’n*, 576 U.S. 787, 816-17 (2015), and
21 therefore had the ability to impose a new tax through a statutory measure, Proposition 208
22 did not receive a supermajority of the voters, but only a bare majority: the Secretary of State
23 reported that the Proposition received 1,675,810 out of the 3,238,449 votes cast (51.75%).
24 *See State of Arizona: 2020 General Election*, Katie Hobbs Secretary of State (Nov. 24,
25 2020), <https://results.arizona.vote/#/ballotmeasure/18/0>.

26 **C. Proposition 208 Violates Article IX, Section 23 of the Arizona Constitution**
27 **Because It Lacks an Adequate Revenue Source.**

28 44. The Arizona Constitution requires that any initiative “that proposes a

1 mandatory expenditure of state revenues for any purpose, establishes a fund for any specific
2 purpose or allocates funding for any specific purpose must also provide for an increased
3 source of revenues sufficient to cover the entire immediate and future costs of the proposal.
4 The increased revenues *may not be derived from the state general fund or reduce or cause*
5 *a reduction in general fund revenues.*” Ariz. Const. art. IX, § 23(A) (emphasis added).

6 45. Proposition 208’s income tax surcharge creates a new tax, separate from
7 existing tax rates, and thus does not constitute an “*increased* source of revenues,” but
8 creates a *new* source of revenue, which does not satisfy the requirements of article IX,
9 section 23(A).

10 46. Proposition 208 declares that the *new* source of revenue created by the
11 Proposition’s new surcharge (tax) shall be “in addition to any other [existing]
12 appropriation,” and it forbids the legislature from “caus[ing] a reduction” in such existing
13 “funding sources.” A.R.S. § 15-1284(E). Consequently, Proposition 208 makes the *already*
14 *existing* 2020 school appropriation permanent and exempt from “reduction.”

15 47. By creating a floor on *all* school district appropriations, Proposition 208
16 mandates spending outside of the legislature’s control. Thus, under article IX, section
17 23(A) of the Arizona Constitution, Proposition 208 was required to ensure that there be a
18 specific increased existing revenue source *separate from the general fund* to pay for these
19 mandated appropriations. Proposition 208, however, contains no such revenue source.
20 Therefore, Proposition 208 violates the Revenue Source Rule of article IX, section 23.

21 **D. Proposition 208’s “No Supplant” Clause Violates Article IV of the Arizona**
22 **Constitution.**

23 48. The Arizona Constitution vests the legislature with the authority to
24 appropriate general funds “for public schools.” Ariz. Const. art. IV, pt. 2, § 20.

25 49. The Arizona Constitution expressly grants the legislature authority to divert
26 funds derived by initiatives under certain circumstances. *Id.* art. IV, pt. 1, § 1(6)(D).

27 50. Proposition 208’s “No Supplant Clause” attempts to deprive the legislature of
28 this constitutional authority. By stating that the monies received by school districts or

1 charter schools from the student support and safety fund or career training and workforce
2 fund “*may not supplant*, replace or cause a reduction in other funding sources,” A.R.S. § 15-
3 1284(E), Proposition 208 attempts to restrict the legislature’s constitutional ability to
4 manage general funds and to eliminate the legislature’s constitutionally vested power to
5 “divert.” This violates article IV, part 1, section 1(6)(D), and part 2, section 20 of the
6 Arizona Constitution.

7 51. The “No Supplant Clause” also violates the legislature’s general
8 constitutional authority to administer the state’s general fund. Ariz. Const. art. IV, pt. 1,
9 § 1(1). Because A.R.S. §15-1284(E) purports to bar the legislature from “caus[ing] a
10 reduction” in “other funding sources,” it controls not only the expenditure of funds
11 generated by the Proposition 208 tax itself, but also funding provided by the general fund
12 or “other sources” of revenue. Consequently, Proposition 208—although statutory—
13 attempts to override the legislature’s constitutional authority to administer taxes and
14 spending in Arizona.

15 52. Indeed, Senators Fann, Gowan, Leach, and Representatives Bowers, Cobb,
16 and Kavanaugh understand that Proposition 208 restricts their ability to appropriate funds
17 for *other* legislative priorities. These legislative leaders further understand that despite the
18 authorities vested in their offices and position, they are powerless under Proposition 208 to
19 divert funds from the general fund, even with a supermajority. Even with this obstacle,
20 Fann, Gowan, Leach, Bowers, Cobb, and Kavanaugh have historically and in the future
21 intend to, and but for Proposition 208, introduce legislation to reduce certain tax burdens,
22 reallocate appropriations for education and other necessary obligations, such as responding
23 to emergencies like COVID-19, eliminate educational programs that are no longer
24 necessary or are deemed ineffective, or undertake other legislative policy priorities that
25 would otherwise impact Proposition 208’s mandate not to supplant existing appropriations
26 for educational funding.

1 **DECLARATORY AND INJUNCTIVE RELIEF ALLEGATIONS**

2 53. An actual and substantial controversy exists between Plaintiffs and
3 Defendants as to their respective legal rights and duties. Plaintiffs contend that Proposition
4 208 is unconstitutional and unenforceable in its entirety for reasons specified herein.
5 Plaintiffs are informed and believe, and on that basis allege, that Defendants contend
6 otherwise. Accordingly, declaratory relief is appropriate.

7 54. If not enjoined by the Court, Defendants and their agents, representatives, and
8 employees, will implement the provisions of Proposition 208, which will result in
9 irreparable injuries to the Plaintiffs and all Arizonans in the form of unlawful restrictions
10 on their exercise of constitutionally vested authority, unlawful expenditures of funds in
11 which they have an equitable interest, and call into question the going concern of certain
12 Plaintiffs' businesses. Plaintiffs have no plain, speedy, or adequate remedy at law for such
13 injuries. Accordingly, injunctive relief is appropriate.

14 **FIRST CLAIM FOR RELIEF**

15 **Declaratory and Injunctive Relief (A.R.S. §§ 12-1801, *et seq.*; 12-1831, *et seq.*)**
16 **Constitutional Expenditure Limitation (Violation of Ariz. Const. Art. IX, § 21)**

17 55. Plaintiffs incorporate the allegations set forth above as if fully set forth herein.

18 56. Proposition 208 attempts to statutorily exempt itself from the Arizona
19 Constitution's school district expenditure limit. *See* A.R.S. § 15-1285.

20 57. Proposition 208's attempt to exclude itself from the aggregate expenditure
21 limit through statute is in direct conflict with the plain language of the Arizona Constitution.

22 58. Upon information and belief, if monies collected by the income tax surcharge
23 could actually be spent, the subsequent increase in district expenditures will cause many
24 school districts to exceed the aggregate expenditure limit.

25 59. Accordingly, Proposition 208 violates article IX, section 21 of the Arizona
26 Constitution.

27 60. This provision of Proposition 208 is not severable.

28 61. Accordingly, Plaintiffs seek declaratory relief that Proposition 208 violates
the Arizona Constitution and an order enjoining its enforcement.

1 **SECOND CLAIM FOR RELIEF**

2 **Declaratory and Injunctive Relief (A.R.S. §§ 12-1801, *et seq.*; 12-1831, *et seq.*)**
3 **Unlawful New Tax (Violation of Ariz. Const. Art. IX, § 22)**

4 62. Plaintiffs incorporate the allegations set forth above as if fully set forth herein.

5 63. The Arizona Constitution requires that “any act that provides for a net
6 increase in state revenues,” (i.e., a new tax) be passed by a vote of two thirds of both houses
7 of the state legislature. Ariz. Const. art. IX, § 22.

8 64. Proposition 208 was a statutory amendment (not a constitutional amendment)
9 implementing a new tax, and did not receive the constitutionally required vote of two thirds
10 of the state legislature, or even a supermajority of Arizona electors.

11 65. Proposition 208 therefore did not enact the new tax according to a
12 constitutionally prescribed method and is consequently invalid.

13 66. Accordingly, Plaintiffs seek declaratory relief that Proposition 208 was not
14 enacted in accordance with a constitutionally prescribed method and is invalid, and an order
15 enjoining its enforcement.

16 **THIRD CLAIM FOR RELIEF**

17 **Declaratory and Injunctive Relief (A.R.S. §§ 12-1801, *et seq.*; 12-1831, *et seq.*)**
18 **Revenue Source Rule (Violation of Ariz. Const. Art. IX, § 23)**

19 67. Plaintiffs incorporate the allegations set forth above as if fully set forth herein.

20 68. The new income tax surcharge in Proposition 208 does not constitute an
21 increased source of revenues, and therefore does not comply with the Revenue Source Rule.
22 Ariz. Const. art. IX, § 23.

23 69. Alternatively, the income tax surcharge does not provide a revenue source for
24 meeting the mandated appropriations required under the “No Supplant Clause” within
25 Proposition 208. A.R.S. § 15-1284. Because Proposition 208 does not provide such an
26 “increased source of revenues”, it violates the Revenue Source Rule. Ariz. Const. art. IX,
27 § 23.

28 70. Accordingly, Plaintiffs seek declaratory relief that Proposition 208 violates
the Revenue Source Rule of the Arizona Constitution and an order enjoining its
enforcement.

1 **FOURTH CLAIM FOR RELIEF**

2 **Declaratory and Injunctive Relief (A.R.S. §§ 12-1801, *et seq.*; 12-1831, *et seq.*)**
3 **“No Supplant Clause” (Violation of Ariz. Const. Art. IV)**

4 71. Plaintiffs incorporate the allegations set forth above as if fully set forth herein.

5 72. Proposition 208’s “No Supplant Clause” states that all monies received by the
6 student support and safety fund or career training and workforce fund “are in addition to
7 any other appropriation, transfer or allocation of public or private monies from any other
8 source and may not supplant, replace or cause a reduction in other funding sources.” A.R.S.
9 § 15-1284(E).

10 73. This restriction on legislative action is in direct conflict with the Arizona
11 Constitution, which vests the legislature with the authority to appropriate general funds “for
12 public schools,” Ariz. Const. art. IV, pt. 2, § 20, and to “divert” funds created by voter
13 initiatives with a super majority, *id.* art. IV, pt. 1 §(6)(D).

14 74. Accordingly, Plaintiffs seek declaratory relief that Proposition 208’s “No
15 Supplant Clause” violates the Arizona Constitution and an order enjoining its enforcement.

16 **REQUEST FOR RELIEF**

17 WHEREFORE, Plaintiffs pray for:

18 A. A declaration pursuant to A.R.S. § 12-1831 that Proposition 208 violates
19 article IX, section 21 of the Arizona Constitution.

20 B. A declaration pursuant to A.R.S. § 12-1831 that Proposition 208 violates
21 article IX, section 22 of the Arizona Constitution.

22 C. A declaration pursuant to A.R.S. § 12-1831 that Proposition 208 violates
23 article IX, section 23 of the Arizona Constitution.

24 D. A declaration pursuant to A.R.S. § 12-1831 that Proposition 208 violates
25 article IV of the Arizona Constitution.

26 E. An injunction pursuant to A.R.S. § 12-1801, Arizona Rule of Civil Procedure
27 65, and other applicable law prohibiting Defendants from taking any action to implement
28 or enforce Proposition 208.

1 F. An order awarding Plaintiffs' attorney's fees and nontaxable expenses
2 incurred in this action under:

3 1. the private attorney general doctrine as established in *Arnold v. Ariz.*
4 *Dep't of Health Servs.*, 160 Ariz. 593, 609 (1989), *disagreed with on other grounds*, *Ansley*
5 *v. Banner Health Network*, 248 Ariz. 143 (2020), because the rights sought to be vindicated
6 here benefit a large number of people, require private enforcement, and are of societal
7 importance;

8 2. A.R.S. § 12-348,

9 3. A.R.S. § 12-2030, and

10 4. any other applicable law or common law authorizing the award of
11 attorney's fees and nontaxable expenses to Plaintiffs.

12 G. An order awarding Plaintiffs their taxable costs under A.R.S. §§ 12-341, 12-
13 1840, and any other applicable law authorizing the award of taxable costs.

14 H. Such other relief as the Court deems necessary, equitable, proper, and just.
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1 DATED this 30th day of November, 2020.

2 GREENBERG TRAURIG, LLP

3 By: /s/ Dominic E. Draye (w/permission)

4 Dominic E. Draye
5 2375 East Camelback Road
6 Phoenix, Arizona 85016

7 SNELL & WILMER L.L.P.

8 By: /s/ Brett W. Johnson

9 Brett W. Johnson
10 Colin P. Ahler
11 Tracy A. Olson
12 One Arizona Center
13 400 E. Van Buren, Suite 1900
14 Phoenix, Arizona 85004-2202

15 GOLDWATER INSTITUTE

16 By: /s/ Jonathan Riches (w/permission)

17 Jonathan Riches
18 Timothy Sandefur
19 500 E. Coronado Rd.
20 Phoenix, Arizona 85004

21 *Attorneys for Plaintiffs*
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VERIFICATION

I, Karen Fann, a Plaintiff in this action, have reviewed the foregoing Verified Special
Action Complaint and verify under penalty of perjury that it is true and correct.

Dated: November 30, 2020



Karen Fann

VERIFICATION

I, Russell "Rusty" Bowers, a Plaintiff in this action, have reviewed the foregoing
Verified Special Action Complaint and verify under penalty of perjury that it is true and
correct.

Dated:

Nov. 30, 2020

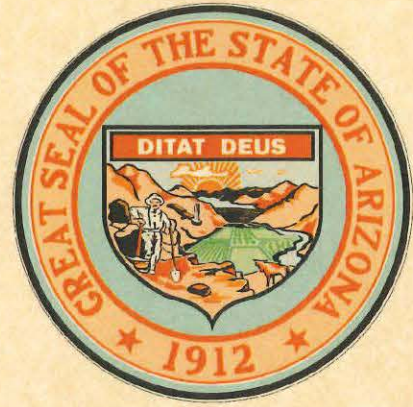


Russell "Rusty" Bowers

EXHIBIT A

State of Arizona

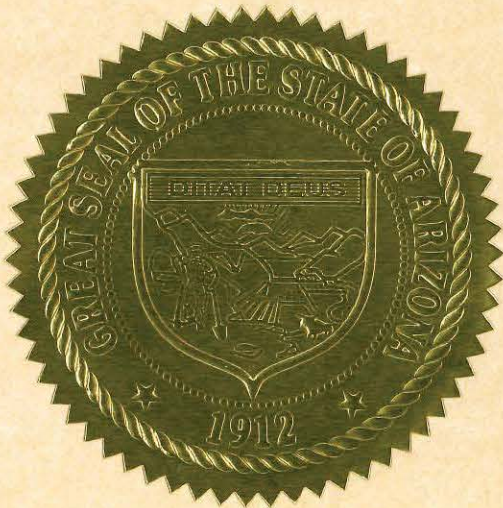
DEPARTMENT OF STATE
Office of the Secretary of State



Invest in Education (Sponsored by AEA and Stand for Children)
Amber Gould, Chair
530 East McDowell Road, #107-459
Phoenix, AZ 85004
InvestinEducation@gmail.com

Having completed the requirements of A.R.S. § 19-121.04, I hereby certify that:

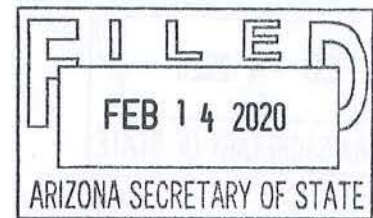
1,122 signature pages bearing 13,636 signatures for initiative petition serial number I-31-2020 have been refused for filing in this office as provided by law. A total of 9,966 signatures included on the remaining petition sheets were found to be ineligible. Of the total random sample of 18,873 signatures, a total of 6,221 signatures were invalidated by the county recorders resulting in a failure rate of 32.96% percent. The actual number of remaining signatures for such initiative petition number I-31-2020 are equal to or in excess of the minimum required by the constitution to place a measure on the general election ballot. The number of valid signatures filed with this petition, based on the random sample, appears to be at least one hundred percent of the minimum required or through examination of each signature has been certified to be greater than the minimum required by the constitution.



IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Arizona. Done at the Capitol in Phoenix, this 21st day of August 2020.

A blue ink signature, appearing to read "Katie Hobbs", is written over a horizontal line.

KATIE HOBBS
Secretary of State



OFFICIAL TITLE

AN INITIATIVE MEASURE

AMENDING TITLE 15, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 10.1; AMENDING SECTION 15-1655, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 10, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1013; RELATING TO EDUCATION FUNDING.

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

Section 1. Short title

This act may be cited as the "Invest in Education Act".

Section 2. Findings and declaration of purpose

The People of the State of Arizona find and declare as follows:

1. All Arizona students deserve a certified, qualified teacher in their classrooms and to learn in the safest possible environment.
2. Years of underfunding by the Arizona Legislature have led to crisis-level teacher shortages and woefully inadequate support services.
3. Additional permanent funding is needed to develop, recruit and retain qualified teachers, hire counselors, close the achievement gap, improve career and vocational education for Arizona students, prepare Arizona students for good jobs and careers and meet Arizona employers' need for a skilled workforce.

Section 3. Title 15, Arizona Revised Statutes, is amended by adding chapter 10.1, to read:

CHAPTER 10.1

ADDITIONAL SUPPORT FOR PUBLIC EDUCATION

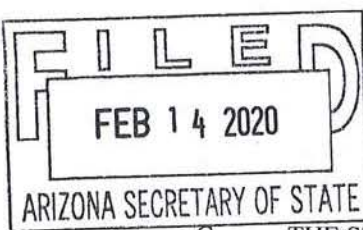
ARTICLE I. GENERAL PROVISIONS

15-1281. Student support and safety fund; exemption; distribution; definitions

A. THE STUDENT SUPPORT AND SAFETY FUND IS ESTABLISHED CONSISTING OF MONIES DEPOSITED PURSUANT TO SECTION 43-1013, PRIVATE DONATIONS AND INTEREST EARNED ON THOSE MONIES. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED. MONIES IN THE FUND AND ITS ACCOUNTS MAY NOT BE TRANSFERRED TO ANY OTHER FUND EXCEPT AS PROVIDED IN THIS SECTION, DO NOT REVERT TO THE STATE GENERAL FUND, AND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF APPROPRIATIONS. THE STATE TREASURER SHALL ADMINISTER THE FUND.

B. ALL MONIES IN THE STUDENT SUPPORT AND SAFETY FUND MUST FIRST BE SPENT, AND THE STATE TREASURER SHALL TRANSFER MONIES FROM THE FUND, TO PAY:

1. THE ACTUAL REASONABLE COSTS INCURRED BY THE STATE TREASURER TO ADMINISTER THE FUND.
2. THE ACTUAL REASONABLE COSTS INCURRED BY THE AUDITOR GENERAL AND DEPARTMENT OF EDUCATION TO IMPLEMENT SECTION 15-1284.
3. THE ACTUAL REASONABLE COSTS INCURRED BY THE DEPARTMENT OF REVENUE TO IMPLEMENT AND ENFORCE SECTION 43-1013.
4. THE ACTUAL REASONABLE COSTS INCURRED BY THE STATE BOARD OF EDUCATION TO IMPLEMENT SUBSECTION D, PARAGRAPH 3 OF THIS SECTION.
5. ANY OTHER MANDATORY EXPENDITURE OF STATE REVENUES REQUIRED TO IMPLEMENT THIS CHAPTER AND THE INVEST IN EDUCATION ACT.



C. THE STATE TREASURER MAY PRESCRIBE FORMS NECESSARY TO MAKE TRANSFERS FROM THE STUDENT SUPPORT AND SAFETY FUND PURSUANT TO SUBSECTION B OF THIS SECTION.

D. ON OR BEFORE JUNE 30 AND DECEMBER 31 OF EACH YEAR, THE STATE TREASURER SHALL TRANSFER ALL MONIES IN THE STUDENT SUPPORT AND SAFETY FUND IN EXCESS OF THE AMOUNTS PAID PURSUANT TO SUBSECTION B OF THIS SECTION AS FOLLOWS:

1. FIFTY PERCENT AS GRANTS TO SCHOOL DISTRICTS AND CHARTER SCHOOLS, IN PROPORTION TO THE WEIGHTED STUDENT COUNT PURSUANT TO SECTION 15-943, PARAGRAPH 2, FOR THE SCHOOL DISTRICT OR CHARTER SCHOOL FOR THE PRIOR FISCAL YEAR, FOR THE PURPOSE OF HIRING TEACHERS AND CLASSROOM SUPPORT PERSONNEL AND INCREASING BASE COMPENSATION FOR TEACHERS AND CLASSROOM SUPPORT PERSONNEL. FOR THE PURPOSES OF THIS PARAGRAPH, THE STATE EDUCATION SYSTEM FOR COMMITTED YOUTH AND THE ARIZONA STATE SCHOOLS FOR THE DEAF AND THE BLIND SHALL RECEIVE GRANT FUNDS IN THE SAME MANNER AS SCHOOL DISTRICTS AND CHARTER SCHOOLS.

2. TWENTY-FIVE PERCENT AS GRANTS TO SCHOOL DISTRICTS AND CHARTER SCHOOLS, IN PROPORTION TO THE WEIGHTED STUDENT COUNT PURSUANT TO SECTION 15-943, PARAGRAPH 2, FOR THE SCHOOL DISTRICT OR CHARTER SCHOOL FOR THE PRIOR FISCAL YEAR, FOR THE PURPOSE OF HIRING STUDENT SUPPORT SERVICES PERSONNEL AND INCREASING BASE COMPENSATION FOR STUDENT SUPPORT SERVICES PERSONNEL. FOR THE PURPOSES OF THIS PARAGRAPH, THE STATE EDUCATION SYSTEM FOR COMMITTED YOUTH AND THE ARIZONA STATE SCHOOLS FOR THE DEAF AND THE BLIND SHALL RECEIVE GRANT FUNDS IN THE SAME MANNER AS SCHOOL DISTRICTS AND CHARTER SCHOOLS.

3. TEN PERCENT AS GRANTS TO SCHOOL DISTRICTS AND CHARTER SCHOOLS, IN PROPORTION TO THE WEIGHTED STUDENT COUNT PURSUANT TO SECTION 15-943, PARAGRAPH 2, FOR THE SCHOOL DISTRICT OR CHARTER SCHOOL FOR THE PRIOR FISCAL YEAR, FOR THE PURPOSE OF PROVIDING MENTORING AND RETENTION PROGRAMMING FOR NEW CLASSROOM TEACHERS TO INCREASE RETENTION. THE STATE BOARD OF EDUCATION SHALL PRESCRIBE THE FORM AND FORMAT OF MENTORING AND RETENTION PROGRAMMING SUPPORTED BY MONIES TRANSFERRED PURSUANT TO THIS PARAGRAPH, EXCEPT THAT THE EQUIVALENT OF ONE FULL-TIME MENTOR MAY BE ASSIGNED TO NOT MORE THAN FIFTEEN NEW CLASSROOM TEACHERS EMPLOYED BY THE SCHOOL DISTRICT OR CHARTER SCHOOL. IF A SCHOOL DISTRICT OR CHARTER SCHOOL RECEIVES MONIES PURSUANT TO THIS PARAGRAPH IN EXCESS OF ITS NEEDS FOR MENTORING AND RETENTION PROGRAMMING, THOSE EXCESS MONIES MAY BE USED FOR TEACHER RETENTION. THE STATE BOARD OF EDUCATION SHALL ADOPT RULES TO IMPLEMENT THIS PARAGRAPH NOT LATER THAN SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS SECTION. FOR THE PURPOSES OF THIS PARAGRAPH, THE STATE EDUCATION SYSTEM FOR COMMITTED YOUTH AND THE ARIZONA STATE SCHOOLS FOR THE DEAF AND THE BLIND SHALL RECEIVE GRANT FUNDS IN THE SAME MANNER AS SCHOOL DISTRICTS AND CHARTER SCHOOLS.

4. TWELVE PERCENT TO THE CAREER TRAINING AND WORKFORCE FUND ESTABLISHED BY SECTION 15-1282.

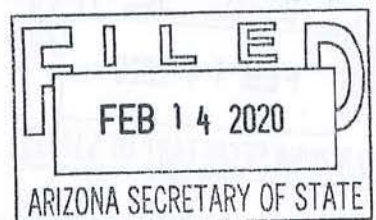
5. THREE PERCENT TO THE ARIZONA TEACHERS ACADEMY FUND ESTABLISHED BY SECTION 15-1655.

E. GRANTS MADE PURSUANT TO THIS SECTION ARE EXEMPT FROM TITLE 41, CHAPTERS 23 AND 24.

F. FOR THE PURPOSES OF THIS SECTION:

1. "CLASSROOM SUPPORT PERSONNEL" MEANS ANY NONADMINISTRATIVE SCHOOL PERSONNEL, INCLUDING CERTIFIED PERSONNEL, WHO PROVIDE CLASSROOM SUPPORT AND INSTRUCTIONAL SUPPORT SERVICES AS PRESCRIBED BY THE SCHOOL DISTRICT GOVERNING BOARD OR CHARTER SCHOOL GOVERNING BODY, INCLUDING LIBRARIANS, NURSES, COUNSELORS, SOCIAL WORKERS, SPEECH PATHOLOGISTS, BEHAVIORAL COACHES AND PSYCHOLOGISTS.

2. "MENTORING AND RETENTION PROGRAMMING" MEANS REGULAR, JOB-EMBEDDED, IN-PERSON, ONE-ON-ONE FEEDBACK THAT IS FOCUSED ON INSTRUCTION AND ENSURING NEW CLASSROOM TEACHER QUALITY, SUCCESS AND RETENTION.



3. "NEW CLASSROOM TEACHER" MEANS A CLASSROOM TEACHER WHO IS IN THE TEACHER'S FIRST, SECOND OR THIRD YEAR OF TEACHING.

4. "STUDENT SUPPORT SERVICES PERSONNEL" MEANS ANY CLASSIFIED, NONADMINISTRATIVE SCHOOL PERSONNEL WHO PROVIDE STUDENT SUPPORT SERVICES AS DEFINED BY THE SCHOOL DISTRICT GOVERNING BOARD OR CHARTER SCHOOL GOVERNING BODY, INCLUDING CLASSROOM AIDES, MEDIA SPECIALISTS, HEALTH ASSISTANTS, SECURITY PERSONNEL, STUDENT FOOD SERVICE PERSONNEL, CLERICAL STAFF, STUDENT TRANSPORTATION PERSONNEL AND SCHOOL SITE PLANT OPERATORS.

5. "TEACHER" MEANS ANY NONADMINISTRATIVE PERSONNEL, INCLUDING CERTIFIED TEACHERS, WHO INSTRUCT STUDENTS OR SUPPORT STUDENT ACADEMIC ACHIEVEMENT AS PRESCRIBED BY THE SCHOOL DISTRICT GOVERNING BOARD OR CHARTER SCHOOL GOVERNING BODY, INCLUDING CLASSROOM TEACHERS, EARLY CHILDHOOD TEACHERS, MENTOR TEACHERS, INSTRUCTIONAL COACHES AND ACADEMIC INTERVENTIONISTS.

15-1282. Career training and workforce fund; exemption; distribution

A. THE CAREER TRAINING AND WORKFORCE FUND IS ESTABLISHED CONSISTING OF MONIES DEPOSITED PURSUANT TO SECTION 15-1281, PRIVATE DONATIONS AND INTEREST EARNED ON THOSE MONIES. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED. MONIES IN THE FUND AND ITS ACCOUNTS MAY NOT BE TRANSFERRED TO ANY OTHER FUND EXCEPT AS PROVIDED IN THIS SECTION, DO NOT REVERT TO THE STATE GENERAL FUND, AND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF APPROPRIATIONS. THE STATE TREASURER SHALL ADMINISTER THE FUND.

B. ALL MONIES IN THE CAREER TRAINING AND WORKFORCE FUND MUST FIRST BE SPENT, AND THE STATE TREASURER SHALL TRANSFER MONIES FROM THE FUND, TO PAY:

1. THE ACTUAL REASONABLE COSTS INCURRED BY THE STATE TREASURER TO ADMINISTER THE FUND.

2. THE ACTUAL REASONABLE COSTS INCURRED BY THE DEPARTMENT OF EDUCATION TO IMPLEMENT AND ADMINISTER SECTION 15-1283.

3. ANY OTHER MANDATORY EXPENDITURE OF STATE REVENUES REQUIRED TO IMPLEMENT THIS SECTION AND SECTION 15-1283.

C. THE STATE TREASURER MAY PRESCRIBE FORMS NECESSARY TO TRANSFER MONIES FROM THE CAREER TRAINING AND WORKFORCE FUND PURSUANT TO SUBSECTION B OF THIS SECTION.

D. THE STATE TREASURER SHALL TRANSFER MONIES IN THE CAREER TRAINING AND WORKFORCE FUND IN EXCESS OF THE AMOUNTS PAID PURSUANT TO SUBSECTION B OF THIS SECTION AT THE DIRECTION OF THE DEPARTMENT OF EDUCATION IN ACCORDANCE WITH SECTION 15-1283.

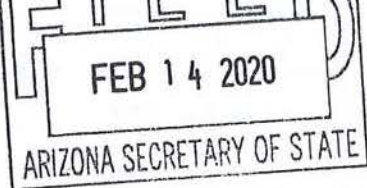
15-1283. Career training and workforce program; grants; rules

A. THE DEPARTMENT OF EDUCATION SHALL ESTABLISH A CAREER TRAINING AND WORKFORCE PROGRAM TO DO ALL OF THE FOLLOWING:

1. PROVIDE MULTI-YEAR GRANTS OF UP TO FIVE YEARS TO SCHOOL DISTRICTS, CHARTER SCHOOLS AND CAREER TECHNICAL EDUCATION DISTRICTS FROM THE CAREER TRAINING AND WORKFORCE FUND ESTABLISHED BY SECTION 15-1282 FOR THE PURPOSE OF PROVIDING SERVICES TO STUDENTS IN GRADES NINE THROUGH TWELVE.

2. PROVIDE SUPPORT TO SCHOOL DISTRICTS, CHARTER SCHOOLS AND CAREER TECHNICAL EDUCATION DISTRICTS THAT RECEIVE GRANTS FROM THE CAREER TRAINING AND WORKFORCE FUND ESTABLISHED BY SECTION 15-1282.

B. NOT LATER THAN NINE MONTHS AFTER THE EFFECTIVE DATE OF THIS SECTION, THE DEPARTMENT OF EDUCATION SHALL ADOPT RULES TO IMPLEMENT THIS SECTION. THE RULES SHALL INCLUDE:



1. PROCEDURES AND REQUIREMENTS FOR SCHOOL DISTRICTS, CHARTER SCHOOLS AND CAREER TECHNICAL EDUCATION DISTRICTS TO APPLY FOR, RECEIVE AND RENEW GRANTS FROM THE CAREER TRAINING AND WORKFORCE FUND ESTABLISHED BY SECTION 15-1282, INCLUDING:

(a) REQUIRING THAT GRANT APPLICATIONS BE APPROVED BY THE GOVERNING BOARD OR GOVERNING BODY OF THE SCHOOL DISTRICT, CHARTER SCHOOL OR CAREER TECHNICAL EDUCATION DISTRICT.

(b) PROVIDING REAL-TIME, ACCESSIBLY FORMATTED DATA REGARDING STUDENT GRADES, ATTENDANCE AND BEHAVIOR TO GRADE NINE TEACHERS AND SUPPORT STAFF.

(c) COMMITTING TO ALLOCATE TIME FOR GRADE NINE TEACHERS AND SUPPORT STAFF TO MEET DURING THE SCHOOL DAY TO REVIEW DATA AND DEVELOP STRATEGIES TO INTERVENE WITH AT-RISK STUDENTS IN GRADE NINE, KEEPING RECORDS OF SUCH MEETINGS AND PROVIDING THOSE RECORDS TO THE DEPARTMENT ON REQUEST.

(d) USING GRANT MONIES TO ESTABLISH AND EXPAND PROGRAMS, OPPORTUNITIES AND STRATEGIES ALLOWED UNDER THIS SECTION AND NOT USING GRANT MONIES TO MAINTAIN PROGRAMS, OPPORTUNITIES AND STRATEGIES ESTABLISHED BEFORE THE EFFECTIVE DATE OF THIS SECTION, EXCEPT WHEN A USE IS NECESSARY TO REPLACE THE LOSS OR EXPIRATION OF TIME-LIMITED GRANTS AND FEDERAL MONIES.

2. PROCEDURES FOR THE DEPARTMENT'S EVALUATION OF GRANT APPLICATIONS RECEIVED PURSUANT TO THIS SECTION.

3. ALLOWABLE USES OF GRANTS RECEIVED FROM THE CAREER TRAINING AND WORKFORCE FUND ESTABLISHED BY SECTION 15-1282, INCLUDING:

(a) DEVELOPING OR EXPANDING CAREER AND TECHNICAL EDUCATION PROGRAMS THAT ARE TIED TO MEDIUM TO HIGH-WAGE, HIGH-DEMAND CAREERS THAT RESULT IN ONE OR MORE OF DIRECT WORK EXPERIENCE, INDUSTRY CERTIFICATION OR POSTSECONDARY CREDITS.

(b) DEVELOPING OR EXPANDING CAREER AND TECHNICAL EDUCATION PROGRAMS THAT INSPIRE AND PREPARE STUDENTS TO BECOME CLASSROOM TEACHERS.

(c) HIRING SCHOOL COUNSELORS.

(d) DEVELOPING AND IMPLEMENTING ACADEMIC ACCELERATION PROGRAMS UNDER WHICH OBJECTIVE MEASURES ARE USED TO ENROLL STUDENTS WHO HAVE REACHED PROFICIENCY INTO THE NEXT MORE RIGOROUS COURSE IN THAT CONTENT AREA.

(e) EXPANDING COLLEGE-LEVEL EDUCATIONAL OPPORTUNITIES, INCLUDING:

(i) ADVANCED PLACEMENT, INTERNATIONAL BACCALAUREATE OR COMPARABLE COLLEGE-LEVEL COURSES.

(ii) DUAL CREDIT, CO-ENROLLMENT PROGRAMS OR EXTENDED CO-ENROLLMENT PROGRAMS OFFERED IN CONJUNCTION WITH AN ARIZONA COMMUNITY COLLEGE, PUBLIC UNIVERSITY OR OTHER ACCREDITED INSTITUTION OF HIGHER LEARNING OR POSTSECONDARY EDUCATIONAL INSTITUTION.

(iii) RECRUITING, LICENSING, EMPLOYING AND TRAINING PERSONNEL TO PROVIDE COLLEGE-LEVEL EDUCATIONAL OPPORTUNITIES FOR HIGH SCHOOL STUDENTS.

(f) ASSISTING STUDENTS IN COMPLETING GRADE NINE WITH SUFFICIENT CREDITS TO BE ON TRACK TO ON-TIME GRADUATION, INCLUDING:

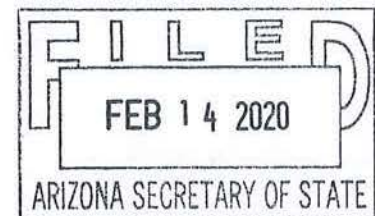
(i) EXPANDING COUNSELING SERVICES TO STUDENTS IN GRADE NINE AND PROVIDING SUMMER BRIDGE PROGRAMS FOR AT-RISK, INCOMING NINTH GRADERS.

(ii) IMPLEMENTING EVIDENCE-BASED STRATEGIES AND PROGRAMS TO COMBAT CHRONIC ABSENTEEISM.

(iii) PROVIDING TUTORING AND MENTORING SERVICES.

(iv) PROVIDING REAL-TIME, ACCESSIBLY-FORMATTED DATA REGARDING STUDENT GRADES, ATTENDANCE AND BEHAVIOR TO GRADE NINE TEACHERS AND SUPPORT STAFF.

(v) ALLOWING GRADE NINE TEACHERS AND SUPPORT STAFF TO MEET DURING THE SCHOOL DAY TO REVIEW DATA AND DEVELOP STRATEGIES TO INTERVENE WITH AT-RISK STUDENTS IN GRADE NINE, KEEPING RECORDS OF SUCH MEETINGS AND PROVIDING THOSE RECORDS TO THE DEPARTMENT UPON REQUEST.



(g) EXPANDING TUTORING, MENTORING, COUNSELING, MENTAL HEALTH AND WRAP-AROUND SERVICES THAT MEET HIGH SCHOOL STUDENTS' IMMEDIATE NEEDS.

(h) FUNDING TO OFFSET THE COSTS OF STUDENTS ENROLLED IN NINTH GRADE AND WHO PERSIST TO COMPLETE FOUR YEAR CAREER AND TECHNICAL EDUCATION PROGRAMS OFFERED PURSUANT TO SECTION 15-393.

4. PROCEDURES THAT WILL ALLOW THE DEPARTMENT TO PROVIDE ONGOING SUPPORT TO SCHOOL DISTRICTS, CHARTER SCHOOLS AND CAREER TECHNICAL EDUCATION DISTRICTS THAT RECEIVE GRANTS PURSUANT TO THIS SECTION.

C. THE DEPARTMENT OF EDUCATION SHALL:

1. BEGIN ACCEPTING APPLICATIONS FOR GRANTS PURSUANT TO THIS SECTION NOT LATER THAN ONE YEAR AFTER THE EFFECTIVE DATE OF THIS SECTION.

2. NOTIFY THE STATE TREASURER WHEN GRANTS ARE AWARDED UNDER THIS SECTION AND DIRECT THE STATE TREASURER TO TRANSFER MONIES FROM THE CAREER TRAINING AND WORKFORCE FUND ESTABLISHED BY SECTION 15-1282 TO GRANTEEES.

D. GRANTS MADE PURSUANT TO THIS SECTION ARE EXEMPT FROM TITLE 41, CHAPTERS 23 AND 24.

15-1284. Separate local-level funds; annual reporting; no supplanting

A. EACH SCHOOL DISTRICT AND CHARTER SCHOOL THAT RECEIVES MONIES FROM THE STUDENT SUPPORT AND SAFETY FUND ESTABLISHED BY SECTION 15-1281 SHALL ESTABLISH A SEPARATE LOCAL LEVEL FUND TO RECEIVE MONIES FROM THAT FUND. THIS SUBSECTION APPLIES TO THE STATE EDUCATION SYSTEM FOR COMMITTED YOUTH AND THE ARIZONA STATE SCHOOLS FOR THE DEAF AND THE BLIND.

B. EACH SCHOOL DISTRICT, CHARTER SCHOOL AND CAREER TECHNICAL EDUCATION DISTRICT THAT RECEIVES MONIES FROM THE CAREER TRAINING AND WORKFORCE FUND ESTABLISHED BY SECTION 15-1282 SHALL ESTABLISH A SEPARATE LOCAL-LEVEL FUND TO RECEIVE MONIES FROM THAT FUND.

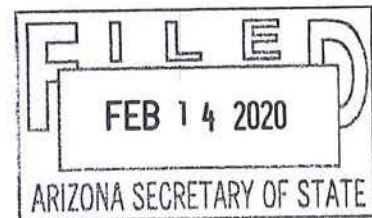
C. SCHOOL DISTRICTS, CHARTER SCHOOLS AND CAREER TECHNICAL EDUCATION DISTRICTS THAT RECEIVE MONIES FROM EITHER THE STUDENT SUPPORT AND SAFETY FUND ESTABLISHED BY SECTION 15-1281 OR THE CAREER TRAINING AND WORKFORCE FUND ESTABLISHED BY SECTION 15-1282 SHALL PROVIDE:

1. AN ACCOUNTING OF MONIES RECEIVED FROM THOSE FUNDS EACH FISCAL YEAR THROUGH THE UNIFORM SYSTEM OF FINANCIAL RECORDS.

2. INFORMATION REGARDING CLASSROOM TEACHER SALARIES FOR EACH FISCAL YEAR THROUGH THE UNIFORM SYSTEM OF FINANCIAL RECORDS, INCLUDING THE AVERAGE CLASSROOM TEACHER SALARY, THE AVERAGE SALARY FOR A FIRST-YEAR CLASSROOM TEACHER, AND THE AVERAGE SALARIES FOR CLASSROOM TEACHERS IN THEIR FIFTH, TENTH, FIFTEENTH, AND TWENTIETH YEARS OF TEACHING IN THE SCHOOL DISTRICT, CHARTER SCHOOL OR CAREER TECHNICAL EDUCATION DISTRICT.

D. THE DEPARTMENT OF EDUCATION AND THE AUDITOR GENERAL SHALL ALLOW THE ADDITIONAL REPORTING REQUIRED BY SUBSECTION C OF THIS SECTION THROUGH THE UNIFORM SYSTEM OF FINANCIAL RECORDS AND THE ARIZONA CHART OF ACCOUNTS.

E. NOTWITHSTANDING ANY OTHER LAW, THE ADDITIONAL MONIES RECEIVED BY SCHOOL DISTRICTS, CHARTER SCHOOLS AND CAREER TECHNICAL EDUCATION DISTRICTS FROM THE STUDENT SUPPORT AND SAFETY FUND ESTABLISHED BY SECTION 15-1281 AND THE CAREER TRAINING AND WORKFORCE FUND ESTABLISHED BY SECTION 15-1282 ARE IN ADDITION TO ANY OTHER APPROPRIATION, TRANSFER OR ALLOCATION OF PUBLIC OR PRIVATE MONIES FROM ANY OTHER SOURCE AND MAY NOT SUPPLANT, REPLACE OR CAUSE A REDUCTION IN OTHER FUNDING SOURCES.



15-1285. Local revenues and revenue control limitations; exemption

NOTWITHSTANDING ANY OTHER LAW, MONIES RECEIVED BY SCHOOL DISTRICTS AND CAREER TECHNICAL EDUCATION DISTRICTS PURSUANT TO THIS CHAPTER:

1. ARE NOT CONSIDERED LOCAL REVENUES FOR THE PURPOSES OF ARTICLE IX, SECTION 21, ARIZONA CONSTITUTION.
2. ARE EXEMPT FROM ANY BUDGETARY, EXPENDITURE OR REVENUE CONTROL LIMIT THAT WOULD LIMIT THE ABILITY OF SCHOOL DISTRICTS OR CAREER TECHNICAL EDUCATION DISTRICTS TO ACCEPT OR EXPEND THOSE MONIES.

Section 4. Section 15-1655, Arizona Revised Statutes, is amended to read:

15-1655. Arizona teachers academy; tuition and fees scholarships; fund; annual report; definitions

A. Eligible postsecondary institutions shall implement an Arizona teachers academy to incentivize students to enter the teaching profession and to commit to teach in Arizona public schools. The Arizona board of regents, in consultation with eligible postsecondary institutions, shall develop and implement centralized administrative processes for the academy, including:

1. A marketing and promotion plan to recruit students for the academy.
2. Data collection and reporting.
3. Tracking postgraduation service requirements.
4. Coordinating induction services.
5. Distributing monies in the Arizona teachers academy fund between eligible postsecondary institutions.
6. Collecting reimbursement from individuals who fail to meet service obligations.

B. The Arizona teachers academy may include new or existing teacher preparation program pathways that are student-focused and that employ proven, research-based models of best practices already being implemented. Each eligible postsecondary institution may develop a portfolio of teacher preparation programs to offer as part of the academy. Programs offered as part of the academy shall include accelerated models for:

1. High-demand teacher specializations, including special education, science, technology, engineering and mathematics.
2. Critical need areas, including low-income public schools, public schools located on Indian reservations and rural public schools.
3. Individuals seeking postbaccalaureate coursework that results in professional certification.

C. Each eligible postsecondary institution shall develop formalized partnerships with public schools in this state to build commitments for teacher employment on completion of the Arizona teachers academy. The targeted deployment of teachers who have completed the academy shall be based on the needs of each school system and the community that is being served as well as the individual skills of each teacher.

D. Each eligible postsecondary institution shall provide to each full-time student who is enrolled in the Arizona teachers academy an annual scholarship of ~~\$10,000 per year~~ UP TO THE ACTUAL COST OF TUITION AND FEES for a maximum of two academic years or four semesters for graduate university students, ~~\$5,000 per year~~ UP TO THE ACTUAL COST OF TUITION AND FEES for a maximum of four academic years or eight semesters for undergraduate university students, ~~\$3,000 per year~~ UP TO THE ACTUAL COST OF TUITION AND FEES for a maximum of two academic years or four semesters for community college students for tuition and fees associated with the student's program of study, and ~~\$2,500 onetime for teachers seeking~~ UP TO THE ACTUAL COST OF OBTAINING national board certification AND RENEWAL, AND UP TO THE ACTUAL COST OF OBTAINING A TEACHING CERTIFICATE INCLUDING THE ACTUAL COST OF THE EXAM, after all other financial gifts, aid or grants received by that student or teacher. Scholarships under this subsection are subject to all of the following:

1. If the student does not successfully complete the academic year in good academic standing, the student shall reimburse the Arizona board of regents for the total amount of the scholarship for tuition and fees the student received for that year.
2. For each academic year that the student successfully completes and for which the student receives a scholarship for all tuition and fees, the student must agree to teach for one full school year in a public school in this state. For students teaching and receiving the scholarship concurrently, the commitment period begins after graduation

from the Arizona teachers academy. For teachers seeking a national board certification, the teaching commitment is one additional year after completing the requirements of the national board certification program.

3. If the scholarship does not cover remaining tuition and fee costs after other aid received, the eligible postsecondary institution may not charge students the remaining difference. If the scholarship amount exceeds tuition and fee costs at an eligible postsecondary institution, the institution may use the remaining amount to support Arizona teachers academy costs.

4. If the student does not fulfill the student's obligation to teach in a public school, the student must reimburse the Arizona board of regents for the proportional amount of the scholarship for tuition and fees that the student received that corresponds to the number of school years the student agreed to teach but did not teach in a public school in this state.

5. If the student is physically or mentally unable to fulfill the requirements of the Arizona teachers academy, the Arizona board of regents shall establish a process for assessing the student's ability to repay the financial assistance received and shall make a determination on any terms of repayment.

6. The Arizona board of regents shall establish a process for deferring service or repayment based on factors adopted by the board.

E. Students enrolled in a noneducation program in the Arizona teachers academy must complete one or more teacher preparation courses to ensure the likelihood that the student will transition into a postbaccalaureate program to receive a teaching certification following graduation.

F. The Arizona teachers academy fund is established consisting of MONIES DEPOSITED PURSUANT TO SECTION 15-1281, SUBSECTION D, PARAGRAPH 5 AND legislative appropriations made for the purpose of administering the Arizona teachers academy. Monies in the fund are continuously appropriated and are exempt from the provisions of section 35-190 relating to the lapsing of appropriations. The Arizona board of regents shall administer the fund and shall establish criteria for distributing monies in the fund to eligible postsecondary institutions each fiscal year to fund the costs of the academy. Monies in the fund may be used only for:

1. Reimbursing Arizona teachers academy scholarships that cover the balance of tuition and fees for undergraduate, graduate and postbaccalaureate students enrolled in the Arizona teachers academy after all other gifts and aid received.

2. Support for teachers who are currently employed in a public school in this state and who are seeking a national board certification.

3. Induction services for Arizona teachers academy graduates.

4. Implementing a marketing and promotion plan to recruit and retain students in the Arizona teachers academy WITH PARTICULAR EMPHASIS ON ENSURING PARTICIPANTS REFLECT THE DIVERSITY OF THE STATE'S STUDENT POPULATION and administering the Arizona teachers academy. Annual expenditures for marketing, promoting and administering the Arizona teachers academy may not exceed three percent of the monies in the fund each fiscal year.

G. Monies remaining in the Arizona teachers academy fund at the end of each fiscal year may be used by eligible postsecondary institutions for Arizona teachers academy costs in the next fiscal year.

~~H. On or before August 1 of each fiscal year, the state general fund appropriation for the Arizona teachers academy for the current fiscal year shall be reduced by the amount of monies remaining in the Arizona teachers academy fund at the end of the prior fiscal year.~~

I. H. On or before March 1, 2020 and each year thereafter, the Arizona board of regents shall report to the joint legislative budget committee and the governor's office of strategic planning and budgeting on all of the following:

1. The total number of students enrolled in the Arizona teachers academy by eligible postsecondary institution in the current academic year.

2. The number of Arizona teachers academy graduates receiving induction services in the current academic year.

3. The estimated amount of monies committed from the Arizona teachers academy fund in the current fiscal year.

J. I. On or before September 1, 2019 and each year thereafter, the Arizona board of regents shall report to the governor, the president of the senate and the speaker of the house of representatives, and shall submit a copy to the secretary of state, on all of the following:

1. The total number of students enrolled in the Arizona teachers academy at each eligible postsecondary institution by year of college enrollment and the number of teachers receiving a scholarship through the Arizona teachers academy for national board certification.
 2. The percentage of students who completed each year of the academy and who plan to continue to the subsequent year, delineated by each teacher preparation program offered by each eligible postsecondary institution as part of the Arizona teachers academy.
 3. The number of teachers who completed a program of study through the Arizona teachers academy by each eligible postsecondary institution.
 4. The number of teachers currently teaching in a public school in this state as part of an agreement for receiving an Arizona teachers academy scholarship.
 5. The number of graduates receiving induction services.
 6. The number of students who have defaulted on their obligation and who are in repayment agreements.
 7. The number of students who have deferred repayment agreements.
 8. The number of students who have completed repayment agreements.
 9. The methodology for distributing any monies appropriated for the Arizona teachers academy to each eligible postsecondary institution and the amounts distributed to each.
 10. The amount of unused monies in the Arizona teachers academy fund from the prior fiscal year.
- K. J. For the purposes of this section:
1. "Eligible postsecondary institutions" means universities under the jurisdiction of the Arizona board of regents and community colleges in this state that offer postbaccalaureate programs that lead to teacher certification and that have entered into an agreement with the Arizona board of regents relative to these postbaccalaureate programs.
 2. "Tuition and fees" means tuition, mandatory fees and program fees that are associated with a program in the Arizona teachers academy leading to teacher certification and that are charged by an eligible postsecondary institution.

Section 5. Title 43, chapter 10, article 2, Arizona Revised Statutes, is amended by adding section 41-1013 to read:

43-1013. Income tax surcharge for public education

A. IN ADDITION TO ANY OTHER TAX IMPOSED BY THIS CHAPTER, FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2020, THERE SHALL BE LEVIED, COLLECTED AND PAID AN INCOME TAX SURCHARGE TO ADVANCE PUBLIC EDUCATION IN THIS STATE AS FOLLOWS:

1. IN THE CASE OF A SINGLE PERSON OR A MARRIED PERSON FILING SEPARATELY, A SURCHARGE AT THE RATE OF THREE AND ONE-HALF PERCENT OF TAXABLE INCOME IN EXCESS OF \$250,000.

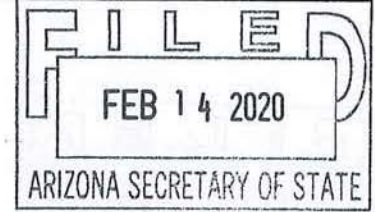
2. IN THE CASE OF A MARRIED COUPLE FILING A JOINT RETURN OR A SINGLE PERSON WHO IS A HEAD OF HOUSEHOLD, A SURCHARGE AT THE RATE OF THREE AND ONE-HALF PERCENT OF TAXABLE INCOME IN EXCESS OF \$500,000.

B. NOTWITHSTANDING SECTIONS 42-1116 AND 43-206, THE DEPARTMENT SHALL SEPARATELY ACCOUNT FOR REVENUES COLLECTED PURSUANT TO THE INCOME TAX SURCHARGE IMPOSED BY THIS SECTION, AND SHALL DEPOSIT THOSE REVENUES IN THE STUDENT SUPPORT AND SAFETY FUND ESTABLISHED BY SECTION 15-1281.

C. THE INCOME TAX SURCHARGE LEVIED BY THIS SECTION MUST BE COLLECTED REGARDLESS OF WHETHER THE INCOME TAX RATE BRACKETS IN THIS CHAPTER ARE CHANGED, REPLACED OR ELIMINATED BY AN ACT OF THE LEGISLATURE.

Section 6. Severability

If any provision of this act or its application to any person or circumstance is declared invalid by a court of competent jurisdiction, such invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provision or application. The invalidated provision or provisions shall be deemed reformed to the extent necessary to conform to applicable law and to give the maximum effect to the intent of this act and, to the



fullest extent possible, the provisions of this act, including each portion of any section of this act containing any invalidated provision that is not itself invalid, shall be construed so as to give effect to the intent thereof.

Section 7. Exemption from rulemaking

For the purposes of adopting rules to implement this act, and for twenty-four months after the effective date of this act, the department of education, the state board of education and the department of revenue are exempt from both of the following:

1. Any executive order or other directive purporting to limit or restrict the ability of the department of education, the state board of education and the department of revenue to adopt new rules.
2. The rulemaking requirements of title 41, chapters 6 and 6.1, Arizona Revised Statutes, except that each department shall provide the public with a reasonable opportunity to comment on proposed rules and shall publish otherwise-exempted rules.

Section 8. Standing and fee shifting

A. The People of the State of Arizona desire that this act, if approved by the voters and thereafter challenged in court, be defended by the State of Arizona. If the Attorney General fails to defend or enforce this act or fails to appeal an adverse judgment against its validity or application, in whole or in part, any resident of this state shall have standing to initiate or intervene in any action or proceeding to enforce or defend this act.

B. The court shall award fees and expenses to any resident who initiates or intervenes in, and prevails on the merits of, any action or proceeding to enforce or defend this act pursuant to subsection A of this section. For the purposes of this section, "fees and expenses" includes the reasonable expenses of expert witnesses, the reasonable cost of any study, analysis, report, test or project found by the court to be necessary to prepare the party's case, and reasonable attorneys' fees.

EXHIBIT B

Ballot Proposition I-31-2020
Invest in Education Act
Fiscal Analysis

Estimated Impact

A.R.S. § 19-123E requires the Joint Legislative Budget Committee Staff to prepare a summary of 300 words or less on the fiscal impact of voter-initiated ballot measures. Proposition ____ would establish a 3.5% income tax surcharge for single taxpayers on their taxable income in excess of \$250,000 and for married persons on their taxable income in excess of \$500,000.

The income tax surcharge is projected to generate \$827 million in revenue, which will be deposited into the Student Support and Safety Fund (SSSF), in the first full year of implementation. These monies would be primarily distributed to school districts, charter schools, and career technical education districts. The state education system for committed youth and the Arizona State Schools for the Deaf and the Blind would receive monies in the same manner as school districts and charter schools.

The actual deposit will depend on a variety of factors, including:

- Whether high-income taxpayers leave or shift income out of the state because of the new tax surcharge.
- Whether higher tax rates will reduce business investment. Some high-income taxpayers pay individual income taxes on the "pass-through" income from their businesses.

Given this uncertainty, our revenue estimate is speculative and subject to change.

The proposition may also have other impacts on state tax collections. For example, increasing salaries for school employees may result in higher General Fund income and sales tax collections. Any shift of income outside the state or decline in business investment may also reduce existing tax collections.

Background

Currently, the state's top marginal individual income tax rate is 4.50%, which applies to incomes of \$159,001 and above for single filers and married couples filing separately, and incomes of \$318,001 and above for married persons or single persons who are heads of household beginning in tax year (TY) 2019.

The proposition would establish a 3.5% surcharge on certain incomes. While the individual income tax brackets would remain unchanged, this would effectively result in a marginal tax rate of 8.00% for those with incomes of (see Table 1):

- \$250,001 and above for single filers and married couples filing separately.
- \$500,001 and above for married couples filing jointly and persons filing as heads of household.

Marginal income tax rates apply to each additional dollar earned between certain levels of income. For example, for a single tax filer with \$300,000 in taxable income, the newly-created 3.5% surcharge above the marginal tax rate would only apply to the \$50,000 of income between \$250,000 and \$300,000; the first \$250,000 in taxable income would be taxed based on the 4 current tax brackets and their respective tax rates.

(Continued)

Table 1		
Proposed Tax Rate Changes		
	<u>Current Law</u>	<u>Proposed Law</u>
Single/Married Filing Separately: \$250,001 and above	4.50%	8.00%
Married Filing Jointly/Head of Household: \$500,001 and above	4.50%	8.00%

Student Support and Safety Fund

Revenues generated by the 3.5% surcharge would be deposited in the new SSSF. Monies in the fund would first be used for administrative costs of the Treasurer, Auditor General, Arizona Department of Education (ADE), Department of Revenue (DOR), and State Board of Education, before being distributed as follows:

- 50% for hiring and raises for teachers and classroom support personnel.
- 25% for hiring and raises for student support services personnel.
- 10% for new teacher retention programs.
- 12% to the Career Training and Workforce Fund, also newly-established by the proposition. Monies in the fund would first be used for administrative costs of the Treasurer and ADE, before being used for a new Career Training and Workforce Program to be administered by ADE.
- 3% to expand the Arizona Teacher's Academy, which provides tuition and fee waivers for higher education students who commit to teaching in Arizona public schools after graduation.

Monies allocated for teachers and classroom support personnel, student support services personnel, and new teacher retention programs would be distributed to school districts and charter schools based on prior year student counts. The estimated distributions of the fund are displayed in *Table 3*.

Analysis

To estimate the revenue impact of the proposal, the JLBC Staff relied on a DOR model which estimates the overall and distributional impact of tax law changes. This model is based on TY 2016 tax return data, which DOR has adjusted for filer and income growth between TY 2016 and TY 2020. The DOR model estimate reflects a "static" analysis which does not incorporate any "dynamic" impacts resulting from broader economic changes related to the tax law revision.

The DOR model projected that \$827 million would be generated for deposit into the SSSF in the first full year of implementation. However, this estimate does not factor in any potential responses of economic behavior or the uncertainty of future economic conditions. The following factors will affect the actual fiscal impact:

- Individual income tax revenue generated from high-income taxpayers is highly susceptible to changes in economic conditions. If taxable income for high earners were to grow at a higher rate than for taxpayers of all incomes, the revenues could be higher than under the DOR estimate. Conversely, if the economy were to enter a downturn, revenues could be lower than the DOR estimate. For example, the DOR estimate does not account for the impact of the COVID-19 pandemic on the economy.
- The proposition would significantly increase the top marginal income tax rate. This could induce economic or behavioral responses that would impact the amount of revenue generated. The higher tax rates may induce some high-income taxpayers to move or shift income to other states, thereby reducing the projected revenue collections.

In contrast, the Arizona Education Association estimates that the proposition would generate \$940 million.

(Continued)

The proposition may also affect the General Fund. The annual dollar impact could be a gain or loss in the tens of millions, and may be influenced by the following factors:

- Increased spending on teacher salaries and other educational expenses may provide a fiscal stimulus, which may lead to higher General Fund sales and income tax collections. *(See Effects on Wages and Spending section for more information.)*
- If the higher tax rates shift income outside of the state or reduce business investment, existing General Fund income tax collections may be reduced (along with generating less revenue for the SSSF).

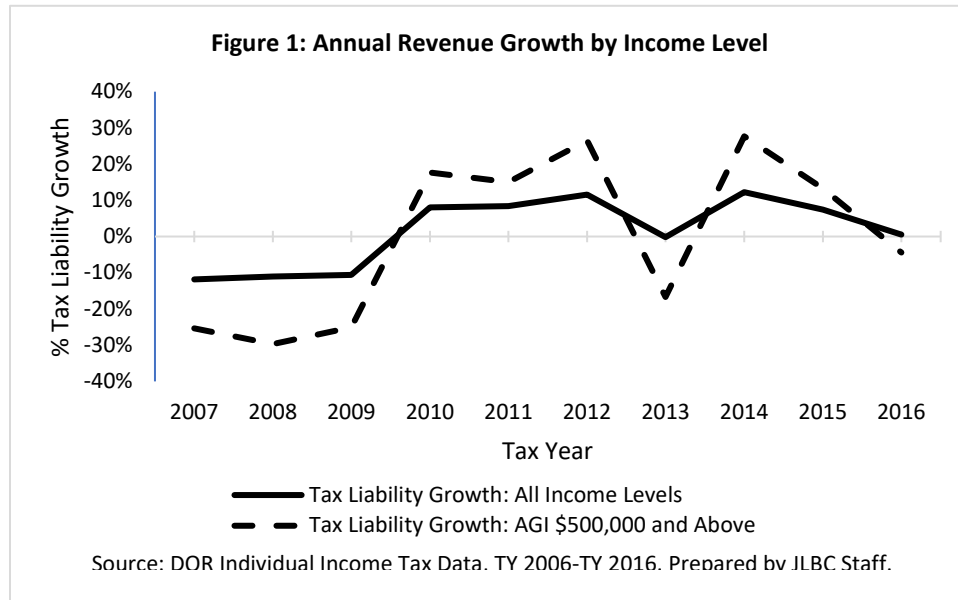
Distributional Impacts and Economic Conditions

Table 2, below, shows the distributional impacts of the proposition by adjusted gross income (AGI). This analysis is based on the DOR model and does not factor in any of the elements of uncertainty discussed above. Of the total revenue generated, an estimated 93.8% would come from Arizona residents, while the remaining 6.2% would come from non-resident filers. The DOR model does not provide information on the number of non-resident filers. Due to the limitations of the model, DOR is unable to estimate the distributional impact by taxable income tax bracket. Taxable income is generally lower than adjusted gross income, because it factors in various deductions and adjustments. Filers' tax rates are determined by their taxable income, and not by adjusted gross income.

Table 2				
Distributional Impacts of Proposal				
Tax Filer Adjusted Gross Income ^{1/ 2/}	Projected # of Returns	Average Increase	Total Increase	% of Total Impact
Under \$200,000	2,854,671	\$0	\$0	0.0%
\$200,000-\$499,999 ^{3/}	111,963	\$120	\$14,000,000	1.7%
\$500,000-\$999,999	17,425	\$5,549	\$97,000,000	11.7%
\$1,000,000-\$4,999,999	8,127	\$40,287	\$327,000,000	39.5%
\$5,000,000 and above	956	\$353,448	\$338,000,000	40.9%
Non-Resident Filers ^{4/}			\$51,000,000	6.2%
Total			\$827,000,000	100%
^{1/} The DOR tax return model displays impact by income in terms of AGI rather than taxable income. Taxable income is typically lower than AGI. ^{2/} Does not differentiate between single, married, and other filing statuses. ^{3/} The DOR tax return model does not provide a breakout of tax filers with AGI between \$250,001 and \$499,999. ^{4/} The DOR tax return model does not report a number of non-resident filers.				

Revenues from high-income taxpayers tend to be more volatile year-to-year than individual income taxes in general. Because the revenue generated by the proposition would come from high-income taxpayers, SSSF collections could fluctuate from year to year. For example, in TY 2008, total individual income tax liability decreased by (11)%, while the decrease for taxpayers with AGI above \$500,000 was nearly (30)%. Conversely, in TY 2014, total individual income tax liability growth was 12%, while liability growth for taxpayers with AGI above \$500,000 was 28%. *Figure 1* illustrates tax liability growth over 10 years until TY 2016, the last year of DOR data available.

(Continued)



Potential Economic Impacts

The actual fiscal impact will depend on several potential economic factors which could result from the proposition. Some of these potential factors include taxpayer migration, business behavior, and effects on wages and spending.

Taxpayer Migration

The proposition would make Arizona's top income tax rate the ninth highest nationally (out of the 50 states and the District of Columbia). As a result, some high-income taxpayers may choose to shift their income or relocate to other states with lower rates. This could have 2 impacts:

- 1) The new surcharge on high-income taxpayers may not generate as much as expected for deposit into the SSSF.
- 2) General Fund revenue collections may be affected. For example, revenue raised on any income below the newly-created tax brackets would continue to be deposited into the General Fund. If a taxpayer leaves, the General Fund would lose this revenue. In addition, out-migration of taxpayers may reduce General Fund sales tax collections.

The magnitude of the taxpayer migration impact is difficult to determine. Academic studies on this topic have led researchers to varying conclusions.

One academic study by [Varner and Young](#) (2016) estimated that a 10% increase in the top combined state and federal income tax rate corresponds to a 1% decrease in the millionaire population. We are seeking clarification from the authors on applying these results to the proposition.

The same authors produced a [separate study](#) in 2011, which found minimal migration impacts as a result of New Jersey increasing its top marginal rate to 8.97% in 2004 (an increase of 2.6 percentage points). However, another study of the 2004 New Jersey tax increase produced by the [New Jersey Office of Revenue and Economic Analysis](#) concluded that by 2009, the tax increase had resulted in a reduction of 20,000 taxpayers associated with a revenue loss of \$125 million.

Estimates from these studies cannot be applied to Arizona's specific economic and policy environment with any degree of certainty. Furthermore, these studies were produced prior to 2018 federal tax law changes, which, among other provisions, capped the deductibility of state and local taxes to \$10,000. Because of this change,

(Continued)

taxpayers may have a greater sensitivity to state tax rate changes, as they are no longer able to deduct the full amount of their state tax liability from their federal taxable income. These changes further complicate the projection of future taxpayer behavior.

While the proposed tax rate increases could induce some number of high-income taxpayers to leave the state, there could also be positive migration effects. For example, increases to teacher pay could draw additional teachers to the state.

Business Behavior

Some business income is taxed at the individual, rather than corporate, tax rate nationally. These businesses, such as S Corporations, Limited Liability Companies, Sole Proprietorships, and Partnerships are often referred to as "pass-through" businesses, since their owners pass through their business income to be taxed at the individual level. Some of the taxpayers impacted by the proposition will derive at least a portion of their income through their business.

To the extent that the new tax rates are levied on pass-through business profits, they will reduce the after-tax return on investment for these business owners. This could potentially reduce the incentive to re-invest profits. Reduced business investment may impact Arizona's economy, and as a result may reduce overall state and local tax collections to some degree. The magnitude of this impact is difficult to determine.

Following the establishment of the surcharge, Arizona's top individual income tax rate would effectively be 8.0%, compared to the 4.9% corporate income tax rate. The disparity between these rates may be an incentive for some businesses to incorporate as corporations and instead pay the corporate income tax rate. If this shift were to occur, the proposition would generate less revenue than the DOR model run projection. While a tax advantage will exist for certain businesses, there may be other, non-financial reasons why businesses may not alter their business structure. For example, corporations face reporting and regulatory requirements that do not apply to other types of businesses. Additionally, businesses may already be more likely to alter their business structure based on federal, rather than state, tax laws. For example, the federal corporate tax rate is 21%, compared to the top federal marginal individual income tax rate of 37%.

Effects on Wages and Spending

The tax increase initiated under the proposition would directly lead to increased government spending on education, including teacher and staff salaries. To the extent that schools spend these funds on salaries and local products, this spending will create a direct economic impact. Salary increases would lead to increased individual income tax collections, while spending on goods and services would generate additional state and local sales tax revenues. However, this effect would be partially offset by reduced spending on goods and services by high-income household's subject to the new tax rates, as these households would have reduced after-tax income.

Distribution of Revenues

Table 3 displays the distribution of revenues, based on the DOR estimate of \$827 million.

(Continued)

Table 3**Distribution of Revenues****Revenues**

3.5% surcharge on income over \$250,000 (single/mfs) or \$500,000 (mfj/hh)	<u>\$827,000,000</u>
Student Support and Safety Fund Total	\$827,000,000

Distributions**Administrative Costs:** ^{1/}

Treasurer	
Arizona Department of Education	\$ 0
Auditor General	38,880
Department of Revenue	
State Board of Education	<u>0</u>
Administrative Costs Total	\$38,880

85% to School Districts/Charter Schools:

50% for hiring and raises for teachers and classroom support personnel	\$413,480,560
25% for hiring and raises for student support services personnel	206,740,280
10% for new teacher retention programs	<u>82,696,112</u>
School Districts/Charter Schools Total	\$702,916,952

12% to Career Training and Workforce Fund:Administrative Costs: ^{1/}

Treasurer	
Arizona Department of Education	\$ 530,000
Career Training and Workforce Program	<u>98,705,334</u>
Career Training and Workforce Fund Total	\$99,235,334

3% to Arizona Teachers Academy**\$24,808,834**

^{1/} Administrative costs are agency estimates. Blanks indicate that the agency did not provide an estimate.

7/22/20