

ARIZONA DEPARTMENT OF REVENUE

2001 LEGISLATIVE SUMMARY

The 2001 Legislative Summary provides a brief summary of the tax-related bills that were enacted by the Legislature and approved by the Governor. The Department of Revenue, for reference use and discussion purposes only, has prepared these summaries. They do not contain full information on each bill. The reader should obtain a complete copy of any bill for which full information is required from the Secretary of State's Office.

The general effective date is August 9, 2001.

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INCOME TAX

HB 2015 (internal revenue code conformity) – Chapter 296

HB 2015 updates the definition of the United States Internal Revenue Code (IRC) for the tax year 2001 to the IRC definition in effect on January 1, 2001 for Arizona tax purposes.

The bill is effective on the general effective date.

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HB 2016 (NOW: equity tax act; archaic laws) – Chapter 382

HB 2016 repeals certain sections of the criminal code relating to (1) open and notorious cohabitation – A.R.S. § 13-1409, (2) the infamous crime against nature – A.R.S. § 13-1411, and (3) lewd or lascivious acts – A.R.S. § 13-1412. The bill amends other sections to delete references to the repealed sections.

The bill amends A.R.S. § 43-1001 to exclude the provisions of Internal Revenue Code § 152(b)(5) from the

definition of "dependent".

The amendment to A.R.S. § 43-1001 is effective retroactively to taxable years beginning from and after December 31, 2000. The remainder of the bill is effective on the general effective date.

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HB 2527 (enterprise zone program; extension; enhancements) – Chapter 370

HB 2527 extends the repeal of enterprise zone program from July 1, 2001 to July 1, 2006 and makes several modifications to the program. Among the changes to the enterprise zone program are:

- Stipulates the limitations for zone formation as set forth in statute do not prevent the department from renewing existing Enterprise Zones, or those certified in the first year under federal census poverty data.
- Permits businesses with no more than 10% of their retail activity at the location, measured by the number of employees assigned to retail, in the Enterprise Zone to be eligible for the program.
- Requires documents submitted to the Department of Revenue and Department of Commerce concerning the tax incentives contain either a sworn statement or certification. If the document contains materially false information, the taxpayer is ineligible for the tax incentives and subject to recovery of funds for prior years.
- Maintains the \$2 million investment requirement of those businesses located in Maricopa and Pima counties
- In the other counties, and that have no portion of the corporate boundaries located within twenty-five air miles for the exterior boundary of the largest city in the county, tiers the minimum investment requirements for small manufacturers in rural areas:
 - \$2 million for communities with a population of 80,000 or more persons.
 - \$1 million for communities with a population of 10,000, but less than 80,000 persons.
 - \$500,000 for communities with a population of less than 10,000 persons.
- Requires DOR to submit an annual report on or before September 30 of each year. The report is to contain enterprise zone valuations, fiscal impact on each taxing jurisdiction of the enterprise zone and the total amount of tax credits allowed.

The amendments to A.R.S. §§ 20-224.03, 43-1074 and 43-1161 are effective retroactively to taxable years beginning from and after December 31, 2000, the extension of the repeal of the program is effective retroactively to July 1, 2001 and the remaining sections are effective on the general effective date.

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HB 2637 (conditional appropriations; taxation; revenue forecasts.) – Chapter 235

HB 2637 conditionally appropriates monies from the state general fund in FY 2001-2002 and FY 2002-2003 to a number of programs and to tax cuts based on revenues exceeding current revenue forecasts.

After a \$50 million ending balance is secured, then the conditional appropriations organized into three "priority tiers" are enacted by "trigger mechanisms" when revenues exceed the thresholds specified in the bill.

The bill contains an appropriation to the Department of Revenue in the first triggered priority tier. The department is appropriated \$1,685,000 in FY 2001-2001 and \$1,000,000 in FY 2002-2003 for the transaction privilege tax database. DOR is required to bill local jurisdictions for an additional \$2,685,000 to provide 50% of reworking the sales tax database. The billing is to be in proportion to a local jurisdiction's share of total state of Arizona's population. Before the expenditure of the state general fund appropriation, the department must submit an expenditure plan to the Joint Legislative Budget Committee for review. The plan shall include a description of how this particular project interacts with the department's overall compute replacement plan.

Tax reduction provisions are contained in each of the three priority tiers. The first priority tier provides for a reduction in the lowest individual income tax rate for taxable years beginning from and after December 31, 2001. The second priority tier also provides for an additional reduction in the lowest individual income tax rate for taxable years beginning from and after December 31, 2001.

The first and second priority tiers contain a provision to reduce the lowest individual income tax rate. The first priority tier will reduce the rate from 2.87% to 2.84%. The second priority tier will continue this reduction by further reducing the lowest rate to 2.81%. The lowest rate applies to the first \$10,000 of income for single filers and the first \$20,000 of income for married filing joint filers. The rate reductions are for taxable years beginning from and after December 31, 2001. Each rate reduction results in approximately \$6,570,000, .6 million of taxpayer savings, for a total of \$13,140,000.

The third priority tier combines two corporate income tax reductions. If this trigger is met, then the corporate rate will be reduced from the current rate of 6.968% to 6.8%. This equals a tax savings of approximately \$10 - \$12 million. In addition, the corporate apportionment formula will be changed to allow multi-state corporations the option to use an alternative formula. The current apportionment formula applies a double-weighted sales factor meaning that sales account for 50% of the formula and property and payroll factors are each 25% of the apportionment formula.

The alternative option will allow multi-state corporations to choose a more heavily weighted sales factor of 65% and property and payroll factors will each be 17.5%. This results in a tax savings of approximately \$19 - \$22 million.

In addition, the bill increases the standard deduction allowed on individual income tax forms. This tax reduction is not triggered. The standard deduction for single/married filing separate is increased from \$3,600 to \$4,050. The standard deduction for married filing joint/head of household is increased from \$7,200 to \$8,100. This increase in the standard deduction is effective retroactively to taxable years beginning from and after December 31, 2000, and will result in a savings of approximately \$14.9 million per year.

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SB 1132 (estimated income tax; payment; penalties) – Chapter 30

SB 1132 amends A.R.S. § 43-581 with respect to when estimated payments are required for individual taxpayers.

- Single taxpayers, heads of household, and married taxpayers filing separate returns will be required to make estimated payments if their Arizona gross income exceeds \$75,000 in the current year and was greater than \$75,000 in the preceding taxable year. (Currently, these taxpayers are required to make estimated payments if their Arizona gross income in the current year can reasonably be expected to exceed \$75,000 or was greater than \$75,000 in the preceding year.)
- Married taxpayers filing a joint return will be required to make estimated payments if their Arizona gross income exceeds \$150,000 in the current year and was greater than \$150,000 in the preceding taxable year. (Currently, married taxpayers filing a joint return must separately determine their Arizona gross income to determine whether an estimated payment is required. An estimated payment is required if either spouse's Arizona gross income in the current year can reasonably be expected to exceed \$75,000 or was greater than \$75,000 in the preceding year.)

The bill changes the current year income required from "reasonably expected to exceed" the threshold amount to "exceeds" the threshold amount.

The bill provides an exception for estimated payments if the taxpayer's Arizona income tax liability due on the taxpayer's return is less than \$1,000.

The act is effective for taxable years beginning from and after December 31, 2001.

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SB 1136 (tax administration; federal conformity) – Chapter 163

SB 1136 makes changes to various Department of Revenue (DOR) administrative practices.

- Clarifies that the Arizona statute of limitation extension applies to those items in a state audit that were also identified in a federal audit.
- Allows a principal corporate officer to execute written authorization for the receipt of confidential information for a controlled subsidiary.
- Expands who may receive confidential tax information between DOR and corporations. In addition to the corporate principal officer, any authorized person may receive the information; if they are designated by the principal officer on the Corporate Board of Directors (or similar body).
- Gives the DOR the discretion to grant appropriate relief for a determinate number of years to a taxpayer with corporate apportionment issues that determine the corporations multi-state activities in Arizona.
- Clarifies that taxpayers have the choice to file a copy of the final determination of their federal audit or an amended tax return with DOR.
- If the taxpayer disagrees with the final determination they can request DOR to recalculate the state tax liability and the recalculations will not be considered a state audit. DOR can ask for an amended

return from the taxpayer if they do not have enough information to recalculate the taxpayer liability.

The amendments to A.R.S. § 42-1104 are effective and apply to taxable years beginning from and after December 31, 2001, and the remaining sections are effective on the general effective date.

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SB 1187 (uniform principal and income act.) – Chapter 175

SB 1187 repeals Arizona's Revised Uniform Principal and Income Act and replaces it with a new Revised Uniform Principal and Income Act. The replacement version is the Uniform Principal and Income Act most recently adopted by the National Conference of Commissioners on Uniform State Laws.

The act is effective from and after December 31, 2001.

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TRANSACTION PRIVILEGE TAX

HB 2391 (NOW: tax exemption; nonprofits; cultural; civic) – Chapter 314

HB 2391 contains the following provisions:

- Exempts, from the retail classification of the transaction privilege tax (TPT) and use tax, sales of tangible personal property by a nonprofit organization that is exempt from taxation under the 501(c)(6) of the IRC, if (1) the organization produces, organizes or promotes cultural or civic related festivals or events, and (2) the organization's net earnings in no part benefit any private shareholder or individual.
- Exempts, from the amusement classification of TPT, activities and events of, or fees received by a nonprofit organization that is exempt from taxation under the 501(c)(6) of the IRC, if (1) the organization produces, organizes or promotes cultural or civic related festivals or events, and the organization's net earnings in no part benefit any private shareholder or individual.
- Requires any refund claims to be submitted to DOR on or before December 31, 2001 and specifies that failure to claim a refund on a timely basis constitutes a waiver of the claim for refund.
- Specifies that the burden of proof is on the taxpayer to establish the amount of tax paid for all taxable periods that qualify for a refund amount.
- Requires DOR to review all timely filed claims, determine the accuracy of the claimable refund amount and notify the taxpayer of DOR's final determination.

- Specifies that DOR must not issue any refunds until after a final determination has been made as to the total amount of all refund claims filed by 501(c)(6) exempt nonprofit organizations.
- Limits the total amount of all refunds claimed to \$10,000. If refund claims exceed \$10,000, DOR must reduce each claim proportionately so that the total amount of claims does not exceed the \$10,000 limit.
- Specifies that no interest will be paid on the refund amounts unless DOR issues the refund after June 30, 2002.
- Specifies that section of the bill dealing with retroactivity and refunds is nonseverable.
- Applies changes retroactively from and after December 31, 1982.

The bill is effective on the general effective date.

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HB 2542 (mobile telecommunications; taxation procedures) – Chapter 202

HB 2542 conforms state laws to accommodate the Mobile Telecommunications Sourcing Act (P.L. 106-252; 114 stat. 626; 4 United States Code sections 116 through 126) signed into federal law on July 28, 2000. Although the Act is currently law, it contains a delayed effective date for the purpose of consumer billing of August 2002. The Act changes the way state and local sales taxes and use taxes are imposed on wireless telecommunication companies.

HB 2542 requires the Arizona Corporation Commission to comply with the Mobile Telecommunications Sourcing Act when imposing any assessments or other charges on mobile telecommunications service providers.

The bill specifies that the Department of Revenue and any city or town must abide by the Act for any taxes levied and collected related to mobile telecommunications services.

The bill specifies consumer procedures for customers who believe they were overcharged for taxes relating to wireless service by a home service provider and how home service providers must respond to these disputes. Home service providers have 60 days to review a customer's records and any electronic data base or enhanced zip code that is used under the Telecommunications Sourcing Act.

HB 2542 provides definitions for (1) customer, (2) home service provider, (3) mobile telecommunications services, and (4) place of primary use.

The bill is effective on the general effective date.

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HB 2625 (emergency 911 services; revenue) – Chapter 373

House Bill 2625 provides an increase in the telecommunications service excise tax in order to update equipment used for the emergency telecommunication services.

The bill removes the one and one-fourth percent tax levy on the gross proceeds of sales or the gross income derived from the business of providing exchange access services to finance emergency telecommunication services. It also removes the ten-cent wireless tax levy imposed on providers for each activated wireless service.

HB 2625 then sets a tiered tax levy for activated wire and wireless service to finance emergency telecommunication services as follows:

- For fiscal years FY 2001-2002 through FY 2005-2006, a tax levy of 37 cents per month;
- For fiscal year FY 2006-2007, a tax levy of 28 cents per month;
- For fiscal years beginning FY 2007-2008, a tax levy of 20 cents per month.

The bill further requires each access service provider to state on the invoice to customers a separate line item specifying the amount of the tax levied that will fund emergency telecommunication.

The director of DOA is required in FY 2001-2002 and every two years thereafter to recommend the amount of the telecommunication services excise tax, rather than on an annual basis. The director is to separately account for costs associated with wireless access service for emergency telecommunication service systems and report the costs to the President and Speaker by December 31, 2002.

The use of monies in the Emergency Telecommunication Services Revolving Fund have been modified as follows:

- Priority is given to establishing emergency telecommunication services in those areas of the state without the service
- Beginning with FY 2001-2002, DOA may use up to two-thirds of the three percent allocated in the fund for administrative costs. The remaining amount may be allocated for local network management of contracts with public safety answering points for emergency telecommunication services.
- Monies in the fund may be used for a wireless carrier's costs associated with the provision, development, design, construction and maintenance of the wireless emergency telecommunication services in the amount that the wireless carrier has not recovered through the deduction mechanism specified in federal law.

HB 2625 establishes a Study Committee on Arizona's 911 System. The committee is comprised of 12 legislators and is required to submit a report of its findings and recommendations on or before December 1, 2001 to the Governor, Speaker and President.

The bill contains a Proposition 108 clause and was effective immediately on the governor's signature on May 7, 2001.

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HB 2635 (omnibus budget reconciliation; health.) – Chapter 234

Section 5 of the bill maintains the telecommunications devices for the deaf (TDD) tax levy at 1.1 percent for FY 2001-2002 and FY 2002-2003. It continues to deposit 0.8 percent into the telecommunications fund for the deaf and 0.3 percent into the poison control fund administered by DHS, subject to legislative appropriation. [The rate and allocation for FY 1999-2000 and FY 2000-2001 is found in Laws 1999, Chapter 176, section 8.]

The bill is effective on the general effective date.

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SB 1041 (NOW: military reuse zones; renewal exemption) – Chapter 359

SB 1041 extends the transaction privilege tax deduction for contractors working in military reuse zones that have been renewed. The military reuse zone exemption expires five years after the zone is initially established, except that the governor has the authority to renew a military reuse zone for one additional five-year period, and thereafter, the legislature and governor by joint resolution were given authority to renew for additional five-year terms.

The bill is effective on the general effective date.

The current military reuse zone at Williams was established on August 2, 1996 and expires August 2, 2001; the Governor's Office indicated she would "probably" extend the Zone's certification.

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SB 1130 (sales tax; transient lodging exemptions) – Chapter 137

SB 1133 exempts, from the retail classification of TPT and use tax, food, drink (except alcoholic beverages), or condiment served free of charge at hotels and other temporary lodgings.

The bill applies the changes retroactively to taxable periods beginning from and after June 7, 1994.

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SB 1259 (NOW: health care facility tax) – Chapter 211

SB 1259 expands the definitions under the TPT statute to allow a non-profit health care facility under construction to qualify for a TPT exemption.

A.R.S. § 42-5001(9) is amended to provide that "qualifying community health center" includes clinics that are being constructed as qualifying community health centers.

A.R.S. § 42-5001(10) is amended to provide that monies that are used, saved or invested to lease, purchase or construct a facility for health and medical related education and charitable services are included in the eighty percent test for qualifying health care organizations.

A.R.S. § 42-5001(11) is amended to provide that the phrase "qualifying hospital" includes a facility that is under construction and that on completion will be one of the enumerated hospitals, institutions or facilities that qualify for exemption.

A.R.S. § 42-5009 is amended by adding a new subsection G that provides that if a seller claims a deduction for a sale to a qualifying health care organization and establishes entitlement to the deduction with an exemption letter that the purchaser received from the department, and the exemption letter was based on a contingent event, the department may require the purchaser that received the exemption letter to establish the satisfaction of the contingent event within a reasonable time. If the purchaser cannot establish the satisfaction of the contingent event, the purchaser is liable in an amount equal to any tax, penalty and interest that the seller would have been required to pay if the seller had not been furnished the exemption letter.

The bill is effective on the general effective date.

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SB 1400 (sales tax; Arizona Highways) – Chapter 36

SB 1400 exempts, from the personal property rental classification of transaction privilege tax (TPT), leasing or renting photographs, transparencies or other creative works used by this state on internet web sites, in magazines or in other publications that encourage tourism.

The bill is effective on the general effective date.

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OTHER TAX

HB 2061 (victim compensation; unclaimed property) – Chapter 146

HB 2061 directs the Department of Revenue to deposit unclaimed victim restitution funds into the Victim Compensation and Assistance Fund. The fund is established for the purpose of establishing, maintaining and supporting programs that compensate and assist victims of crime. The Arizona Criminal Justice Commission administers the fund.

The bill has a retroactive effective date of January 1, 2001.

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HB 2275 (superior court clerk; removing receivables.) – Chapter 5

HB 2275 allows the clerk of the superior court to remove debts from the clerk's accounting system if outlined requirements are fulfilled. One of the requirements is to notify the department of revenue of the debt pursuant to A.R.S. § 42-1122.

The bill is effective on the general effective date.

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SB 1068 (luxury tax; revenue stamps; cigarettes) – Chapter 254

SB 1068 allows enforcement by a third party for the improper use of tax stamps on "gray market cigarette" packages by others. Among other items the bill requires cigarette distributors who affix tax stamps, to file a form on or before the twentieth of each month with the Department of Revenue containing specific information for all cigarettes that are imported during the prior month upon which a tax stamp has been affixed.

The bill is effective on the general effective date.

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SB 1371 (diesel program; application priority; correction) – Chapter 179 E

SB 1371 places a permanent moratorium on the issuance of grants for the alternative fuel vehicle (AFV) program for the purchase or conversion of AFVs and AFV fuel delivery systems. Also, the method used to calculate mandated alternative fuel use is changed as well as the definition of "new" (vehicle).

Laws 2000, Chapter 1, 6th Special Session placed a one-year suspension on grants for AFVs and AFV delivery systems. Laws 2000, Chapter 1, 7th Special Session made numerous changes to the AFV program.

Among the bill's provisions are:

- The one-year moratorium of the 6th Special Session legislation becomes permanent. No grants or affidavits are allowed for a person who enters into a contract or signs a purchase order for the

purchase, conversion or retrofitting of an AFV on or after 10/20/00. (Fifty percent of the money deposited in the Arizona Clean Air Fund for FY 2000-2001 would be used to provide grants for AFVs; current law is through FY 2009-2010.) [A.R.S. § 41-1516(D) and (O)]

- The provision of prorating liquefied petroleum gas (LPG) or compressed natural gas (CNG) use by using a 1/12 multiplier during the initial taxable year to meet fuel use requirements is replaced with a calculation based on the number of months from the initial registration. (The tax code changes are effective beginning the 2000 tax year.)
- The definition of a "new" vehicle is broadened to include [A.R.S. §43-1086 (P)(9)]:
 - A manufactured AFV. (Conversion is in existing law.)
 - A vehicle that is converted after the vehicle is registered and titled, if, at the time the applicant contracted to purchase the vehicle, they ordered the conversion.
- The conversion/replacement of diesel vehicles over 19,500 lbs. gross vehicle weight (GVW) would be eligible for grants until October 1, 2001, provided the applicant had a contract or purchase order prior to October 20, 2000. Applicants will be processed in order of the contract or purchase order date. If the situation arises in which there are multiple applicants with the same date and the remaining grant money is insufficient to provide grants to all applicants, a random selection method as prescribed in rules would determine grant recipients. [A.R.S. § 41-1516 (Q)]

A.R.S. §§ 43-1086 and 43-1174 as amended apply retroactively to taxable years beginning from and after December 31, 1999. A.R.S. § 41-1516 is effective immediately. The bill contains an emergency clause and was effective immediately.

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HB 2019 (department of revenue; confidentiality) – Chapter 261

HB 2019 enables state to participate in the Federal Refund Offset Program. The bill permits the Financial Management Service of the U.S. Treasury Department to receive confidential information for the program. The bill appropriates \$146,250 in each of FY 2001-02 and FY 2002-03 to DOR to administer the program.

HB 2019 allows DOR to disclose aggregate amounts of any tax credits, deductions or exemptions enacted after January 1, 1994. Information shall not be disclosed when a taxpayer demonstrates to DOR that the information would give an unfair advantage to competitors.

The bill also broadens who is authorized to receive confidential taxpayer information to include a principal corporate officer of a parent corporation for a controlled subsidiary and any person designated by a principal officer, the board of directors or other governing body.

The bill is effective on the general effective date.

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HB 2038 (reviser's technical corrections; 2001) – Chapter 324

HB 2038 corrects defective and conflicting statutory text. Among the corrections was fixing the dual enactments of A.R.S. §§ 42-5074, 42-5075, 42-6003 and 42-19116.

The corrections to A.R.S. § 42-6003 are effective retroactively to July 18, 2000. The corrections to A.R.S. § 42-19116 are effective retroactively to from and after December 31, 2000. The corrections to A.R.S. §§ 42-5074 and 42-5075 are effective on the general effective date.

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HB 2145 (tax corrections act of 2001) – Chapter 115

HB 2145 is the annual tax corrections bill that makes technical, conforming and clarification changes to the tax statutes.

The bill is effective on the general effective date. Several sections have retroactive effective dates.

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HB 2313 (tax forms; electronic filing) – Chapter 191

HB 2313 establishes provisions relating to the Department of Revenue's electronic tax return filing program. The bill provides administrative provisions regarding electronic preparation and filing, alternative signatures, as well as the penalties for violations of the department's electronic filing program.

Among the bills provisions are the following:

- Authorizes the DOR director to apply to the Tax Court to enjoin any return preparer from engaging in business if the preparer meets certain provisions. Authorizes the Tax Court, with an application from the DOR director and after a hearing, to enjoin the preparer from engaging in business as a return preparer. DOR is authorized to impose civil penalties against return preparers.
- Allows the department to suspend an electronic return preparer from participation in the electronic filing program if the preparer has failed to comply with any of the department's electronic filing program requirements.
- Prescribes the length of time a return preparer or an electronic return preparer must keep returns.
- Allows the DOR director, by tax ruling, to waive the signature requirement for a particular type or class of return while the department is adopting a rule prescribing alternative methods for signing, subscribing or verifying a return, statement or other document.

The bill is effective on the general effective date.

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HB 2337 (state credit card use; definitions) – Chapter 354

HB 2337 prescribes definitions relating to state agencies and outlines the credit card transaction fees eligible to be charged by the state. Among the new definitions are definitions for "authorized agent", "cardholder", "convenience fee", "credit card" and "discount fee".

Except for DOR for tax payments, agencies or authorized agents that accept credit cards shall deduct any applicable discount fee associated with the transaction amount before depositing the net amount in the appropriate state fund.

Any state agency that contracts with an authorized agent for electronic processing of transactions may include a provision in the contract to allow the authorized agent to impose a convenience fee, except for a business permit or license, and a motor vehicle registration or license.

When the percentage of electronic transactions first exceeds 30% of a state agency's transactions, the agency must perform a cost benefit report and submit the report to the Joint Legislative Budget Committee within six months.

The bill is effective on the general effective date.

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HB 2631 (general appropriations.) – Chapter 236 LIVS

HB 2631 contains appropriations for FY 2001-02 and FY 2002-03 for the operation and maintenance of state government.

In addition to appropriations to state agencies, the bill contains a pay raise for state employees in each of the next two fiscal years. The salary of each employee is to be increased by the greater of \$1,500 or five per cent, effective April 1, 2002. The salary of each employee is to be increased by the greater of \$1,500 or five per cent, effective April 1, 2003.

DOR received a total appropriation of \$63,192,300 for FY 2001-02 (1,108 FTE) and \$62,028,600 for FY 2002-03 (1,096 FTE)

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