## COMMITTEE ON FINANCE SENATE AMENDMENTS TO S.B. 1399 (Reference to printed bill)

- Page 1, line 14, strike ", residential rental" insert ", residential rental"
- 2 Page 2, strike lines 3, 4 and 5, insert:
- 3 "1. RECORD A MEMORANDUM OF LEASE IN THE OFFICE OF THE COUNTY RECORDER 4 IN THE COUNTY IN WHICH THE GOVERNMENT PROPERTY IMPROVEMENT IS LOCATED. THE 5 MEMORANDUM OF LEASE MUST INCLUDE THE BASIC LEASE TERMS. INCLUDING THE NAMES 6 OF THE PARTIES, THE LEASED PROPERTY, THE LEASE TERM, INCLUDING THE BEGINNING 7 AND ENDING DATES. THE TYPES AND USAGE OF THE STRUCTURES INCLUDED IN THE IMPROVEMENT, THE TOTAL GROSS BUILDING SPACE OF THE IMPROVEMENTS, THE 8 9 APPLICABLE TAX RATES PRESCRIBED BY SECTION 42-6203, THE ESTIMATED ANNUAL TAX 10 PAYMENTS THE LESSEE IS REQUIRED TO PAY OVER THE TERM OF THE LEASE AND ANY OPTIONS TO RENEW THE LEASE OR TO PURCHASE ANY OF THE GOVERNMENT PROPERTY 11 12 IMPROVEMENT OR GOVERNMENT OWNED LAND."
- 13 Line 8, after "BY" insert "CITY AND"
- 14 Strike lines 15 through 44
- 15 Strike pages 3 and 4

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- 16 Page 5, strike lines 1 through 5, insert:
- "Sec. 3. Section 42-6203, Arizona Revised Statutes, is amended to read:
- 19 42-6203. Rates of tax
  - A. Except as otherwise provided in this section, IF THE CURRENT LEASE OF THE GOVERNMENT PROPERTY IMPROVEMENT, BETWEEN THE CURRENT PRIME LESSEE AND THE CURRENT GOVERNMENT LESSOR, WAS ENTERED INTO ON OR BEFORE SEPTEMBER 30, 2009:
    - 1. The tax authorized by this article  $\frac{\text{shall be}}{\text{shall be}}$  IS levied and SHALL BE collected at the following rates:
  - 1. (a) One dollar per square foot of gross building space for office buildings with one floor above ground.

- $\frac{2}{2}$ . (b) One dollar twenty-five cents per square foot of gross building space for office buildings with more than one but fewer than eight floors above ground.
- 3. (c) One dollar seventy-five cents per square foot of gross building space for office buildings with eight floors or more above ground.
- 4. (d) One dollar fifty cents per square foot of retail building space, including space that is devoted to the sale of tangible personal property, restaurants, health clubs, hair salons, dry cleaners, travel agencies and other retail services.
- 5. (e) One dollar fifty cents per square foot of hotel or motel building space.
- 6. (f) Seventy-five cents per square foot of warehouse or industrial building space.
- $\frac{7}{2}$  (g) Fifty cents per square foot of residential rental building space.
- 8. (h) One hundred dollars per parking space located in a parking garage or deck.
- 9. (i) One dollar per square foot of all other government property improvements not included in paragraphs 1 through 8 SUBDIVISIONS (a) THROUGH (h) of this subsection PARAGRAPH.
- B. 2. The tax rate for government property improvements for which the original certificate of occupancy was issued:
- $\frac{1}{1}$ . (a) At least ten years but less than twenty years before the date the tax is due is eighty per cent of the rate provided in  $\frac{\text{Subsection A}}{\text{PARAGRAPH 1}}$  of this  $\frac{\text{Section}}{\text{SUBSECTION}}$ .
- $\frac{2}{4}$ . (b) At least twenty years but less than thirty years before the date the tax is due is sixty per cent of the rate provided in  $\frac{\text{Subsection A}}{\text{PARAGRAPH 1}}$  of this  $\frac{\text{Section}}{\text{SUBSECTION}}$ .
- 3. (c) At least thirty but less than forty years before the date the tax is due is forty per cent of the rate provided in subsection A PARAGRAPH 1 of this section SUBSECTION.

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- 4. (d) At least forty but less than fifty years before the date the tax is due is twenty per cent of the rate provided in subsection A PARAGRAPH

  1 of this section SUBSECTION.
  - 5. (e) Fifty or more years before the date the tax is due is zero.
  - C. 3. If no certificate of occupancy can be located, dated aerial photographs or other evidence of substantial completion may be used to determine the age of the building for purposes of subsection B PARAGRAPH 2 of this section SUBSECTION.
  - B. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, IF THE CURRENT LEASE OF THE GOVERNMENT PROPERTY IMPROVEMENT, BETWEEN THE CURRENT PRIME LESSEE AND THE CURRENT GOVERNMENT LESSOR, WAS ENTERED INTO FROM AND AFTER SEPTEMBER 30, 2009:
  - 1. THE TAX AUTHORIZED BY THIS ARTICLE SHALL BE LEVIED AND COLLECTED AT THE FOLLOWING BASE RATES WHICH APPLY THROUGH DECEMBER 31, 2010, SUBJECT TO ANNUAL ADJUSTMENT PURSUANT TO PARAGRAPH 2 OF THIS SUBSECTION:
  - (a) THREE DOLLARS FIFTY CENTS PER SQUARE FOOT OF GROSS BUILDING SPACE FOR OFFICE BUILDINGS WITH ONE FLOOR ABOVE GROUND.
  - (b) FOUR DOLLARS PER SQUARE FOOT OF GROSS BUILDING SPACE FOR OFFICE BUILDINGS WITH MORE THAN ONE BUT FEWER THAN EIGHT FLOORS ABOVE GROUND.
  - (c) FOUR DOLLARS TWENTY-FIVE CENTS PER SQUARE FOOT OF GROSS BUILDING SPACE FOR OFFICE BUILDINGS WITH EIGHT FLOORS OR MORE ABOVE GROUND.
  - (d) THREE DOLLARS FIFTY CENTS PER SQUARE FOOT OF RETAIL BUILDING SPACE, INCLUDING SPACE THAT IS DEVOTED TO THE SALE OF TANGIBLE PERSONAL PROPERTY, RESTAURANTS, HEALTH CLUBS, HAIR SALONS, DRY CLEANERS, TRAVEL AGENCIES AND OTHER RETAIL SERVICES.
  - (e) TWO DOLLARS FIFTY CENTS PER SQUARE FOOT OF HOTEL OR MOTEL BUILDING SPACE.
  - (f) ONE DOLLAR SEVENTY-FIVE CENTS PER SQUARE FOOT OF WAREHOUSE OR INDUSTRIAL BUILDING SPACE.
  - (g) SEVENTY-FIVE CENTS PER SQUARE FOOT OF RESIDENTIAL RENTAL BUILDING SPACE.
  - (h) TWO DOLLARS FIFTY CENTS PER SQUARE FOOT OF A PARKING GARAGE OR DECK.

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- (i) THREE DOLLARS FIFTY CENTS PER SQUARE FOOT OF ALL OTHER GOVERNMENT PROPERTY IMPROVEMENTS NOT INCLUDED IN SUBDIVISIONS (a) THROUGH (h) OF THIS PARAGRAPH.
- 2. BEGINNING ON OR BEFORE DECEMBER 1, 2010 AND EACH YEAR THEREAFTER, FOR ALL GOVERNMENT PROPERTY LEASES THAT ARE SUBJECT TO THIS SUBSECTION THE JOINT LEGISLATIVE BUDGET COMMITTEE SHALL ADJUST THE TAX RATES THAT APPLY FOR THE PURPOSES OF THIS SUBSECTION IN THE FOLLOWING CALENDAR YEAR FOR EACH PROPERTY USE ACCORDING TO THE AVERAGE ANNUAL POSITIVE OR NEGATIVE PERCENTAGE CHANGE FOR THE MOST RECENT FISCAL YEAR IN THE PRODUCER PRICE INDEX FOR NEW CONSTRUCTION OR ITS SUCCESSOR INDEX PUBLISHED BY THE UNITED STATES BUREAU OF LABOR STATISTICS. ON OR BEFORE DECEMBER 15 OF EACH YEAR, THE DEPARTMENT SHALL POST THE ADJUSTED RATES FOR THE FOLLOWING CALENDAR YEAR ON ITS OFFICIAL WEBSITE AND TRANSMIT THE ADJUSTED RATES TO EACH COUNTY TREASURER. THE LEGISLATURE MAY ADJUST THE BASE RATES PRESCRIBED BY PARAGRAPH 1 OF THIS SUBSECTION AT ANY TIME.
- D. C. The tax rate for a government property improvement that was constructed pursuant to a lease or development agreement entered into from and after June 30, 1996 AND BEFORE OCTOBER 1, 2009 and that is located outside a slum or blighted area established pursuant to title 36, chapter 12, article 3 is one and one-half times the rate established by subsections A and B of this section.
- E. D. Within the first twenty years after the issuance of the original certificate of occupancy, the tax rate on the use or occupancy of a government property improvement is twenty per cent of the rate established in subsections A and B of this section for any of the following:
- 1. Government property improvements that are subject to leases or agreements that were entered into before April 1, 1985, and options and rights contained in the leases or agreements.
- 2. Government property improvements that are subject to leases entered into based on a redevelopment contract, as defined in section 36-1471, entered into before April 1, 1985.
- 3. Government property improvements that are subject to leases entered into based on an agreement for a redevelopment project for which federal

grant monies have been received and that was entered into before April 1, 1985.

- 4. Government property improvements that are located at an airport that was owned on or before January 1, 1988 by a county having a population of four hundred thousand persons or less or by a city or town that is located in a county having a population of four hundred thousand persons or less if the property is used primarily for manufacturing, retail, distribution, research or commercial purposes. In this paragraph, "commercial" includes facilities for office, recreational, hotel, motel and service uses.
- F. E. Within the first ten years after the issuance of the A certificate of occupancy BEFORE OCTOBER 1, 2009, the tax rate on the use or occupancy of a government property improvement that is located in a slum or blighted area established pursuant to title 36, chapter 12, article 3, resulted or will result in an increase in property value of at least one hundred per cent and is not eligible for abatement pursuant to section 42-6209 is eighty per cent of the rate established in subsections A and B of this section.
- shall be determined by the predominant use to which the government property improvement is devoted, except that in all cases the tax rate prescribed by subsection A, paragraph 8 of this section shall be applied to any parking garage or deck. If there is no single predominant use, the tax shall be determined by applying the appropriate tax rate to the building space devoted to each use identified in that subsection. THE TAX RATE TO BE APPLIED UNDER SUBSECTION B OF THIS SECTION SHALL BE APPORTIONED ACCORDING TO THE SPECIFIC USES TO WHICH THE GOVERNMENT PROPERTY IMPROVEMENT IS DEVOTED. For the purposes of this subsection, the functional area of a government property improvement does not include subsidiary, auxiliary or servient areas such as lobbies, stairwells, mechanical rooms and meeting and banquet rooms. For purposes of this subsection, "predominant use" means the use to which eighty-five per cent or more of the functional area of a government property improvement is devoted.

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                H. G. Prime lessees of government property improvements who become
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          taxable or whose taxable status terminates during the calendar year in which
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          the taxes are due, including prime lessees subject to exemption or abatement
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          under sections 42-6208 and 42-6209, shall pay tax for that calendar year on a
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          pro rata basis."
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    Page 5, line 9, after "payable" insert "WITH THE RETURN FORM UNDER SUBSECTION B OF
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          THIS SECTION TO THE COUNTY TREASURER"
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       Line 21, after "space" strike remainder of line
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Line 22, strike "deck spaces" insert "FOR EACH IMPROVEMENT, THE BUILDING SPACE

FOR EACH SEPARATE USE WITHIN THE IMPROVEMENT AND THE APPLICABLE RATE OR RATES

TO BE APPLIED TO EACH USE"

- Page 6, line 2, after "TO" insert "THE JOINT LEGISLATIVE BUDGET COMMITTEE AND" 12
- 13 Strike lines 38 through 44

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- 14 Page 7, strike lines 1 through 37, insert:
- 15 "Sec. 6. Section 42-6206, Arizona Revised Statutes, is amended to 16 read:
  - 42-6206. <u>Development agreements</u>; <u>acknowledgment of tax</u> liability; approval requirements; default

Each lease or development agreement between a prime lessee and a government lessor entered into after:

- 1. June 30, 1996 shall include:
- 1. (a) A notice of the tax liability under this article.
- 2. (b) A provision that failure by the prime lessee to pay the tax after notice and an opportunity to cure is an event of default that could result in divesting the prime lessee of any interest in or right of occupancy of the government property improvement.
  - 2. SEPTEMBER 30. 2009:
  - (a) SHALL NOT BE APPROVED UNLESS THE GOVERNMENT LESSOR:
- (i) NOTIFIES THE GOVERNING BODIES OF THE COUNTY AND ANY CITY, TOWN AND SCHOOL DISTRICT IN WHICH THE GOVERNMENT PROPERTY IMPROVEMENT IS LOCATED AT LEAST SIXTY DAYS BEFORE THE APPROVAL. THE NOTICE MUST INCLUDE THE NAME AND ADDRESS OF THE INTENDED PRIME LESSEE, THE LOCATION AND PROPOSED USE OF THE

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1 GOVERNMENT PROPERTY IMPROVEMENT AND THE PROPOSED TERM OF THE LEASE OR DEVELOPMENT AGREEMENT.

- AGREEMENT, THE ECONOMIC AND FISCAL BENEFIT TO THIS STATE AND THE COUNTY, CITY OR TOWN IN WHICH THE GOVERNMENT PROPERTY IMPROVEMENT IS LOCATED WILL EXCEED THE BENEFITS RECEIVED BY THE PRIME LESSEE AS A RESULT OF THE DEVELOPMENT AGREEMENT OR LEASE ON THE BASIS OF AN ESTIMATE OF THOSE BENEFITS PREPARED BY AN INDEPENDENT THIRD PARTY IN A MANNER AND METHOD ACCEPTABLE TO THE GOVERNING BODY OF THE GOVERNMENT LESSOR. THE ESTIMATE MUST INCLUDE THE TOTAL AD VALOREM PROPERTY TAX REVENUES THAT WOULD BE PRODUCED BY THE PROPERTY TO THE COUNTY, CITY OR TOWN AND SCHOOL DISTRICT IF THE PROPERTY WERE TAXABLE. THE ESTIMATE MUST BE PROVIDED TO THE GOVERNMENT LESSOR AND THE GOVERNING BODIES OF THE COUNTY AND ANY CITY, TOWN AND SCHOOL DISTRICT IN WHICH THE GOVERNMENT PROPERTY IMPROVEMENT IS LOCATED AT LEAST THIRTY DAYS BEFORE THE VOTE OF THE GOVERNING BODY.
- (b) MUST BE APPROVED BY A SIMPLE MAJORITY VOTE OF THE GOVERNING BODY WITHOUT THE USE OF A CONSENT CALENDAR."
- 18 Page 7, line 41, strike "shall" insert "MAY"
- 19 Line 43, after "ending" insert "WITHIN"
- 20 Line 44, after "improvement" strike remainder of line
- Page 8, line 1, strike "is constructed either before or after July 20, 1996 and"

  Strike lines 4 through 6, insert "THE CITY OR TOWN AND IS SUBJECT TO A LEASE OR

  DEVELOPMENT AGREEMENT ENTERED INTO ON OR AFTER APRIL 1, 1985. FOR THE

  PURPOSES OF THIS SECTION:
  - (a) A CITY OR TOWN SHALL NOT DESIGNATE MORE THAN ONE CENTRAL BUSINESS DISTRICT WITHIN ITS CORPORATE BOUNDARIES.
  - (b) A CITY OR TOWN SHALL NOT APPROVE OR ENTER INTO A DEVELOPMENT AGREEMENT OR LEASE FOR A GOVERNMENT PROPERTY IMPROVEMENT WITHIN ONE YEAR AFTER THE DESIGNATION OF THE CENTRAL BUSINESS DISTRICT IN WHICH THE IMPROVEMENT IS LOCATED.
  - (c) "CENTRAL BUSINESS DISTRICT" MEANS A GEOGRAPHICAL AREA DESIGNATED BY RESOLUTION OF THE GOVERNING BODY OF THE CITY OR TOWN AND MEETING THE FOLLOWING REQUIREMENTS:

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1	(i) THE CENTRAL BUSINESS DISTRICT IS LOCATED ENTIRELY WITHIN A SLUM OR
2	BLIGHTED AREA THAT IS ESTABLISHED PURSUANT TO TITLE 36, CHAPTER 12, ARTICLE
3	3.
4	(ii) THE CENTRAL BUSINESS DISTRICT IS GEOGRAPHICALLY COMPACT AND NO
5	LARGER THAN THE LESSER OF PER CENT OF THE TOTAL LAND AREA WITHIN THE
6	EXTERIOR BOUNDARIES OF THE CITY OR TOWN OR TWO THOUSAND ACRES."
7	Page 8, strike lines 14 through 22, insert:
8	"C. A GOVERNMENT LESSOR SHALL NOT ABATE THE TAX FOR MORE THAN ONE
9	EIGHT-YEAR TERM ON ALL OR PART OF THE SAME GOVERNMENT PROPERTY IMPROVEMENT.
10	D. IF A PRIME LESSEE TRANSFERS OR CONVEYS THE LEASE TO ANOTHER PRIME
11	LESSEE, OR CHANGES THE USE OF THE GOVERNMENT PROPERTY IMPROVEMENT PURSUANT TO
12	SECTION 42-6211, WHILE TAX IS ABATED UNDER THIS SECTION, THE TAX ABATEMENT
13	CONTINUES ONLY FOR THE ORIGINAL ABATEMENT PERIOD ESTABLISHED PURSUANT TO
14	SUBSECTION A OF THIS SECTION."
15	Renumber to conform
16	Strike lines 35 and 36, insert:
17	Sec. 9. Title 42, chapter 6, article 5, Arizona Revised Statutes, is
18	amended by adding section 42-6211, to read:
19	42-6211. <u>Lease requirements: term: change of use: mandatory</u>
20	conveyance of government property improvement to
21	<u>prime lessee</u>
22	FOR DEVELOPMENT AGREEMENTS AND LEASES THAT ARE SUBJECT TO TAXATION
23	UNDER THIS ARTICLE AND THAT ARE ENTERED INTO FROM AND AFTER SEPTEMBER 30,
24	2009:
25	1. THE TERM OF THE LEASE OR AGREEMENT SHALL NOT EXCEED MONTHS
26	FROM THE BEGINNING DATE, REGARDLESS OF WHETHER THE LEASE IS TRANSFERRED OR
27	CONVEYED TO SUBSEQUENT PRIME LESSEES DURING THAT PERIOD.
28	2. THE GOVERNMENT LESSOR SHALL NOT APPROVE A CHANGE IN THE USE OF THE
29	GOVERNMENT PROPERTY IMPROVEMENT UNLESS THE GOVERNMENT LESSOR:
30	(a) NOTIFIES THE GOVERNING BODIES OF THE COUNTY AND ANY CITY, TOWN AND
31	SCHOOL DISTRICT IN WHICH THE GOVERNMENT PROPERTY IMPROVEMENT IS LOCATED AT
32	LEAST THIRTY DAYS BEFORE THE APPROVAL. THE NOTICE MUST INCLUDE THE NAME AND
33	ADDRESS OF THE PRIME LESSEE, THE LOCATION AND PROPOSED USE OF THE GOVERNMENT

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PROPERTY IMPROVEMENT AND THE REMAINING TERM OF THE LEASE OR DEVELOPMENT AGREEMENT.

- (b) DETERMINES THAT, WITHIN THE REMAINING TERM OF THE LEASE OR DEVELOPMENT AGREEMENT, THE ECONOMIC AND FISCAL BENEFIT TO THIS STATE AND THE COUNTY, CITY OR TOWN AND SCHOOL DISTRICT IN WHICH THE GOVERNMENT PROPERTY IMPROVEMENT IS LOCATED WILL EXCEED THE BENEFITS RECEIVED BY THE PRIME LESSEE AS A RESULT OF THE CHANGE IN THE DEVELOPMENT AGREEMENT OR LEASE ON THE BASIS OF AN ESTIMATE OF THOSE BENEFITS PREPARED BY AN INDEPENDENT THIRD PARTY IN A MANNER AND METHOD ACCEPTABLE TO THE GOVERNING BODY OF THE GOVERNMENT LESSOR. THE ESTIMATE MUST INCLUDE THE TOTAL AD VALOREM PROPERTY TAX REVENUES THAT WOULD BE PRODUCED BY THE PROPERTY TO THE COUNTY, CITY OR TOWN AND SCHOOL DISTRICT IF THE PROPERTY WERE TAXABLE. THE ESTIMATE MUST BE PROVIDED TO THE GOVERNMENT LESSOR AND THE GOVERNING BODIES OF THE COUNTY AND ANY CITY, TOWN AND SCHOOL DISTRICT IN WHICH THE GOVERNMENT PROPERTY IMPROVEMENT IS LOCATED AT LEAST THIRTY DAYS BEFORE THE VOTE OF THE GOVERNING BODY.
- (c) APPROVES THE CHANGE BY A SIMPLE MAJORITY VOTE OF THE GOVERNING BODY WITHOUT THE USE OF A CONSENT CALENDAR.
- 3. ON THE TERMINATION DATE OF THE LEASE THE GOVERNMENT LESSOR MUST CONVEY TITLE TO THE GOVERNMENT PROPERTY IMPROVEMENT TO THE CURRENT PRIME LESSEE. THIS PARAGRAPH DOES NOT APPLY IF:
- (a) THE TAX WITH RESPECT TO THE IMPROVEMENT WAS NOT ABATED UNDER SECTION 42-6209.
- (b) THE GOVERNMENT LESSOR IS ACTING AS A COMMERCIAL LANDLORD WITHOUT A DEVELOPMENT AGREEMENT IN A LEASE OF THE IMPROVEMENT FOR A USE THAT IS ANCILLARY TO A GOVERNMENT PROPERTY IMPROVEMENT USED FOR A PUBLIC PURPOSE.

## Sec. 10. Existing government property leases; recording and compiling data; definitions

- A. By December 31, 2009, each government lessor shall for each lease of a government property improvement in effect on the effective date of this act:
- 1. Record a memorandum of lease in the office of the county recorder in the county in which the government property improvement is located. The memorandum of lease must include the basic lease terms, including the names

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of the parties, the leased property, the lease term, including the beginning and ending dates, the types and usage of the structures included in the improvement, the total gross building space of the improvements, the applicable tax rates prescribed by section 42-6203, subsection A, Arizona Revised Statutes, as amended by this act, the estimated annual tax payments the lessee is required to pay over the term of the lease and any options to renew the lease or to purchase any of the government property improvement or government owned land.

- 2. Submit copies of the lease or memorandum of lease to the treasurer of the county in which the government property improvement is located and to the department of revenue.
- B. For the purposes of this section, "government lessor", "government property improvement" and "gross building space" have the same meanings prescribed by section 42-6201, Arizona Revised Statutes, as amended by this act.

## Sec. 11. Review of government property lease excise tax rates

- A. By December 15, 2014, the joint legislative budget committee shall conduct an analysis to determine the effectiveness of the government property lease excise tax rates prescribed by section 42-6203, Arizona Revised Statutes, as amended by this act. The analysis shall include consideration of:
- 1. The total ad valorem property tax revenues that would be produced by the properties to counties, cities and towns, community college districts and school districts if the properties were taxable.
- 2. The actual total annual amount of government property lease excise taxes collected and the amounts distributed to counties, cities and towns, community college districts and school districts.
- 3. Determine the average aggregate ad valorem property tax levy per square foot for the various property types listed in section 42-6203, Arizona Revised Statutes, as amended by this act, and compare that levy with the levy rates prescribed by section 42-6203, subsection B, Arizona Revised Statutes, as amended by this act.

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- B. The department of revenue shall cooperate with the joint legislative budget committee for the purposes of this section and, by October 1, 2014, provide the joint legislative budget committee with the public database of all government property leases maintained pursuant to section 42-6202, Arizona Revised Statutes, as amended by this act.
  - C. The joint legislative budget committee shall submit copies of its analysis pursuant to this section to:
  - 1. The governor, the president of the senate and the speaker of the house of representatives.
  - 2. The chairpersons of the house of representatives ways and means committee and the senate finance committee.
    - 3. The Arizona state library, archives and public records.
    - 4. Any other person who requests a copy of the analysis."
- 14 Amend title to conform

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