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REFERENCE TITLE: **municipal business location incentives; rebate**

State of Arizona  
Senate  
Forty-sixth Legislature  
Second Regular Session  
2004

## **SB 1043**

Introduced by  
Senator Harper

**AN ACT**

**AMENDING SECTION 42-5029, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 6, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-6008; RELATING TO MUNICIPAL TAX INCENTIVES.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 42-5029, Arizona Revised Statutes, is amended to  
3 read:

4 42-5029. Remission and distribution of monies; definition

5 A. The department shall deposit, pursuant to sections 35-146 and  
6 35-147, all revenues collected under this article and articles 4, 5, 8 and 9  
7 of this chapter pursuant to section 42-1116, separately accounting for:

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

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

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

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

15 B. The department shall credit payments of estimated tax to an  
16 estimated tax clearing account and each month shall transfer all monies in  
17 the estimated tax clearing account to a fund designated as the transaction  
18 privilege and severance tax clearing account. The department shall credit  
19 all other payments to the transaction privilege and severance tax clearing  
20 account, separately accounting for the monies designated as distribution base  
21 under sections 42-5010, 42-5164, 42-5205, 42-5353 and 42-5409. Each month  
22 the department shall report to the state treasurer the amount of monies  
23 collected pursuant to this article and articles 4, 5, 8 and 9 of this  
24 chapter.

25 C. On notification by the department, the state treasurer shall  
26 distribute the monies deposited in the transaction privilege and severance  
27 tax clearing account in the manner prescribed by this section and by sections  
28 42-5164, 42-5205, 42-5353 and 42-5409, after deducting warrants drawn against  
29 the account pursuant to sections 42-1118 and 42-1254.

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

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

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

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

38 (b) The proportion that the distribution base monies collected during  
39 the calendar month in each county under this article, section 42-5164,  
40 subsection B, section 42-5205, subsection B and sections 42-5353 and 42-5409  
41 bear to the total distribution base monies collected under this article,  
42 section 42-5164, subsection B, section 42-5205, subsection B and sections  
43 42-5353 and 42-5409 throughout the state for the calendar month.

44 3. Pay an additional 2.43 per cent to the counties in this state as  
45 follows:

1 (a) Average the following proportions:

2 (i) The proportion that the assessed valuation used to determine  
3 secondary property taxes of each county, after deducting that part of the  
4 assessed valuation that is exempt from taxation at the beginning of the month  
5 for which the amount is to be paid, bears to the total assessed valuations  
6 used to determine secondary property taxes of all the counties after  
7 deducting that portion of the assessed valuations that is exempt from  
8 taxation at the beginning of the month for which the amount is to be paid.  
9 Property of a city or town that is not within or contiguous to the municipal  
10 corporate boundaries and from which water is or may be withdrawn or diverted  
11 and transported for use on other property is considered to be taxable  
12 property in the county for purposes of determining assessed valuation in the  
13 county under this item.

14 (ii) The proportion that the distribution base monies collected during  
15 the calendar month in each county under this article, section 42-5164,  
16 subsection B, section 42-5205, subsection B and sections 42-5353 and 42-5409  
17 bear to the total distribution base monies collected under this article,  
18 section 42-5164, subsection B, section 42-5205, subsection B and sections  
19 42-5353 and 42-5409 throughout the state for the calendar month.

20 (b) If the proportion computed under subdivision (a) of this paragraph  
21 for any county is greater than the proportion computed under paragraph 2 of  
22 this subsection, the department shall compute the difference between the  
23 amount distributed to that county under paragraph 2 of this subsection and  
24 the amount that would have been distributed under paragraph 2 of this  
25 subsection using the proportion computed under subdivision (a) of this  
26 paragraph and shall pay that difference to the county from the amount  
27 available for distribution under this paragraph. Any monies remaining after  
28 all payments under this subdivision shall be distributed among the counties  
29 according to the proportions computed under paragraph 2 of this subsection.

30 4. After any distributions required by sections 42-5030, 42-5030.01,  
31 42-5031, 42-5032 and 42-5032.01, and after making any transfer to the water  
32 quality assurance revolving fund as required by section 49-282, subsection B,  
33 credit the remainder of the monies designated as distribution base to the  
34 state general fund. From this amount:

35 (a) The legislature shall annually appropriate to:

36 (i) The department of revenue sufficient monies to administer and  
37 enforce this article and articles 5, 8 and 9 of this chapter.

38 (ii) The department of economic security monies to be used for the  
39 purposes stated in title 46, chapter 1.

40 (iii) The Arizona arts endowment fund established by section 41-986,  
41 the full amount by which revenues derived from the amusement classification  
42 pursuant to section 42-5073 for the current fiscal year exceed the revenues  
43 that were derived from that classification in fiscal year 1993-1994, except  
44 that this amount shall not exceed two million dollars through fiscal year  
45 2008-2009.

1 (iv) The firearms safety and ranges fund established by section  
2 17-273, fifty thousand dollars derived from the taxes collected from the  
3 retail classification pursuant to section 42-5061 for the current fiscal  
4 year.

5 (b) The state treasurer shall transfer to the tourism fund an amount  
6 equal to the sum of the following:

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

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

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

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

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

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

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

43 4. After transferring monies pursuant to paragraphs 1, 2 and 3 of this  
44 subsection, one-twelfth of the amount a community college that is owned,  
45 operated or chartered by a qualifying Indian tribe on its own Indian

1 reservation would receive pursuant to section 15-1472, subsection D,  
2 paragraph 2 if it were a community college district shall be distributed each  
3 month to the treasurer or other designated depository of a qualifying Indian  
4 tribe. Monies distributed pursuant to this paragraph are for the exclusive  
5 purpose of providing support to one or more community colleges owned,  
6 operated or chartered by a qualifying Indian tribe and shall be used in a  
7 manner consistent with section 15-1472, subsection B. For THE purposes of  
8 this paragraph, "qualifying Indian tribe" has the same meaning ~~as defined~~  
9 ~~PRESCRIBED~~ in section 42-5031.01, ~~subsection D~~.

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

- 15 (a) In fiscal year 2001-2002, \$15,305,900.
- 16 (b) In fiscal year 2002-2003, \$31,530,100.
- 17 (c) In fiscal year 2003-2004, \$48,727,700.
- 18 (d) In fiscal year 2004-2005, \$66,957,200.
- 19 (e) In fiscal year 2005-2006 and each fiscal year thereafter,  
20 \$86,280,500.

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

28 7. After transferring monies pursuant to paragraphs 1, 2 and 3 of this  
29 subsection, no more than seven million dollars may be appropriated by the  
30 legislature each fiscal year to the department of education to be used for  
31 accountability purposes as described in section 15-241 and title 15, chapter  
32 9, article 8.

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

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

41 10. After the payment of monies pursuant to paragraphs 1 through 9 of  
42 this subsection, the remaining monies collected during the preceding month  
43 shall be transferred to the classroom site fund established by section  
44 15-977. The monies shall be allocated as follows in the manner prescribed by  
45 section 15-977:

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

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

5 (c) Forty per cent shall be allocated for maintenance and operation  
6 purposes.

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

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

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

43 I. Except as provided by sections 42-5033 and 42-5033.01, the  
44 population of a county, city or town as determined by the most recent United  
45 States decennial census plus any revisions to the decennial census certified

1 by the United States bureau of the census shall be used as the basis for  
2 apportioning monies pursuant to subsection D of this section.

3 J. EXCEPT AS OTHERWISE PROVIDED BY THIS SUBSECTION, ON NOTICE FROM THE  
4 DEPARTMENT OF REVENUE PURSUANT TO SECTION 42-6008, THE STATE TREASURER SHALL  
5 WITHHOLD FROM THE DISTRIBUTION OF MONIES PURSUANT TO THIS SECTION TO THE  
6 AFFECTED CITY OR TOWN THE AMOUNT OF BUSINESS LOCATION TAX INCENTIVES PROVIDED  
7 BY THE CITY OR TOWN TO A BUSINESS ENTITY THAT LOCATES A RETAIL BUSINESS  
8 FACILITY IN THE CITY OR TOWN. THE STATE TREASURER SHALL CONTINUE TO WITHHOLD  
9 MONIES PURSUANT TO THIS SUBSECTION UNTIL THE ENTIRE AMOUNT OF THE INCENTIVES  
10 HAS BEEN WITHHELD. MONIES WITHHELD PURSUANT TO THIS SUBSECTION ARE  
11 CONTINUOUSLY APPROPRIATED TO THE DEPARTMENT OF COMMERCE EXCLUSIVELY TO  
12 SUPPLEMENT, AND NOT SUPPLANT, OTHER MONIES AVAILABLE FOR ECONOMIC DEVELOPMENT  
13 PROGRAMS AUTHORIZED BY TITLE 41, CHAPTER 10. THE STATE TREASURER SHALL NOT  
14 WITHHOLD ANY AMOUNT THAT THE CITY OR TOWN CERTIFIES TO THE DEPARTMENT OF  
15 REVENUE AND THE TREASURER AS BEING NECESSARY TO MAKE ANY REQUIRED DEPOSITS OR  
16 PAYMENTS FOR DEBT SERVICE ON BONDS OF THE CITY OR TOWN THAT WERE ISSUED  
17 BEFORE THE LOCATION INCENTIVES PROVIDED BY THE CITY OR TOWN.

18 ~~J.~~ K. For the purposes of this section, "community college district"  
19 means a community college district THAT IS established pursuant to sections  
20 15-1402 and 15-1403 AND that is a political subdivision of this state.

21 Sec. 2. Title 42, chapter 6, article 1, Arizona Revised Statutes, is  
22 amended by adding section 42-6008, to read:

23 42-6008. Business location municipal tax incentives; payment or  
24 withholding state shared revenues for economic  
25 development; definition

26 A. IF, UNDER THE MODEL CITY TAX CODE OR OTHERWISE, A CITY OR TOWN  
27 PROVIDES TAX INCENTIVES TO ANY BUSINESS ENTITY THAT LOCATES A RETAIL BUSINESS  
28 FACILITY IN THE CITY OR TOWN, THE CITY OR TOWN SHALL PAY THE AMOUNT OF THE  
29 INCENTIVE, AFTER AUDIT BY THE DEPARTMENT OF REVENUE, TO THE DEPARTMENT OF  
30 COMMERCE. IN LIEU OF DIRECT PAYMENT TO THE DEPARTMENT OF COMMERCE, THE  
31 DEPARTMENT OF REVENUE SHALL NOTIFY THE STATE TREASURER TO WITHHOLD THE AMOUNT  
32 FROM MONIES OTHERWISE PAYABLE TO THE CITY OR TOWN AS PROVIDED BY SECTION  
33 42-5029, SUBSECTION J.

34 B. MONIES PAID TO THE DEPARTMENT OF COMMERCE PURSUANT TO THIS SECTION  
35 ARE CONTINUOUSLY APPROPRIATED EXCLUSIVELY TO SUPPLEMENT, AND NOT SUPPLANT,  
36 OTHER MONIES AVAILABLE FOR ECONOMIC DEVELOPMENT PROGRAMS AUTHORIZED BY TITLE  
37 41, CHAPTER 10.

38 C. FOR THE PURPOSES OF THIS SECTION, "TAX INCENTIVE" MEANS ANY WAIVER,  
39 EXEMPTION, DEDUCTION, CREDIT, REBATE, DISCOUNT, DEFERRAL OR OTHER ABATEMENT  
40 OR REDUCTION OF THE NORMAL MUNICIPAL TAX LIABILITY THAT OTHERWISE APPLIES TO  
41 SIMILAR EXISTING BUSINESS ENTITIES AND PROPERTIES IN THE CITY OR TOWN,  
42 HOWEVER DENOMINATED, COMPUTED OR APPLIED, AND GENERALLY UNDERSTOOD AS AN  
43 INDUCEMENT TO LOCATE THE BUSINESS FACILITY OR OTHER OPERATION IN THE CITY OR  
44 TOWN.