

PROPOSED AMENDMENT
SENATE AMENDMENTS TO S.B. 1038
(Reference to printed bill)

Strike everything after the enacting clause and insert:

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

42-5029. Remission and distribution of monies; definition

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

1. Payments of estimated tax under section 42-5014, subsection D.
2. Revenues collected pursuant to section 42-5070.

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

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

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

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

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

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

2. Pay 38.08 per cent **AS FOLLOWS:**

1 (a) AN AMOUNT THAT IS EQUAL TO FIFTY PER CENT OF THE TRANSACTION
2 PRIVILEGE TAX REVENUES THAT ARE SEPARATELY ACCOUNTED FOR UNDER SUBSECTION A,
3 PARAGRAPH 3 OF THIS SECTION. FROM THIS AMOUNT THE DEPARTMENT SHALL TRANSMIT
4 EACH MONTH TO THE TREASURER OR OTHER DESIGNATED DEPOSITORY OF EACH QUALIFYING
5 INDIAN TRIBE THE PROPORTIONATE AMOUNT OF TRANSACTION PRIVILEGE TAX REVENUES
6 THAT WERE RECEIVED PURSUANT TO THIS ARTICLE IN THE PRECEDING MONTH FROM ALL
7 SOURCES LOCATED ON THE INDIAN RESERVATION. EACH QUALIFYING INDIAN TRIBE
8 SHALL DISTRIBUTE THE AMOUNT TO EACH OF ITS TRIBAL SUBDIVISIONS IN PROPORTION
9 TO THE AMOUNT THAT WAS COLLECTED FROM THAT TRIBAL SUBDIVISION. MONIES
10 RECEIVED UNDER THIS SUBDIVISION SHALL BE USED BY EACH QUALIFYING INDIAN TRIBE
11 OR EACH TRIBAL SUBDIVISION OF THE QUALIFYING TRIBE FOR TELECOMMUNICATION
12 INFRASTRUCTURE DEVELOPMENT AND FOR COMMUNITY DEVELOPMENT PROJECTS, INCLUDING
13 MULTIPURPOSE BUILDINGS, INFRASTRUCTURE DEVELOPMENT AND ROADS ON THE INDIAN
14 RESERVATION THAT ARE LOCATED IN THIS STATE. FOR THE PURPOSES OF THIS
15 SUBDIVISION:

16 (i) "QUALIFYING INDIAN TRIBE" MEANS AN INDIAN TRIBE THAT HAS NOT
17 ENTERED INTO A TRIBAL-STATE GAMING COMPACT UNDER TITLE 5, CHAPTER 6.

18 (ii) "TRIBAL SUBDIVISION" MEANS ANY CHAPTER, DISTRICT OR VILLAGE THAT
19 IS RECOGNIZED BY A QUALIFYING INDIAN TRIBE BY RESOLUTION OR THROUGH TRIBAL
20 CONSTITUTION.

21 (b) THE REMAINDER OF THE MONIES to the counties in this state by
22 averaging the following proportions:

23 ~~(a)~~ (i) The proportion that the population of each county bears to
24 the total state population.

25 ~~(b)~~ (ii) The proportion that the distribution base monies collected
26 during the calendar month in each county under this article, section 42-5164,
27 subsection B, section 42-5205, subsection B and section 42-5353 bear to the
28 total distribution base monies collected under this article, section 42-5164,
29 subsection B, section 42-5205, subsection B and section 42-5353 throughout
30 the state for the calendar month.

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

33 (a) Average the following proportions:

34 (i) The proportion that the assessed valuation used to determine
35 secondary property taxes of each county, after deducting that part of the
36 assessed valuation that is exempt from taxation at the beginning of the month
37 for which the amount is to be paid, bears to the total assessed valuations

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

9 (ii) The proportion that the distribution base monies collected during
10 the calendar month in each county under this article, section 42-5164,
11 subsection B, section 42-5205, subsection B and section 42-5353 bear to the
12 total distribution base monies collected under this article, section 42-5164,
13 subsection B, section 42-5205, subsection B and section 42-5353 throughout
14 the state for the calendar month.

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

25 4. After any distributions required by sections 42-5030, 42-5030.01,
26 42-5031, 42-5032 and 42-5032.01, and after making any transfer to the water
27 quality assurance revolving fund as required by section 49-282, subsection B,
28 credit the remainder of the monies designated as distribution base to the
29 state general fund. From this amount:

30 (a) The legislature shall annually appropriate to:

31 (i) The department of revenue sufficient monies to administer and
32 enforce this article and articles 5 and 8 of this chapter.

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

1 (iii) 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.

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

6 4. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
7 subsection, one-twelfth of the amount a community college that is owned,
8 operated or chartered by a qualifying Indian tribe on its own Indian
9 reservation would receive pursuant to section 15-1472, subsection D,
10 paragraph 2 if it were a community college district shall be distributed each
11 month to the treasurer or other designated depository of a qualifying Indian
12 tribe. Monies distributed pursuant to this paragraph are for the exclusive
13 purpose of providing support to one or more community colleges owned,
14 operated or chartered by a qualifying Indian tribe and shall be used in a
15 manner consistent with section 15-1472, subsection B. For the purposes of
16 this paragraph, "qualifying Indian tribe" has the same meaning as defined in
17 section 42-5031.01, subsection D.

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

23 (a) In fiscal year 2001-2002, \$15,305,900.

24 (b) In fiscal year 2002-2003, \$31,530,100.

25 (c) In fiscal year 2003-2004, \$48,727,700.

26 (d) In fiscal year 2004-2005, \$66,957,200.

27 (e) In fiscal year 2005-2006 and each fiscal year thereafter,
28 \$86,280,500.

29 6. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
30 subsection, seven million eight hundred thousand dollars is appropriated each
31 fiscal year, to be paid in monthly installments, to the department of
32 education to be used for school safety as provided in section 15-154 and two
33 hundred thousand dollars is appropriated each fiscal year, to be paid in
34 monthly installments to the department of education to be used for the
35 character education matching grant program as provided in section 15-154.01.

36 7. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
37 subsection, no more than seven million dollars may be appropriated by the

1 legislature each fiscal year to the department of education to be used for
2 accountability purposes as described in section 15-241 and title 15, chapter
3 9, article 8.

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

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

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

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

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

21 (c) Forty per cent shall be allocated for maintenance and operation
22 purposes.

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

26 G. Notwithstanding subsection D of this section, if a court of
27 competent jurisdiction finally determines that tax monies distributed under
28 this section were illegally collected under this article or articles 5 and 8
29 of this chapter and orders the monies to be refunded to the taxpayer, the
30 department shall compute the amount of such monies that was distributed to
31 each city, town and county under this section. The department shall notify
32 the state treasurer of that amount plus the proportionate share of additional
33 allocated costs required to be paid to the taxpayer. Each city's, town's and
34 county's proportionate share of the costs shall be based on the amount of the
35 original tax payment each municipality and county received. Each month the
36 state treasurer shall reduce the amount otherwise distributable to the city,
37 town and county under this section by one thirty-sixth of the total amount to

1 be recovered from the city, town or county until the total amount has been
2 recovered, but the monthly reduction for any city, town or county shall not
3 exceed ten per cent of the full monthly distribution to that entity. The
4 reduction shall begin for the first calendar month after the final
5 disposition of the case and shall continue until the total amount, including
6 interest and costs, has been recovered.

7 H. On receiving a certificate of default from the greater Arizona
8 development authority pursuant to section 41-1554.06 or 41-1554.07 and to the
9 extent not otherwise expressly prohibited by law, the state treasurer shall
10 withhold from the next succeeding distribution of monies pursuant to this
11 section due to the defaulting political subdivision the amount specified in
12 the certificate of default and immediately deposit the amount withheld in the
13 greater Arizona development authority revolving fund. The state treasurer
14 shall continue to withhold and deposit the monies until the greater Arizona
15 development authority certifies to the state treasurer that the default has
16 been cured. In no event may the state treasurer withhold any amount that the
17 defaulting political subdivision certifies to the state treasurer and the
18 authority as being necessary to make any required deposits then due for the
19 payment of principal and interest on bonds of the political subdivision that
20 were issued before the date of the loan repayment agreement or bonds and that
21 have been secured by a pledge of distributions made pursuant to this section.

22 I. Except as provided by sections 42-5033 and 42-5033.01, the
23 population of a county, city or town as determined by the most recent United
24 States decennial census plus any revisions to the decennial census certified
25 by the United States bureau of the census shall be used as the basis for
26 apportioning monies pursuant to subsection D of this section.

27 J. Except as otherwise provided by this subsection, on notice from the
28 department of revenue pursuant to section 42-6010, subsection B, the state
29 treasurer shall withhold from the distribution of monies pursuant to this
30 section to the affected city or town the amount of the penalty for business
31 location municipal tax incentives provided by the city or town to a business
32 entity that locates a retail business facility in the city or town. The
33 state treasurer shall continue to withhold monies pursuant to this subsection
34 until the entire amount of the penalty has been withheld. The state
35 treasurer shall credit any monies withheld pursuant to this subsection to the
36 state general fund as provided by subsection D, paragraph 4 of this section.
37 The state treasurer shall not withhold any amount that the city or town

1 certifies to the department of revenue and the state treasurer as being
2 necessary to make any required deposits or payments for debt service on bonds
3 or other long-term obligations of the city or town that were issued or
4 incurred before the location incentives provided by the city or town.

5 K. For the purposes of this section, "community college district"
6 means a community college district that is established pursuant to sections
7 15-1402 and 15-1403 and that is a political subdivision of this state.

8 Sec. 2. Section 42-5031.01, Arizona Revised Statutes, is amended to
9 read:

10 42-5031.01. Distribution of revenues for Indian tribal
11 postsecondary educational institutions;
12 definition

13 A. Subject to THE LIMITATION UNDER subsection C of this section, each
14 month the state treasurer shall transmit to the treasurer or other designated
15 depository of each qualifying Indian tribe the amount of transaction
16 privilege tax revenues received pursuant to this article in the preceding
17 month from all sources located on the Indian reservation established for the
18 qualifying Indian tribe as determined pursuant to section 42-5029, subsection
19 A, paragraph 3.

20 B. The monies distributed pursuant to this section are for the
21 exclusive purpose of supporting the maintenance, renewal and capital expenses
22 of one or more community colleges in this state that are owned, operated or
23 chartered by each qualifying Indian tribe on its own Indian reservation.
24 Before receiving any monies under this section, a qualifying Indian tribe
25 shall enter into a compact with this state, signed by the governor, to
26 account for the use of monies distributed pursuant to this section. The
27 compact shall:

28 1. Be for a term of at least ten years. After a hearing and review of
29 the compact by the joint legislative budget committee held during the last
30 year of the compact's term, a compact may be renewed for an additional term
31 of up to ten years.

32 2. Require the monies to be used primarily for capital needs including
33 maintenance and renewal of existing facilities at designated community
34 college campuses on the qualifying Indian tribe's own reservation in this
35 state.

1 3. Provide for audits by the auditor general of the use of the
2 monies. The auditor general shall submit copies of each audit to the joint
3 legislative budget committee.

4 4. If necessary, provide for reimbursement to the department of
5 revenue of costs associated with implementing this section, not to exceed one
6 hundred fifty thousand dollars, from revenues that would otherwise be paid to
7 the qualifying Indian tribe pursuant to this section.

8 C. ~~Notwithstanding subsection A of this section,~~ The state treasurer
9 shall not transmit UNDER THIS SECTION in any fiscal year more than one
10 million seven hundred fifty thousand dollars or more than one-tenth of
11 transaction privilege tax revenues received pursuant to this article from all
12 sources located on the reservation, whichever is less.

13 D. For the purposes of this section, "qualifying Indian tribe" means
14 an Indian tribe that owns, operates and charters any community college or
15 postsecondary educational institution located on its own reservation in this
16 state."

17 Amend title to conform

RUSSELL PEARCE

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