

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 IS NOT  
17 OPERATING A CASINO ON ITS INDIAN RESERVATION PURSUANT TO A TRIBAL-STATE  
18 GAMING COMPACT UNDER TITLE 5, CHAPTER 6.

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

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

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

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

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

34 (a) Average the following proportions:

35 (i) The proportion that the assessed valuation used to determine  
36 secondary property taxes of each county, after deducting that part of the  
37 assessed valuation that is exempt from taxation at the beginning of the month

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6 corporate boundaries and from which water is or may be withdrawn or diverted  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

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

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

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

31 (a) The legislature shall annually appropriate to:

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

34 (ii) The department of economic security monies to be used for the  
35 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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