

REFERENCE TITLE: Native American tribes; TPT revenues

State of Arizona  
Senate  
Fifty-fifth Legislature  
First Regular Session  
2021

## **SB 1565**

Introduced by  
Senators Peshlakai: Alston, Contreras, Gonzales, Navarrete, Rios, Steele;  
Representatives Hernandez M, Salman, Teller, Tsosie

### **AN ACT**

AMENDING SECTIONS 41-194.01, 42-5029 AND 42-5031.01, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-5031.02; AMENDING SECTION 42-6010, ARIZONA REVISED STATUTES; RELATING TO TRANSACTION PRIVILEGE TAX DISTRIBUTION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 41-194.01, Arizona Revised Statutes, is amended  
3 to read:

4 41-194.01. Violations of state law by counties, cities and  
5 towns; attorney general investigation; report;  
6 withholding of state shared revenues

7 A. At the request of one or more members of the legislature, the  
8 attorney general shall investigate any ordinance, regulation, order or  
9 other official action adopted or taken by the governing body of a county,  
10 city or town that the member alleges violates state law or the  
11 Constitution of Arizona.

12 B. The attorney general shall make a written report of findings and  
13 conclusions as a result of the investigation within thirty days after  
14 receipt of the request and shall provide a copy of the report to the  
15 governor, the president of the senate, the speaker of the house of  
16 representatives, the member or members of the legislature making the  
17 original request and the secretary of state. If the attorney general  
18 concludes that the ordinance, regulation, order or other action under  
19 investigation:

20 1. Violates any provision of state law or the Constitution of  
21 Arizona, the attorney general shall provide notice to the county, city or  
22 town, by certified mail, of the violation and shall indicate that the  
23 county, city or town has thirty days to resolve the violation. If the  
24 attorney general determines that the county, city or town has failed to  
25 resolve the violation within thirty days, the attorney general shall:

26 (a) Notify the state treasurer who shall withhold and redistribute  
27 state shared monies from the county, city or town as provided by section  
28 42-5029, subsection ~~M~~ and from the city or town as provided by section  
29 43-206, subsection F.

30 (b) Continue to monitor the response of the governing body, and  
31 when the offending ordinance, regulation, order or action is repealed or  
32 the violation is otherwise resolved, the attorney general shall notify:

33 (i) The governor, the president of the senate, the speaker of the  
34 house of representatives and the member or members of the legislature  
35 making the original request that the violation has been resolved.

36 (ii) The state treasurer to restore the distribution of state  
37 shared revenues to the county, city or town.

38 2. May violate a provision of state law or the Constitution of  
39 Arizona, the attorney general shall file a special action in ~~THE~~ supreme  
40 court to resolve the issue, and the supreme court shall give the action  
41 precedence over all other cases. The court shall require the county, city  
42 or town to post a bond equal to the amount of state shared ~~revenue~~  
43 ~~REVENUES~~ paid to the county, city or town pursuant to ~~section~~ ~~SECTIONS~~  
44 42-5029 and 43-206 in the preceding six months.

1           3. Does not violate any provision of state law or the Constitution  
2 of Arizona, the attorney general shall take no further action pursuant to  
3 this section.

4           Sec. 2. Section 42-5029, Arizona Revised Statutes, is amended to  
5 read:

6           42-5029. Remission and distribution of monies; withholding;  
7                                       definition

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

11           1. Payments of estimated tax under section 42-5014, subsection D.  
12           2. Revenues collected pursuant to section 42-5070.  
13           3. Revenues collected under this article and article 5 of this  
14 chapter from and after June 30, 2000 from sources located on Indian  
15 reservations in this state.  
16           4. Revenues collected pursuant to section 42-5010, subsection G and  
17 section 42-5155, subsection D.  
18           5. Revenues collected pursuant to section 42-5010.01 and section  
19 42-5155, subsection E.

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

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

35           D. Of the monies designated as distribution base, and subject to  
36 the requirements of section 42-5041, the department shall:

37           1. Pay twenty-five percent to the various incorporated  
38 municipalities in this state in proportion to their population to be used  
39 by the municipalities for any municipal purpose.  
40           2. Pay 38.08 percent to the counties in this state by averaging the  
41 following proportions:  
42           (a) The proportion that the population of each county bears to the  
43 total state population.

1 (b) The proportion that the distribution base monies collected  
2 during the calendar month in each county under this article, section  
3 42-5164, subsection B and section 42-5205, subsection B bear to the total  
4 distribution base monies collected under this article, section 42-5164,  
5 subsection B and section 42-5205, subsection B throughout the state for  
6 the calendar month.

7 3. Pay an additional 2.43 percent to the counties in this state as  
8 follows:

9 (a) Average the following proportions:

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

22 (ii) The proportion that the distribution base monies collected  
23 during the calendar month in each county under this article, section  
24 42-5164, subsection B and section 42-5205, subsection B bear to the total  
25 distribution base monies collected under this article, section 42-5164,  
26 subsection B and section 42-5205, subsection B throughout ~~the~~ THIS state  
27 for the calendar month.

28 (b) If the proportion computed under subdivision (a) of this  
29 paragraph for any county is greater than the proportion computed under  
30 paragraph 2 of this subsection, the department shall compute the  
31 difference between the amount distributed to that county under paragraph 2  
32 of this subsection and the amount that would have been distributed under  
33 paragraph 2 of this subsection using the proportion computed under  
34 subdivision (a) of this paragraph and shall pay that difference to the  
35 county from the amount available for distribution under this paragraph.  
36 Any monies remaining after all payments under this subdivision shall be  
37 distributed among the counties according to the proportions computed under  
38 paragraph 2 of this subsection.

39 4. After any distributions required by sections 42-5030,  
40 42-5030.01, 42-5031, 42-5032, 42-5032.01 and 42-5032.02, and after making  
41 any transfer to the water quality assurance revolving fund as required by  
42 section 49-282, subsection B, credit the remainder of the monies  
43 designated as distribution base to the state general fund. From this  
44 amount the legislature shall annually appropriate to:

1 (a) The department of revenue sufficient monies to administer and  
2 enforce this article and articles 5 and 8 of this chapter.

3 (b) The department of economic security monies to be used for the  
4 purposes stated in title 46, chapter 1.

5 (c) The firearms safety and ranges fund established by section  
6 17-273, ~~fifty thousand dollars~~ \$50,000 derived from the taxes collected  
7 from the retail classification pursuant to section 42-5061 for the current  
8 fiscal year.

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

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

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

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

38 4. After transferring monies pursuant to paragraphs 1, 2 and 3 of  
39 this subsection, one-twelfth of the amount a community college that is  
40 owned, operated or chartered by a qualifying Indian tribe on its own  
41 Indian reservation would receive pursuant to section 15-1472, subsection  
42 D, paragraph 2 if it were a community college district shall be  
43 distributed each month to the treasurer or other designated depository of  
44 a qualifying Indian tribe. Monies distributed pursuant to this paragraph  
45 are for the exclusive purpose of providing support to one or more

1 community colleges owned, operated or chartered by a qualifying Indian  
2 tribe and shall be used in a manner consistent with section 15-1472,  
3 subsection B. For the purposes of this paragraph, "qualifying Indian  
4 tribe" has the same meaning as defined in section 42-5031.01,  
5 subsection D.

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

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

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

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

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

15 (e) In fiscal year 2005-2006 and each fiscal year thereafter,  
16 \$86,280,500.

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

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

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

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

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

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

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

3 (c) Forty per cent shall be allocated for maintenance and operation  
4 purposes.

5 F. THE FOLLOWING APPLY TO THE TRANSACTION PRIVILEGE TAX REVENUES  
6 THAT ARE SEPARATELY ACCOUNTED FOR UNDER SUBSECTION A, PARAGRAPH 3 OF THIS  
7 SECTION:

8 1. EACH MONTH THE DEPARTMENT SHALL DEPOSIT IN THE TRIBAL NATIONS  
9 GREEN ENERGY FUND ESTABLISHED BY SECTION 42-5031.02 TWENTY-FIVE PERCENT OF  
10 THE TRANSACTION PRIVILEGE TAX REVENUES THAT ARE RECEIVED IN THE PRECEDING  
11 MONTH FROM ALL SOURCES LOCATED ON THAT INDIAN RESERVATION PURSUANT TO THIS  
12 ARTICLE.

13 2. AFTER THE DEPOSIT OF MONIES PURSUANT TO PARAGRAPH 1 OF THIS  
14 SUBSECTION, THE DEPARTMENT SHALL CREDIT THE REMAINDER OF THE MONIES TO THE  
15 STATE GENERAL FUND.

16 3. THIS SUBSECTION DOES NOT CHANGE THE DISTRIBUTION OF ANY MONIES  
17 PRESCRIBED BY SUBSECTION E OF THIS SECTION OR SECTION 42-5029.02,  
18 SUBSECTION A.

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

22 ~~G.~~ H. Notwithstanding subsection D of this section, if a court of  
23 competent jurisdiction finally determines that tax monies distributed  
24 under this section were illegally collected under this article or articles  
25 5 and 8 of this chapter and orders the monies to be refunded to the  
26 taxpayer, the department shall compute the amount of such monies that was  
27 distributed to each city, town and county under this section. Each  
28 city's, town's and county's proportionate share of the costs shall be  
29 based on the amount of the original tax payment each municipality and  
30 county received. Each month the state treasurer shall reduce the amount  
31 otherwise distributable to the city, town and county under this section by  
32 ~~one thirty-sixth~~ 1/36 of the total amount to be recovered from the city,  
33 town or county until the total amount has been recovered, but the monthly  
34 reduction for any city, town or county shall not exceed ten percent of the  
35 full monthly distribution to that entity. The reduction shall begin for  
36 the first calendar month after the final disposition of the case and shall  
37 continue until the total amount, including interest and costs, has been  
38 recovered.

39 ~~H.~~ I. On receiving a certificate of default from the greater  
40 Arizona development authority pursuant to section 41-2257 or 41-2258 and  
41 to the extent not otherwise expressly prohibited by law, the state  
42 treasurer shall withhold from the next succeeding distribution of monies  
43 pursuant to this section due to the defaulting political subdivision the  
44 amount specified in the certificate of default and immediately deposit the  
45 amount withheld in the greater Arizona development authority revolving

1 fund. The state treasurer shall continue to withhold and deposit the  
2 monies until the greater Arizona development authority certifies to the  
3 state treasurer that the default has been cured. In no event may the  
4 state treasurer withhold any amount that the defaulting political  
5 subdivision certifies to the state treasurer and the authority as being  
6 necessary to make any required deposits then due for the payment of  
7 principal and interest on bonds of the political subdivision that were  
8 issued before the date of the loan repayment agreement or bonds and that  
9 have been secured by a pledge of distributions made pursuant to this  
10 section.

11 ~~I.~~ J. Except as provided by sections 42-5033 and 42-5033.01, the  
12 population of a county, city or town as determined by the most recent  
13 United States decennial census plus any revisions to the decennial census  
14 certified by the United States bureau of the census shall be used as the  
15 basis for apportioning monies pursuant to subsection D of this section.

16 ~~J.~~ K. Except as otherwise provided by this subsection, on notice  
17 from the department of revenue pursuant to section 42-6010, subsection B,  
18 the state treasurer shall withhold from the distribution of monies  
19 pursuant to this section to the affected city or town the amount of the  
20 penalty for business location municipal tax incentives provided by the  
21 city or town to a business entity that locates a retail business facility  
22 in the city or town. The state treasurer shall continue to withhold  
23 monies pursuant to this subsection until the entire amount of the penalty  
24 has been withheld. The state treasurer shall credit any monies withheld  
25 pursuant to this subsection to the state general fund as provided by  
26 subsection D, paragraph 4 of this section. The state treasurer shall not  
27 withhold any amount that the city or town certifies to the department of  
28 revenue and the state treasurer as being necessary to make any required  
29 deposits or payments for debt service on bonds or other long-term  
30 obligations of the city or town that were issued or incurred before the  
31 location incentives provided by the city or town.

32 ~~K.~~ L. On notice from the auditor general pursuant to section  
33 9-626, subsection D, the state treasurer shall withhold from the  
34 distribution of monies pursuant to this section to the affected city the  
35 amount computed pursuant to section 9-626, subsection D. The state  
36 treasurer shall continue to withhold monies pursuant to this subsection  
37 until the entire amount specified in the notice has been withheld. The  
38 state treasurer shall credit any monies withheld pursuant to this  
39 subsection to the state general fund as provided by subsection D,  
40 paragraph 4 of this section.

41 ~~L.~~ M. Except as otherwise provided by this subsection, on notice  
42 from the attorney general pursuant to section 41-194.01, subsection B,  
43 paragraph 1 that an ordinance, regulation, order or other official action  
44 adopted or taken by the governing body of a county, city or town violates  
45 state law or the Constitution of Arizona, the state treasurer shall



1 withhold the distribution of monies pursuant to this section to the  
 2 affected county, city or town and shall continue to withhold monies  
 3 pursuant to this subsection until the attorney general certifies to the  
 4 state treasurer that the violation has been resolved. The state treasurer  
 5 shall redistribute the monies withheld pursuant to this subsection among  
 6 all other counties, cities and towns in proportion to their population as  
 7 provided by subsection D of this section. The state treasurer shall not  
 8 withhold any amount that the county, city or town certifies to the  
 9 attorney general and the state treasurer as being necessary to make any  
 10 required deposits or payments for debt service on bonds or other long-term  
 11 obligations of the county, city or town that were issued or incurred  
 12 before committing the violation.

13 ~~M.~~ N. For the purposes of this section, "community college  
 14 district" means a community college district that is established pursuant  
 15 to sections 15-1402 and 15-1403 and that is a political subdivision of  
 16 this state and, unless otherwise specified, includes a community college  
 17 tuition financing district established pursuant to section 15-1409.

18 Sec. 3. Section 42-5031.01, Arizona Revised Statutes, is amended to  
 19 read:

20 42-5031.01. Distribution of revenues for Indian tribal  
 21 postsecondary educational institutions;  
 22 compact; definition

23 A. Subject to THE LIMIT PRESCRIBED IN subsection C of this section,  
 24 each month the state treasurer shall transmit to the treasurer or other  
 25 designated depository of each qualifying Indian tribe the amount of  
 26 transaction privilege tax revenues received pursuant to this article in  
 27 the preceding month from all sources located on the Indian reservation  
 28 established for the qualifying Indian tribe as determined pursuant to  
 29 section 42-5029, subsection A, paragraph 3.

30 B. The monies distributed pursuant to this section are for the  
 31 exclusive purpose of supporting the maintenance, renewal and capital  
 32 expenses of one or more community college campuses in this state that are  
 33 owned, operated or chartered by each qualifying Indian tribe on its own  
 34 Indian reservation. Before receiving any monies under this section, a  
 35 qualifying Indian tribe shall enter into an initial compact with this  
 36 state on or before September 1, 2017, signed by the governor, to account  
 37 for the use of monies distributed pursuant to this section. The compact  
 38 shall:

- 39 1. Be for a term of at least twenty years. After a hearing and  
 40 review of the compact by the joint legislative budget committee held  
 41 during the fourth year ~~prior to the expiration of~~ BEFORE the compact's  
 42 term EXPIRES, ~~a~~ THE compact may be amended and renewed for an additional  
 43 term of at least twenty years with the consent of this state, signed by  
 44 the governor, and the qualifying Indian tribe, signed by the chairman,  
 45 president or governor of the qualifying Indian tribe.

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

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

8           4. If necessary, provide for reimbursement to the department of  
9 revenue of costs associated with implementing this section, not to exceed  
10 ~~one hundred fifty thousand dollars~~ \$150,000, from revenues that would  
11 otherwise be paid to the qualifying Indian tribe pursuant to this section.

12           C. ~~Notwithstanding subsection A of this section,~~ The state  
13 treasurer shall not transmit UNDER THIS SECTION in any fiscal year more  
14 than the sum of the following amounts:

15           1. With respect to a single community college, ~~one million seven~~  
16 ~~hundred fifty thousand dollars~~ \$1,750,000 or more than ten percent of  
17 transaction privilege tax revenues received pursuant to this article from  
18 all sources located on the reservation, whichever is less.

19           2. With respect to an additional technical college located on the  
20 same Indian reservation, ~~eight hundred seventy-five thousand dollars~~  
21 \$875,000 or more than five percent of transaction privilege tax revenues  
22 received pursuant to this article from all sources located on the  
23 reservation, whichever is less.

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

28           Sec. 4. Title 42, chapter 5, article 1, Arizona Revised Statutes,  
29 is amended by adding section 42-5031.02, to read:

30           42-5031.02. Tribal nations green energy fund; grants;  
31                                   renewable energy and infrastructure projects

32           A. THE TRIBAL NATIONS GREEN ENERGY FUND IS ESTABLISHED CONSISTING  
33 OF MONIES DEPOSITED PURSUANT TO SECTION 42-5029, SUBSECTION F FOR THE  
34 PURPOSE OF PROVIDING GRANTS AS PRESCRIBED BY SUBSECTION B OF THIS SECTION.  
35 THE DEPARTMENT SHALL ADMINISTER THE FUND. MONIES IN THE FUND ARE  
36 CONTINUOUSLY APPROPRIATED. MONIES IN THE FUND ARE EXEMPT FROM THE  
37 PROVISIONS OF SECTION 35-190 RELATING TO THE LAPSING OF APPROPRIATIONS.

38           B. SUBJECT TO AVAILABLE MONIES, THE DEPARTMENT SHALL USE MONIES IN  
39 THE FUND TO PROVIDE ONETIME GRANTS, NOT TO EXCEED \$1,000,000, TO TRIBAL  
40 NATIONS TO PAY FOR THE COSTS OF RENEWABLE ENERGY OR INFRASTRUCTURE  
41 PROJECTS AND OTHER COSTS RELATED TO SUCH PROJECTS. THE DIRECTOR SHALL  
42 PRESCRIBE BY RULE THE MANNER IN WHICH A TRIBAL NATION MUST:

- 1           1. APPLY FOR THE GRANT.
- 2           2. VERIFY THAT ANY GRANT MONIES AWARDED WILL BE USED FOR A
- 3 RENEWABLE ENERGY OR INFRASTRUCTURE PROJECT.
- 4           3. OTHERWISE DEMONSTRATE ELIGIBILITY FOR THE GRANT.
- 5           C. IF THE DIRECTOR DETERMINES THAT THE TRIBAL NATION HAS MET THE
- 6 ELIGIBILITY REQUIREMENTS PRESCRIBED PURSUANT TO SUBSECTION B OF THIS
- 7 SECTION, THE DIRECTOR SHALL TRANSMIT THE MONIES UNDER THIS SECTION TO THE
- 8 TREASURER OR OTHER DESIGNATED DEPOSITORY OF THE TRIBAL NATION TO WHICH THE
- 9 GRANT IS AWARDED.

10           Sec. 5. Section 42-6010, Arizona Revised Statutes, is amended to  
11 read:

12           42-6010. Retail business location municipal tax incentives;  
13 prohibition; penalty; exceptions; definitions

14           A. If at least sixty-five ~~per cent~~ PERCENT of the land area within  
15 a city's or town's exterior boundaries is located within the exterior  
16 boundary of a metropolitan statistical area having a population of more  
17 than two million persons, the city or town shall not offer or provide a  
18 tax incentive to a business entity as an inducement or in exchange for  
19 locating or relocating a retail business facility in the city or town.

20           B. A city or town that violates this section is subject to a  
21 penalty equal to the amount of the incentive realized by the taxpayer,  
22 extended over a period of sixty months. The department of revenue shall  
23 notify the state treasurer to withhold the amount of the penalty from  
24 monies otherwise payable to the city or town as provided by section  
25 42-5029, subsection ~~J~~ K.

26           C. The city or town shall report to the department of revenue the  
27 value of any tax incentive used as an inducement or in exchange for  
28 locating or relocating a retail business facility in the city or town.  
29 For the purposes of this subsection, the value includes all negotiated  
30 amounts, in any form and whether actual, realized or contingent, over the  
31 term of the incentive agreement.

32           D. This section does not apply with respect to:

33           1. Municipal services and benefits generally afforded by ordinance  
34 to all new businesses in the city or town, having no direct ~~affect~~ EFFECT  
35 on municipal tax levies.

36           2. Tax incentives that are afforded to all existing retail business  
37 facilities in the city or town.

38           3. Tax incentives for locating retail business facilities in an  
39 area designated as a redevelopment project pursuant to title 36, chapter  
40 12, article 3 where the average household income is less than the average  
41 city household income as determined by the United States census bureau.

1           4. Incentives consisting of reimbursement for public infrastructure  
2 dedicated to and accepted and controlled ~~एपण~~ ON completion of the project  
3 by the city or town, county, ~~OR~~ OR state or a private utility where no other  
4 political subdivision provides ~~सुच~~ THE utility for transportation, water,  
5 sewer, electrical, drainage, the fair market value of real property  
6 necessary for the public infrastructure and other necessary public  
7 infrastructure. This paragraph does not apply to parking lots, parking  
8 structures or parking facilities or other structures or amenities owned or  
9 controlled by a private entity.

10           5. Incentives that are offered for the purpose of preserving  
11 historical buildings and other structures.

12           6. Incentives that are offered for cleanup or other remediation  
13 activities at a brownfields site under title 49, chapter 2, article 1.1 or  
14 the comprehensive environmental response, compensation, and liability act  
15 of 1980 (P.L. 96-510, 94 Stat. 2767; 42 United States Code sections 9601  
16 through 9657), commonly known as "superfund".

17           E. To qualify as exempt from the penalty, an incentive under  
18 subsection D of this section that is offered in exchange for expenses  
19 incurred by the business entity must be in the form of a reimbursement of  
20 the expenses and may not exceed or otherwise be disproportional to the  
21 actual cost incurred.

22           F. This section does not apply to tax incentives that were referred  
23 to a vote of the qualified electors of the city or town before July 1,  
24 2007 and approved by the qualified electors of the city or town.

25           G. For the purposes of this section:

26           1. "Metropolitan statistical area" means a ~~geographical~~ GEOGRAPHIC  
27 area consisting of cities, towns and other populated areas defined for  
28 federal statistical and census purposes by the United States office of  
29 management and budget with technical assistance from the United States  
30 bureau of the census.

31           2. "Retail business facility" means a store, warehouse or other  
32 improvement to real estate where at least one-half of the business  
33 conducted on the premises consists of retail sales of tangible personal  
34 property to the ultimate consumer, measured by either the number of  
35 employees assigned to retail sales or the square footage of the facility  
36 used for retail sales. For the purposes of this paragraph, retail sales  
37 do not include:

38           (a) Sales of food and beverage for consumption on the premises of  
39 the facility.

40           (b) The distribution without charge of promotional products that  
41 display the company logo or trademark.

42           (c) Sales solely to company employees.

1           3. "Tax incentive" means any waiver, exemption, deduction, credit,  
2 rebate, discount, deferral or other abatement or reduction of the normal  
3 municipal tax liability of an individual taxpayer that otherwise applies  
4 to similar existing taxpayers and properties in the city or town, however  
5 denominated, computed or applied, and **THAT IS** generally understood ~~as~~ **TO**  
6 **BE** an inducement for the taxpayer to locate a business facility or other  
7 operation in the city or town.

8           Sec. 6. Exemption from rulemaking

9           For the purposes of this act, the department of revenue is exempt  
10 from the rulemaking requirements of title 41, chapter 6, Arizona Revised  
11 Statutes, for one year after the effective date of this act.