

REFERENCE TITLE: TPT; Native American tribes; revenues

State of Arizona
House of Representatives
Fifty-fifth Legislature
Second Regular Session
2022

HB 2715

Introduced by
Representatives Blackwater-Nygren: Fernandez B, Jermaine, Senator
Hatathlie

AN ACT

REPEALING SECTION 41-194.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 403, SECTION 18; AMENDING SECTION 41-194.01, ARIZONA REVISED STATUTES, AS ADDED BY LAWS 2016, CHAPTER 35, SECTION 1; AMENDING SECTIONS 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. Repeal

3 Section 41-194.01, Arizona Revised Statutes, as amended by Laws
4 2021, chapter 403, section 18, is repealed.

5 Sec. 2. Section 41-194.01, Arizona Revised Statutes, as added by
6 Laws 2016, chapter 35, section 1, is amended to read:

7 41-194.01. Violations of state law by counties, cities and
8 towns; attorney general investigation; report;
9 withholding of state shared revenues

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

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

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

29 (a) Notify the state treasurer who shall withhold and redistribute
30 state shared monies from the county, city or town as provided by section
31 42-5029, subsection ~~←~~ M and from the city or town as provided by section
32 43-206, subsection F.

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

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

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

41 2. May violate a provision of state law or the Constitution of
42 Arizona, the attorney general shall file a special action in THE supreme
43 court to resolve the issue, and the supreme court shall give the action
44 precedence over all other cases. The court shall require the county, city
45 or town to post a bond equal to the amount of state shared ~~revenue~~

1 REVENUES paid to the county, city or town pursuant to ~~section~~ SECTIONS
2 42-5029 and 43-206 in the preceding six months.

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

6 Sec. 3. Section 42-5029, Arizona Revised Statutes, is amended to
7 read:

8 42-5029. Remission and distribution of monies; withholding;
9 definition

10 A. The department shall deposit, pursuant to sections 35-146 and
11 35-147, all revenues collected under this article and articles 4, 5 and 8
12 of this chapter pursuant to section 42-1116, separately accounting for:

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

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

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

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

20 5. Revenues collected pursuant to section 42-5010.01 and section
21 42-5155, subsection E.

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

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

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

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

1 2. Pay 38.08 percent to the counties in this state by averaging the
2 following proportions:

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

5 (b) The proportion that the distribution base monies collected
6 during the calendar month in each county under this article, section
7 42-5164, subsection B and section 42-5205, subsection B bear to the total
8 distribution base monies collected under this article, section 42-5164,
9 subsection B and section 42-5205, subsection B throughout the state for
10 the calendar month.

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

13 (a) Average the following proportions:

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

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

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

43 4. After any distributions required by sections 42-5030,
44 42-5030.01, 42-5031, 42-5032, 42-5032.01 and 42-5032.02, and after making
45 any transfer to the water quality assurance revolving fund as required by

1 section 49-282, subsection B, credit the remainder of the monies
2 designated as distribution base to the state general fund. From this
3 amount the legislature shall annually appropriate to:

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

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

8 (c) The firearms safety and ranges fund established by section
9 17-273, ~~fifty thousand dollars~~ \$50,000 derived from the taxes collected
10 from the retail classification pursuant to section 42-5061 for the current
11 fiscal year.

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

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

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

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

41 4. After transferring monies pursuant to paragraphs 1, 2 and 3 of
42 this subsection, one-twelfth of the amount a community college that is
43 owned, operated or chartered by a qualifying Indian tribe on its own
44 Indian reservation would receive pursuant to section 15-1472, subsection
45 D, paragraph 2 if it were a community college district shall be

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

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

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

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

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

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

18 (e) In fiscal year 2005-2006 and each fiscal year thereafter,
19 \$86,280,500.

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

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

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

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

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

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

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

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

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

10 1. EACH MONTH THE DEPARTMENT SHALL DEPOSIT IN THE TRIBAL NATIONS
11 ECONOMIC DEVELOPMENT, PUBLIC SAFETY AND INFRASTRUCTURE FUND ESTABLISHED BY
12 SECTION 42-5031.02 TWENTY-FIVE PERCENT OF THE TRANSACTION PRIVILEGE TAX
13 REVENUES THAT ARE RECEIVED IN THE PRECEDING MONTH FROM ALL SOURCES LOCATED
14 ON THAT INDIAN RESERVATION PURSUANT TO THIS ARTICLE.

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

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

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

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

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

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

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

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

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

43 ~~M.~~ M. Except as otherwise provided by this subsection, on notice
 44 from the attorney general pursuant to section 41-194.01, subsection B,
 45 paragraph 1 that an ordinance, regulation, order or other official action

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

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

20 Sec. 4. Section 42-5031.01, Arizona Revised Statutes, is amended to
21 read:

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

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

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

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

1 the governor, and the qualifying Indian tribe, signed by the chairman,
2 president or governor of the qualifying Indian tribe.

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

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

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

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

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

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

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

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

32 42-5031.02. Tribal nations economic development, public
33 safety and infrastructure fund; grants

34 A. THE TRIBAL NATIONS ECONOMIC DEVELOPMENT, PUBLIC SAFETY AND
35 INFRASTRUCTURE FUND IS ESTABLISHED CONSISTING OF MONIES DEPOSITED PURSUANT
36 TO SECTION 42-5029, SUBSECTION F FOR THE PURPOSE OF PROVIDING GRANTS AS
37 PRESCRIBED BY SUBSECTION B OF THIS SECTION. THE DEPARTMENT SHALL
38 ADMINISTER THE FUND. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED AND
39 ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO THE LAPSING
40 OF APPROPRIATIONS.

41 B. SUBJECT TO AVAILABLE MONIES, THE DEPARTMENT SHALL USE MONIES IN
42 THE FUND TO PROVIDE ONETIME GRANTS, NOT TO EXCEED \$1,000,000, TO TRIBAL
43 NATIONS TO PAY FOR THE COSTS OF ECONOMIC DEVELOPMENT, PUBLIC SAFETY OR
44 INFRASTRUCTURE PROJECTS AND OTHER COSTS RELATED TO SUCH PROJECTS. THE
45 DIRECTOR SHALL PRESCRIBE BY RULE THE MANNER IN WHICH A TRIBAL NATION MUST:

1 sewer, electrical, drainage, the fair market value of real property
2 necessary for the public infrastructure and other necessary public
3 infrastructure. This paragraph does not apply to parking lots, parking
4 structures or parking facilities or other structures or amenities **THAT ARE**
5 owned or controlled by a private entity.

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

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

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

18 F. This section does not apply to tax incentives that were referred
19 to a vote of the qualified electors of the city or town before July 1,
20 2007 and approved by the qualified electors of the city or town.

21 G. For the purposes of this section:

22 1. "Metropolitan statistical area" means a ~~geographical~~ **GEOGRAPHIC**
23 area consisting of cities, towns and other populated areas defined for
24 federal statistical and census purposes by the United States office of
25 management and budget with technical assistance from the United States
26 **CENSUS** bureau ~~of the census~~.

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

34 (a) Sales of food and beverage for consumption on the premises of
35 the facility.

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

38 (c) Sales solely to company employees.

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

1 Sec. 7. Exemption from rulemaking

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

5 Sec. 8. Applicability

6 This act applies to taxable periods beginning on or after the first
7 day of the month following the general effective date.