

REFERENCE TITLE: TPT; Native American tribes; revenues

State of Arizona  
House of Representatives  
Fifty-sixth Legislature  
First Regular Session  
2023

## **HB 2597**

Introduced by  
Representatives Tsosie: Bravo, Contreras L, Hernandez C, Hernandez M,  
Peshlakai, Salman, Seaman, Shah, Stahl Hamilton, Sun, Travers

### **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4 2021, chapter 403, section 18, is repealed.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 MONIES SHALL BE TRANSMITTED TO EACH QUALIFYING INDIAN  
11 TRIBE PURSUANT TO SECTION 42-5031.01.

12 2. AFTER THE TRANSFER OF MONIES PURSUANT TO PARAGRAPH 1 OF THIS  
13 SUBSECTION, EACH MONTH THE DEPARTMENT SHALL DEPOSIT IN THE TRIBAL NATIONS  
14 ECONOMIC DEVELOPMENT, PUBLIC SAFETY AND INFRASTRUCTURE FUND ESTABLISHED BY  
15 SECTION 42-5031.02 THE REMAINDER OF THE TRANSACTION PRIVILEGE TAX REVENUES  
16 THAT ARE RECEIVED IN THE PRECEDING MONTH FROM ALL SOURCES LOCATED ON THAT  
17 INDIAN RESERVATION PURSUANT TO THIS ARTICLE.

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.