

State of Arizona
Senate
Fiftieth Legislature
Second Regular Session
2012

CHAPTER 328
SENATE BILL 1442

AN ACT

AMENDING SECTION 42-2003, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2012, CHAPTER 170, SECTION 39; REPEALING SECTION 42-2003, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2012, CHAPTER 3, SECTION 19; AMENDING SECTIONS 42-5010 AND 42-5029, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-5032.02; AMENDING SECTION 42-5075, ARIZONA REVISED STATUTES; RELATING TO THE PRIME CONTRACTING TRANSACTION PRIVILEGE TAX CLASSIFICATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 42-2003, Arizona Revised Statutes, as amended by
3 Laws 2012, chapter 170, section 39, is amended to read:

4 42-2003. Authorized disclosure of confidential information

5 A. Confidential information relating to:

6 1. A taxpayer may be disclosed to the taxpayer, its successor in
7 interest or a designee of the taxpayer who is authorized in writing by the
8 taxpayer. A principal corporate officer of a parent corporation may execute
9 a written authorization for a controlled subsidiary.

10 2. A corporate taxpayer may be disclosed to any principal officer, any
11 person designated by a principal officer or any person designated in a
12 resolution by the corporate board of directors or other similar governing
13 body.

14 3. A partnership may be disclosed to any partner of the
15 partnership. This exception does not include disclosure of confidential
16 information of a particular partner unless otherwise authorized.

17 4. An estate may be disclosed to the personal representative of the
18 estate and to any heir, next of kin or beneficiary under the will of the
19 decedent if the department finds that the heir, next of kin or beneficiary
20 has a material interest which will be affected by the confidential
21 information.

22 5. A trust may be disclosed to the trustee or trustees, jointly or
23 separately, and to the grantor or any beneficiary of the trust if the
24 department finds that the grantor or beneficiary has a material interest
25 ~~which~~ THAT will be affected by the confidential information.

26 6. Any taxpayer may be disclosed if the taxpayer has waived any rights
27 to confidentiality either in writing or on the record in any administrative
28 or judicial proceeding.

29 7. The name and taxpayer identification numbers of persons issued
30 direct payment permits may be publicly disclosed.

31 B. Confidential information may be disclosed to:

32 1. Any employee of the department whose official duties involve tax
33 administration.

34 2. The office of the attorney general solely for its use in
35 preparation for, or in an investigation ~~which~~ THAT may result in, any
36 proceeding involving tax administration before the department or any other
37 agency or board of this state, or before any grand jury or any state or
38 federal court.

39 3. The department of liquor licenses and control for its use in
40 determining whether a spirituous liquor licensee has paid all transaction
41 privilege taxes and affiliated excise taxes incurred as a result of the sale
42 of spirituous liquor, as defined in section 4-101, at the licensed
43 establishment and imposed on the licensed establishments by this state and
44 its political subdivisions.

1 4. Other state tax officials whose official duties require the
2 disclosure for proper tax administration purposes if the information is
3 sought in connection with an investigation or any other proceeding conducted
4 by the official. Any disclosure is limited to information of a taxpayer who
5 is being investigated or who is a party to a proceeding conducted by the
6 official.

7 5. The following agencies, officials and organizations, if they grant
8 substantially similar privileges to the department for the type of
9 information being sought, pursuant to statute and a written agreement between
10 the department and the foreign country, agency, state, Indian tribe or
11 organization:

12 (a) The United States internal revenue service, alcohol and tobacco
13 tax and trade bureau of the United States treasury, United States bureau of
14 alcohol, tobacco, firearms and explosives of the United States department of
15 justice, United States drug enforcement agency and federal bureau of
16 investigation.

17 (b) A state tax official of another state.

18 (c) An organization of states, federation of tax administrators or
19 multistate tax commission that operates an information exchange for tax
20 administration purposes.

21 (d) An agency, official or organization of a foreign country with
22 responsibilities that are comparable to those listed in subdivision (a), (b)
23 or (c) of this paragraph.

24 (e) An agency, official or organization of an Indian tribal government
25 with responsibilities comparable to the responsibilities of the agencies,
26 officials or organizations identified in subdivision (a), (b) or (c) of this
27 paragraph.

28 6. The auditor general, in connection with any audit of the department
29 subject to the restrictions in section 42-2002, subsection D.

30 7. Any person to the extent necessary for effective tax administration
31 in connection with:

32 (a) The processing, storage, transmission, destruction and
33 reproduction of the information.

34 (b) The programming, maintenance, repair, testing and procurement of
35 equipment for purposes of tax administration.

36 (c) The collection of the taxpayer's civil liability.

37 8. The office of administrative hearings relating to taxes
38 administered by the department pursuant to section 42-1101, but the
39 department shall not disclose any confidential information:

40 (a) Regarding income tax, ~~OR~~ withholding tax ~~or estate tax~~.

41 (b) On any tax issue relating to information associated with the
42 reporting of income tax, ~~OR~~ withholding tax ~~or estate tax~~.

43 9. The United States treasury inspector general for tax administration
44 for the purpose of reporting a violation of internal revenue code section
45 7213A (26 United States Code section 7213A), unauthorized inspection of
46 returns or return information.

1 10. The financial management service of the United States treasury
2 department for use in the treasury offset program.

3 11. The United States treasury department or its authorized agent for
4 use in the state income tax levy program and in the electronic federal tax
5 payment system.

6 12. The Arizona commerce authority for its use in:

7 (a) Qualifying renewable energy operations for the tax incentives
8 under sections 42-12006, 43-1083.01 and 43-1164.01.

9 (b) Fulfilling its annual reporting responsibility pursuant to section
10 41-1511, subsections U and V.

11 13. A prosecutor for purposes of section 32-1164, subsection C.

12 14. The state fire marshal for use in determining compliance with and
13 enforcing title 41, chapter 16, article 3.1.

14 15. The department of transportation for its use in administering taxes
15 and surcharges prescribed by title 28.

16 C. Confidential information may be disclosed in any state or federal
17 judicial or administrative proceeding pertaining to tax administration
18 pursuant to the following conditions:

19 1. One or more of the following circumstances must apply:

20 (a) The taxpayer is a party to the proceeding.

21 (b) The proceeding arose out of, or in connection with, determining
22 the taxpayer's civil or criminal liability, or the collection of the
23 taxpayer's civil liability, with respect to any tax imposed under this title
24 or title 43.

25 (c) The treatment of an item reflected on the taxpayer's return is
26 directly related to the resolution of an issue in the proceeding.

27 (d) Return information directly relates to a transactional
28 relationship between a person who is a party to the proceeding and the
29 taxpayer and directly affects the resolution of an issue in the proceeding.

30 2. Confidential information may not be disclosed under this subsection
31 if the disclosure is prohibited by section 42-2002, subsection C or D.

32 D. Identity information may be disclosed for purposes of notifying
33 persons entitled to tax refunds if the department is unable to locate the
34 persons after reasonable effort.

35 E. The department, ~~upon~~ ON the request of any person, shall provide
36 the names and addresses of bingo licensees as defined in section 5-401,
37 verify whether or not a person has a privilege license and number, a
38 distributor's license and number or a withholding license and number or
39 disclose the information to be posted on the department's website or
40 otherwise publicly accessible pursuant to section 42-1124, subsection F and
41 section 42-3201, subsection A.

42 F. A department employee, in connection with the official duties
43 relating to any audit, collection activity or civil or criminal
44 investigation, may disclose return information to the extent that disclosure
45 is necessary to obtain information ~~which~~ THAT is not otherwise reasonably
46 available. These official duties include the correct determination of and

1 liability for tax, the amount to be collected or the enforcement of other
2 state tax revenue laws.

3 G. If an organization is exempt from this state's income tax as
4 provided in section 43-1201 for any taxable year, the name and address of the
5 organization and the application filed by the organization ~~upon~~ ON which the
6 department made its determination for exemption together with any papers
7 submitted in support of the application and any letter or document issued by
8 the department concerning the application are open to public inspection.

9 H. Confidential information relating to transaction privilege tax, use
10 tax, severance tax, jet fuel excise and use tax and ~~rental-occupancy tax~~ AND
11 ANY OTHER TAX COLLECTED BY THE DEPARTMENT ON BEHALF OF THE COUNTY may be
12 disclosed to any county, city or town tax official if the information relates
13 to a taxpayer who is or may be taxable by the county, city or town. Any
14 taxpayer information released by the department to the county, city or town:

15 1. May only be used for internal purposes.

16 2. May not be disclosed to the public in any manner that does not
17 comply with confidentiality standards established by the department. The
18 county, city or town shall agree in writing with the department that any
19 release of confidential information that violates the confidentiality
20 standards adopted by the department will result in the immediate suspension
21 of any rights of the county, city or town to receive taxpayer information
22 under this subsection.

23 I. The department may disclose statistical information gathered from
24 confidential information if it does not disclose confidential information
25 attributable to any one taxpayer. The department may disclose statistical
26 information gathered from confidential information, even if it discloses
27 confidential information attributable to a taxpayer, to:

28 1. The state treasurer in order to comply with the requirements of
29 section 42-5029, subsection A, paragraph 3.

30 2. The joint legislative income tax credit review committee and the
31 joint legislative budget committee staff in order to comply with the
32 requirements of section 43-221.

33 J. The department may disclose the aggregate amounts of any tax
34 credit, tax deduction or tax exemption enacted after January 1, 1994.
35 Information subject to disclosure under this subsection shall not be
36 disclosed if a taxpayer demonstrates to the department that such information
37 would give an unfair advantage to competitors.

38 K. Except as provided in section 42-2002, subsection C, confidential
39 information, described in section 42-2001, paragraph ~~2~~ 1, subdivision (a),
40 item ~~(iii)~~ (ii), may be disclosed to law enforcement agencies for law
41 enforcement purposes.

42 L. The department may provide transaction privilege tax license
43 information to property tax officials in a county for the purpose of
44 identification and verification of the tax status of commercial property.

1 M. The department may provide transaction privilege tax, luxury tax,
2 use tax, property tax and severance tax information to the ombudsman-citizens
3 aide pursuant to title 41, chapter 8, article 5.

4 N. Except as provided in section 42-2002, subsection D, a court may
5 order the department to disclose confidential information pertaining to a
6 party to an action. An order shall be made only upon a showing of good cause
7 and that the party seeking the information has made demand upon the taxpayer
8 for the information.

9 O. This section does not prohibit the disclosure by the department of
10 any information or documents submitted to the department by a bingo licensee.
11 Before disclosing the information the department shall obtain the name and
12 address of the person requesting the information.

13 P. If the department is required or permitted to disclose confidential
14 information, it may charge the person or agency requesting the information
15 for the reasonable cost of its services.

16 Q. Except as provided in section 42-2002, subsection D, the department
17 of revenue shall release confidential information as requested by the
18 department of economic security pursuant to section 42-1122 or 46-291.
19 Information disclosed under this subsection is limited to the same type of
20 information that the United States internal revenue service is authorized to
21 disclose under section 6103(1)(6) of the internal revenue code.

22 R. Except as provided in section 42-2002, subsection D, the department
23 of revenue shall release confidential information as requested by the courts
24 and clerks of the court pursuant to section 42-1122.

25 S. To comply with the requirements of section 42-5031, the department
26 may disclose to the state treasurer, to the county stadium district board of
27 directors and to any city or town tax official that is part of the county
28 stadium district confidential information attributable to a taxpayer's
29 business activity conducted in the county stadium district.

30 T. The department shall release confidential information as requested
31 by the attorney general for purposes of determining compliance with and
32 enforcing section 44-7101, the master settlement agreement referred to
33 therein and subsequent agreements to which the state is a party that amend or
34 implement the master settlement agreement. Information disclosed under this
35 subsection is limited to luxury tax information relating to tobacco
36 manufacturers, distributors, wholesalers and retailers and information
37 collected by the department pursuant to section 44-7101(2)(j).

38 U. For proceedings before the department, the office of administrative
39 hearings, the board of tax appeals or any state or federal court involving
40 penalties that were assessed against a return preparer, an electronic return
41 preparer or a payroll service company pursuant to section 42-1103.02,
42 42-1125.01 or 43-419, confidential information may be disclosed only before
43 the judge or administrative law judge adjudicating the proceeding, the
44 parties to the proceeding and the parties' representatives in the proceeding
45 prior to its introduction into evidence in the proceeding. The confidential
46 information may be introduced as evidence in the proceeding only if the

1 taxpayer's name, the names of any dependents listed on the return, all social
2 security numbers, the taxpayer's address, the taxpayer's signature and any
3 attachments containing any of the foregoing information are redacted and if
4 either:

5 1. The treatment of an item reflected on such return is or may be
6 related to the resolution of an issue in the proceeding.

7 2. Such return or return information relates or may relate to a
8 transactional relationship between a person who is a party to the proceeding
9 and the taxpayer which directly affects the resolution of an issue in the
10 proceeding.

11 3. The method of payment of the taxpayer's withholding tax liability
12 or the method of filing the taxpayer's withholding tax return is an issue for
13 the period.

14 V. The department may disclose to the attorney general confidential
15 information received under section 44-7111 and requested by the attorney
16 general for purposes of determining compliance with and enforcing section
17 44-7111. The department and attorney general shall share with each other the
18 information received under section 44-7111, and may share the information
19 with other federal, state or local agencies only for the purposes of
20 enforcement of section 44-7101, section 44-7111 or corresponding laws of
21 other states.

22 W. The department may provide the name and address of qualifying
23 hospitals and qualifying health care organizations, as defined in section
24 42-5001, to a business classified and reporting transaction privilege tax
25 under the utilities classification.

26 X. THE DEPARTMENT MAY DISCLOSE TO AN OFFICIAL OF ANY CITY, TOWN OR
27 COUNTY IN A CURRENT AGREEMENT OR CONSIDERING A PROSPECTIVE AGREEMENT WITH THE
28 DEPARTMENT AS DESCRIBED IN SECTION 42-5032.02, SUBSECTION F ANY INFORMATION
29 RELATING TO AMOUNTS SUBJECT TO DISTRIBUTION REQUIRED BY SECTION 42-5032.02.
30 INFORMATION DISCLOSED BY THE DEPARTMENT UNDER THIS SUBSECTION:

31 1. MAY ONLY BE USED BY THE CITY, TOWN OR COUNTY FOR INTERNAL PURPOSES.

32 2. MAY NOT BE DISCLOSED TO THE PUBLIC IN ANY MANNER THAT DOES NOT
33 COMPLY WITH CONFIDENTIALITY STANDARDS ESTABLISHED BY THE DEPARTMENT. THE
34 CITY, TOWN OR COUNTY MUST AGREE WITH THE DEPARTMENT IN WRITING THAT ANY
35 RELEASE OF CONFIDENTIAL INFORMATION THAT VIOLATES THE CONFIDENTIALITY
36 STANDARDS WILL RESULT IN THE IMMEDIATE SUSPENSION OF ANY RIGHTS OF THE CITY,
37 TOWN OR COUNTY TO RECEIVE INFORMATION UNDER THIS SUBSECTION.

38 Sec. 2. Repeal

39 Section 42-2003, Arizona Revised Statutes, as amended by Laws 2012,
40 chapter 3, section 19, is repealed.

41 Sec. 3. Section 42-5010, Arizona Revised Statutes, is amended to read:

42 42-5010. Rates; distribution base

43 A. The tax imposed by this article is levied and shall be collected at
44 the following rates:

1 1. Five per cent of the tax base as computed for the business of every
2 person engaging or continuing in this state in the following business
3 classifications described in article 2 of this chapter:

- 4 (a) Transporting classification.
- 5 (b) Utilities classification.
- 6 (c) Telecommunications classification.
- 7 (d) Pipeline classification.
- 8 (e) Private car line classification.
- 9 (f) Publication classification.
- 10 (g) Job printing classification.
- 11 (h) Prime contracting classification.
- 12 (i) Owner builder sales classification.
- 13 (j) Amusement classification.
- 14 (k) Restaurant classification.
- 15 (l) Personal property rental classification.
- 16 (m) Retail classification.

17 2. Five and one-half per cent of the tax base as computed for the
18 business of every person engaging or continuing in this state in the
19 transient lodging classification described in section 42-5070.

20 3. Three and one-eighth per cent of the tax base as computed for the
21 business of every person engaging or continuing in this state in the mining
22 classification described in section 42-5072.

23 4. Zero per cent of the tax base as computed for the business of every
24 person engaging or continuing in this state in the commercial lease
25 classification described in section 42-5069.

26 B. **EXCEPT AS PROVIDED BY SUBSECTION J OF THIS SECTION**, twenty per cent
27 of the tax revenues collected at the rate prescribed by subsection A,
28 paragraph 1 of this section from persons on account of engaging in business
29 under the business classifications listed in subsection A, paragraph 1,
30 subdivisions (a) through (i) of this section is designated as distribution
31 base for purposes of section 42-5029.

32 C. Forty per cent of the tax revenues collected at the rate prescribed
33 by subsection A, paragraph 1 of this section from persons on account of
34 engaging in business under the business classifications listed in subsection
35 A, paragraph 1, subdivisions (j) through (m) of this section is designated
36 as distribution base for purposes of section 42-5029.

37 D. Thirty-two per cent of the tax revenues collected from persons on
38 account of engaging in business under the business classification listed in
39 subsection A, paragraph 3 of this section is designated as distribution base
40 for purposes of section 42-5029.

41 E. Fifty-three and one-third per cent of the tax revenues collected
42 from persons on account of engaging in business under the business
43 classification listed in subsection A, paragraph 4 of this section is
44 designated as distribution base for purposes of section 42-5029.

45 F. Fifty per cent of the tax revenues collected from persons on
46 account of engaging in business under the business classification listed in

1 subsection A, paragraph 2 of this section is designated as distribution base
2 for purposes of section 42-5029.

3 G. In addition to the rates prescribed by subsection A of this
4 section, if approved by the qualified electors voting at a statewide general
5 election, an additional rate increment is imposed and shall be collected
6 through June 30, 2021. The taxpayer shall pay taxes pursuant to this
7 subsection at the same time and in the same manner as under subsection A of
8 this section. The department shall separately account for the revenues
9 collected with respect to the rates imposed pursuant to this subsection and
10 the state treasurer shall distribute all of those revenues in the manner
11 prescribed by section 42-5029, subsection E. The rates imposed pursuant to
12 this subsection shall not be considered local revenues for purposes of
13 article IX, section 21, Constitution of Arizona. The additional tax rate
14 increment is levied at the rate of six-tenths of one per cent of the tax base
15 of every person engaging or continuing in this state in a business
16 classification listed in subsection A, paragraph 1 of this section.

17 H. Any increase in the rate of tax that is imposed by this chapter and
18 that is enacted by the legislature or by a vote of the people does not apply
19 with respect to contracts entered into by prime contractors or pursuant to
20 written bids made by prime contractors on or before the effective date of the
21 legislation or the date of the election enacting the increase. To qualify
22 for the exemption under this subsection, the prime contractor must maintain
23 sufficient documentation, in a manner and form prescribed by the department,
24 to verify the date of the contract or written bid.

25 I. For taxpayers taxable under this chapter other than prime
26 contractors taxable pursuant to section 42-5075:

27 1. Any increase in the rate of tax that is levied by this article or
28 article 2 of this chapter enacted by the legislature or by a vote of the
29 people does not apply for a period of one hundred twenty days from the date
30 of the tax rate increase to the gross proceeds of sales or gross income from
31 the business of the taxpayer with respect to written contracts entered into
32 before the effective date of the tax rate increase unless the taxpayer has
33 entered into a contract that contains a provision that entitles the taxpayer
34 to recover from the purchaser the amount of the additional tax levied.

35 2. The provisions of this subsection apply without regard to the
36 accounting method used by the taxpayer to report the taxes imposed under
37 article 2 of this chapter.

38 3. The provisions of this subsection shall not be considered in
39 determining the rate of tax imposed under chapter 6, article 3 of this title.

40 J. ZERO PER CENT OF THE TAX REVENUES THAT ARE COLLECTED AT THE RATE
41 PRESCRIBED BY SUBSECTION A, PARAGRAPH 1 OF THIS SECTION FROM PERSONS ON
42 ACCOUNT OF ENGAGING IN BUSINESS UNDER THE BUSINESS CLASSIFICATION LISTED IN
43 SUBSECTION A, PARAGRAPH 1, SUBDIVISION (h) OF THIS SECTION, AND THAT ARE
44 SUBJECT TO ANY DISTRIBUTION REQUIRED BY SECTION 42-5032.02, IS DESIGNATED AS
45 DISTRIBUTION BASE FOR THE PURPOSES OF SECTION 42-5029 UNTIL THE TOTAL AMOUNT
46 SUBJECT TO DISTRIBUTION PURSUANT TO SECTION 42-5032.02 HAS REACHED THE

1 MAXIMUM AMOUNT PRESCRIBED BY SECTION 42-5032.02, SUBSECTION C. THEREAFTER,
2 TWENTY PER CENT OF THE REMAINING TAX REVENUES IS DESIGNATED AS DISTRIBUTION
3 BASE FOR THE PURPOSES OF SECTION 42-5029 AS PROVIDED BY SUBSECTION B OF THIS
4 SECTION.

5 Sec. 4. Section 42-5029, Arizona Revised Statutes, is amended to read:
6 42-5029. Remission and distribution of monies; definition

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

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

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

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

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

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

26 C. On notification by the department, the state treasurer shall
27 distribute the monies deposited in the transaction privilege and severance
28 tax clearing account in the manner prescribed by this section and by sections
29 42-5164, 42-5205 and 42-5353, after deducting warrants drawn against the
30 account pursuant to sections 42-1118 and 42-1254.

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

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

35 2. Pay 38.08 per cent to the counties in this state by averaging the
36 following proportions:

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

39 (b) The proportion that the distribution base monies collected during
40 the calendar month in each county under this article, section 42-5164,
41 subsection B, section 42-5205, subsection B and section 42-5353 bear to the
42 total distribution base monies collected under this article, section 42-5164,
43 subsection B, section 42-5205, subsection B and section 42-5353 throughout
44 the state for the calendar month.

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

3 (a) Average the following proportions:

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

16 (ii) The proportion that the distribution base monies collected during
17 the calendar month in each county under this article, section 42-5164,
18 subsection B, section 42-5205, subsection B and section 42-5353 bear to the
19 total distribution base monies collected under this article, section 42-5164,
20 subsection B, section 42-5205, subsection B and section 42-5353 throughout
21 the state for the calendar month.

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

32 4. After any distributions required by sections 42-5030, 42-5030.01,
33 42-5031, 42-5032, ~~and~~ 42-5032.01 AND 42-5032.02, and after making any
34 transfer to the water quality assurance revolving fund as required by section
35 49-282, subsection B, credit the remainder of the monies designated as
36 distribution base to the state general fund. From this amount:

37 (a) The legislature shall annually appropriate to:

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

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

42 (iii) The firearms safety and ranges fund established by section
43 17-273, fifty thousand dollars derived from the taxes collected from the
44 retail classification pursuant to section 42-5061 for the current fiscal
45 year.

1 (b) Subject to separate initial legislative authorization, each year
2 the state treasurer shall transfer to the tourism fund an amount equal to the
3 sum of the following:

4 (i) Three and one-half per cent of the gross revenues derived from the
5 transient lodging classification pursuant to section 42-5070 during the
6 preceding fiscal year.

7 (ii) Three per cent of the gross revenues derived from the amusement
8 classification pursuant to section 42-5073 during the preceding fiscal year.

9 (iii) Two per cent of the gross revenues derived from the restaurant
10 classification pursuant to section 42-5074 during the preceding fiscal year.

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

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

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

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

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

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

6 5. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
7 subsection, one-twelfth of the following amounts shall be transferred each
8 month to the department of education for the increased cost of basic state
9 aid under section 15-971 due to added school days and associated teacher
10 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 this
18 subsection, seven million eight hundred thousand dollars is appropriated each
19 fiscal year, to be paid in monthly installments, to the department of
20 education to be used for school safety as provided in section 15-154 and two
21 hundred thousand dollars is appropriated each fiscal year, to be paid in
22 monthly installments to the department of education to be used for the
23 character education matching grant program as provided in section 15-154.01.

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

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

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

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

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

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

1 (c) Forty per cent shall be allocated for maintenance and operation
2 purposes.

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

6 G. Notwithstanding subsection D of this section, if a court of
7 competent jurisdiction finally determines that tax monies distributed under
8 this section were illegally collected under this article or articles 5 and 8
9 of this chapter and orders the monies to be refunded to the taxpayer, the
10 department shall compute the amount of such monies that was distributed to
11 each city, town and county under this section. The department shall notify
12 the state treasurer of that amount plus the proportionate share of additional
13 allocated costs required to be paid to the taxpayer. Each city's, town's and
14 county's proportionate share of the costs shall be based on the amount of the
15 original tax payment each municipality and county received. Each month the
16 state treasurer shall reduce the amount otherwise distributable to the city,
17 town and county under this section by one thirty-sixth of the total amount to
18 be recovered from the city, town or county until the total amount has been
19 recovered, but the monthly reduction for any city, town or county shall not
20 exceed ten per cent of the full monthly distribution to that entity. The
21 reduction shall begin for the first calendar month after the final
22 disposition of the case and shall continue until the total amount, including
23 interest and costs, has been recovered.

24 H. On receiving a certificate of default from the greater Arizona
25 development authority pursuant to section 41-2257 or 41-2258 and to the
26 extent not otherwise expressly prohibited by law, the state treasurer shall
27 withhold from the next succeeding distribution of monies pursuant to this
28 section due to the defaulting political subdivision the amount specified in
29 the certificate of default and immediately deposit the amount withheld in the
30 greater Arizona development authority revolving fund. The state treasurer
31 shall continue to withhold and deposit the monies until the greater Arizona
32 development authority certifies to the state treasurer that the default has
33 been cured. In no event may the state treasurer withhold any amount that the
34 defaulting political subdivision certifies to the state treasurer and the
35 authority as being necessary to make any required deposits then due for the
36 payment of principal and interest on bonds of the political subdivision that
37 were issued before the date of the loan repayment agreement or bonds and that
38 have been secured by a pledge of distributions made pursuant to this section.

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

44 J. Except as otherwise provided by this subsection, on notice from the
45 department of revenue pursuant to section 42-6010, subsection B, the state
46 treasurer shall withhold from the distribution of monies pursuant to this

1 section to the affected city or town the amount of the penalty for business
2 location municipal tax incentives provided by the city or town to a business
3 entity that locates a retail business facility in the city or town. The
4 state treasurer shall continue to withhold monies pursuant to this subsection
5 until the entire amount of the penalty has been withheld. The state
6 treasurer shall credit any monies withheld pursuant to this subsection to the
7 state general fund as provided by subsection D, paragraph 4 of this section.
8 The state treasurer shall not withhold any amount that the city or town
9 certifies to the department of revenue and the state treasurer as being
10 necessary to make any required deposits or payments for debt service on bonds
11 or other long-term obligations of the city or town that were issued or
12 incurred before the location incentives provided by the city or town.

13 K. On notice from the auditor general pursuant to section 9-626,
14 subsection D, the state treasurer shall withhold from the distribution of
15 monies pursuant to this section to the affected city the amount computed
16 pursuant to section 9-626, subsection D. The state treasurer shall continue
17 to withhold monies pursuant to this subsection until the entire amount
18 specified in the notice has been withheld. The state treasurer shall credit
19 any monies withheld pursuant to this subsection to the state general fund as
20 provided by subsection D, paragraph 4 of this section.

21 L. For the purposes of this section, "community college district"
22 means a community college district that is established pursuant to sections
23 15-1402 and 15-1403 and that is a political subdivision of this state and,
24 subject to the distribution procedures specified in section 15-1472,
25 subsection D, paragraph 2, subdivision (b), includes a community college
26 district established pursuant to section 15-1402.01 and, subject to the
27 distribution procedures specified in section 15-1472, subsection D, paragraph
28 2, subdivision (b), includes a provisional community college district
29 established pursuant to section 15-1409.

30 Sec. 5. Title 42, chapter 5, article 1, Arizona Revised Statutes, is
31 amended by adding section 42-5032.02, to read:

32 42-5032.02. Distribution of revenues for city, town or county
33 infrastructure improvements related to
34 manufacturing facilities; definitions

35 A. SUBJECT TO SUBSECTION B OF THIS SECTION, FROM AND AFTER SEPTEMBER
36 30, 2013 THROUGH SEPTEMBER 30, 2023, EACH MONTH THE STATE TREASURER SHALL PAY
37 A CITY, TOWN OR COUNTY THE AMOUNT DETERMINED UNDER SUBSECTION C OF THIS
38 SECTION FOR THE PURPOSE OF FUNDING UP TO EIGHTY PER CENT OF THE COST OF
39 PUBLIC INFRASTRUCTURE IMPROVEMENTS FOR THE BENEFIT OF A MANUFACTURING
40 FACILITY.

41 B. THE STATE TREASURER SHALL NOT MAKE ANY PAYMENTS UNDER SUBSECTION C
42 OF THIS SECTION UNTIL BOTH OF THE FOLLOWING APPLY:

43 1. TWENTY-FIVE PER CENT OF THE CAPITAL INVESTMENT THAT IS CERTIFIED
44 UNDER SUBSECTION D OF THIS SECTION AND THAT CONSTITUTES CONSTRUCTION PHASE
45 SERVICES, AS DEFINED IN SECTION 42-5075, HAS BEEN MADE BY THE MANUFACTURING
46 FACILITY.

1 2. FROM AND AFTER JUNE 30, 2014.

2 C. THE AMOUNT TO BE PAID TO A CITY, TOWN OR COUNTY UNDER SUBSECTION A
3 OF THIS SECTION IS THE TOTAL AMOUNT OF STATE TRANSACTION PRIVILEGE TAX
4 REVENUES COLLECTED UNDER SECTION 42-5010, SUBSECTION A FROM PERSONS
5 CONDUCTING BUSINESS UNDER SECTION 42-5075 DERIVED FROM CONTRACTS TO CONSTRUCT
6 BUILDINGS AND ASSOCIATED IMPROVEMENTS FOR THE BENEFIT OF A MANUFACTURING
7 FACILITY. THE TOTAL AMOUNT PAID TO ALL CITIES, TOWNS AND COUNTIES UNDER THIS
8 SUBSECTION SHALL NOT EXCEED A MAXIMUM OF FIFTY MILLION DOLLARS.

9 D. BEFORE THE COMMENCEMENT OF THE CONSTRUCTION OF BUILDINGS AND
10 ASSOCIATED IMPROVEMENTS FOR THE BENEFIT OF A MANUFACTURING FACILITY THAT WILL
11 REQUIRE A CITY, TOWN OR COUNTY TO MAKE INFRASTRUCTURE IMPROVEMENTS, THE
12 MANUFACTURING FACILITY SHALL FILE A SWORN CERTIFICATION WITH THE ARIZONA
13 COMMERCE AUTHORITY, AND SUBMIT A COPY OF THIS SWORN CERTIFICATION TO THE
14 APPLICABLE CITY, TOWN OR COUNTY, THAT THE MANUFACTURING FACILITY AGREES TO
15 EITHER:

16 1. MAKE AT LEAST FIVE HUNDRED MILLION DOLLARS IN CAPITAL INVESTMENT IF
17 THE MANUFACTURING FACILITY IS LOCATED IN A COUNTY THAT HAS A POPULATION OF
18 EIGHT HUNDRED THOUSAND PERSONS OR MORE.

19 2. MAKE AT LEAST FIFTY MILLION DOLLARS IN CAPITAL INVESTMENT IF THE
20 MANUFACTURING FACILITY IS LOCATED IN A COUNTY THAT HAS A POPULATION OF LESS
21 THAN EIGHT HUNDRED THOUSAND PERSONS.

22 E. THE CERTIFICATION UNDER SUBSECTION D OF THIS SECTION SHALL CONTAIN
23 A SWORN STATEMENT OR CERTIFICATION, SIGNED BY AN OFFICER OF THE MANUFACTURING
24 FACILITY UNDER PENALTY OF PERJURY, THAT THE INFORMATION CONTAINED IS TRUE AND
25 CORRECT ACCORDING TO THE BEST BELIEF AND KNOWLEDGE OF THE PERSON SUBMITTING
26 THE INFORMATION TO THE DEPARTMENT AFTER A REASONABLE INVESTIGATION OF THE
27 FACTS.

28 F. ON RECEIPT OF A SWORN CERTIFICATION FROM A MANUFACTURING FACILITY
29 PURSUANT TO SUBSECTION D OF THIS SECTION AND BEFORE THE COMMENCEMENT OF THE
30 CONSTRUCTION OF BUILDINGS AND ASSOCIATED IMPROVEMENTS FOR THE BENEFIT OF A
31 MANUFACTURING FACILITY THAT WILL REQUIRE A CITY, TOWN OR COUNTY TO MAKE
32 INFRASTRUCTURE IMPROVEMENTS, THE CITY, TOWN OR COUNTY SHALL ENTER INTO A
33 WRITTEN AGREEMENT WITH THE DEPARTMENT. THIS AGREEMENT AND ANY AMENDMENTS OR
34 CHANGES TO THE AGREEMENT SHALL:

35 1. STATE THE COST OF THE PUBLIC INFRASTRUCTURE IMPROVEMENTS AND
36 SEPARATELY IDENTIFY THE PARTICULAR IMPROVEMENTS THAT WILL BE MADE.

37 2. STATE THAT THE MONIES RECEIVED UNDER THIS SECTION WILL BE USED
38 EXCLUSIVELY TO PAY FOR PUBLIC INFRASTRUCTURE IMPROVEMENTS THAT ARE NECESSARY
39 TO SUPPORT THE ACTIVITIES OF THE MANUFACTURING FACILITY.

40 3. STATE THAT THE CITY, TOWN OR COUNTY WILL PAY A MINIMUM OF TWENTY
41 PER CENT OF THE COST OF THE PUBLIC INFRASTRUCTURE IMPROVEMENTS WITH ITS OWN
42 MONIES OR WITH MONIES FROM THE MANUFACTURING FACILITY.

43 4. STATE THAT THE CITY, TOWN OR COUNTY WILL IMMEDIATELY NOTIFY THE
44 DEPARTMENT WHEN MONIES RECEIVED UNDER THIS SECTION EXCEED EIGHTY PER CENT OF
45 THE COST OF THE INFRASTRUCTURE IMPROVEMENTS AND WILL RETURN THE AMOUNT OF THE
46 EXCESS TO THE STATE TREASURER FOR DEPOSIT TO THE STATE GENERAL FUND.

1 5. STIPULATE THE ACTUAL AMOUNT OF THE CONSTRUCTION FUNDING THAT WILL
2 BE DERIVED FROM SOURCES OTHER THAN THE STATE.

3 6. IDENTIFY THE PERSONS WHO WILL BE PRIME CONTRACTORS ON THE
4 CONSTRUCTION OF BUILDINGS AND ASSOCIATED IMPROVEMENTS FOR THE BENEFIT OF A
5 MANUFACTURING FACILITY AND STATE THAT EACH PRIME CONTRACTOR HAS BEEN NOTIFIED
6 AS TO WHICH PORTION OF THE CONTRACTOR'S INCOME SHALL BE SEPARATELY IDENTIFIED
7 TO THE DEPARTMENT PURSUANT TO SECTION 42-5075, SUBSECTION H.

8 7. STATE THAT THE CITY, TOWN OR COUNTY AGREES THAT ANY AMOUNTS PAID BY
9 THE DEPARTMENT TO A PRIME CONTRACTOR AS IDENTIFIED UNDER PARAGRAPH 6 OF THIS
10 SUBSECTION RESULTING FROM AN AUDIT ADJUSTMENT OR CLAIM FOR CREDIT OR REFUND
11 OF TAXES DESCRIBED IN SUBSECTION C OF THIS SECTION SHALL BE RECOVERED BY THE
12 DEPARTMENT FROM THE CITY, TOWN OR COUNTY BY REDUCING THE AMOUNT PAID TO THE
13 CITY, TOWN OR COUNTY UNDER SECTION 42-5029 FROM MONIES DESIGNATED AS
14 DISTRIBUTION BASE IN THE MONTH NEXT SUCCEEDING THE MONTH IN WHICH THE
15 ADJUSTMENT OR CLAIM IS PAID.

16 8. STATE THAT THE CITY, TOWN OR COUNTY AGREES THAT THE DEPARTMENT WILL
17 USE THE AMOUNTS SUBJECT TO ANY DISTRIBUTION REQUIRED UNDER SUBSECTION A OF
18 THIS SECTION IN CALCULATING THE MAXIMUM AMOUNT SET BY SUBSECTION C OF THIS
19 SECTION.

20 9. STATE THAT THE CITY, TOWN OR COUNTY AGREES THAT IF, ON NOTIFICATION
21 BY THE DEPARTMENT, THE STATE TREASURER CEASES PAYMENTS BECAUSE OF THE
22 CONDITION DESCRIBED IN SUBSECTION G OF THIS SECTION, THE CITY, TOWN OR COUNTY
23 HAS NO CLAIM TO ADDITIONAL PAYMENTS IF THE DEPARTMENT SUBSEQUENTLY PAYS
24 AMOUNTS TO A PRIME CONTRACTOR IDENTIFIED IN AN AGREEMENT WITH ANY CITY, TOWN
25 OR COUNTY, AS DESCRIBED IN PARAGRAPH 6 OF THIS SUBSECTION, DUE TO AN AUDIT
26 ADJUSTMENT OR CLAIM FOR CREDIT OR REFUND OF TAXES DESCRIBED IN SUBSECTION C
27 OF THIS SECTION.

28 10. PROVIDE ANY OTHER INFORMATION DEEMED NECESSARY BY THE DEPARTMENT.

29 G. ON NOTIFICATION BY THE DEPARTMENT, THE STATE TREASURER SHALL CEASE
30 PAYMENTS UNDER SUBSECTION A OF THIS SECTION IF EITHER OF THE FOLLOWING
31 OCCURS:

32 1. A CITY, TOWN OR COUNTY HAS RECEIVED MONIES THAT MEET OR EXCEED
33 EIGHTY PER CENT OF THE COST OF THE PUBLIC INFRASTRUCTURE IMPROVEMENTS THAT
34 ARE NECESSARY TO SUPPORT THE ACTIVITIES RELATED TO THE MANUFACTURING FACILITY
35 AS DESCRIBED IN THE WRITTEN AGREEMENT PURSUANT TO SUBSECTION E OF THIS
36 SECTION.

37 2. THE TOTAL AMOUNT SUBJECT TO ANY DISTRIBUTION REQUIRED UNDER
38 SUBSECTION A OF THIS SECTION HAS MET THE MAXIMUM AMOUNT SET BY SUBSECTION C
39 OF THIS SECTION.

40 H. FOR THE PURPOSES OF THIS SECTION:

41 1. "ASSOCIATED IMPROVEMENT" INCLUDES ANY PUBLIC INFRASTRUCTURE
42 IMPROVEMENT THAT IS MADE FOR THE BENEFIT OF THE MANUFACTURING FACILITY
43 OUTSIDE OF THE PARCEL OR PARCELS OF REAL PROPERTY WHERE THE MANUFACTURING
44 FACILITY IS LOCATED.

1 2. "CAPITAL INVESTMENT" MEANS AN EXPENDITURE TO ACQUIRE, LEASE OR
2 IMPROVE PROPERTY THAT IS USED FOR THE BENEFIT OF A MANUFACTURING FACILITY,
3 INCLUDING LAND, BUILDINGS, MACHINERY AND FIXTURES.

4 3. "MANUFACTURING FACILITY" MEANS AN ESTABLISHMENT ENGAGED IN THE
5 MECHANICAL, PHYSICAL OR CHEMICAL TRANSFORMATION OR FABRICATION OF MATERIALS,
6 SUBSTANCES OR COMPONENTS INTO NEW PRODUCTS IN THIS STATE AND THAT IS
7 CLASSIFIED WITHIN SECTIONS 31 THROUGH 33 INCLUSIVE OF THE 2007 EDITION OF THE
8 NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM AS PUBLISHED BY THE NATIONAL
9 TECHNICAL INFORMATION SERVICE OF THE UNITED STATES DEPARTMENT OF COMMERCE AND
10 THE ESTABLISHMENT AGREES TO EITHER:

11 (a) MAKE AT LEAST FIVE HUNDRED MILLION DOLLARS IN CAPITAL INVESTMENT
12 IF THE MANUFACTURING FACILITY IS LOCATED IN A COUNTY THAT HAS A POPULATION OF
13 EIGHT HUNDRED THOUSAND PERSONS OR MORE.

14 (b) MAKE AT LEAST FIFTY MILLION DOLLARS IN CAPITAL INVESTMENT IF THE
15 MANUFACTURING FACILITY IS LOCATED IN A COUNTY THAT HAS A POPULATION OF LESS
16 THAN EIGHT HUNDRED THOUSAND PERSONS.
17 MANUFACTURING FACILITY DOES NOT INCLUDE MINING, MILLING OR SMELTING MINERAL
18 ORE OR GENERATING ELECTRICITY.

19 4. "POPULATION" MEANS THE POPULATION DETERMINED IN THE MOST RECENT
20 UNITED STATES DECENNIAL CENSUS OR THE MOST RECENT SPECIAL CENSUS AS PROVIDED
21 IN SECTION 28-6532.

22 5. "PUBLIC INFRASTRUCTURE" MEANS WATER FACILITIES, WASTEWATER
23 FACILITIES AND ROADS THAT ARE NECESSARY TO SUPPORT THE ACTIVITIES OF THE
24 MANUFACTURING FACILITY.

25 Sec. 6. Section 42-5075, Arizona Revised Statutes, is amended to read:
26 42-5075. Prime contracting classification; exemptions;
27 definitions

28 A. The prime contracting classification is comprised of the business
29 of prime contracting and dealership of manufactured buildings. Sales for
30 resale to another dealership of manufactured buildings are not subject to
31 tax. Sales for resale do not include sales to a lessor of manufactured
32 buildings. The sale of a used manufactured building is not taxable under
33 this chapter. The proceeds from alteration and repairs to a used
34 manufactured building are taxable under this section.

35 B. The tax base for the prime contracting classification is sixty-five
36 per cent of the gross proceeds of sales or gross income derived from the
37 business. The following amounts shall be deducted from the gross proceeds of
38 sales or gross income before computing the tax base:

39 1. The sales price of land, which shall not exceed the fair market
40 value.

41 2. Sales and installation of groundwater measuring devices required
42 under section 45-604 and groundwater monitoring wells required by law,
43 including monitoring wells installed for acquiring information for a permit
44 required by law.

45 3. The sales price of furniture, furnishings, fixtures, appliances and
46 attachments that are not incorporated as component parts of or attached to a

1 manufactured building or the setup site. The sale of such items may be
2 subject to the taxes imposed by article 1 of this chapter separately and
3 distinctly from the sale of the manufactured building.

4 4. The gross proceeds of sales or gross income received from a
5 contract entered into for the construction, alteration, repair, addition,
6 subtraction, improvement, movement, wrecking or demolition of any building,
7 highway, road, railroad, excavation, manufactured building or other
8 structure, project, development or improvement located in a military reuse
9 zone for providing aviation or aerospace services or for a manufacturer,
10 assembler or fabricator of aviation or aerospace products within an active
11 military reuse zone after the zone is initially established or renewed under
12 section 41-1531. To be eligible to qualify for this deduction, before
13 beginning work under the contract, the prime contractor must have applied for
14 a letter of qualification from the department of revenue.

15 5. The gross proceeds of sales or gross income derived from a contract
16 to construct a qualified environmental technology manufacturing, producing or
17 processing facility, as described in section 41-1514.02, and from subsequent
18 construction and installation contracts that begin within ten years after the
19 start of initial construction. To qualify for this deduction, before
20 beginning work under the contract, the prime contractor must obtain a letter
21 of qualification from the department of revenue. This paragraph shall apply
22 for ten full consecutive calendar or fiscal years after the start of initial
23 construction.

24 6. The gross proceeds of sales or gross income from a contract to
25 provide for one or more of the following actions, or a contract for site
26 preparation, constructing, furnishing or installing machinery, equipment or
27 other tangible personal property, including structures necessary to protect
28 exempt incorporated materials or installed machinery or equipment, and
29 tangible personal property incorporated into the project, to perform one or
30 more of the following actions in response to a release or suspected release
31 of a hazardous substance, pollutant or contaminant from a facility to the
32 environment, unless the release was authorized by a permit issued by a
33 governmental authority:

34 (a) Actions to monitor, assess and evaluate such a release or a
35 suspected release.

36 (b) Excavation, removal and transportation of contaminated soil and
37 its treatment or disposal.

38 (c) Treatment of contaminated soil by vapor extraction, chemical or
39 physical stabilization, soil washing or biological treatment to reduce the
40 concentration, toxicity or mobility of a contaminant.

41 (d) Pumping and treatment or in situ treatment of contaminated
42 groundwater or surface water to reduce the concentration or toxicity of a
43 contaminant.

44 (e) The installation of structures, such as cutoff walls or caps, to
45 contain contaminants present in groundwater or soil and prevent them from

1 reaching a location where they could threaten human health or welfare or the
2 environment.

3 This paragraph does not include asbestos removal or the construction or use
4 of ancillary structures such as maintenance sheds, offices or storage
5 facilities for unattached equipment, pollution control equipment, facilities
6 or other control items required or to be used by a person to prevent or
7 control contamination before it reaches the environment.

8 7. The gross proceeds of sales or gross income that is derived from a
9 contract entered into for the installation, assembly, repair or maintenance
10 of machinery, equipment or other tangible personal property that is deducted
11 from the tax base of the retail classification pursuant to section 42-5061,
12 subsection B, or that is exempt from use tax pursuant to section 42-5159,
13 subsection B, and that does not become a permanent attachment to a building,
14 highway, road, railroad, excavation or manufactured building or other
15 structure, project, development or improvement. If the ownership of the
16 realty is separate from the ownership of the machinery, equipment or tangible
17 personal property, the determination as to permanent attachment shall be made
18 as if the ownership were the same. The deduction provided in this paragraph
19 does not include gross proceeds of sales or gross income from that portion of
20 any contracting activity ~~which~~ THAT consists of the development of, or
21 modification to, real property in order to facilitate the installation,
22 assembly, repair, maintenance or removal of machinery, equipment or other
23 tangible personal property that is deducted from the tax base of the retail
24 classification pursuant to section 42-5061, subsection B or that is exempt
25 from use tax pursuant to section 42-5159, subsection B. For the purposes of
26 this paragraph, "permanent attachment" means at least one of the following:

27 (a) To be incorporated into real property.

28 (b) To become so affixed to real property that it becomes a part of
29 the real property.

30 (c) To be so attached to real property that removal would cause
31 substantial damage to the real property from which it is removed.

32 8. Through December 31, 2009, the gross proceeds of sales or gross
33 income received from a contract for constructing any lake facility
34 development in a commercial enhancement reuse district ~~that is designated~~
35 ~~pursuant to section 9-499.08~~ if the prime contractor maintains the following
36 records in a form satisfactory to the department and to the city or town in
37 which the property is located:

38 (a) The certificate of qualification of the lake facility development
39 issued by the city or town ~~pursuant to section 9-499.08, subsection D.~~

40 (b) All state and local transaction privilege tax returns for the
41 period of time during which the prime contractor received gross proceeds of
42 sales or gross income from a contract to construct a lake facility
43 development in a designated commercial enhancement reuse district, showing
44 the amount exempted from state and local taxation.

45 (c) Any other information that the department considers to be
46 necessary.

1 9. The gross proceeds of sales or gross income attributable to the
2 purchase of machinery, equipment or other tangible personal property that is
3 exempt from or deductible from transaction privilege and use tax under:

4 (a) Section 42-5061, subsection A, paragraph 25 or 29.

5 (b) Section 42-5061, subsection B.

6 (c) Section 42-5159, subsection A, paragraph 13, subdivision (a), (b),
7 (c), (d), (e), (f), (i), (j) or (l).

8 (d) Section 42-5159, subsection B.

9 10. The gross proceeds of sales or gross income received from a
10 contract for the construction of an environmentally controlled facility for
11 the raising of poultry for the production of eggs and the sorting, cooling
12 and packaging of eggs.

13 11. The gross proceeds of sales or gross income that is derived from a
14 contract entered into with a person who is engaged in the commercial
15 production of livestock, livestock products or agricultural, horticultural,
16 viticultural or floricultural crops or products in this state for the
17 construction, alteration, repair, improvement, movement, wrecking or
18 demolition or addition to or subtraction from any building, highway, road,
19 excavation, manufactured building or other structure, project, development or
20 improvement used directly and primarily to prevent, monitor, control or
21 reduce air, water or land pollution.

22 12. The gross proceeds of sales or gross income that is derived from
23 the installation, assembly, repair or maintenance of clean rooms that are
24 deducted from the tax base of the retail classification pursuant to section
25 42-5061, subsection B, paragraph 17.

26 13. For taxable periods beginning from and after June 30, 2001, the
27 gross proceeds of sales or gross income derived from a contract entered into
28 for the construction of a residential apartment housing facility that
29 qualifies for a federal housing subsidy for low income persons over sixty-two
30 years of age and that is owned by a nonprofit charitable organization that
31 has qualified under section 501(c)(3) of the internal revenue code.

32 14. For taxable periods beginning from and after December 31, 1996 and
33 ending before January 1, 2017, the gross proceeds of sales or gross income
34 derived from a contract to provide and install a solar energy device. The
35 contractor shall register with the department as a solar energy contractor.
36 By registering, the contractor acknowledges that it will make its books and
37 records relating to sales of solar energy devices available to the department
38 for examination.

39 15. The gross proceeds of sales or gross income derived from a contract
40 entered into for the construction of a launch site, as defined in 14 Code of
41 Federal Regulations section 401.5.

42 16. The gross proceeds of sales or gross income derived from a contract
43 entered into for the construction of a domestic violence shelter that is
44 owned and operated by a nonprofit charitable organization that has qualified
45 under section 501(c)(3) of the internal revenue code.

1 17. The gross proceeds of sales or gross income derived from contracts
2 to perform postconstruction treatment of real property for termite and
3 general pest control, including wood destroying organisms.

4 18. The gross proceeds of sales or gross income received from contracts
5 entered into before July 1, 2006 for constructing a state university research
6 infrastructure project if the project has been reviewed by the joint
7 committee on capital review before the university enters into the
8 construction contract for the project. For the purposes of this paragraph,
9 "research infrastructure" has the same meaning prescribed in section 15-1670.

10 19. The gross proceeds of sales or gross income received from a
11 contract for the construction of any building, or other structure, project,
12 development or improvement owned by a qualified business under section
13 41-1516 for harvesting or the initial processing of qualifying forest
14 products removed from qualifying projects as defined in section 41-1516 if
15 actual construction begins before January 1, 2010. To qualify for this
16 deduction, the prime contractor must obtain a letter of qualification from
17 the department of commerce before beginning work under the contract.

18 20. The gross proceeds of sales or gross income received from a
19 contract for the construction of any building or other structure associated
20 with motion picture production in this state. To qualify for the deduction,
21 at the time the contract is entered into the motion picture production
22 company must present to the prime contractor its certificate that is issued
23 pursuant to section 42-5009, subsection H and that establishes its
24 qualification for the deduction.

25 21. Any amount of the gross proceeds of sales or gross income
26 attributable to development fees that are incurred in relation to a contract
27 for construction, development or improvement of real property and that are
28 paid by a prime contractor or subcontractor. For the purposes of this
29 paragraph:

30 (a) The attributable amount shall not exceed the value of the
31 development fees actually imposed.

32 (b) The attributable amount is equal to the total amount of
33 development fees paid by the prime contractor or subcontractor, and the total
34 development fees credited in exchange for the construction of, contribution
35 to or dedication of real property for providing public infrastructure, public
36 safety or other public services necessary to the development. The real
37 property must be the subject of the development fees.

38 (c) "Development fees" means fees imposed to offset capital costs of
39 providing public infrastructure, public safety or other public services to a
40 development and authorized pursuant to section 9-463.05, section 11-1102 or
41 title 48 regardless of the jurisdiction to which the fees are paid.

42 C. Entitlement to the deduction pursuant to subsection B, paragraph 7
43 of this section is subject to the following provisions:

44 1. A prime contractor may establish entitlement to the deduction by
45 both:

1 (a) Marking the invoice for the transaction to indicate that the gross
2 proceeds of sales or gross income derived from the transaction was deducted
3 from the base.

4 (b) Obtaining a certificate executed by the purchaser indicating the
5 name and address of the purchaser, the precise nature of the business of the
6 purchaser, the purpose for which the purchase was made, the necessary facts
7 to establish the deductibility of the property under section 42-5061,
8 subsection B, and a certification that the person executing the certificate
9 is authorized to do so on behalf of the purchaser. The certificate may be
10 disregarded if the prime contractor has reason to believe that the
11 information contained in the certificate is not accurate or complete.

12 2. A person who does not comply with paragraph 1 of this subsection
13 may establish entitlement to the deduction by presenting facts necessary to
14 support the entitlement, but the burden of proof is on that person.

15 3. The department may prescribe a form for the certificate described
16 in paragraph 1, subdivision (b) of this subsection. The department may also
17 adopt rules that describe the transactions with respect to which a person is
18 not entitled to rely solely on the information contained in the certificate
19 provided in paragraph 1, subdivision (b) of this subsection but must instead
20 obtain such additional information as required in order to be entitled to the
21 deduction.

22 4. If a prime contractor is entitled to a deduction by complying with
23 paragraph 1 of this subsection, the department may require the purchaser who
24 caused the execution of the certificate to establish the accuracy and
25 completeness of the information required to be contained in the certificate
26 which would entitle the prime contractor to the deduction. If the purchaser
27 cannot establish the accuracy and completeness of the information, the
28 purchaser is liable in an amount equal to any tax, penalty and interest which
29 the prime contractor would have been required to pay under article 1 of this
30 chapter if the prime contractor had not complied with paragraph 1 of this
31 subsection. Payment of the amount under this paragraph exempts the purchaser
32 from liability for any tax imposed under article 4 of this chapter. The
33 amount shall be treated as a transaction privilege tax to the purchaser and
34 as tax revenues collected from the prime contractor in order to designate the
35 distribution base for purposes of section 42-5029.

36 D. Subcontractors or others who perform services in respect to any
37 improvement, building, highway, road, railroad, excavation, manufactured
38 building or other structure, project, development or improvement are not
39 subject to tax if they can demonstrate that the job was within the control of
40 a prime contractor or contractors or a dealership of manufactured buildings
41 and that the prime contractor or dealership is liable for the tax on the
42 gross income, gross proceeds of sales or gross receipts attributable to the
43 job and from which the subcontractors or others were paid.

44 E. Amounts received by a contractor for a project are excluded from
45 the contractor's gross proceeds of sales or gross income derived from the
46 business if the person who hired the contractor executes and provides a

1 certificate to the contractor stating that the person providing the
2 certificate is a prime contractor and is liable for the tax under article 1
3 of this chapter. The department shall prescribe the form of the certificate.
4 If the contractor has reason to believe that the information contained on the
5 certificate is erroneous or incomplete, the department may disregard the
6 certificate. If the person who provides the certificate is not liable for
7 the tax as a prime contractor, that person is nevertheless deemed to be the
8 prime contractor in lieu of the contractor and is subject to the tax under
9 this section on the gross receipts or gross proceeds received by the
10 contractor.

11 F. Every person engaging or continuing in this state in the business
12 of prime contracting or dealership of manufactured buildings shall present to
13 the purchaser of such prime contracting or manufactured building a written
14 receipt of the gross income or gross proceeds of sales from such activity and
15 shall separately state the taxes to be paid pursuant to this section.

16 G. For the purposes of section 42-5032.01, the department shall
17 separately account for revenues collected under the prime contracting
18 classification from any prime contractor engaged in the preparation or
19 construction of a multipurpose facility, and related infrastructure, that is
20 owned, operated or leased by the tourism and sports authority pursuant to
21 title 5, chapter 8.

22 H. FOR THE PURPOSES OF SECTION 42-5032.02, FROM AND AFTER SEPTEMBER
23 30, 2013, THE DEPARTMENT SHALL SEPARATELY ACCOUNT FOR REVENUES REPORTED AND
24 COLLECTED UNDER THE PRIME CONTRACTING CLASSIFICATION FROM ANY PRIME
25 CONTRACTOR ENGAGED IN THE CONSTRUCTION OF ANY BUILDINGS AND ASSOCIATED
26 IMPROVEMENTS THAT ARE FOR THE BENEFIT OF A MANUFACTURING FACILITY. FOR THE
27 PURPOSES OF THIS SUBSECTION, "ASSOCIATED IMPROVEMENTS" AND "MANUFACTURING
28 FACILITY" HAVE THE SAME MEANINGS PRESCRIBED IN SECTION 42-5032.02.

29 ~~H.~~ I. The gross proceeds of sales or gross income derived from a
30 contract for lawn maintenance services are not subject to tax under this
31 section if the contract does not include landscaping activities. Lawn
32 maintenance service is a service pursuant to section 42-5061, subsection A,
33 paragraph 1, and includes lawn mowing and edging, weeding, repairing
34 sprinkler heads or drip irrigation heads, seasonal replacement of flowers,
35 refreshing gravel, lawn de-thatching, seeding winter lawns, leaf and debris
36 collection and removal, tree or shrub pruning or clipping, garden and gravel
37 raking and applying pesticides, as defined in section 3-361, and fertilizer
38 materials, as defined in section 3-262.

39 ~~I.~~ J. The gross proceeds of sales or gross income derived from
40 landscaping activities are subject to tax under this section. Landscaping
41 includes installing lawns, grading or leveling ground, installing gravel or
42 boulders, planting trees and other plants, felling trees, removing or
43 mulching tree stumps, removing other imbedded plants, building or modifying
44 irrigation berms, repairing sprinkler or watering systems, installing
45 railroad ties and installing underground sprinkler or watering systems.

1 ~~J~~ K. The portion of gross proceeds of sales or gross income
2 attributable to the actual direct costs of providing architectural or
3 engineering services that are incorporated in a contract is not subject to
4 tax under this section. For the purposes of this subsection, "direct costs"
5 means the portion of the actual costs that are directly expended in providing
6 architectural or engineering services.

7 ~~K~~ L. Operating a landfill or a solid waste disposal facility is not
8 subject to taxation under this section, including filling, compacting and
9 creating vehicle access to and from cell sites within the landfill.
10 Constructing roads to a landfill or solid waste disposal facility and
11 constructing cells within a landfill or solid waste disposal facility may be
12 deemed prime contracting under this section.

13 ~~L~~ M. The following apply to manufactured buildings:

14 1. For sales in this state where the dealership of manufactured
15 buildings contracts to deliver the building to a setup site or to perform the
16 setup in this state, the taxable situs is the setup site.

17 2. For sales in this state where the dealership of manufactured
18 buildings does not contract to deliver the building to a setup site or does
19 not perform the setup, the taxable situs is the location of the dealership
20 where the building is delivered to the buyer.

21 3. For sales in this state where the dealership of manufactured
22 buildings contracts to deliver the building to a setup site that is outside
23 this state, the situs is outside this state and the transaction is excluded
24 from tax.

25 ~~M~~ N. The gross proceeds of sales or gross income attributable to a
26 separate, written design phase services contract or professional services
27 contract, executed before modification begins, is not subject to tax under
28 this section, regardless of whether the services are provided sequential to
29 or concurrent with prime contracting activities that are subject to tax under
30 this section. This subsection does not include the gross proceeds of sales
31 or gross income attributable to construction phase services. For the
32 purposes of this subsection:

33 1. "Construction phase services" means services for the execution and
34 completion of any modification, including the following:

35 (a) Administration or supervision of any modification performed on the
36 project, including team management and coordination, scheduling, cost
37 controls, submittal process management, field management, safety program,
38 close-out process and warranty period services.

39 (b) Administration or supervision of any modification performed
40 pursuant to a punch list. For the purposes of this subdivision, "punch list"
41 means minor items of modification work performed after substantial completion
42 and before final completion of the project.

43 (c) Administration or supervision of any modification performed
44 pursuant to change orders. For the purposes of this subdivision, "change
45 order" means a written instrument issued after execution of a contract for
46 modification work, providing for all of the following:

1 (i) The scope of a change in the modification work, contract for
2 modification work or other contract documents.

3 (ii) The amount of an adjustment, if any, to the guaranteed maximum
4 price as set in the contract for modification work. For the purposes of this
5 item, "guaranteed maximum price" means the amount guaranteed to be the
6 maximum amount due to a prime contractor for the performance of all
7 modification work for the project.

8 (iii) The extent of an adjustment, if any, to the contract time of
9 performance set forth in the contract.

10 (d) Administration or supervision of any modification performed
11 pursuant to change directives. For the purposes of this subdivision, "change
12 directive" means a written order directing a change in modification work
13 before agreement on an adjustment of the guaranteed maximum price or contract
14 time.

15 (e) Inspection to determine the dates of substantial completion or
16 final completion.

17 (f) Preparation of any manuals, warranties, as-built drawings, spares
18 or other items the prime contractor must furnish pursuant to the contract for
19 modification work. For the purposes of this subdivision, "as-built drawing"
20 means a drawing that indicates field changes made to adapt to field
21 conditions, field changes resulting from change orders or buried and
22 concealed installation of piping, conduit and utility services.

23 (g) Preparation of status reports after modification work has begun
24 detailing the progress of work performed, including preparation of any of the
25 following:

26 (i) Master schedule updates.

27 (ii) Modification work cash flow projection updates.

28 (iii) Site reports made on a periodic basis.

29 (iv) Identification of discrepancies, conflicts or ambiguities in
30 modification work documents that require resolution.

31 (v) Identification of any health and safety issues that have arisen in
32 connection with the modification work.

33 (h) Preparation of daily logs of modification work, including
34 documentation of personnel, weather conditions and on-site occurrences.

35 (i) Preparation of any submittals or shop drawings used by the prime
36 contractor to illustrate details of the modification work performed.

37 (j) Administration or supervision of any other activities for which a
38 prime contractor receives a certificate for payment or certificate for final
39 payment based on the progress of modification work performed on the project.

40 2. "Design phase services" means services for developing and
41 completing a design for a project that are not construction phase services,
42 including the following:

43 (a) Evaluating surveys, reports, test results or any other information
44 on-site conditions for the project, including physical characteristics, legal
45 limitations and utility locations for the site.

1 (b) Evaluating any criteria or programming objectives for the project
2 to ascertain requirements for the project, such as physical requirements
3 affecting cost or projected utilization of the project.

4 (c) Preparing drawings and specifications for architectural program
5 documents, schematic design documents, design development documents,
6 modification work documents or documents that identify the scope of or
7 materials for the project.

8 (d) Preparing an initial schedule for the project, excluding the
9 preparation of updates to the master schedule after modification work has
10 begun.

11 (e) Preparing preliminary estimates of costs of modification work
12 before completion of the final design of the project, including an estimate
13 or schedule of values for any of the following:

14 (i) Labor, materials, machinery and equipment, tools, water, heat,
15 utilities, transportation and other facilities and services used in the
16 execution and completion of modification work, regardless of whether they are
17 temporary or permanent or whether they are incorporated in the
18 modifications.

19 (ii) The cost of labor and materials to be furnished by the owner of
20 the real property.

21 (iii) The cost of any equipment of the owner of the real property to
22 be assigned by the owner to the prime contractor.

23 (iv) The cost of any labor for installation of equipment separately
24 provided by the owner of the real property that has been designed, specified,
25 selected or specifically provided for in any design document for the project.

26 (v) Any fee paid by the owner of the real property to the prime
27 contractor pursuant to the contract for modification work.

28 (vi) Any bond and insurance premiums.

29 (vii) Any applicable taxes.

30 (viii) Any contingency fees for the prime contractor that may be used
31 before final completion of the project.

32 (f) Reviewing and evaluating cost estimates and project documents to
33 prepare recommendations on site use, site improvements, selection of
34 materials, building systems and equipment, modification feasibility,
35 availability of materials and labor, local modification activity as related
36 to schedules and time requirements for modification work.

37 (g) Preparing the plan and procedures for selection of subcontractors,
38 including any prequalification of subcontractor candidates.

39 3. "Professional services" means architect services, assayer services,
40 engineer services, geologist services, land surveying services or landscape
41 architect services that are within the scope of those services as provided in
42 title 32, chapter 1 and for which gross proceeds of sales or gross income has
43 not otherwise been deducted under subsection ~~J~~ K of this section.

44 ~~N~~ O. Notwithstanding subsection ~~Q~~ P, paragraph 8 of this section, a
45 person owning real property who enters into a contract for sale of the real
46 property, who is responsible to the new owner of the property for

1 modifications made to the property in the period subsequent to the transfer
2 of title and who receives a consideration for the modifications is considered
3 a prime contractor solely for purposes of taxing the gross proceeds of sale
4 or gross income received for the modifications made subsequent to the
5 transfer of title. The original owner's gross proceeds of sale or gross
6 income received for the modifications shall be determined according to the
7 following methodology:

8 1. If any part of the contract for sale of the property specifies
9 amounts to be paid to the original owner for the modifications to be made in
10 the period subsequent to the transfer of title, the amounts are included in
11 the original owner's gross proceeds of sale or gross income under this
12 section. Proceeds from the sale of the property that are received after
13 transfer of title and that are unrelated to the modifications made subsequent
14 to the transfer of title are not considered gross proceeds of sale or gross
15 income from the modifications.

16 2. If the original owner enters into an agreement separate from the
17 contract for sale of the real property providing for amounts to be paid to
18 the original owner for the modifications to be made in the period subsequent
19 to the transfer of title to the property, the amounts are included in the
20 original owner's gross proceeds of sale or gross income received for the
21 modifications made subsequent to the transfer of title.

22 3. If the original owner is responsible to the new owner for
23 modifications made to the property in the period subsequent to the transfer
24 of title and derives any gross proceeds of sale or gross income from the
25 project subsequent to the transfer of title other than a delayed disbursement
26 from escrow unrelated to the modifications, it is presumed that the amounts
27 are received for the modifications made subsequent to the transfer of title
28 unless the contrary is established by the owner through its books, records
29 and papers kept in the regular course of business.

30 4. The tax base of the original owner is computed in the same manner
31 as a prime contractor under this section.

32 ~~0.~~ P. For the purposes of this section:

33 1. "Contracting" means engaging in business as a contractor.

34 2. "Contractor" is synonymous with the term "builder" and means any
35 person or organization that undertakes to or offers to undertake to, or
36 purports to have the capacity to undertake to, or submits a bid to, or does
37 personally or by or through others, modify any building, highway, road,
38 railroad, excavation, manufactured building or other structure, project,
39 development or improvement, or to do any part of such a project, including
40 the erection of scaffolding or other structure or works in connection with
41 such a project, and includes subcontractors and specialty contractors. For
42 all purposes of taxation or deduction, this definition shall govern without
43 regard to whether or not such contractor is acting in fulfillment of a
44 contract.

45 3. "Dealership of manufactured buildings" means a dealer who either:

1 (a) Is licensed pursuant to title 41, chapter 16 and who sells
2 manufactured buildings to the final consumer.

3 (b) Supervises, performs or coordinates the excavation and completion
4 of site improvements, setup or moving of a manufactured building including
5 the contracting, if any, with any subcontractor or specialty contractor for
6 the completion of the contract.

7 4. "Manufactured building" means a manufactured home, mobile home or
8 factory-built building, as defined in section 41-2142.

9 5. "Modification" means construction, alteration, repair, addition,
10 subtraction, improvement, movement, wreckage or demolition.

11 6. "Modify" means to construct, alter, repair, add to, subtract from,
12 improve, move, wreck or demolish.

13 7. "Prime contracting" means engaging in business as a prime
14 contractor.

15 8. "Prime contractor" means a contractor who supervises, performs or
16 coordinates the modification of any building, highway, road, railroad,
17 excavation, manufactured building or other structure, project, development or
18 improvement including the contracting, if any, with any subcontractors or
19 specialty contractors and who is responsible for the completion of the
20 contract. Except as provided in subsections E and ~~N~~ 0 of this section, a
21 person who owns real property, who engages one or more contractors to modify
22 that real property and who does not itself modify that real property is not a
23 prime contractor within the meaning of this paragraph regardless of the
24 existence of a contract for sale or the subsequent sale of that real
25 property.

26 9. "Sale of a used manufactured building" does not include a lease of
27 a used manufactured building.

28 Sec. 7. Distribution limit for fiscal year 2014-2015

29 Notwithstanding section 42-5032.02, subsection C, Arizona Revised
30 Statutes, as added by this act, the total amount paid by the state treasurer
31 to all cities, towns and counties under section 42-5032.02, subsection A,
32 Arizona Revised Statutes, shall not exceed five million dollars in fiscal
33 year 2014-2015.

APPROVED BY THE GOVERNOR MAY 11, 2012.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 14, 2012.