REFERENCE TITLE: community engagement district.

State of Arizona
Senate
Fifty-third Legislature
First Regular Session
2017

SB 1474

Introduced by
Senators Worsley: Borrelli, Brophy McGee, Fann, Pratt; Representatives Coleman, Shope, Thorpe

AN ACT

AMENDING SECTIONS 42-2003 AND 42-5029, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-5031.02; AMENDING SECTIONS 42-5075 AND 42-6004, ARIZONA REVISED STATUTES; AMENDING TITLE 48, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 23; AMENDING SECTION 48-4235, ARIZONA REVISED STATUTES; RELATING TO SPECIAL DISTRICTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 42-2003, Arizona Revised Statutes, is amended to read:

42-2003. Authorized disclosure of confidential information

A. Confidential information relating to:

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

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

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

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

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

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

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

B. Confidential information may be disclosed to:

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

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

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

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

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

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

(b) A state tax official of another state.

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

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

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

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

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

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

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

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

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

(a) Regarding income tax or withholding tax.

(b) On any tax issue relating to information associated with the reporting of income tax or withholding tax.

9. The United States treasury inspector general for tax administration for the purpose of reporting a violation of internal

revenue code section 7213A (26 United States Code section 7213A), unauthorized inspection of returns or return information.

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

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

12. The Arizona commerce authority for its use in:

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

(b) Qualifying businesses with a qualified facility for income tax credits under sections 43-1083.03 and 43-1164.04.

(c) Fulfilling its annual reporting responsibility pursuant to section 41-1511, subsections U and V and section 41-1512, subsections U and V.

(d) Certifying computer data centers for tax relief under section 41-1519.

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

14. The state fire marshal for use in determining compliance with and enforcing title 37, chapter 9, article 5.

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

16. The Arizona health care cost containment system administration for its use in administering nursing facility provider assessments.

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

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

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

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

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

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

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

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

E. The department, on the request of any person, shall provide the names and addresses of bingo licensees as defined in section 5-401, verify whether or not a person has a privilege license and number, a tobacco product distributor's license and number or a withholding license and number or disclose the information to be posted on the department's website or otherwise publicly accessible pursuant to section 42-1124, subsection F and section 42-3401.

F. A department employee, in connection with the official duties relating to any audit, collection activity or civil or criminal investigation, may disclose return information to the extent that disclosure is necessary to obtain information that is not otherwise reasonably available. These official duties include the correct determination of and liability for tax, the amount to be collected or the enforcement of other state tax revenue laws.

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

H. Confidential information relating to transaction privilege tax, use tax, severance tax, jet fuel excise and use tax and any other tax collected by the department on behalf of any jurisdiction may be disclosed to any county, city or town tax official if the information relates to a taxpayer who is or may be taxable by a county, city or town or who may be subject to audit by the department pursuant to section 42-6002. Any taxpayer information released by the department to the county, city or town:

1. May only be used for internal purposes, including audits.

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

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

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

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

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

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

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

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

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

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

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

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

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

S. To comply with the requirements of ~~section~~ SECTIONS 42-5031 AND 42-5031.02, the department may disclose to the state treasurer, to ~~the~~ A county stadium district board of directors, ~~and~~ to any city or town tax official that is part of the county stadium district OR TO A COMMUNITY ENGAGEMENT DISTRICT BOARD OF DIRECTORS confidential information attributable to a taxpayer's business activity conducted in the county stadium district OR COMMUNITY ENGAGEMENT DISTRICT.

T. The department shall release to the attorney general confidential information as requested by the attorney general for purposes of determining compliance with or enforcing any of the following:

1. Any public health control law relating to tobacco sales as provided under title 36, chapter 6, article 14.

2. Any law relating to reduced cigarette ignition propensity standards as provided under title 37, chapter 9, article 5.

3. Sections 44-7101 and 44-7111, the master settlement agreement referred to in those sections and all agreements regarding disputes under the master settlement agreement.

U. For proceedings before the department, the office of administrative hearings, the board of tax appeals or any state or federal court involving penalties that were assessed against a return preparer, an electronic return preparer or a payroll service company pursuant to section 42-1103.02, 42-1125.01 or 43-419, confidential information may be disclosed only before the judge or administrative law judge adjudicating the proceeding, the parties to the proceeding and the parties' representatives in the proceeding prior to its introduction into evidence in the proceeding. The confidential information may be introduced as evidence in the proceeding only if the taxpayer's name, the names of any dependents listed on the return, all social security numbers, the taxpayer's address, the taxpayer's signature and any attachments containing any of the foregoing information are redacted and if either:

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

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

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

V. The department and attorney general may share the information specified in subsection T of this section with any of the following:

1. Federal, state or local agencies for the purposes of enforcement of corresponding laws of other states.

2. A court, arbitrator, data clearinghouse or similar entity for the purpose of assessing compliance with or making calculations required by the master settlement agreement or agreements regarding disputes under the master settlement agreement, and with counsel for the parties or expert witnesses in any such proceeding, if the information otherwise remains confidential.

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

X. The department may disclose to an official of any city, town or county in a current agreement or considering a prospective agreement with the department as described in section 42-5032.02, subsection F any information relating to amounts subject to distribution required by section 42-5032.02. Information disclosed by the department under this subsection:

1. May only be used by the city, town or county for internal purposes.

2. May not be disclosed to the public in any manner that does not comply with confidentiality standards established by the department. The city, town or county must agree with the department in writing that any release of confidential information that violates the confidentiality standards will result in the immediate suspension of any rights of the city, town or county to receive information under this subsection.

Y. Notwithstanding any other provision of this section, the department may not disclose information provided by an online lodging marketplace, as defined in section 42-5076, without the written consent of the online lodging marketplace, and the information may be disclosed only pursuant to subsection A, paragraphs 1 through 6, subsection B, paragraphs 1, 2, 7 and 8 and subsections C and D of this section. Such information:

1. Is not subject to disclosure pursuant to title 39, relating to public records.

2. May not be disclosed to any agency of this state or of any county, city, town or other political subdivision of this state.

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

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

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

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

2. Revenues collected pursuant to section 42-5070.

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

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

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

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

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

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

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

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

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

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

(a) Average the following proportions:

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

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

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

4. After any distributions required by sections 42-5030, 42-5030.01, 42-5031, 42-5031.02, 42-5032, 42-5032.01 and 42-5032.02, and after making any transfer to the water quality assurance revolving fund as required by section 49-282, subsection B, credit the remainder of the monies designated as distribution base to the state general fund. From this amount the legislature shall annually appropriate to:

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

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

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

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

1. If there are outstanding state school facilities revenue bonds pursuant to title 15, chapter 16, article 7, each month one-twelfth of the amount that is necessary to pay the fiscal year's debt service on outstanding state school improvement revenue bonds for the current fiscal year shall be transferred each month to the school improvement revenue bond debt service fund established by section 15-2084. The total amount of bonds for which these monies may be allocated for the payment of debt

service shall not exceed a principal amount of eight hundred million dollars exclusive of refunding bonds and other refinancing obligations.

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

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

4. After transferring monies pursuant to paragraphs 1, 2 and 3 of this subsection, one-twelfth of the amount a community college that is owned, operated or chartered by a qualifying Indian tribe on its own Indian reservation would receive pursuant to section 15-1472, subsection D, paragraph 2 if it were a community college district shall be distributed each month to the treasurer or other designated depository of a qualifying Indian tribe. Monies distributed pursuant to this paragraph are for the exclusive purpose of providing support to one or more community colleges owned, operated or chartered by a qualifying Indian tribe and shall be used in a manner consistent with section 15-1472, subsection B. For the purposes of this paragraph, "qualifying Indian tribe" has the same meaning as defined in section 42-5031.01, subsection D.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

L. Except as otherwise provided by this subsection, on notice from the attorney general pursuant to section 41-194.01, subsection B, paragraph 1 that an ordinance, regulation, order or other official action adopted or taken by the governing body of a county, city or town violates state law or the Constitution of Arizona, the state treasurer shall withhold the distribution of monies pursuant to this section to the affected county, city or town and shall continue to withhold monies pursuant to this subsection until the attorney general certifies to the state treasurer that the violation has been resolved. The state treasurer shall redistribute the monies withheld pursuant to this subsection among all other counties, cities and towns in proportion to their population as provided by subsection D of this section. The state treasurer shall not withhold any amount that the county, city or town certifies to the attorney general and the state treasurer as being necessary to make any required deposits or payments for debt service on bonds or other long-term obligations of the county, city or town that were issued or incurred before committing the violation.

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

Sec. 3. Title 42, chapter 5, article 1, Arizona Revised Statutes, is amended by adding section 42-5031.02, to read:

42-5031.02. Distribution to community engagement district

A. SUBJECT TO THE REQUIREMENTS OF SUBSECTION C OF THIS SECTION, IF A COMMUNITY ENGAGEMENT DISTRICT IS ESTABLISHED PURSUANT TO SECTION 48-3802, AFTER DELIVERY OF A RESOLUTION OF THE DISTRICT BOARD OF DIRECTORS TO THE STATE TREASURER THAT CONTAINS A NOTICE EXERCISING THE OPTION AND REQUESTING PAYMENT, THE STATE TREASURER SHALL PAY EACH MONTH, BEGINNING WITH THE SECOND CALENDAR MONTH AFTER THE DATE OF THE RESOLUTION, FROM THE AMOUNT DESIGNATED AS DISTRIBUTION BASE PURSUANT TO SECTION 42-5029, SUBSECTION D, THE AMOUNT DETERMINED UNDER SUBSECTION B OF THIS SECTION TO THE COMMUNITY ENGAGEMENT DISTRICT. DISTRIBUTIONS UNDER THIS SECTION SHALL CONTINUE UNTIL JULY 1, 2055 OR UNTIL THE DATE ALL AUTHORIZED FINANCIAL COMMITMENTS ARE COMPLETED AS PROVIDED BY SECTION 48-3822, SUBSECTION A, PARAGRAPH 9, WHICHEVER DATE IS EARLIER.

B. THE DISTRIBUTION EACH MONTH UNDER SUBSECTION A OF THIS SECTION IS AN AMOUNT EQUAL TO FIFTY PERCENT OF THE STATE TRANSACTION PRIVILEGE TAX REVENUES, EXCLUSIVE OF THE RATE LEVIED BY SECTION 42-5010, SUBSECTION G, RECEIVED IN THE SECOND PRECEDING CALENDAR MONTH FROM ALL PERSONS CONDUCTING BUSINESS UNDER ANY BUSINESS CLASSIFICATION UNDER THIS ARTICLE WITHIN THE COMMUNITY ENGAGEMENT DISTRICT, OR IN THE CONSTRUCTION OF ANY STRUCTURE OR OTHER IMPROVEMENT WITHIN THE DISTRICT. THE TOTAL AMOUNT

DISTRIBUTED TO THE DISTRICT UNDER THIS SUBSECTION MAY NOT EXCEED EITHER OF THE FOLLOWING:

1. AFTER ALL OTHER DEBT SERVICE CONTRIBUTIONS FROM OTHER PARTIES TO THE DEVELOPMENT AGREEMENT PURSUANT TO SUBSECTION C, PARAGRAPH 1 OF THIS SECTION, ANY REMAINING AMOUNT REQUIRED TO SERVICE THE COMMITMENTS AND OBLIGATIONS OF THE DISTRICT AND TO MEET THE PURPOSES SET FORTH IN SECTION 48-3821, SUBSECTION A.

2. THE AGGREGATE AMOUNT OF FINANCIAL COMMITMENTS OBTAINED BY THE DISTRICT UNDER SUBSECTION C OF THIS SECTION.

C. BEFORE PAYMENTS TO THE DISTRICT BEGIN UNDER THIS SECTION:

1. THE MUNICIPALITY IN WHICH THE DISTRICT IS LOCATED MUST ENTER INTO A DEVELOPMENT AGREEMENT AMONG ALL PARTICIPANTS THAT INCLUDES ALL DISTRICT-OWNED STRUCTURES, FACILITIES, INFRASTRUCTURE, EQUIPMENT AND OTHER PERSONAL PROPERTY LOCATED IN THE DISTRICT.

2. THE DISTRICT BOARD OF DIRECTORS MUST HAVE RECEIVED, FROM THE MUNICIPALITY IN WHICH THE DISTRICT IS LOCATED OR FROM ANY LAWFUL NONGOVERNMENTAL SOURCE, A FINANCIAL COMMITMENT IN AN AGGREGATE AMOUNT EQUAL TO OR GREATER THAN THE TOTAL AMOUNT TO BE DISTRIBUTED TO THE DISTRICT UNDER THIS SECTION, THROUGH THE PERIOD ENDING BEFORE THE DATE PRESCRIBED BY SUBSECTION A OF THIS SECTION. ANY FINANCIAL COMMITMENT OBTAINED PURSUANT TO THIS PARAGRAPH MUST BE DOCUMENTED IN THE FORM OF AN INTERGOVERNMENTAL AGREEMENT OR WRITTEN AGREEMENT, AS APPLICABLE, COPIES OF WHICH MAY BE SUPPLIED BY THE DISTRICT TO THE DEPARTMENT.

Sec. 4. Section 42-5075, Arizona Revised Statutes, is amended to read:

42-5075. Prime contracting classification; exemptions; definitions

A. The prime contracting classification is comprised of the business of prime contracting and the business of manufactured building dealer. Sales for resale to another manufactured building dealer are not subject to tax. Sales for resale do not include sales to a lessor of manufactured buildings. The sale of a used manufactured building is not taxable under this chapter.

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

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

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

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

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

4. The gross proceeds of sales or gross income received from a contract entered into for the modification of any building, highway, road, railroad, excavation, manufactured building or other structure, project, development or improvement located in a military reuse zone for providing aviation or aerospace services or for a manufacturer, assembler or fabricator of aviation or aerospace products within an active military reuse zone after the zone is initially established or renewed under section 41-1531. To be eligible to qualify for this deduction, before beginning work under the contract, the prime contractor must have applied for a letter of qualification from the department of revenue.

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

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

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

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

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

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

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

from reaching a location where they could threaten human health or welfare or the environment.
This paragraph does not include asbestos removal or the construction or use of ancillary structures such as maintenance sheds, offices or storage facilities for unattached equipment, pollution control equipment, facilities or other control items required or to be used by a person to prevent or control contamination before it reaches the environment.

7. The gross proceeds of sales or gross income that is derived from a contract for the installation, assembly, repair or maintenance of machinery, equipment or other tangible personal property that is either deducted from the tax base of the retail classification under section 42-5061, subsection B or that is exempt from use tax under section 42-5159, subsection B and that has independent functional utility, pursuant to the following provisions:

(a) The deduction provided in this paragraph includes the gross proceeds of sales or gross income derived from all of the following:

(i) Any activity performed on machinery, equipment or other tangible personal property with independent functional utility.

(ii) Any activity performed on any tangible personal property relating to machinery, equipment or other tangible personal property with independent functional utility in furtherance of any of the purposes provided for under subdivision (d) of this paragraph.

(iii) Any activity that is related to the activities described in items (i) and (ii) of this subdivision, including inspecting the installation of or testing the machinery, equipment or other tangible personal property.

(b) The deduction provided in this paragraph does not include gross proceeds of sales or gross income from the portion of any contracting activity that consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of machinery, equipment or other tangible personal property that is either deducted from the tax base of the retail classification under section 42-5061, subsection B or exempt from use tax under section 42-5159, subsection B.

(c) The deduction provided in this paragraph shall be determined without regard to the size or useful life of the machinery, equipment or other tangible personal property.

(d) For the purposes of this paragraph, "independent functional utility" means that the machinery, equipment or other tangible personal property can independently perform its function without attachment to real property, other than attachment for any of the following purposes:

(i) Assembling the machinery, equipment or other tangible personal property.

(ii) Connecting items of machinery, equipment or other tangible personal property to each other.

(iii) Connecting the machinery, equipment or other tangible personal property, whether as an individual item or as a system of items, to water, power, gas, communication or other services.

(iv) Stabilizing or protecting the machinery, equipment or other tangible personal property during operation by bolting, burying or performing other similar nonpermanent connections to either real property or real property improvements.

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

(a) Section 42-5061, subsection A, paragraph 25, 29, 57 or 59.

(b) Section 42-5061, subsection B.

(c) Section 42-5159, subsection A, paragraph 13, subdivision (a), (b), (c), (d), (e), (f), (j), (k), (m) or (n) or paragraph 54 or 56.

(d) Section 42-5159, subsection B.

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

10. The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state for the modification of any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent, monitor, control or reduce air, water or land pollution.

11. The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of clean rooms that are deducted from the tax base of the retail classification pursuant to section 42-5061, subsection B, paragraph 16.

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

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

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

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

16. The gross proceeds of sales or gross income derived from contracts to perform postconstruction treatment of real property for termite and general pest control, including ~~wood destroying~~ WOOD-DESTROYING organisms.

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

18. The gross proceeds of sales or gross income received from a contract for the construction of any building, or other structure, project, development or improvement owned by a qualified business under section 41-1516 for harvesting or processing qualifying forest products removed from qualifying projects as defined in section 41-1516 if actual construction begins before January 1, 2024. To qualify for this deduction, the prime contractor must obtain a letter of qualification from the Arizona commerce authority before beginning work under the contract.

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

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

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

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

20. The gross proceeds of sales or gross income derived from a contract entered into for the construction of a mixed waste processing facility that is located on a municipal solid waste landfill and that is constructed for the purpose of recycling solid waste or producing renewable energy from landfill waste. For the purposes of this paragraph:

(a) "Mixed waste processing facility" means a solid waste facility that is owned, operated or used for the treatment, processing or disposal of solid waste, recyclable solid waste, conditionally exempt small quantity generator waste or household hazardous waste. For the purposes of this subdivision, "conditionally exempt small quantity generator waste", "household hazardous waste" and "solid waste facility" have the same meanings prescribed in section 49-701, except that solid waste facility does include a site that stores, treats or processes paper, glass, wood, cardboard, household textiles, scrap metal, plastic, vegetative waste, aluminum, steel or other recyclable material.

(b) "Municipal solid waste landfill" has the same meaning prescribed in section 49-701.

(c) "Recycling" means collecting, separating, cleansing, treating and reconstituting recyclable solid waste that would otherwise become solid waste, but does not include incineration or other similar processes.

(d) "Renewable energy" has the same meaning prescribed in section 41-1511.

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

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

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

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

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

3. The department may prescribe a form for the certificate described in paragraph 1, subdivision (b) of this subsection. The department may also adopt rules that describe the transactions with respect to which a person is not entitled to rely solely on the

information contained in the certificate provided in paragraph 1, subdivision (b) of this subsection but must instead obtain such additional information as required in order to be entitled to the deduction.

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

D. Subcontractors or others who perform modification activities are not subject to tax if they can demonstrate that the job was within the control of a prime contractor or contractors or a dealership of manufactured buildings and that the prime contractor or dealership is liable for the tax on the gross income, gross proceeds of sales or gross receipts attributable to the job and from which the subcontractors or others were paid.

E. Amounts received by a contractor for a project are excluded from the contractor's gross proceeds of sales or gross income derived from the business if the person who hired the contractor executes and provides a certificate to the contractor stating that the person providing the certificate is a prime contractor and is liable for the tax under article 1 of this chapter. The department shall prescribe the form of the certificate. If the contractor has reason to believe that the information contained on the certificate is erroneous or incomplete, the department may disregard the certificate. If the person who provides the certificate is not liable for the tax as a prime contractor, that person is nevertheless deemed to be the prime contractor in lieu of the contractor and is subject to the tax under this section on the gross receipts or gross proceeds received by the contractor.

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

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

H. For the purposes of section 42-5032.02, from and after September 30, 2013, the department shall separately account for revenues reported and collected under the prime contracting classification from any prime contractor engaged in the construction of any buildings and associated improvements that are for the benefit of a manufacturing facility. For the purposes of this subsection, "associated improvements" and "manufacturing facility" have the same meanings prescribed in section 42-5032.02.

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

J. Except as provided in subsection O of this section, the gross proceeds of sales or gross income derived from landscaping activities are subject to tax under this section. Landscaping includes installing lawns, grading or leveling ground, installing gravel or boulders, planting trees and other plants, felling trees, removing or mulching tree stumps, removing other imbedded plants, building irrigation berms, installing railroad ties and installing underground sprinkler or watering systems.

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

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

M. The following apply in determining the taxable situs of sales of manufactured buildings:

1. For sales in this state where the manufactured building dealer contracts to deliver the building to a setup site or to perform the setup in this state, the taxable situs is the setup site.

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

3. For sales in this state where the manufactured building dealer contracts to deliver the building to a setup site that is outside this state, the situs is outside this state and the transaction is excluded from tax.

N. The gross proceeds of sales or gross income attributable to a written contract for design phase services or professional services, executed before modification begins and with terms, conditions and pricing of all of these services separately stated in the contract from those for construction phase services, is not subject to tax under this section, regardless of whether the services are provided sequential to or concurrent with prime contracting activities that are subject to tax under this section. This subsection does not include the gross proceeds of sales or gross income attributable to construction phase services. For the purposes of this subsection:

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

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

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

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

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

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

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

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

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

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

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

(i) Master schedule updates.

(ii) Modification work cash flow projection updates.

(iii) Site reports made on a periodic basis.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(vi) Any bond and insurance premiums.

(vii) Any applicable taxes.

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

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

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

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

O. The gross proceeds of sales or gross income derived from a contract with the owner of real property or improvements to real property for the maintenance, repair, replacement or alteration of existing property is not subject to tax under this section if the contract does not include modification activities, except as specified in this subsection. The gross proceeds of sales or gross income derived from a de minimis amount of modification activity does not subject the contract or any part of the contract to tax under this section. For the purposes of this subsection:

1. Tangible personal property that is incorporated or fabricated into a project described in this subsection may be subject to the amount prescribed in section 42-5008.01.

2. Each contract is independent of any other contract, except that any change order that directly relates to the scope of work of the original contract shall be treated the same as the original contract under this chapter, regardless of the amount of modification activities included in the change order. If a change order does not directly relate to the scope of work of the original contract, the change order shall be treated as a new contract, with the tax treatment of any subsequent change order to follow the tax treatment of the contract to which the scope of work of the subsequent change order directly relates.

P. Notwithstanding subsection O of this section, a contract that primarily involves surface or subsurface improvements to land and that is subject to title 28, chapter 19, 20 or 22 or title 34, chapter 2 or 6 is taxable under this section, even if the contract also includes vertical improvements. Agencies that are subject to procurement processes under those provisions shall include in the request for proposals a notice to bidders when those projects are subject to this section. This subsection does not apply to contracts with:

1. Community facilities districts, fire districts, county television improvement districts, community park maintenance districts, cotton pest control districts, hospital districts, pest abatement districts, health service districts, agricultural improvement districts, county free library districts, county jail districts, county stadium districts, special health care districts, public health services districts, theme park districts, regional attraction districts, COMMUNITY ENGAGEMENT DISTRICTS or revitalization districts.

2. Any special taxing district not specified in paragraph 1 of this subsection if the district does not substantially engage in the modification, maintenance, repair, replacement or alteration of surface or subsurface improvements to land.

Q. Notwithstanding subsection R, paragraph 10 of this section, a person owning real property who enters into a contract for sale of the real property, who is responsible to the new owner of the property for modifications made to the property in the period subsequent to the transfer of title and who receives a consideration for the modifications is considered a prime contractor solely for purposes of taxing the gross proceeds of sale or gross income received for the modifications made subsequent to the transfer of title. The original owner's gross proceeds of sale or gross income received for the modifications shall be determined according to the following methodology:

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

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

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

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

R. For the purposes of this section:

1. "Alteration" means an activity or action that causes a direct physical change to existing property. For the purposes of this paragraph:

(a) For existing property that is properly classified as class two property under section 42-12002, paragraph 1, subdivision (c) or paragraph 2, subdivision (c) and that is used for residential purposes, class three property under section 42-12003 or class four property under SECTION 42-12004, this paragraph does not apply if the contract amount is more than twenty-five percent of the most recent full cash value established under chapter 13, article 2 of this title as of the date of any bid for the work or the date of the contract, whichever value is higher.

(b) For all existing property other than existing property described in subdivision (a) of this paragraph, this paragraph does not apply if any of the following is true:

(i) The contract amount is more than seven hundred fifty thousand dollars.

(ii) The scope of work directly relates to more than forty percent of the existing square footage of the existing property.

(iii) The scope of work involves expanding the square footage of more than ten percent of the existing property.

(c) Project elements may not be artificially separated from a contract to cause a project to qualify as an alteration. The department has the burden of proof that project elements have been artificially separated from a contract.

(d) If a project for which the owner and the person performing the work reasonably believed, at the inception of the contract, would be treated as an alteration under this paragraph and, on completion of the project, the project exceeded the applicable threshold described in either subdivision (a) or (b) of this paragraph by no more than twenty-five percent of the applicable threshold for any reason, the work performed under the contract qualifies as an alteration.

(e) A change order that directly relates to the scope of work of the original contract shall be treated as part of the original contract, and the contract amount shall include any amount attributable to a change order that directly relates to the scope of work of the original contract.

(f) Alteration does not include maintenance, repair or replacement.

2. "Contracting" means engaging in business as a contractor.

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

4. "Manufactured building" means a manufactured home, mobile home or factory-built building, as defined in section 41-4001.

5. "Manufactured building dealer" means a dealer who either:

(a) Is licensed pursuant to title 41, chapter 37, article 4 and who sells manufactured buildings to the final consumer.

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

6. "Modification" means construction, grading and leveling ground, wreckage or demolition. Modification does not include:

(a) Any project described in subsection O of this section.

(b) Any wreckage or demolition of existing property, or any other activity that is a necessary component of a project described in subsection O of this section.

(c) Any mobilization or demobilization related to a project described in subsection O of this section, such as the erection or removal of temporary facilities to be used by those persons working on the project.

7. "Modify" means to make a modification or cause a modification to be made.

8. "Owner" means the person that holds title to the real property or improvements to real property that is the subject of the work, as well as an agent of the title holder and any person with the authority to perform or authorize work on the real property or improvements, including a tenant and a property manager. For the purposes of subsection O of this section, a person who is hired by a general contractor that is hired by an owner, or a subcontractor of a general contractor that is hired by an owner, is considered to be hired by the owner.

9. "Prime contracting" means engaging in business as a prime contractor.

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

11. "Replacement" means the removal from service of one component or system of existing property or tangible personal property installed in existing property, including machinery or equipment, and the installation of a new component or system or new tangible personal property, including machinery or equipment, that provides the same, A similar or AN upgraded design or functionality, regardless of the contract amount and regardless of whether the existing component or system or existing tangible personal property is physically removed from the existing property.

12. "Sale of a used manufactured building" does not include a lease of a used manufactured building.

Sec. 5. Section 42-6004, Arizona Revised Statutes, is amended to read:

42-6004. Exemption from municipal tax; definitions

A. A city, town or special taxing district shall not levy a transaction privilege, sales, use or other similar tax on:

1. Exhibition events in this state sponsored, conducted or operated by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is associated with a major league baseball team or a national touring professional golfing association and no part of the organization's

net earnings inures to the benefit of any private shareholder or individual.

2. Interstate telecommunications services, which include that portion of telecommunications services, such as subscriber line service, allocable by federal law to interstate telecommunications service.

3. Sales of warranty or service contracts.

4. Sales of motor vehicles to nonresidents of this state for use outside this state if the motor vehicle dealer ships or delivers the motor vehicle to a destination outside this state.

5. Interest on finance contracts.

6. Dealer documentation fees on the sales of motor vehicles.

7. Sales of food or other items purchased with United States department of agriculture food stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code section 1786) but may impose such a tax on other sales of food. If a city, town or special taxing district exempts sales of food from its tax or imposes a different transaction privilege rate on the gross proceeds of sales or gross income from sales of food and nonfood items, it shall use the definition of food prescribed by rule adopted by the department pursuant to section 42-5106.

8. Orthodontic devices dispensed by a dental professional who is licensed under title 32, chapter 11 to a patient as part of the practice of dentistry.

9. Sales of internet access services to the person's subscribers and customers. For the purposes of this paragraph:

(a) "Internet" means the computer and telecommunications facilities that comprise the interconnected worldwide network of networks that employ the transmission control protocol or internet protocol, or any predecessor or successor protocol, to communicate information of all kinds by wire or radio.

(b) "Internet access" means a service that enables users to access content, information, electronic mail or other services over the internet. Internet access does not include telecommunication services provided by a common carrier.

10. The gross proceeds of sales or gross income retained by the Arizona exposition and state fair board from ride ticket sales at the annual Arizona state fair.

11. Leasing real property between affiliated companies, businesses, persons or reciprocal insurers. For the purposes of this paragraph:

(a) "Affiliated companies, businesses, persons or reciprocal insurers" means the lessor holds a controlling interest in the lessee, the lessee holds a controlling interest in the lessor, affiliated persons hold a controlling interest in both the lessor and the lessee, or an unrelated person holds a controlling interest in both the lessor and lessee.

(b) "Affiliated persons" means members of the individual's family or persons who have ownership or control of a business entity.

(c) "Controlling interest" means direct or indirect ownership of at least eighty percent of the voting shares of a corporation or of the interests in a company, business or person other than a corporation.

(d) "Members of the individual's family" means the individual's spouse and brothers and sisters, whether by whole or half blood, including adopted persons, ancestors and lineal descendants.

(e) "Reciprocal insurer" has the same meaning prescribed in section 20-762.

12. The gross proceeds of sales or gross income derived from a contract for the installation, assembly, repair or maintenance of machinery, equipment or other tangible personal property that is described in section 42-5061, subsection B and that has independent functional utility, pursuant to the following provisions:

(a) The deduction provided in this paragraph includes the gross proceeds of sales or gross income derived from all of the following:

(i) Any activity performed on machinery, equipment or other tangible personal property with independent functional utility.

(ii) Any activity performed on any tangible personal property relating to machinery, equipment or other tangible personal property with independent functional utility in furtherance of any of the purposes provided for under subdivision (d) of this paragraph.

(iii) Any activity that is related to the activities described in items (i) and (ii) of this subdivision, including inspecting the installation of or testing the machinery, equipment or other tangible personal property.

(b) The deduction provided in this paragraph does not include gross proceeds of sales or gross income from the portion of any contracting activity that consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of machinery, equipment or other tangible personal property described in section 42-5061, subsection B.

(c) The deduction provided in this paragraph shall be determined without regard to the size or useful life of the machinery, equipment or other tangible personal property.

(d) For the purposes of this paragraph, "independent functional utility" means that the machinery, equipment or other tangible personal property can independently perform its function without attachment to real property, other than attachment for any of the following purposes:

(i) Assembling the machinery, equipment or other tangible personal property.

(ii) Connecting items of machinery, equipment or other tangible personal property to each other.

(iii) Connecting the machinery, equipment or other tangible personal property, whether as an individual item or as a system of items, to water, power, gas, communication or other services.

(iv) Stabilizing or protecting the machinery, equipment or other tangible personal property during operation by bolting, burying or performing other dissimilar nonpermanent connections to either real property or real property improvements.

13. The leasing or renting of certified ignition interlock devices installed pursuant to the requirements prescribed by section 28-1461. For the purposes of this paragraph, "certified ignition interlock device" has the same meaning prescribed in section 28-1301.

14. Computer data center equipment sold to the owner, operator or qualified colocation tenant of a computer data center that is certified by the Arizona commerce authority under section 41-1519 or an authorized agent of the owner, operator or qualified colocation tenant during the qualification period for use in the qualified computer data center. For the purposes of this paragraph, "computer data center", "computer data center equipment", "qualification period" and "qualified colocation tenant" have the same meanings prescribed in section 41-1519.

15. The gross proceeds of sales or gross income derived from a contract with the owner of real property or improvements to real property for the maintenance, repair, replacement or alteration of existing property, except as specified in this paragraph. The gross proceeds of sales or gross income derived from a de minimis amount of modification activity does not subject the contract or any part of the contract to tax. For the purposes of this paragraph:

(a) Each contract is independent of another contract, except that any change order that directly relates to the scope of work of the original contract shall be treated the same as the original contract under this paragraph, regardless of the amount of modification activities included in the change order. If a change order does not directly relate to the scope of work of the original contract, the change order shall be treated as a new contract, with the tax treatment of any subsequent change order to follow the tax treatment of the contract to which the scope of work of the subsequent change order directly relates.

(b) Any term not defined in this paragraph that is defined in section 42-5075 has the same meaning prescribed in section 42-5075.

(c) This paragraph does not apply to a contract that primarily involves surface or subsurface improvements to land and that is subject to title 28, chapter 19, 20 or 22 or title 34, chapter 2 or 6 even if the contract also includes vertical improvements. If a city or town imposes a tax on contracts that are subject to procurement processes under those provisions, the city or town shall include in the request for proposals a notice to bidders when those projects are subject to the tax. This subdivision does not apply to contracts with:

(i) Community facilities districts, fire districts, county television improvement districts, community park maintenance districts, cotton pest control districts, hospital districts, pest abatement districts, health service districts, agricultural improvement districts, county free library districts, county jail districts, county stadium districts, special health care districts, public health services districts, theme park districts, regional attraction districts, COMMUNITY ENGAGEMENT DISTRICTS or revitalization districts.

(ii) Any special taxing district not specified in item (i) of this subdivision if the district does not substantially engage in the modification, maintenance, repair, replacement or alteration of surface or subsurface improvements to land.

16. Monitoring services relating to an alarm system as defined in section 32-101.

17. Tangible personal property, job printing or publications sold to or purchased by, or tangible personal property leased, rented or licensed for use to or by, a qualifying health sciences educational institution as defined in section 42-5001.

18. The transfer of title or possession of coal back and forth between an owner or operator of a power plant and a person who is responsible for refining coal if both of the following apply:

(a) The transfer of title or possession of the coal is for the purpose of refining the coal.

(b) The title or possession of the coal is transferred back to the owner or operator of the power plant after completion of the coal refining process. For the purposes of this subdivision, "coal refining process" means the application of a coal additive system that aids the reduction of power plant emissions during the combustion of coal and the treatment of flue gas.

19. The gross proceeds of sales or gross income from sales of low or reduced cost articles of food or drink to eligible elderly or homeless persons or persons with a disability by a business subject to tax under section 42-5074 that contracts with the department of economic security and that is approved by the food and nutrition service of the United States department of agriculture pursuant to the supplemental nutrition assistance program established by the food and nutrition act of 2008 (P.L. 110-246; 122 Stat. 1651; 7 United States Code sections 2011 through 2036a), if the purchases are made with the benefits issued pursuant to the supplemental nutrition assistance program.

20. Tangible personal property incorporated or fabricated into a project described in paragraph 15 of this subsection, that is located within the exterior boundaries of an Indian reservation for which the owner, as defined in section 42-5075, of the project is an Indian tribe or an affiliated Indian. For the purposes of this paragraph:

(a) "Affiliated Indian" means an individual native American Indian who is duly registered on the tribal rolls of the Indian tribe for whose benefit the Indian reservation was established.

(b) "Indian reservation" means all lands that are within the limits of areas set aside by the United States for the exclusive use and occupancy of an Indian tribe by treaty, law or executive order and that are recognized as Indian reservations by the United States department of the interior.

(c) "Indian tribe" means any organized nation, tribe, band or community that is recognized as an Indian tribe by the United States department of the interior and includes any entity formed under the laws of that Indian tribe.

21. The charges for the leasing or renting of space to make attachments to utility poles as follows:

(a) By a person that is engaged in the business of providing or furnishing electrical services or telecommunication services or that is a cable operator.

(b) To a person that is engaged in the business of providing or furnishing electrical services or telecommunication services or that is a cable operator.

22. Until March 1, 2017, the gross proceeds of sales or gross income derived from entry fees paid by participants for events that consist of a run, walk, swim or bicycle ride or a similar event, or any combination of these events.

23. The gross proceeds of sales or gross income derived from entry fees paid by participants for events that are operated or conducted by nonprofit organizations that are exempt from taxation under section 501(c)(3) of the internal revenue code and of which no part of the organization's net earnings inures to the benefit of any private shareholder or individual, if the event consists of a run, walk, swim or bicycle ride or a similar event, or any combination of these events.

B. A city, town or other taxing jurisdiction shall not levy a transaction privilege, sales, use, franchise or other similar tax or fee, however denominated, on natural gas or liquefied petroleum gas used to propel a motor vehicle.

C. A city, town or other taxing jurisdiction shall not levy a transaction privilege, sales, gross receipts, use, franchise or other similar tax or fee, however denominated, on gross proceeds of sales or gross income derived from any of the following:

1. A motor carrier's use on the public highways in this state if the motor carrier is subject to a fee prescribed in title 28, chapter 16, article 4.

2. Leasing, renting or licensing a motor vehicle subject to and on which the fee has been paid under title 28, chapter 16, article 4.

3. The sale of a motor vehicle and any repair and replacement parts and tangible personal property becoming a part of such motor vehicle to a motor carrier who is subject to a fee prescribed in title 28, chapter 16, article 4 and who is engaged in the business of leasing, renting or licensing such property.

4. Incarcerating or detaining in a privately operated prison, jail or detention facility prisoners who are under the jurisdiction of the United States, this state or any other state or a political subdivision of this state or of any other state.

5. Transporting for hire persons, freight or property by light motor vehicles subject to a fee under title 28, chapter 15, article 4.

6. Any amount attributable to development fees that are incurred in relation to the construction, development or improvement of real property and paid by the taxpayer as defined in the model city tax code or by a contractor providing services to the taxpayer. For the purposes of this paragraph:

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

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

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

7. Any amount attributable to fees collected by transportation network companies issued a permit pursuant to section 28-9552.

8. Transporting for hire persons by transportation network company drivers on transactions involving transportation network services as defined in section 28-9551.

9. Transporting for hire persons by vehicle for hire companies that are issued permits pursuant to section 28-9503.

10. Transporting for hire persons by vehicle for hire drivers on transactions involving vehicle for hire services as defined in section 28-9501.

D. A city, town or other taxing jurisdiction shall not levy a transaction privilege, sales, use, franchise or other similar tax or fee, however denominated, in excess of one-tenth of one percent of the value of the entire product mined, smelted, extracted, refined, produced or prepared for sale, profit or commercial use, on persons engaged in the business of mineral processing, except to the extent that the tax is computed on the gross proceeds or gross income from sales at retail.

E. In computing the tax base, any city, town or other taxing jurisdiction shall not include in the gross proceeds of sales or gross income:

1. A manufacturer's cash rebate on the sales price of a motor vehicle if the buyer assigns the buyer's right in the rebate to the retailer.

2. The waste tire disposal fee imposed pursuant to section 44-1302.

F. A city or town shall not levy a use tax on the storage, use or consumption of tangible personal property in the city or town by a school district or charter school.

G. For the purposes of this section:

1. "Cable operator" has the same meaning prescribed in section 9-505.

2. "Electrical services" means transmitting or distributing electricity, electric lights, current or power over lines, wires or cables.

3. "Telecommunication services" means transmitting or relaying sound, visual image, data, information, images or material over lines, wires or cables by radio signal, light beam, telephone, telegraph or other electromagnetic means.

4. "Utility pole" means any wooden, metal or other pole used for utility purposes and the pole's appurtenances that are attached or authorized for attachment by the person controlling the pole.

Sec. 6. Title 48, Arizona Revised Statutes, is amended by adding chapter 23, to read:

CHAPTER 23

COMMUNITY ENGAGEMENT DISTRICTS

ARTICLE 1. ORGANIZATION AND ADMINISTRATION

48-3801. Definitions

IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "BOARD" MEANS THE BOARD OF DIRECTORS OF A DISTRICT.

2. "DISTRICT" MEANS A COMMUNITY ENGAGEMENT DISTRICT ESTABLISHED PURSUANT TO THIS CHAPTER.

3. "PUBLIC FACILITY" MEANS ANY FACILITY OR FACILITIES THAT INCLUDE:

(a) A PRIMARY COMPONENT THAT IS LOCATED IN THE DISTRICT ON THE MULTIPURPOSE FACILITY SITE AND ON LANDS THAT ARE ADJACENT TO EACH OTHER OR SEPARATED BY PUBLIC RIGHTS-OF-WAY, THAT THE DISTRICT OWNS OR LEASES AND THAT IS USED TO ACCOMMODATE SPORTING, ENTERTAINMENT, CULTURAL, CIVIC, MEETING, TRADE SHOW OR CONVENTION EVENTS OR ACTIVITIES. THE PRIMARY COMPONENT MAY NOT INCLUDE ANY STRUCTURE OR PART OF A STRUCTURE THAT IS USED OR DESIGNED FOR USE AS A COUNTY, CITY OR TOWN HALL OR AS MEETING SPACE FOR THE COUNTY, CITY OR TOWN GOVERNING BODY OR FOR GENERAL MUNICIPAL

ADMINISTRATIVE OFFICE SPACE OTHER THAN FOR THE ADMINISTRATION, MAINTENANCE AND OPERATION OF THE MULTIPURPOSE FACILITY.

(b) SECONDARY COMPONENTS THAT ARE LOCATED IN THE DISTRICT AND THAT THE BOARD DETERMINES ARE NECESSARY OR BENEFICIAL TO THE PRIMARY COMPONENT, LIMITED TO ON-SITE INFRASTRUCTURE, ARTISTIC COMPONENTS, PARKING GARAGES AND LOTS, AND PUBLIC PARKS AND PLAZAS. SECONDARY COMPONENTS MAY INCLUDE RELATED COMMERCIAL FACILITIES THAT ARE LOCATED WITHIN THE MULTIPURPOSE FACILITY SITE.

48-3802. Establishment of district

A. THE GOVERNING BODY OF A CITY IN WHICH A UNIVERSITY ATHLETIC FACILITIES DISTRICT HAS BEEN ESTABLISHED PURSUANT TO SECTION 48-4202, SUBSECTION C MAY ALSO ESTABLISH A COMMUNITY ENGAGEMENT DISTRICT IN THE CITY PURSUANT TO THIS SECTION IF THE GOVERNING BODY DETERMINES THAT THE PUBLIC CONVENIENCE, NECESSITY OR WELFARE WILL BE PROMOTED BY THE DISTRICT'S ESTABLISHMENT. A DISTRICT ESTABLISHED UNDER THIS SECTION MAY INCLUDE ALL OR PART OF THE GEOGRAPHIC AREA OF A DISTRICT FORMED UNDER ANOTHER CHAPTER OF THIS TITLE, BUT MUST SATISFY BOTH OF THE FOLLOWING REQUIREMENTS:

1. ON THE PETITION OF THE OWNER OR OWNERS OF ALL OF THE REAL PROPERTY ON WHICH A PUBLIC FACILITY WILL BE LOCATED, THE GOVERNING BODY OF THE CITY IN WHICH THE PROPERTY IS LOCATED, ON OR BEFORE DECEMBER 31, 2018, MUST ADOPT A RESOLUTION AS DESCRIBED IN THIS SECTION.

2. THE GEOGRAPHIC AREA OF THE DISTRICT MUST BE ENTIRELY WITHIN THE CORPORATE BOUNDARIES OF THE CITY AND NOT EXCEED A TOTAL OF THIRTY ACRES.

B. ON RECEIVING THE PETITION, AND AFTER A GENERAL PLAN FOR THE DISTRICT, INCLUDING A GENERAL DESCRIPTION OF THE PUBLIC FACILITY, IS FILED WITH THE CITY CLERK, THE GOVERNING BODY OF THE CITY MAY ADOPT A RESOLUTION DECLARING ITS INTENT TO ESTABLISH A COMMUNITY ENGAGEMENT DISTRICT. THE RESOLUTION MUST STATE ALL OF THE FOLLOWING:

1. THE AREA TO BE INCLUDED IN THE DISTRICT.

2. THE PURPOSES FOR WHICH THE DISTRICT IS TO BE ESTABLISHED.

3. THAT THE GENERAL PLAN FOR THE DISTRICT IS ON FILE WITH THE CITY CLERK.

4. THE DATE, TIME AND PLACE OF THE HEARING TO BE HELD ON THE ESTABLISHMENT OF THE DISTRICT, AND THAT WRITTEN OBJECTIONS MAY BE FILED AS PROVIDED IN SUBSECTION C OF THIS SECTION.

5. THAT THE ESTABLISHMENT OF THE DISTRICT MAY RESULT IN THE LEVY OF TAXES TO PAY THE COSTS OF IMPROVEMENTS CONSTRUCTED BY THE DISTRICT AND FOR THEIR OPERATION AND MAINTENANCE.

6. A REFERENCE TO THIS ARTICLE.

C. THE GOVERNING BODY OF THE CITY SHALL SCHEDULE A PUBLIC HEARING ON THE ESTABLISHMENT OF THE DISTRICT TO BE HELD AT LEAST SIXTY BUT NOT MORE THAN NINETY DAYS AFTER RECEIVING THE PETITION. THE CITY CLERK SHALL PROVIDE NOTICE OF THE HEARING AT LEAST TWENTY DAYS BEFORE THE DATE OF THE HEARING, STATING THE PURPOSE OF THE PETITION, THE DESCRIPTION OF THE AREA

OF THE PROPOSED DISTRICT AND THE DATE, TIME AND PLACE OF THE HEARING. NOTICE SHALL BE PROVIDED ONCE EITHER BY POSTING ON THE CITY'S WEBSITE OR BY PUBLISHING IN A NEWSPAPER OF GENERAL CIRCULATION IN THE CITY. NOTWITHSTANDING ANY LAW TO THE CONTRARY, THE HEARING MUST PROVIDE FOR ALL OF THE FOLLOWING:

1. ANY QUALIFIED ELECTOR RESIDING WITHIN THE PROPOSED DISTRICT MAY FILE A WRITTEN OBJECTION WITH THE CITY CLERK BEFORE 5:00 P.M. ON THE BUSINESS DAY PRECEDING THE DATE AND TIME SET FOR THE HEARING. AN OBJECTION MUST RAISE ONE OR MORE OF THE FOLLOWING ISSUES:

(a) THAT THE OBJECTOR'S PROPERTY WOULD NOT BE BENEFITED FROM THE IMPROVEMENTS SET FORTH IN THE GENERAL PLAN.

(b) THAT THE DISTRICT SHOULD NOT BE ESTABLISHED, STATING THE SPECIFIC REASONS.

2. AT THE HEARING, INCLUDING ANY ADJOURNMENTS OR CONTINUANCES, THE GOVERNING BODY SHALL HEAR AND PASS ONLY ON THE WRITTEN OBJECTIONS AND THE TESTIMONY AND EVIDENCE PRESENTED IN SUPPORT OF OR OPPOSITION TO THE OBJECTIONS.

3. TESTIMONY AT THE HEARING NEED NOT BE UNDER OATH, UNLESS REQUESTED BY ANY OWNER OR QUALIFIED ELECTOR OR REQUIRED BY THE GOVERNING BODY. REQUESTS BY OWNERS OR QUALIFIED ELECTORS THAT THE TESTIMONY BE UNDER OATH MUST BE MADE IN WRITING AND BE FILED WITH, OR SERVED ON, THE CLERK BEFORE THE HEARING BEGINS OR THE REQUEST IS CONSIDERED TO BE WAIVED.

4. THE MINUTES OR A COPY OF A WRITTEN TRANSCRIPT OR A RECORDING OF THE PROCEEDINGS OF A HEARING CONDUCTED PURSUANT TO THIS SUBSECTION MUST INCLUDE THE FINDINGS SUPPORTING THE ESTABLISHMENT OF THE DISTRICT AND BE OPEN TO PUBLIC INSPECTION.

D. THE DISTRICT IS A CORPORATE AND POLITICAL BODY AND, EXCEPT AS OTHERWISE LIMITED, MODIFIED OR PROVIDED BY THIS CHAPTER, HAS ALL OF THE RIGHTS, POWERS AND IMMUNITIES OF MUNICIPAL CORPORATIONS, INCLUDING IMMUNITY OF ITS PROPERTY FROM TAXATION.

E. THE DISTRICT IS CONSIDERED TO BE A TAX LEVYING PUBLIC IMPROVEMENT DISTRICT FOR THE PURPOSES OF ARTICLE XIII, SECTION 7, CONSTITUTION OF ARIZONA.

48-3803. Members of the board

A. THE DISTRICT SHALL BE GOVERNED BY A BOARD OF DIRECTORS CONSISTING OF THE FOLLOWING MEMBERS:

1. THE GOVERNOR, THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, OR THEIR DESIGNEES.

2. THREE MEMBERS APPOINTED BY THE GOVERNING BODY OF THE CITY IN WHICH THE DISTRICT IS ESTABLISHED, SERVING FOR TERMS OF FOUR YEARS FROM THE DATE OF APPOINTMENT.

3. THREE MEMBERS APPOINTED BY THE ARIZONA BOARD OF REGENTS, SERVING FOR TERMS OF FOUR YEARS FROM THE DATE OF APPOINTMENT.

B. MEMBERS OF THE BOARD ARE NOT ELIGIBLE FOR COMPENSATION FOR THEIR SERVICE.

48-3804. Powers and duties of board of directors; annual report; conflict of interest

A. THE BOARD OF DIRECTORS, ON BEHALF OF THE DISTRICT, MAY:

1. ADOPT AND USE A CORPORATE SEAL.

2. SUE AND BE SUED.

3. ENTER INTO CONTRACTS, INCLUDING INTERGOVERNMENTAL AGREEMENTS UNDER TITLE 11, CHAPTER 7, ARTICLE 3, AS NECESSARY TO CARRY OUT THE PURPOSES AND REQUIREMENTS OF THIS CHAPTER.

4. ADOPT ADMINISTRATIVE RULES AS NECESSARY TO ADMINISTER AND OPERATE THE DISTRICT AND ANY PROPERTY UNDER ITS JURISDICTION.

5. EMPLOY AN EXECUTIVE DIRECTOR AND ADMINISTRATIVE AND CLERICAL EMPLOYEES, OR CONTRACT FOR OTHER MANAGEMENT PERSONNEL, AND PRESCRIBE THE TERMS AND CONDITIONS OF THEIR EMPLOYMENT AS NECESSARY TO CARRY OUT THE PURPOSES OF THE DISTRICT.

6. ACQUIRE BY ANY LAWFUL MEANS, OTHER THAN EMINENT DOMAIN, AND OPERATE, MAINTAIN, ENCUMBER AND DISPOSE OF REAL AND PERSONAL PROPERTY AND INTERESTS IN PROPERTY.

7. RETAIN LEGAL COUNSEL AND OTHER CONSULTANTS AS NECESSARY TO CARRY OUT THE PURPOSES OF THE DISTRICT.

8. ENTER INTO INTERGOVERNMENTAL AGREEMENTS, PURSUANT TO TITLE 11, CHAPTER 7, ARTICLE 3, WITH A UNIVERSITY ATHLETIC FACILITIES DISTRICT, ESTABLISHED PURSUANT TO SECTION 48-4202, SUBSECTION C, FOR THE PAYMENT OF ASSESSMENTS IN LIEU OF PROPERTY TAXES AS PROVIDED BY SECTION 48-4235.

B. THE BOARD OF DIRECTORS SHALL:

1. APPOINT FROM AMONG ITS MEMBERS A CHAIRPERSON, A SECRETARY AND SUCH OTHER OFFICERS AS MAY BE NECESSARY TO CONDUCT ITS BUSINESS. THE COUNTY TREASURER IS DESIGNATED EX OFFICIO AS THE TREASURER OF A DISTRICT THAT IS ESTABLISHED PURSUANT TO SECTION 48-3802.

2. KEEP AND MAINTAIN A COMPLETE AND ACCURATE RECORD OF ALL ITS PROCEEDINGS. ALL PROCEEDINGS AND RECORDS OF THE BOARD SHALL BE OPEN TO THE PUBLIC AS REQUIRED BY TITLE 38, CHAPTER 3, ARTICLE 3.1 AND TITLE 39, CHAPTER 1.

3. PROVIDE FOR THE USE, MAINTENANCE AND OPERATION OF THE PROPERTIES AND INTERESTS CONTROLLED BY THE DISTRICT.

C. THE BOARD OF DIRECTORS SHALL REPORT TO THE GOVERNOR ON OR BEFORE OCTOBER 1 OF EACH YEAR REGARDING THE ACTIVITIES, OPERATIONS, REVENUES AND EXPENDITURES OF THE DISTRICT FOR THE IMMEDIATELY PRECEDING FISCAL YEAR. THE BOARD SHALL SUBMIT THE ANNUAL REPORT TO THE LEGISLATURE AND PROVIDE A COPY OF THE REPORT TO THE SECRETARY OF STATE. AT THE DISCRETION OF THE CHAIRPERSONS OF THE SENATE FINANCE COMMITTEE AND THE HOUSE OF REPRESENTATIVES WAYS AND MEANS COMMITTEE, OR THEIR SUCCESSOR COMMITTEES, THE COMMITTEES MAY HOLD SEPARATE OR JOINT HEARINGS TO CONSIDER THE ANNUAL REPORT PREPARED BY THE DISTRICT.

D. THE DIRECTORS, OFFICERS AND EMPLOYEES OF THE DISTRICT ARE SUBJECT TO TITLE 38, CHAPTER 3, ARTICLE 8 RELATING TO CONFLICTS OF INTEREST.

E. THIS STATE AND POLITICAL SUBDIVISIONS OF THIS STATE OTHER THAN THE DISTRICT ARE NOT LIABLE FOR ANY FINANCIAL OR OTHER OBLIGATIONS OF THE DISTRICT, AND THE FINANCIAL OR OTHER OBLIGATIONS DO NOT CONSTITUTE A DEBT OR LIABILITY OF THIS STATE OR ANY POLITICAL SUBDIVISION OF THIS STATE, OTHER THAN THE DISTRICT.

ARTICLE 2. OPERATIONS

48-3821. Constructing and operating a public facility; requirements; definitions

A. THE BOARD SHALL PROVIDE FOR THE CONSTRUCTION, USE, FURNISHING, IMPROVEMENT, OPERATION, MARKETING, PROMOTION AND MAINTENANCE OF A PUBLIC FACILITY ACCORDING TO EACH OF THE FOLLOWING CONDITIONS:

1. THE DISTRICT MAY ENTER INTO ONE OR MORE DEVELOPMENT AGREEMENTS WITH THE CITY AND ANY OTHER PARTY THAT MAY INCLUDE DEBT FINANCING FOR THE CONSTRUCTION OF THE PUBLIC FACILITY, BUT THE DISTRICT HAS NO AUTHORITY TO INCUR OR PARTICIPATE IN DEBT OBLIGATIONS OF THE OTHER PARTIES. WHEN ALL DEBT SERVICE OBLIGATIONS HAVE BEEN SATISFIED, THE OWNERSHIP TITLE TO THE PUBLIC FACILITY SHALL DEVOLVE TO THE ARIZONA BOARD OF REGENTS.

2. THIS CHAPTER GOVERNS THE CONSTRUCTION, FINANCING, USE, FURNISHING, IMPROVEMENT, OPERATION, MARKETING, PROMOTION AND MAINTENANCE OF THE PUBLIC FACILITY.

3. FROM THE REVENUES OF THE DISTRICT AND FROM OTHER MONIES LAWFULLY AVAILABLE TO THE DISTRICT, THE DISTRICT MAY ACQUIRE OR LEASE LAND AND CONSTRUCT, FINANCE, FURNISH, MAINTAIN, IMPROVE, OPERATE, MARKET AND PROMOTE THE USE OF THE PUBLIC FACILITY AS NECESSARY FOR FULL USE OF THE PUBLIC FACILITY AND DO ALL THINGS NECESSARY OR CONVENIENT TO ACCOMPLISH THOSE PURPOSES. MONIES RECEIVED BY THE DISTRICT PURSUANT TO SECTION 42-5031.02 MAY BE USED ONLY FOR THE PUBLIC FACILITY, THE DISTRICT'S FINANCIAL COMMITMENTS AND FIDUCIARY, REASONABLE LEGAL AND ADMINISTRATIVE EXPENSES OF THE DISTRICT.

B. TITLE 34 APPLIES TO A DISTRICT ESTABLISHED UNDER THIS CHAPTER, EXCEPT THAT NOTWITHSTANDING TITLE 41, CHAPTER 23 AND REGARDLESS OF THE FUNDING SOURCE FOR THE DESIGN AND CONSTRUCTION OF THE PUBLIC FACILITY, THE DISTRICT MAY USE ALTERNATIVE SYSTEMS AND PROCEDURES, INCLUDING DESIGN-BUILD CONSTRUCTION AND QUALIFICATIONS-BASED SELECTION OF CONTRACTORS, EITHER BY DIRECT SELECTION OR BY PUBLIC COMPETITION, TO EXPEDITE THE DESIGN AND CONSTRUCTION OF THE PUBLIC FACILITY.

C. FOR THE PURPOSES OF THIS SECTION:

1. "DESIGN-BUILD" MEANS A PROCESS OF ENTERING INTO AND MANAGING A CONTRACT BETWEEN THE DISTRICT AND ANOTHER PARTY IN WHICH THE OTHER PARTY AGREES TO BOTH DESIGN AND BUILD THE PUBLIC FACILITY AS SPECIFIED IN THE CONTRACT.

2. "QUALIFICATIONS-BASED SELECTION" MEANS A PROCESS OF ENTERING INTO AND MANAGING A CONTRACT BETWEEN THE DISTRICT AND ANOTHER PARTY IN WHICH THE OTHER PARTY IS SELECTED BY THE DISTRICT ON THE BASIS OF THE PARTY'S QUALIFICATIONS AND EXPERIENCE IN DESIGNING OR CONSTRUCTING A PUBLIC FACILITY OR FACILITIES, STRUCTURES OR ITEMS SIMILAR TO THOSE THE DISTRICT IS AUTHORIZED TO CONSTRUCT.

48-3822. Operational powers and duties

A. IN ADDITION TO OTHER PROVISIONS OF THIS CHAPTER, A DISTRICT, THROUGH ITS BOARD AND IN COOPERATION WITH THE OTHER PARTIES TO THE DEVELOPMENT AGREEMENT, SHALL:

1. NEGOTIATE AND ENTER INTO AGREEMENTS WITH DEVELOPERS, CONTRACTORS AND ARCHITECTS FOR THE CONSTRUCTION OF ANY PORTION OF THE PUBLIC FACILITY, UNLESS AN ARCHITECT WILL BE EMPLOYED DIRECTLY BY A CONTRACTOR.

2. REVIEW CONSTRUCTION CHANGE ORDER REQUESTS.

3. ARRANGE WITH THE OTHER PARTIES TO THE DEVELOPMENT AGREEMENT FOR CAPITAL FINANCING, AS NEEDED.

4. WORK WITH THE USERS, CONTRACTORS AND ARCHITECTS TO PREPARE AND MAINTAIN A THEME OR DESIGN FOR THE PUBLIC FACILITY.

5. PREPARE CONSTRUCTION BUDGETS AND SCHEDULES.

6. NEGOTIATE AND ENTER INTO USE AGREEMENTS WITH TENANTS AND OTHER USERS OF THE PUBLIC FACILITY.

7. PREPARE THE ANNUAL OPERATING BUDGET FOR THE DISTRICT PURSUANT TO SECTION 48-3841.

8. PARTICIPATE IN CONTRACTING FOR THE USE, MANAGEMENT, OPERATION, MAINTENANCE, RECONSTRUCTION AND IMPROVEMENT OF THE PUBLIC FACILITY.

9. TAKE ANY OTHER ACTIONS THAT ARE NECESSARY TO ENSURE THAT THE PUBLIC FACILITY IS:

(a) CONSTRUCTED, MANAGED, OPERATED, MAINTAINED AND IMPROVED ACCORDING TO SCHEDULE AND BUDGET.

(b) OCCUPIED AND USED ACCORDING TO THE USE AGREEMENTS.

B. THE DISTRICT, THROUGH ITS BOARD AND IN COOPERATION WITH THE OTHER PARTIES TO THE DEVELOPMENT AGREEMENT, MAY:

1. LEASE ALL OR PART OF THE PUBLIC FACILITY TO USERS, CHARGE AND COLLECT RENT FROM LESSEES AND TERMINATE ANY LEASE ON THE FAILURE OF THE LESSEE TO COMPLY WITH THE OBLIGATIONS OF THE LEASE.

2. EMPLOY OR CONTRACT FOR PROFESSIONAL AND OTHER SERVICES AS NECESSARY FOR FINANCING, CONSTRUCTING AND OPERATING THE PUBLIC FACILITY AND ANY ON-SITE OR OFF-SITE IMPROVEMENTS USED IN CONNECTION WITH THE PUBLIC FACILITY.

3. DO ANY OTHER ACT THAT IS NECESSARY OR APPROPRIATE TO CARRY OUT THE PURPOSES OF THE DISTRICT.

C. THE DISTRICT MAY NOT OPERATE THE PUBLIC FACILITY AS A BUSINESS, OTHER THAN AS A LESSOR OR LICENSOR FOR USE.

48-3823. Relations with real property owners

A. ALL OR PART OF A PUBLIC FACILITY MAY BE LOCATED ON REAL PROPERTY LEASED FROM THE ARIZONA BOARD OF REGENTS.

B. THE DISTRICT, WITH OTHER PARTIES TO THE DEVELOPMENT AGREEMENT, MAY NEGOTIATE AND ENTER INTO AGREEMENTS, INCLUDING INTERGOVERNMENTAL AGREEMENTS PURSUANT TO TITLE 11, CHAPTER 7, ARTICLE 3, CONCERNING THE REAL PROPERTY, INFRASTRUCTURE AND PARKING FACILITIES. THE DISTRICT SHALL REQUIRE ASSURANCE THAT THE OWNER HAS THE FINANCIAL CAPABILITY TO PERFORM ITS OBLIGATIONS UNDER ANY AGREEMENT WITH THE DISTRICT. THE OWNER MUST AGREE IN WRITING TO:

1. INDEMNIFY AND HOLD THE DISTRICT HARMLESS FROM ANY LIABILITY FOR THE NEGLIGENT OR INTENTIONAL ACTS OR OMISSIONS OF THE OWNER OR ITS REPRESENTATIVES, AGENTS OR EMPLOYEES RESULTING FROM ANY ACCESS WAYS PROVIDED BY THE OWNER AND REASONABLY USED BY THE PUBLIC FOR INGRESS AND EGRESS TO THE REAL PROPERTY, INFRASTRUCTURE AND PARKING PROVIDED BY THE OWNER.

2. MAINTAIN INSURANCE OR AN ADEQUATE SELF-INSURANCE PLAN FOR ANY LIABILITY OF THE OWNER.

ARTICLE 3. FINANCIAL PROVISIONS

48-3841. Annual budget; amendment

A. ON OR BEFORE JUNE 30 OF EACH YEAR, THE BOARD SHALL HOLD A PUBLIC HEARING TO ADOPT A BUDGET FOR THE FOLLOWING FISCAL YEAR THAT INCLUDES:

1. DISTRICT RECEIPTS DURING THE PRECEDING FISCAL YEAR.

2. DISTRICT EXPENDITURES DURING THE PRECEDING FISCAL YEAR.

3. ESTIMATES OF AMOUNTS NECESSARY FOR EXPENSES DURING THE FOLLOWING FISCAL YEAR, INCLUDING AMOUNTS PROPOSED FOR:

(a) COSTS OF PLANNING, CONSTRUCTING, FINANCING AND MAINTAINING THE PUBLIC FACILITY.

(b) ADMINISTRATIVE COSTS OF THE DISTRICT.

4. ANTICIPATED REVENUE TO THE DISTRICT FROM EACH SOURCE IN THE FOLLOWING FISCAL YEAR.

5. A COMPLETE ASSET AND LIABILITY STATEMENT.

6. A STATEMENT OF PROFIT OR LOSS.

7. CASH ON HAND AS OF THE DATE THE BUDGET IS ADOPTED AND THE ANTICIPATED BALANCE AT THE END OF THE CURRENT FISCAL YEAR.

8. AN ITEMIZED STATEMENT OF COMMITMENTS, RESERVES AND ANTICIPATED OBLIGATIONS FOR THE FOLLOWING FISCAL YEAR.

9. A DESCRIPTION OF THE AMOUNT AND NATURE OF ANY PRIVATE FUNDING AND FINANCING COMMITTED TO PUBLIC FACILITY PURPOSES.

B. THE BOARD MAY AMEND THE BUDGET ON A FINDING OF GOOD CAUSE.

48-3842. District general fund; investments

A. THE DISTRICT SHALL MAINTAIN A GENERAL FUND AND MAY ESTABLISH ACCOUNTS AND SUBACCOUNTS WITHIN THE GENERAL FUND AS NECESSARY AND CONVENIENT. ALL REVENUES AND MONIES RECEIVED BY THE DISTRICT SHALL BE DEPOSITED IN THE GENERAL FUND.

B. THE DISTRICT MAY INVEST ANY UNEXPENDED MONIES IN THE FUND AS PROVIDED IN TITLE 35, CHAPTER 2. INTEREST AND OTHER INCOME FROM INVESTMENTS OF MONIES IN ANY ACCOUNT SHALL BE CREDITED TO THAT ACCOUNT EXCEPT AS OTHERWISE PROVIDED BY LAW.

C. THE DISTRICT'S INVESTMENTS MUST MATURE WHEN THE FUND ASSETS WILL BE REQUIRED FOR THE PURPOSES OF THIS CHAPTER. IF THE LIQUID ASSETS IN THE FUND BECOME INSUFFICIENT TO MEET THE DISTRICT'S OBLIGATIONS, THE BOARD SHALL DIRECT THE DISTRICT FISCAL AGENT TO LIQUIDATE SUFFICIENT SECURITIES TO MEET ALL OF THE CURRENT OBLIGATIONS AND IMMEDIATELY NOTIFY THE AUDITOR GENERAL OF THE INSUFFICIENCY. THE AUDITOR GENERAL SHALL INVESTIGATE AND AUDIT THE CIRCUMSTANCES SURROUNDING THE DEPLETION OF THE FUND AND REPORT THE FINDINGS TO THE BOARD.

48-3843. Construction account

A. THE DISTRICT SHALL MAINTAIN A CONSTRUCTION ACCOUNT IN THE GENERAL FUND CONSISTING OF MONIES RECEIVED BY THE DISTRICT FROM ANY SOURCE FOR THE PURPOSE OF ACQUIRING LAND FOR AND FUNDING THE COST OF CONSTRUCTING THE PUBLIC FACILITY.

B. THE DISTRICT MAY SPEND MONIES IN THE CONSTRUCTION ACCOUNT FOR COSTS OF ANY PUBLIC FACILITY PURPOSE.

48-3844. Excise tax

A. THE BOARD OF DIRECTORS MAY LEVY AN EXCISE TAX ON BUSINESS ACTIVITY IN THE DISTRICT THAT IS SUBJECT TO TAXATION UNDER TITLE 42, CHAPTER 5. THE TAX SHALL BE LEVIED AT A RATE OF NO MORE THAN TWO PERCENT OF THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM THE BUSINESS, INCLUDING ADMISSION AND USER FEES.

B. A TAX IMPOSED PURSUANT TO THIS SECTION IS IN ADDITION TO TRANSACTION PRIVILEGE AND USE TAXES IMPOSED BY THIS STATE PURSUANT TO TITLE 42, CHAPTER 5 AND ANY COUNTY, CITY OR OTHER LOCAL TRANSACTION PRIVILEGE TAX, AND IS IN ADDITION TO OTHER REVENUES COLLECTED PURSUANT TO SECTION 42-5031.02 AND THIS CHAPTER.

C. UNLESS THE CONTEXT OTHERWISE REQUIRES, SECTION 42-6102 GOVERNS THE ADMINISTRATION OF THE TAX IMPOSED UNDER THIS SECTION.

D. EACH MONTH THE STATE TREASURER SHALL REMIT TO THE DISTRICT THE NET REVENUES COLLECTED UNDER THIS SECTION DURING THE PRECEDING MONTH. THE DISTRICT SHALL DEPOSIT THE MONIES IN THE DISTRICT'S GENERAL FUND.

48-3845. Development fees prohibited

THE BOARD OF DIRECTORS MAY NOT LEVY OR ASSESS IMPACT OR DEVELOPMENT FEES OR ANY OTHER ASSESSMENT, HOWEVER DENOMINATED AND FOR ANY PURPOSE, ON THE DEVELOPMENT OF REAL PROPERTY IN THE DISTRICT.

48-3846. Financial and performance audits; requirements; distribution; costs; appearance before joint committee on capital review

A. BEGINNING IN 2020 AND EVERY THREE YEARS THEREAFTER, THE AUDITOR GENERAL OR AN INDEPENDENT AUDITOR CONTRACTED BY THE AUDITOR GENERAL SHALL CONDUCT A PERFORMANCE AUDIT AS DEFINED IN SECTION 41-1278, INCLUDING A

FINANCIAL AUDIT, OF EACH DISTRICT ESTABLISHED UNDER THIS CHAPTER. THE INDEPENDENT AUDITOR MUST HAVE NATIONAL STATUS WITH EXPERTISE IN EVALUATING PUBLIC CONSTRUCTION, OWNERSHIP AND MANAGEMENT OF CAPITAL IMPROVEMENTS THAT INCLUDE HOSPITALITY AND SPORTS VENUE FACILITIES. THE AUDIT MUST BE COMPLETED WITHIN ONE HUNDRED TWENTY DAYS AFTER THE END OF THE FISCAL YEAR.

B. THE AUDIT SHALL INCLUDE CONSIDERATION OF:

1. CAPITAL COSTS OF THE PUBLIC FACILITY.

2. OPERATION AND MAINTENANCE COSTS OF THE PUBLIC FACILITY.

3. THE AMOUNT OF PRINCIPAL, INTEREST AND OTHER DEBT SERVICE OBLIGATIONS OF THE PUBLIC FACILITY AND ANY EXPOSURE OF THE DISTRICT WITH RESPECT TO DEBT OBLIGATIONS.

4. THE DISTRICT'S OVERALL EXPENDITURES IN THE PRECEDING FISCAL YEAR, INCLUDING:

(a) THE LEVEL OF EXPENSES FOR ADMINISTRATION, PLANNING, TRAVEL AND ENTERTAINMENT.

(b) THE SUCCESS OF THOSE EXPENDITURES IN SUPPORTING AND ACHIEVING THE DISTRICT'S PURPOSES.

5. A DESCRIPTION OF AND THE AMOUNT OF DIRECT PAYMENTS TO THE DISTRICT PURSUANT TO SECTION 42-5031.02 DURING THE PRECEDING FISCAL YEAR AND THE CUMULATIVE AMOUNT OF THOSE PAYMENTS THROUGH THE END OF THE PRECEDING FISCAL YEAR.

6. THE PUBLIC USE OF THE PUBLIC FACILITY.

7. REVENUES DERIVED FROM THE PUBLIC FACILITY, AND OTHER REVENUES OF THE DISTRICT BY SOURCE.

8. DISTRICT PROJECTS THAT ARE CURRENTLY UNDER CONSTRUCTION AND THAT ARE INCLUDED IN THE DISTRICT'S PLANS FOR CAPITAL IMPROVEMENTS AND INVESTMENT.

C. THE AUDIT SHALL INCLUDE FINDINGS AND RECOMMENDATIONS REGARDING THE CONSTRUCTION, FINANCING, OPERATION AND MAINTENANCE OF THE PUBLIC FACILITY, INCLUDING WHETHER THEY EXCEED, MEET OR FAIL TO MEET NATIONALLY RECOGNIZED DESIGN AND PERFORMANCE STANDARDS.

D. THE DISTRICT AND THE BOARD SHALL COOPERATE WITH AND SUBMIT TO THE AUDITOR GENERAL, OR THE INDEPENDENT AUDITOR CONTRACTED TO CONDUCT THE AUDIT, ANY INFORMATION NECESSARY TO CONDUCT AND COMPLETE THE AUDIT IN A TIMELY MANNER.

E. WITHIN FORTY-FIVE DAYS AFTER THE AUDIT IS RELEASED, THE BOARD SHALL:

1. HOLD A PUBLIC HEARING ON THE AUDIT'S FINDINGS AND RECOMMENDATIONS AND ALLOW ANY PERSON TO MAKE OR SUBMIT ORAL OR WRITTEN COMMENTS ON THE AUDIT.

2. BY MAJORITY VOTE, ADOPT A PUBLIC RESPONSE AGREEING, AGREEING WITH RESERVATIONS OR DISAGREEING WITH EACH FINDING AND RECOMMENDATION IN THE AUDIT.

F. THE AUDITOR GENERAL SHALL DISTRIBUTE COPIES OF THE AUDIT AND THE BOARD'S RESPONSE TO:

1. THE MAYOR AND GOVERNING BODY OF THE CITY IN WHICH THE DISTRICT IS LOCATED.

2. THE DEPARTMENT OF REVENUE AND THE STATE TREASURER.

3. THE SECRETARY OF STATE.

4. ANY OTHER PERSON WHO REQUESTS A COPY OF THE AUDIT.

G. THE COST INCURRED BY THE AUDITOR GENERAL IN CONTRACTING WITH AN INDEPENDENT AUDITOR UNDER THIS SECTION IS AN OPERATING EXPENSE OF THE DISTRICT AND SHALL BE PAID FROM REVENUES PAYABLE TO THE DISTRICT PURSUANT TO SECTION 42-5031.02. THE AUDITOR GENERAL SHALL DEPOSIT THE PAYMENTS IN THE AUDIT SERVICES REVOLVING FUND ESTABLISHED BY SECTION 41-1279.06.

H. AT THE REQUEST OF THE CHAIRPERSON OF THE JOINT COMMITTEE ON CAPITAL REVIEW, A REPRESENTATIVE OF THE BOARD SHALL APPEAR BEFORE THE JOINT COMMITTEE ON CAPITAL REVIEW TO REPORT ON ANY ASPECT OF THE DISTRICT'S OPERATION, INCLUDING THE ACTIVITIES AND FINANCIAL PERFORMANCE OF THE DISTRICT DURING THE PREVIOUS FISCAL YEAR, THE DISTRICT'S PLANS FOR CAPITAL IMPROVEMENTS AND INVESTMENT AND THE DISTRICT'S RESPONSE TO THE AUDIT CONDUCTED UNDER THIS SECTION.

ARTICLE 4. DISSOLUTION

48-3861. Dissolution of district

THE DISTRICT SHALL BE DISSOLVED BY RESOLUTION OF THE BOARD WITHIN SIXTY MONTHS AFTER THE SATISFACTION OF THE FOLLOWING CONDITIONS:

1. THE DISTRICT HAS DISPOSED OF ALL REAL AND PERSONAL PROPERTY OWNED BY THE DISTRICT.

2. THE DISTRICT HAS NO OUTSTANDING FINANCIAL OR OTHER OBLIGATIONS.

Sec. 7. Section 48-4235, Arizona Revised Statutes, is amended to read:

48-4235. Assessment in lieu of property tax; rate; administration

A. The board of directors of a district established pursuant to section 48-4202, subsection C shall provide by intergovernmental agreement for the imposition and collection of an assessment from prime commercial lessees of Arizona board of regents' property in the district OR FROM A COMMUNITY ENGAGEMENT DISTRICT PURSUANT TO SECTION 48-3804, SUBSECTION A, PARAGRAPH 8 WITH RESPECT TO PROPERTY IT OWNS IN THE DISTRICT.

B. The board of directors shall determine the amount of the assessment each year as follows:

1. Determine the valuation of each parcel of Arizona board of regents' property OR COMMUNITY ENGAGEMENT DISTRICT PROPERTY in the same manner as is used by the county assessor to determine the valuation of similar property in the county. The board of directors shall make available the method and calculation of the valuation of any property on request. On the petition of a prime lessee OR A COMMUNITY ENGAGEMENT DISTRICT, the board of directors shall meet with the petitioner to resolve any disagreement on the amount of the valuation.

2. Compute a comparable assessed valuation by applying the appropriate assessment percentage prescribed by title 42, chapter 15, article 1 to the valuation determined under paragraph 1.

3. Multiply the comparable assessed valuation determined under paragraph 2 by a rate per one hundred dollars established by the board of directors, but not to exceed the composite tax rates of all taxing jurisdictions in which the parcel of property is located.

C. The district treasurer shall collect the assessment from the prime lessee OR COMMUNITY ENGAGEMENT DISTRICT. The district treasurer shall deposit the net revenues from the assessment in the district fund to be used for the purposes allowed by this chapter.

D. The board of directors may pledge all or part of the assessment revenues to secure district bonds or financial obligations under this chapter. The board of directors must continue to impose and collect the assessment in an amount that is at least adequate for all debt service requirements of the district under this chapter.