

REFERENCE TITLE: water conservation infrastructure; reimbursement

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HB 2860

Introduced by
Representative Livingston

AN ACT

AMENDING SECTIONS 42-2003 AND 42-5010, ARIZONA REVISED STATUTES; AMENDING SECTION 42-5029, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 411, SECTION 2; AMENDING SECTION 42-5029, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2023, CHAPTER 204, SECTION 6; AMENDING SECTION 42-5032.02, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-5032.03; AMENDING SECTION 42-5075, ARIZONA REVISED STATUTES; RELATING TO PUBLIC INFRASTRUCTURE IMPROVEMENTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

4 42-2003. Authorized disclosure of confidential information

5 A. Confidential information relating to:

6 1. A taxpayer may be disclosed to the taxpayer, its successor in
7 interest or a designee of the taxpayer who is authorized in writing by the
8 taxpayer. A principal corporate officer of a parent corporation may
9 execute a written authorization for a controlled subsidiary. If a
10 taxpayer elects to file an Arizona small business income tax return under
11 section 43-302, a written authorization by the taxpayer to allow the
12 department to disclose personal income tax information to a designee
13 includes the corresponding Arizona small business income tax return.

14 2. A corporate taxpayer may be disclosed to any principal officer,
15 any person designated by a principal officer or any person designated in a
16 resolution by the corporate board of directors or other similar governing
17 body. If a corporate officer signs a statement under penalty of perjury
18 representing that the officer is a principal officer, the department may
19 rely on the statement until the statement is shown to be false. For the
20 purposes of this paragraph, "principal officer" includes a chief executive
21 officer, president, secretary, treasurer, vice president of tax, chief
22 financial officer, chief operating officer or chief tax officer or any
23 other corporate officer who has the authority to bind the taxpayer on
24 matters related to state taxes.

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

28 4. A limited liability company may be disclosed to any member of
29 the company or, if the company is manager-managed, to any manager.

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

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

39 7. A government entity may be disclosed to the head of the entity
40 or a member of the governing board of the entity, or any employee of the
41 entity who has been delegated the authorization in writing by the head of
42 the entity or the governing board of the entity.

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

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

3 10. Any taxpayer may be disclosed during a meeting or telephone
4 call if the taxpayer is present during the meeting or telephone call and
5 authorizes the disclosure of confidential information.

6 B. Confidential information may be disclosed to:

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

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

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

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

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

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

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

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

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

43 (e) An agency, official or organization of an Indian tribal
44 government with responsibilities comparable to the responsibilities of the

1 agencies, officials or organizations identified in subdivision (a), (b) or
2 (c) of this paragraph.

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

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

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

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

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

12 8. The office of administrative hearings relating to taxes
13 administered by the department pursuant to section 42-1101, but the
14 department shall not disclose any confidential information without the
15 taxpayer's written consent:

16 (a) Regarding income tax or withholding tax.

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

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

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

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

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

29 (a) Qualifying renewable energy operations for the tax incentives
30 under section 42-12006.

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

33 (c) Fulfilling its annual reporting responsibility pursuant to
34 section 41-1512, subsections U and V and section 41-1517, subsection L.

35 (d) Certifying computer data centers for tax relief under section
36 41-1519.

37 (e) Certifying applicants for the tax credit for motion picture
38 production costs under sections 43-1082 and 43-1165.

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

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

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

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

1 17. The department of administration risk management division and
2 the office of the attorney general if the information relates to a claim
3 against this state pursuant to section 12-821.01 involving the department
4 of revenue.

5 18. Another state agency if the taxpayer authorizes the disclosure
6 of confidential information in writing, including an authorization that is
7 part of an application form or other document submitted to the agency.

8 19. The department of economic security for its use in determining
9 whether an employer has paid all amounts due under the unemployment
10 insurance program pursuant to title 23, chapter 4.

11 20. The department of health services for its use in determining
12 the following:

13 (a) Whether a medical marijuana dispensary is in compliance with
14 the tax requirements of chapter 5 of this title for the purposes of
15 section 36-2806, subsection A.

16 (b) Whether a marijuana establishment, marijuana testing facility
17 or dual licensee licensed under title 36, chapter 28.2 is in compliance
18 with the tax obligations under this title or title 43.

19 21. The Arizona department of agriculture for the purpose of
20 ascertaining compliance with the licensing provisions in title 3.

21 22. The office of economic opportunity for the purpose of
22 performing the duties and obligations to or on behalf of this state
23 prescribed by title 41, chapter 53.

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

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

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

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

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

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

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

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

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

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

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

23 1. May be used only for internal purposes, including audits. If
24 there is a legitimate business need relating to enforcing laws,
25 regulations and ordinances pursuant to section 9-500.39 or 11-269.17, a
26 county, city or town tax official may redisclose transaction privilege tax
27 information relating to a vacation rental or short-term rental property
28 owner or online lodging operator from the new license report and license
29 update report, subject to the following:

30 (a) The information redisclosed is limited to the following:

31 (i) The transaction privilege tax license number.

32 (ii) The type of organization or ownership of the business.

33 (iii) The legal business name and doing business as name, if
34 different from the legal name.

35 (iv) The business mailing address, tax record physical location
36 address, telephone number, email address and fax number.

37 (v) The date the business started in this state, the business
38 description and the North American industry classification system code.

39 (vi) The name, address and telephone number for each owner,
40 partner, corporate officer, member, managing member or official of the
41 employing unit.

42 (b) Redisclosure is limited to nonelected officials in other units
43 within the county, city or town. The information may not be redisclosed
44 to an elected official or the elected official's staff.

1 (c) All redisclosures of confidential information made pursuant to
2 this paragraph are subject to paragraph 2 of this subsection.

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

10 H. The department may disclose statistical information gathered
11 from confidential information if it does not disclose confidential
12 information attributable to any one taxpayer. The department may disclose
13 statistical information gathered from confidential information, even if it
14 discloses confidential information attributable to a taxpayer, to:

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

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

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

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

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

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

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

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

1 O. If the department is required or allowed to disclose
2 confidential information, it may charge the person or agency requesting
3 the information for the reasonable cost of its services.

4 P. Except as provided in section 42-2002, subsection D, the
5 department of revenue shall release confidential information as requested
6 by the department of economic security pursuant to section 42-1122 or
7 46-291. Information disclosed under this subsection is limited to the
8 same type of information that the United States internal revenue service
9 is authorized to disclose under section 6103(l)(6) of the internal revenue
10 code.

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

14 R. To comply with the requirements of section 42-5031, the
15 department may disclose to the state treasurer, to the county stadium
16 district board of directors and to any city or town tax official that is
17 part of the county stadium district confidential information attributable
18 to a taxpayer's business activity conducted in the county stadium
19 district.

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

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

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

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

30 T. For proceedings before the department, the office of
31 administrative hearings, the state board of tax appeals or any state or
32 federal court involving penalties that were assessed against a return
33 preparer, an electronic return preparer or a payroll service company
34 pursuant to section 42-1103.02, 42-1125.01 or 43-419, confidential
35 information may be disclosed only before the judge or administrative law
36 judge adjudicating the proceeding, the parties to the proceeding and the
37 parties' representatives in the proceeding prior to its introduction into
38 evidence in the proceeding. The confidential information may be
39 introduced as evidence in the proceeding only if the taxpayer's name, the
40 names of any dependents listed on the return, all social security numbers,
41 the taxpayer's address, the taxpayer's signature and any attachments
42 containing any of the foregoing information are redacted and if either:

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

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

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

8 U. The department and attorney general may share the information
9 specified in subsection S of this section with any of the following:

10 1. Federal, state or local agencies located in this state for the
11 purposes of enforcement of the statutes or agreements specified in
12 subsection S of this section or for the purposes of enforcement of
13 corresponding laws of other states.

14 2. Indian tribes located in this state for the purposes of
15 enforcement of the statutes or agreements specified in subsection S of
16 this section.

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

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

27 W. The department may disclose to an official of any city, town or
28 county in a current agreement or considering a prospective agreement with
29 the department as described in section 42-5032.02, subsection G **OR SECTION**
30 **42-5032.03, SUBSECTION G** any information relating to amounts that are
31 subject to distribution and that are required by section 42-5032.02 **OR**
32 **42-5032.03**. Information disclosed by the department under this
33 subsection:

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

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

42 X. Notwithstanding any other provision of this section, the
43 department may not disclose information provided by an online lodging
44 marketplace, as defined in section 42-5076, without the written consent of
45 the online lodging marketplace, and the information may be disclosed only

1 pursuant to subsection A, paragraphs 1 through 6, 8 and 10, subsection B,
2 paragraphs 1, 2, 7 and 8 and subsections C, D and G of this section. Such
3 information:

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

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

8 Sec. 2. Section 42-5010, Arizona Revised Statutes, is amended to
9 read:

10 42-5010. Rates; distribution base

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

13 1. Five percent of the tax base as computed for the business of
14 every person engaging or continuing in this state in the following
15 business classifications described in article 2 of this chapter:

16 (a) Transporting classification.

17 (b) Utilities classification.

18 (c) Telecommunications classification.

19 (d) Pipeline classification.

20 (e) Private car line classification.

21 (f) Publication classification.

22 (g) Job printing classification.

23 (h) Prime contracting classification.

24 (i) Amusement classification.

25 (j) Restaurant classification.

26 (k) Personal property rental classification.

27 (l) Retail classification and amounts equal to retail transaction
28 privilege tax due pursuant to section 42-5008.01.

29 2. Five and one-half percent of the tax base as computed for the
30 business of every person engaging or continuing in this state in:

31 (a) The transient lodging classification described in section
32 42-5070.

33 (b) The online lodging marketplace classification described in
34 section 42-5076 who has entered into an agreement with the department to
35 register for, or has otherwise obtained from the department, a license to
36 collect tax pursuant to section 42-5005, subsection L.

37 3. Three and one-eighth percent of the tax base as computed for the
38 business of every person engaging or continuing in this state in the
39 mining classification described in section 42-5072.

40 4. Zero percent of the tax base as computed for the business of
41 every person engaging or continuing in this state in the commercial lease
42 classification described in section 42-5069.

1 B. Except as provided by subsection J of this section, twenty
2 percent of the tax revenues collected at the rate prescribed by subsection
3 A, paragraph 1 of this section from persons on account of engaging in
4 business under the business classifications listed in subsection A,
5 paragraph 1, subdivisions (a) through (h) of this section is designated as
6 distribution base for THE purposes of section 42-5029.

7 C. Forty percent of the tax revenues collected at the rate
8 prescribed by subsection A, paragraph 1 of this section from persons on
9 account of engaging in business under the business classifications listed
10 in subsection A, paragraph 1, subdivisions (i) through (l) of this section
11 is designated as distribution base for THE purposes of section 42-5029.

12 D. Thirty-two percent of the tax revenues collected from persons on
13 account of engaging in business under the business classification listed
14 in subsection A, paragraph 3 of this section is designated as distribution
15 base for THE purposes of section 42-5029.

16 E. Fifty-three and one-third percent of the tax revenues collected
17 from persons on account of engaging in business under the business
18 classification listed in subsection A, paragraph 4 of this section is
19 designated as distribution base for THE purposes of section 42-5029.

20 F. Fifty percent of the tax revenues collected from persons on
21 account of engaging in business under the business classification listed
22 in subsection A, paragraph 2 of this section is designated as distribution
23 base for THE purposes of section 42-5029.

24 G. In addition to the rates prescribed by subsection A of this
25 section, if approved by the qualified electors voting at a statewide
26 general election, an additional rate increment is imposed and shall be
27 collected through June 30, 2021. The taxpayer shall pay taxes pursuant to
28 this subsection at the same time and in the same manner as under
29 subsection A of this section. The department shall separately account for
30 the revenues collected with respect to the rates imposed pursuant to this
31 subsection and the state treasurer shall distribute all of those revenues
32 in the manner prescribed by section 42-5029, subsection E. The rates
33 imposed pursuant to this subsection shall not be considered local revenues
34 for purposes of article IX, section 21, Constitution of Arizona. The
35 additional tax rate increment is levied at the rate of six-tenths of one
36 per cent of the tax base of every person engaging or continuing in this
37 state in a business classification listed in subsection A, paragraph 1 of
38 this section.

39 H. Any increase in the rate of tax that is imposed by this chapter
40 and that is enacted by the legislature or by a vote of the people does not
41 apply with respect to contracts entered into by prime contractors or
42 pursuant to written bids made by prime contractors on or before the
43 effective date of the legislation or the date of the election enacting the
44 increase. To qualify for the exemption under this subsection, the prime
45 contractor must maintain sufficient documentation, in a manner and form

1 prescribed by the department, to verify the date of the contract or
2 written bid.

3 I. For taxpayers THAT ARE taxable under this chapter other than
4 prime contractors taxable pursuant to section 42-5075:

5 1. Any increase in the rate of tax that is levied by this article
6 or article 2 of this chapter enacted by the legislature or by a vote of
7 the people does not apply for a period of one hundred twenty days ~~from~~
8 AFTER the date of the tax rate increase to the gross proceeds of sales or
9 gross income from the business of the taxpayer with respect to written
10 contracts entered into before the effective date of the tax rate increase
11 unless the taxpayer has entered into a contract that contains a provision
12 that entitles the taxpayer to recover from the purchaser the amount of the
13 additional tax levied.

14 2. The provisions of this subsection apply without regard to the
15 accounting method used by the taxpayer to report the taxes imposed under
16 article 2 of this chapter.

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

20 J. Zero percent of the tax revenues that are collected at the rate
21 prescribed by subsection A, paragraph 1 of this section from persons on
22 account of engaging in business under the business classification listed
23 in subsection A, paragraph 1, subdivision (h) of this section, ~~and that~~
24 are subject to any distribution required by section 42-5032.02, ~~OR~~
25 42-5032.03 is designated as distribution base for the purposes of section
26 42-5029 until the total amount subject to distribution pursuant to ~~section~~
27 SECTIONS 42-5032.02 AND 42-5032.03, has reached the maximum amount
28 prescribed by section 42-5032.02, subsection C AND SECTION 42-5032.03,
29 SUBSECTION C. Thereafter, twenty percent of the remaining tax revenues is
30 designated as distribution base for the purposes of section 42-5029 as
31 provided by subsection B of this section.

32 Sec. 3. Section 42-5029, Arizona Revised Statutes, as amended by
33 Laws 2021, chapter 411, section 2, is amended to read:

34 42-5029. Remission and distribution of monies; withholding;
35 definition

36 A. The department shall deposit, pursuant to sections 35-146 and
37 35-147, all revenues collected under this article and articles 4, 5 and 8
38 of this chapter pursuant to section 42-1116, separately accounting for:

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

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

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

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

3 5. Revenues collected pursuant to section 42-5010.01 and section
4 42-5155, subsection E.

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

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

20 D. Of the monies designated as distribution base, the department
21 shall:

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

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

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

29 (b) The proportion that the distribution base monies collected
30 during the calendar month in each county under this article, section
31 42-5164, subsection B and section 42-5205, subsection B bear to the total
32 distribution base monies collected under this article, section 42-5164,
33 subsection B and section 42-5205, subsection B throughout the state for
34 the calendar month.

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

37 (a) Average the following proportions:

38 (i) The proportion that the assessed valuation used to determine
39 secondary property taxes of each county, after deducting that part of the
40 assessed valuation that is exempt from taxation at the beginning of the
41 month for which the amount is to be paid, bears to the total assessed
42 valuations used to determine secondary property taxes of all the counties
43 after deducting that portion of the assessed valuations that is exempt
44 from taxation at the beginning of the month for which the amount is to be
45 paid. Property of a city or town that is not within or contiguous to the

1 municipal corporate boundaries and from which water is or may be withdrawn
2 or diverted and transported for use on other property is considered to be
3 taxable property in the county for purposes of determining assessed
4 valuation in the county under this item.

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

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

22 4. After any distributions required by sections 42-5030,
23 42-5030.01, 42-5031, 42-5032, 42-5032.01, ~~and~~ 42-5032.02 **AND 42-5032.03**,
24 and after making any transfer to the water quality assurance revolving
25 fund as required by section 49-282, subsection B, credit the remainder of
26 the monies designated as distribution base to the state general
27 fund. From this amount the legislature shall annually appropriate to:

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

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

32 (c) The firearms safety and ranges fund established by section
33 17-273, fifty thousand dollars derived from the taxes collected from the
34 retail classification pursuant to section 42-5061 for the current fiscal
35 year.

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

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

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

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

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

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

- 39 (a) In fiscal year 2001-2002, \$15,305,900.
40 (b) In fiscal year 2002-2003, \$31,530,100.
41 (c) In fiscal year 2003-2004, \$48,727,700.
42 (d) In fiscal year 2004-2005, \$66,957,200.
43 (e) In fiscal year 2005-2006 and each fiscal year thereafter,
44 \$86,280,500.

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

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

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

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

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

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

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

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

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

36 G. Notwithstanding subsection D of this section, if a court of
37 competent jurisdiction finally determines that tax monies distributed
38 under this section were illegally collected under this article or articles
39 5 and 8 of this chapter and orders the monies to be refunded to the
40 taxpayer, the department shall compute the amount of such monies that was
41 distributed to each city, town and county under this section. Each
42 city's, town's and county's proportionate share of the costs shall be
43 based on the amount of the original tax payment each municipality and
44 county received. Each month the state treasurer shall reduce the amount
45 otherwise distributable to the city, town and county under this section by

1 one thirty-sixth of the total amount to be recovered from the city, town
 2 or county until the total amount has been recovered, but the monthly
 3 reduction for any city, town or county shall not exceed ten percent of the
 4 full monthly distribution to that entity. The reduction shall begin for
 5 the first calendar month after the final disposition of the case and shall
 6 continue until the total amount, including interest and costs, has been
 7 recovered.

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

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

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

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

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

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

31 Sec. 4. Section 42-5029, Arizona Revised Statutes, as amended by
32 Laws 2023, chapter 204, section 6, is amended to read:

33 42-5029. Remission and distribution of monies; withholding;
34 definition

35 A. The department shall deposit, pursuant to sections 35-146 and
36 35-147, all revenues collected under this article and articles 4, 5 and 8
37 of this chapter pursuant to section 42-1116, separately accounting for:

- 38 1. Payments of estimated tax under section 42-5014, subsection D.
- 39 2. Revenues collected pursuant to section 42-5070.

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

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

1 5. Revenues collected pursuant to section 42-5010.01 and section
2 42-5155, subsection E.

3 6. Revenues collected pursuant to section 42-5061 from a remote
4 seller.

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

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

20 D. Of the monies designated as distribution base, the department
21 shall:

22 1. Pay twenty-five percent to the various incorporated
23 municipalities in this state in proportion to their population to be used
24 by the municipalities for any municipal purpose, except a municipality
25 shall use monies paid from revenues separately accounted for pursuant to
26 subsection A, paragraph 6 of this section and paid pursuant to this
27 paragraph for public safety before any other municipal purpose.

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

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

32 (b) The proportion that the distribution base monies collected
33 during the calendar month in each county under this article, section
34 42-5164, subsection B and section 42-5205, subsection B bear to the total
35 distribution base monies collected under this article, section 42-5164,
36 subsection B and section 42-5205, subsection B throughout the state for
37 the calendar month.

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

40 (a) Average the following proportions:

41 (i) The proportion that the assessed valuation used to determine
42 secondary property taxes of each county, after deducting that part of the
43 assessed valuation that is exempt from taxation at the beginning of the
44 month for which the amount is to be paid, bears to the total assessed
45 valuations used to determine secondary property taxes of all the counties

1 after deducting that portion of the assessed valuations that is exempt
2 from taxation at the beginning of the month for which the amount is to be
3 paid. Property of a city or town that is not within or contiguous to the
4 municipal corporate boundaries and from which water is or may be withdrawn
5 or diverted and transported for use on other property is considered to be
6 taxable property in the county for purposes of determining assessed
7 valuation in the county under this item.

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

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

25 4. After any distributions required by sections 42-5030,
26 42-5030.01, 42-5031, 42-5032, 42-5032.01, ~~and~~ 42-5032.02 **AND 42-5032.03**,
27 and after making any transfer to the water quality assurance revolving
28 fund as required by section 49-282, subsection B, credit the remainder of
29 the monies designated as distribution base to the state general
30 fund. From this amount the legislature shall annually appropriate to:

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

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

35 (c) The firearms safety and ranges fund established by section
36 17-273, \$50,000 derived from the taxes collected from the retail
37 classification pursuant to section 42-5061 for the current fiscal year.

38 E. If approved by the qualified electors voting at a statewide
39 general election, all monies collected pursuant to section 42-5010,
40 subsection G and section 42-5155, subsection D shall be distributed each
41 fiscal year pursuant to this subsection. The monies distributed pursuant
42 to this subsection are in addition to any other appropriation, transfer or
43 other allocation of public or private monies from any other source and
44 shall not supplant, replace or cause a reduction in other school district,

1 charter school, university or community college funding sources. The
2 monies shall be distributed as follows:

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

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

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

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

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

- 41 (a) In fiscal year 2001-2002, \$15,305,900.
- 42 (b) In fiscal year 2002-2003, \$31,530,100.
- 43 (c) In fiscal year 2003-2004, \$48,727,700.
- 44 (d) In fiscal year 2004-2005, \$66,957,200.

1 (e) In fiscal year 2005-2006 and each fiscal year thereafter,
2 \$86,280,500.

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

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

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

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

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

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

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

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

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

38 G. Notwithstanding subsection D of this section, if a court of
39 competent jurisdiction finally determines that tax monies distributed
40 under this section were illegally collected under this article or articles
41 5 and 8 of this chapter and orders the monies to be refunded to the
42 taxpayer, the department shall compute the amount of such monies that was
43 distributed to each city, town and county under this section. Each
44 city's, town's and county's proportionate share of the costs shall be
45 based on the amount of the original tax payment each municipality and

1 county received. Each month the state treasurer shall reduce the amount
 2 otherwise distributable to the city, town and county under this section by
 3 1/36 of the total amount to be recovered from the city, town or county
 4 until the total amount has been recovered, but the monthly reduction for
 5 any city, town or county shall not exceed ten percent of the full monthly
 6 distribution to that entity. The reduction shall begin for the first
 7 calendar month after the final disposition of the case and shall continue
 8 until the total amount, including interest and costs, has been recovered.

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

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

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

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

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

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

31 Sec. 5. Section 42-5032.02, Arizona Revised Statutes, is amended to
32 read:

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

36 A. Subject to subsection B of this section, from and after
37 September 30, 2013 through September 30, 2033, the state treasurer shall
38 pay in monthly increments TO a city, town or county up to the amount
39 determined under subsection C of this section for public infrastructure
40 improvements for the benefit of a manufacturing facility.

41 B. The state treasurer shall not make any payments under subsection
42 C of this section until both of the following apply:

43 1. Ten percent of the qualifying capital investment that is
44 certified under subsection D of this section and that constitutes

1 construction phase services, as defined in section 42-5075, has been made
2 by the manufacturing facility.

3 2. From and after June 30, 2014.

4 C. The total amount paid to a city, town or county under subsection
5 A of this section **AND SECTION 42-5032.03, SUBSECTION A** shall not exceed
6 the total amount of state transaction privilege tax revenues collected
7 under section 42-5010, subsection A from persons conducting business under
8 section 42-5075 derived from contracts to construct buildings and
9 associated improvements for the benefit of a manufacturing facility or
10 eighty percent of the total cost of ~~the~~ public infrastructure
11 improvements, whichever is less. The total amount paid to all cities,
12 towns and counties under this subsection shall not exceed ~~a maximum of~~
13 \$200,000,000 **FOR PUBLIC INFRASTRUCTURE**.

14 D. Within one hundred eighty days after the commencement of the
15 construction of buildings and associated improvements for the benefit of a
16 manufacturing facility that will require a city, town or county to make
17 **PUBLIC** infrastructure improvements, the manufacturing facility shall file
18 a sworn certification with the Arizona commerce authority and submit a
19 copy of this sworn certification to the applicable city, town or county
20 that the manufacturing facility agrees to either:

21 1. Make at least \$500,000,000 in capital investment if the
22 manufacturing facility is located in a county that has a population of
23 eight hundred thousand persons or more.

24 2. Make at least \$50,000,000 in capital investment if the
25 manufacturing facility is located in a county that has a population of
26 less than eight hundred thousand persons.

27 E. The certification under subsection D of this section shall
28 contain a sworn statement or certification, signed by an officer of the
29 manufacturing facility under penalty of perjury, that the information
30 contained is true and correct according to the best belief and knowledge
31 of the person submitting the information after a reasonable investigation
32 of the facts.

33 F. Before submitting the certification to the Arizona commerce
34 authority, the manufacturing facility and the city, town or county must
35 enter into a written agreement that:

36 1. Identifies and states the ~~cost~~ **COSTS** of the public
37 infrastructure improvements that will be constructed.

38 2. Identifies the sources of monies, including monies received
39 pursuant to this section, that will be used to pay for the public
40 infrastructure improvements.

41 G. On receipt of the sworn certification from a manufacturing
42 facility pursuant to subsection D of this section, the city, town or
43 county shall enter into a written agreement with the department. This
44 agreement and any amendments or changes to the agreement shall:

- 1 1. State the cost of the public infrastructure improvements and
2 separately identify the particular improvements that will be made.
- 3 2. State that the monies received under this section will be used
4 exclusively to pay for public infrastructure improvements that are
5 necessary to support the activities of the manufacturing facility.
- 6 3. State that the city, town or county will commit all of its
7 portion of the revenue received pursuant to section 42-5029, subsection D
8 derived from contracts subject to section 42-5075 to construct buildings
9 and associated improvements for the benefit of the manufacturing facility
10 for public infrastructure improvements AND ANY WATER CONSERVATION
11 IMPROVEMENTS UNDER SECTION 42-5032.03 that benefit the manufacturing
12 facility.
- 13 4. State that the city, town or county will immediately notify the
14 department when monies received under this section AND SECTION 42-5032.03
15 exceed eighty percent of the TOTAL cost of ~~the~~ PUBLIC infrastructure
16 improvements and will return the amount of the excess to the state
17 treasurer for deposit in the state general fund.
- 18 5. Stipulate the actual amount of the construction funding that
19 will be derived from sources other than this state.
- 20 6. Identify the persons who will be prime contractors on the
21 construction of buildings and associated improvements for the benefit of a
22 manufacturing facility and state that each prime contractor has been
23 notified as to which portion of the contractor's income shall be
24 separately identified to the department pursuant to section 42-5075,
25 subsection H.
- 26 7. State that the city, town or county agrees that any amounts paid
27 by the department to a prime contractor as identified under paragraph 6 of
28 this subsection resulting from an audit adjustment or claim for credit or
29 refund of taxes described in subsection C of this section shall be
30 recovered by the department from the city, town or county by reducing the
31 amount paid to the city, town or county under section 42-5029 from monies
32 designated as distribution base in the month next succeeding the month in
33 which the adjustment or claim is paid.
- 34 8. State that the city, town or county agrees that the department
35 will use the amounts subject to any distribution required under subsection
36 A of this section in calculating the maximum amount set by subsection C of
37 this section.
- 38 9. State that the city, town or county agrees that if, on
39 notification by the department, the state treasurer ceases payments
40 because of the condition described in subsection H of this section, the
41 city, town or county has no claim to additional payments if the department
42 subsequently pays amounts to a prime contractor identified in an agreement
43 with any city, town or county, as described in paragraph 6 of this
44 subsection, due to an audit adjustment or claim for credit or refund of
45 taxes described in subsection C of this section.

1 10. Provide any other information deemed necessary by the
2 department.

3 H. On notification by the department, the state treasurer shall
4 cease payments under subsection A of this section if either of the
5 following occurs:

6 1. The city, town or county has received monies that meet or exceed
7 eighty percent of the TOTAL cost of ~~the~~ public infrastructure improvements
8 that are necessary to support the activities related to the manufacturing
9 facility as described in the written agreement pursuant to subsection G of
10 this section AND THE ECONOMIC DEVELOPMENT AS DESCRIBED IN THE WRITTEN
11 AGREEMENT PURSUANT TO SECTION 42-3032.03, SUBSECTION G.

12 2. The total amount subject to any distribution required under
13 subsection A of this section has met the maximum amount set by subsection
14 C of this section.

15 I. A MANUFACTURING FACILITY MAY SATISFY THE REQUIREMENTS OF SECTION
16 42-5032.03, SUBSECTIONS F AND G AND SUBSECTIONS F AND G OF THIS SECTION
17 WITH THE SAME AGREEMENT.

18 ~~I.~~ J. For the purposes of this section:

19 1. "Associated improvement" includes any public infrastructure
20 improvement that is made for the benefit of the manufacturing facility
21 outside of the parcel or parcels of real property where the manufacturing
22 facility is located.

23 2. "Capital investment" means an expenditure to acquire, lease or
24 improve property that is used for the benefit of a manufacturing facility,
25 including land, buildings, machinery and fixtures.

26 3. "Manufacturing facility":

27 (a) Means an establishment that is engaged in the mechanical,
28 physical or chemical transformation or fabrication of materials,
29 substances or components into new products in this state, that is
30 classified within sections 31 through 33 inclusive of the 2007 edition of
31 the North American industry classification system as published by the
32 national technical information service of the United States department of
33 commerce and that agrees to either:

34 (i) Make at least \$500,000,000 in capital investment if the
35 manufacturing facility is located in a county that has a population of
36 eight hundred thousand persons or more.

37 (ii) Make at least \$50,000,000 in capital investment if the
38 manufacturing facility is located in a county that has a population of
39 less than eight hundred thousand persons.

40 (b) Does not include mining, milling or smelting mineral ore or
41 generating electricity.

42 4. "Population" means the population determined in the most recent
43 United States decennial census or the most recent special census as
44 provided in section 28-6532.

1 5. "Public infrastructure" means water production, delivery and
2 disposal facilities, wastewater production, delivery and disposal
3 facilities and roads that are necessary to support the activities of the
4 manufacturing facility.

5 6. "TOTAL COST OF PUBLIC INFRASTRUCTURE IMPROVEMENTS" MEANS THE SUM
6 OF PUBLIC INFRASTRUCTURE IMPROVEMENTS COSTS AND WATER CONSERVATION
7 INFRASTRUCTURE IMPROVEMENTS COSTS UNDER SECTION 42-3032.03.

8 Sec. 6. Title 42, chapter 5, article 1, Arizona Revised Statutes,
9 is amended by adding section 42-5032.03, to read:

10 42-5032.03. Distribution of revenues for city, town or county
11 water conservation infrastructure improvements
12 related to economic development; definitions

13 A. SUBJECT TO SUBSECTION B OF THIS SECTION, THROUGH SEPTEMBER 30,
14 2033, THE STATE TREASURER SHALL PAY IN MONTHLY INCREMENTS TO A CITY, TOWN
15 OR COUNTY UP TO THE AMOUNT DETERMINED UNDER SUBSECTION C OF THIS SECTION
16 FOR WATER CONSERVATION INFRASTRUCTURE IMPROVEMENTS FOR THE BENEFIT OF AN
17 ECONOMIC DEVELOPMENT.

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

20 1. TEN PERCENT OF THE QUALIFYING CAPITAL INVESTMENT THAT IS
21 CERTIFIED UNDER SUBSECTION D OF THIS SECTION AND THAT CONSTITUTES
22 CONSTRUCTION PHASE SERVICES, AS DEFINED IN SECTION 42-5075, HAS BEEN MADE
23 BY ALL MANUFACTURING FACILITIES INCLUDED IN THE ECONOMIC DEVELOPMENT.

24 2. FROM AND AFTER JUNE 30, 2024.

25 C. THE TOTAL AMOUNT PAID TO A CITY, TOWN OR COUNTY UNDER SUBSECTION
26 A OF THIS SECTION AND SECTION 42-5032.02, SUBSECTION A SHALL NOT EXCEED
27 THE TOTAL AMOUNT OF STATE TRANSACTION PRIVILEGE TAX REVENUES COLLECTED
28 UNDER SECTION 42-5010, SUBSECTION A FROM PERSONS CONDUCTING BUSINESS UNDER
29 SECTION 42-5075 DERIVED FROM CONTRACTS TO CONSTRUCT BUILDINGS AND
30 ASSOCIATED IMPROVEMENTS FOR THE BENEFIT OF THE ECONOMIC DEVELOPMENT OR
31 EIGHTY PERCENT OF THE TOTAL COST OF PUBLIC INFRASTRUCTURE IMPROVEMENTS,
32 WHICHEVER IS LESS. THE TOTAL AMOUNT PAID TO ALL CITIES, TOWNS AND
33 COUNTIES UNDER THIS SUBSECTION SHALL NOT EXCEED \$200,000,000 FOR WATER
34 CONSERVATION INFRASTRUCTURE.

35 D. WITHIN ONE HUNDRED EIGHTY DAYS AFTER THE COMMENCEMENT OF THE
36 CONSTRUCTION OF BUILDINGS AND ASSOCIATED IMPROVEMENTS FOR THE BENEFIT OF
37 THE ECONOMIC DEVELOPMENT THAT WILL REQUIRE A CITY, TOWN OR COUNTY TO MAKE
38 WATER CONSERVATION INFRASTRUCTURE IMPROVEMENTS, THE MANUFACTURING FACILITY
39 INCLUDED IN THE ECONOMIC DEVELOPMENT SHALL FILE A SWORN CERTIFICATION WITH
40 THE ARIZONA COMMERCE AUTHORITY AND SUBMIT A COPY OF THIS SWORN
41 CERTIFICATION TO THE APPLICABLE CITY, TOWN OR COUNTY THAT THE
42 MANUFACTURING FACILITY AGREES TO EITHER:

43 1. MAKE AT LEAST \$500,000,000 IN CAPITAL INVESTMENT IF THE
44 MANUFACTURING FACILITY IS LOCATED IN A COUNTY THAT HAS A POPULATION OF
45 EIGHT HUNDRED THOUSAND PERSONS OR MORE.

1 2. MAKE AT LEAST \$50,000,000 IN CAPITAL INVESTMENT IF THE
2 MANUFACTURING FACILITY IS LOCATED IN A COUNTY THAT HAS A POPULATION OF
3 LESS THAN EIGHT HUNDRED THOUSAND PERSONS.

4 E. THE CERTIFICATION UNDER SUBSECTION D OF THIS SECTION SHALL
5 CONTAIN A SWORN STATEMENT OR CERTIFICATION, SIGNED BY AN OFFICER OF THE
6 MANUFACTURING FACILITY INCLUDED IN THE ECONOMIC DEVELOPMENT UNDER PENALTY
7 OF PERJURY, THAT THE INFORMATION CONTAINED IS TRUE AND CORRECT ACCORDING
8 TO THE BEST BELIEF AND KNOWLEDGE OF THE PERSON SUBMITTING THE INFORMATION
9 AFTER A REASONABLE INVESTIGATION OF THE FACTS.

10 F. BEFORE SUBMITTING THE CERTIFICATION TO THE ARIZONA COMMERCE
11 AUTHORITY, THE MANUFACTURING FACILITY INCLUDED IN THE ECONOMIC DEVELOPMENT
12 AND THE CITY, TOWN OR COUNTY MUST ENTER INTO A WRITTEN AGREEMENT THAT:

13 1. IDENTIFIES AND STATES THE COSTS OF THE WATER CONSERVATION
14 INFRASTRUCTURE IMPROVEMENTS THAT WILL BE CONSTRUCTED.

15 2. IDENTIFIES THE SOURCES OF MONIES, INCLUDING MONIES RECEIVED
16 PURSUANT TO THIS SECTION, THAT WILL BE USED TO PAY FOR THE WATER
17 CONSERVATION INFRASTRUCTURE IMPROVEMENTS.

18 G. ON RECEIPT OF THE SWORN CERTIFICATION FROM A MANUFACTURING
19 FACILITY INCLUDED IN THE ECONOMIC DEVELOPMENT PURSUANT TO SUBSECTION D OF
20 THIS SECTION, THE CITY, TOWN OR COUNTY SHALL ENTER INTO A WRITTEN
21 AGREEMENT WITH THE DEPARTMENT. THIS AGREEMENT AND ANY AMENDMENTS OR
22 CHANGES TO THE AGREEMENT SHALL:

23 1. STATE THE COST OF THE WATER CONSERVATION INFRASTRUCTURE
24 IMPROVEMENTS AND SEPARATELY IDENTIFY THE PARTICULAR IMPROVEMENTS THAT WILL
25 BE MADE.

26 2. STATE THAT THE MONIES RECEIVED UNDER THIS SECTION WILL BE USED
27 EXCLUSIVELY TO PAY FOR WATER CONSERVATION INFRASTRUCTURE IMPROVEMENTS THAT
28 ARE NECESSARY TO SUPPORT THE ACTIVITIES OF THE ECONOMIC DEVELOPMENT.

29 3. STATE THAT THE CITY, TOWN OR COUNTY WILL COMMIT ALL OF ITS
30 PORTION OF THE REVENUE RECEIVED PURSUANT TO SECTION 42-5029, SUBSECTION D
31 DERIVED FROM CONTRACTS SUBJECT TO SECTION 42-5075 TO PUBLIC INFRASTRUCTURE
32 IMPROVEMENTS PURSUANT TO SECTION 42-5032.02 AND WATER CONSERVATION
33 INFRASTRUCTURE IMPROVEMENTS PURSUANT TO THIS SECTION.

34 4. STATE THAT THE CITY, TOWN OR COUNTY WILL IMMEDIATELY NOTIFY THE
35 DEPARTMENT WHEN MONIES RECEIVED UNDER THIS SECTION AND SECTION 42-5032.02
36 EXCEED EIGHTY PERCENT OF THE TOTAL COST OF PUBLIC INFRASTRUCTURE
37 IMPROVEMENTS AND WILL RETURN THE AMOUNT OF THE EXCESS TO THE STATE
38 TREASURER FOR DEPOSIT IN THE STATE GENERAL FUND.

39 5. STIPULATE THE ACTUAL AMOUNT OF THE CONSTRUCTION FUNDING THAT
40 WILL BE DERIVED FROM SOURCES OTHER THAN THIS STATE.

41 6. IDENTIFY THE PERSONS WHO WILL BE PRIME CONTRACTORS ON THE
42 CONSTRUCTION OF BUILDINGS AND ASSOCIATED IMPROVEMENTS FOR THE BENEFIT OF
43 THE ECONOMIC DEVELOPMENT AND STATE THAT EACH PRIME CONTRACTOR HAS BEEN
44 NOTIFIED AS TO WHICH PORTION OF THE CONTRACTOR'S INCOME SHALL BE

1 SEPARATELY IDENTIFIED TO THE DEPARTMENT PURSUANT TO SECTION 42-5075,
2 SUBSECTION H.

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

11 8. STATE THAT THE CITY, TOWN OR COUNTY AGREES THAT THE DEPARTMENT
12 WILL USE THE AMOUNTS SUBJECT TO ANY DISTRIBUTION REQUIRED UNDER SECTION
13 42-5032.02, SUBSECTION A AND SUBSECTION A OF THIS SECTION IN CALCULATING
14 THE MAXIMUM AMOUNT SET BY SUBSECTION C OF THIS SECTION.

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

23 10. PROVIDE ANY OTHER INFORMATION DEEMED NECESSARY BY THE
24 DEPARTMENT.

25 H. ON NOTIFICATION BY THE DEPARTMENT, THE STATE TREASURER SHALL
26 CEASE PAYMENTS UNDER SUBSECTION A OF THIS SECTION IF EITHER OF THE
27 FOLLOWING OCCURS:

28 1. THE CITY, TOWN OR COUNTY HAS RECEIVED MONIES THAT MEET OR EXCEED
29 EIGHTY PERCENT OF THE TOTAL COST OF PUBLIC INFRASTRUCTURE IMPROVEMENTS
30 THAT ARE NECESSARY TO SUPPORT THE ACTIVITIES RELATED TO THE MANUFACTURING
31 FACILITY AS DESCRIBED IN SECTION 42-5032.02, SUBSECTION G AND THE ECONOMIC
32 DEVELOPMENT AS DESCRIBED IN THE WRITTEN AGREEMENT PURSUANT TO SUBSECTION G
33 OF THIS SECTION.

34 2. THE TOTAL AMOUNT SUBJECT TO ANY DISTRIBUTION REQUIRED UNDER
35 SUBSECTION A OF THIS SECTION HAS MET THE MAXIMUM AMOUNT SET BY SUBSECTION
36 C OF THIS SECTION.

37 I. A MANUFACTURING FACILITY MAY SATISFY THE REQUIREMENTS OF SECTION
38 42-5032.02, SUBSECTIONS F AND G AND SUBSECTIONS F AND G OF THIS SECTION
39 WITH THE SAME AGREEMENT.

40 J. FOR THE PURPOSES OF THIS SECTION:

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

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

4 3. "ECONOMIC DEVELOPMENT" MEANS A ONE OR MORE MANUFACTURING
5 FACILITIES THAT BENEFIT FROM THE SAME OR ASSOCIATED WATER CONSERVATION
6 INFRASTRUCTURE.

7 4. "MANUFACTURING FACILITY":

8 (a) MEANS AN ESTABLISHMENT THAT IS ENGAGED IN THE MECHANICAL,
9 PHYSICAL OR CHEMICAL TRANSFORMATION OR FABRICATION OF MATERIALS,
10 SUBSTANCES OR COMPONENTS INTO NEW PRODUCTS IN THIS STATE, THAT IS
11 CLASSIFIED WITHIN SECTIONS 31 THROUGH 33 INCLUSIVE OF THE 2007 EDITION OF
12 THE NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM AS PUBLISHED BY THE
13 NATIONAL TECHNICAL INFORMATION SERVICE OF THE UNITED STATES DEPARTMENT OF
14 COMMERCE AND THAT AGREES TO EITHER:

15 (i) MAKE AT LEAST \$500,000,000 IN CAPITAL INVESTMENT IF THE
16 MANUFACTURING FACILITY IS LOCATED IN A COUNTY WITH A POPULATION OF EIGHT
17 HUNDRED THOUSAND PERSONS OR MORE.

18 (ii) MAKE AT LEAST \$50,000,000 IN CAPITAL INVESTMENT IF THE
19 MANUFACTURING FACILITY IS LOCATED IN A COUNTY WITH A POPULATION OF LESS
20 THAN EIGHT HUNDRED THOUSAND PERSONS.

21 (b) DOES NOT INCLUDE MINING, MILLING OR SMELTING MINERAL ORE OR
22 GENERATING ELECTRICITY.

23 5. "POPULATION" MEANS THE POPULATION DETERMINED IN THE MOST RECENT
24 UNITED STATES DECENNIAL CENSUS OR THE MOST RECENT SPECIAL CENSUS AS
25 PROVIDED IN SECTION 28-6532.

26 6. "PUBLIC INFRASTRUCTURE" MEANS WATER PRODUCTION, DELIVERY AND
27 DISPOSAL FACILITIES, WASTEWATER PRODUCTION, DELIVERY AND DISPOSAL
28 FACILITIES AND ROADS THAT ARE NECESSARY TO SUPPORT THE ACTIVITIES OF THE
29 MANUFACTURING FACILITY.

30 7. "TOTAL COST OF PUBLIC INFRASTRUCTURE IMPROVEMENTS" MEANS THE SUM
31 OF PUBLIC INFRASTRUCTURE IMPROVEMENTS COSTS AND WATER CONSERVATION
32 INFRASTRUCTURE IMPROVEMENTS COSTS.

33 8. "WATER CONSERVATION INFRASTRUCTURE" MEANS WASTEWATER
34 RECLAMATION, RECYCLING, TREATMENT, STORAGE OR DELIVERY FACILITIES THAT
35 SUPPORT THE ACTIVITIES OF ONE OR MORE MANUFACTURING FACILITIES.

36 Sec. 7. Section 42-5075, Arizona Revised Statutes, is amended to
37 read:

38 42-5075. Prime contracting classification; exemptions;
39 definitions

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

1 include any work or operation performed by a person that is not required
2 to be licensed by the registrar of contractors pursuant to section
3 32-1121.

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

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

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

14 3. The sales price of furniture, furnishings, fixtures, appliances
15 and attachments that are not incorporated as component parts of or
16 attached to a manufactured building or the setup site. The sale of such
17 items may be subject to the taxes imposed by article 1 of this chapter
18 separately and distinctly from the sale of the manufactured building.

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

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

38 6. The gross proceeds of sales or gross income from a contract to
39 provide for one or more of the following actions, or a contract for site
40 preparation, constructing, furnishing or installing machinery, equipment
41 or other tangible personal property, including structures necessary to
42 protect exempt incorporated materials or installed machinery or equipment,
43 and tangible personal property incorporated into the project, to perform
44 one or more of the following actions in response to a release or suspected
45 release of a hazardous substance, pollutant or contaminant from a facility

1 to the environment, unless the release was authorized by a permit issued
2 by a governmental authority:

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

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

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

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

13 (e) The installation of structures, such as cutoff walls or caps,
14 to contain contaminants present in groundwater or soil and prevent them
15 from reaching a location where they could threaten human health or welfare
16 or the environment.

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

22 7. The gross proceeds of sales or gross income that is derived from
23 a contract for the installation, assembly, repair or maintenance of
24 machinery, equipment or other tangible personal property that is either
25 deducted from the tax base of the retail classification under section
26 42-5061, subsection B or that is exempt from use tax under section
27 42-5159, subsection B and that has independent functional utility,
28 pursuant to the following provisions:

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

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

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

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

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

1 property that is either deducted from the tax base of the retail
2 classification under section 42-5061, subsection B or exempt from use tax
3 under section 42-5159, subsection B.

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

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

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

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

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

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

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

25 (a) Section 42-5061, subsection A, paragraph 25, 29 or 58.

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

27 (c) Section 42-5159, subsection A, paragraph 13, subdivision (a),
28 (b), (c), (d), (e), (f), (j), (k), (m) or (n) or paragraph 55.

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

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

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

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

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

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

15 14. The gross proceeds of sales or gross income derived from a
16 contract entered into for the construction of a launch site, as defined in
17 14 Code of Federal Regulations section 401.5.

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

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

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

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

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

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

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

10 (c) "Development fees" means fees imposed to offset capital costs
11 of providing public infrastructure, public safety or other public services
12 to a development and authorized pursuant to section 9-463.05, section
13 11-1102 or title 48 regardless of the jurisdiction to which the fees are
14 paid.

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

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

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

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

35 (d) "Renewable energy" means usable energy, including electricity,
36 fuels, gas and heat, produced through the conversion of energy provided by
37 sunlight, water, wind, geothermal, heat, biomass, biogas, landfill gas or
38 ~~other~~ ANOTHER nonfossil renewable resource.

39 21. The gross proceeds of sales or gross income derived from a
40 contract to install containment structures. For the purposes of this
41 paragraph, "containment structure" means a structure that prevents,
42 monitors, controls or reduces noxious or harmful discharge into the
43 environment.

1 C. Entitlement to the deduction pursuant to subsection B, paragraph
2 7 of this section is subject to the following provisions:

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

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

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

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

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

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

42 D. Subcontractors or others who perform modification activities are
43 not subject to tax if they can demonstrate that the job was within the
44 control of a prime contractor or contractors or a dealership of
45 manufactured buildings and that the prime contractor or dealership is

1 liable for the tax on the gross income, gross proceeds of sales or gross
 2 receipts attributable to the job and from which the subcontractors or
 3 others were paid.

4 E. Amounts received by a contractor for a project are excluded from
 5 the contractor's gross proceeds of sales or gross income derived from the
 6 business if the person who hired the contractor executes and provides a
 7 certificate to the contractor stating that the person providing the
 8 certificate is a prime contractor and is liable for the tax under article
 9 1 of this chapter. The department shall prescribe the form of the
 10 certificate. If the contractor has reason to believe that the information
 11 contained on the certificate is erroneous or incomplete, the department
 12 may disregard the certificate. If the person who provides the certificate
 13 is not liable for the tax as a prime contractor, that person is
 14 nevertheless deemed to be the prime contractor in lieu of the contractor
 15 and is subject to the tax under this section on the gross receipts or
 16 gross proceeds received by the contractor.

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

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

29 H. For the purposes of ~~section~~ SECTIONS 42-5032.02 AND 42-5032.03,
 30 ~~from and after September 30, 2013,~~ the department shall separately account
 31 for revenues reported and collected under the prime contracting
 32 classification from any prime contractor engaged in the construction of
 33 any buildings and associated improvements that are for the benefit of a
 34 manufacturing facility. For the purposes of this subsection, "associated
 35 improvements" and "manufacturing facility" have the same meanings
 36 prescribed in section 42-5032.02.

37 I. The gross proceeds of sales or gross income derived from a
 38 contract for lawn maintenance services is not subject to tax under this
 39 section if the contract does not include landscaping activities. Lawn
 40 maintenance service is a service pursuant to section 42-5061, subsection
 41 A, paragraph 1, and includes lawn mowing and edging, weeding, repairing
 42 sprinkler heads or drip irrigation heads, seasonal replacement of flowers,
 43 refreshing gravel, lawn dethatching, seeding winter lawns, leaf and debris
 44 collection and removal, tree or shrub pruning or clipping, garden and

1 gravel raking and applying pesticides, as defined in section 3-361, and
2 fertilizer materials, as defined in section 3-262.

3 J. Except as provided in subsection 0 of this section, the gross
4 proceeds of sales or gross income derived from landscaping activities is
5 subject to tax under this section. Landscaping includes installing lawns,
6 grading or leveling ground, installing gravel or boulders, planting trees
7 and other plants, felling trees, removing or mulching tree stumps,
8 removing other imbedded plants, building irrigation berms, installing
9 railroad ties and installing underground sprinkler or watering systems.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40 (i) Master schedule updates.

41 (ii) Modification work cash flow projection updates.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (vi) Any bond and insurance premiums.

1 (vii) Any applicable taxes.

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

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

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

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

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

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

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

38 P. Notwithstanding subsection 0 of this section, a contract that
39 primarily involves surface or subsurface improvements to land and that is
40 subject to title 28, chapter 19, 20 or 22 or title 34, chapter 2 or 6 is
41 taxable under this section, even if the contract also includes vertical
42 improvements. Agencies that are subject to procurement processes under
43 those provisions shall include in the request for proposals a notice to
44 bidders when those projects are subject to this section. This subsection
45 does not apply to contracts with:

1 1. Community facilities districts, fire districts, county
2 television improvement districts, community park maintenance districts,
3 cotton pest control districts, hospital districts, pest abatement
4 districts, health service districts, agricultural improvement districts,
5 county free library districts, county jail districts, county stadium
6 districts, special health care districts, public health services
7 districts, theme park districts or revitalization districts.

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

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

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

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

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

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

1 R. For the purposes of this section:
2 1. "Alteration" means an activity or action that causes a direct
3 physical change to existing property. For the purposes of this paragraph:
4 (a) For existing property that is properly classified as class two
5 property under section 42-12002, paragraph 1, subdivision (c) or paragraph
6 2, subdivision (c) and that is used for residential purposes, class three
7 property under section 42-12003 or class four property under section
8 42-12004, this paragraph does not apply if the contract amount is more
9 than twenty-five percent of the most recent full cash value established
10 under chapter 13, article 2 of this title as of the date of any bid for
11 the work or the date of the contract, whichever value is higher.
12 (b) For all existing property other than existing property
13 described in subdivision (a) of this paragraph, this paragraph does not
14 apply if the contract amount is more than \$750,000.
15 (c) Project elements may not be artificially separated from a
16 contract to cause a project to qualify as an alteration. The department
17 has the burden of proof that project elements have been artificially
18 separated from a contract.
19 (d) If a project for which the owner and the person performing the
20 work reasonably believed, at the inception of the contract, would be
21 treated as an alteration under this paragraph and, on completion of the
22 project, the project exceeded the applicable threshold described in either
23 subdivision (a) or (b) of this paragraph by ~~no~~ NOT more than twenty-five
24 percent of the applicable threshold for any reason, the work performed
25 under the contract qualifies as an alteration.
26 (e) A change order that directly relates to the scope of work of
27 the original contract shall be treated as part of the original contract,
28 and the contract amount shall include any amount attributable to a change
29 order that directly relates to the scope of work of the original contract.
30 (f) Alteration does not include maintenance, repair or replacement.
31 2. "Contracting" means engaging in business as a contractor.
32 3. "Contractor" is synonymous with the term "builder" and means any
33 person or organization that undertakes to or offers to undertake to, or
34 purports to have the capacity to undertake to, or submits a bid to, or
35 does personally or by or through others, modify any building, highway,
36 road, railroad, excavation, manufactured building or other structure,
37 project, development or improvement, or to do any part of such a project,
38 including the erection of scaffolding or other structure or works in
39 connection with such a project, and includes subcontractors and specialty
40 contractors. For all purposes of taxation or deduction, this definition
41 shall govern without regard to whether or not such a contractor is acting
42 in fulfillment of a contract.

- 1 4. "Manufactured building" means a manufactured home, mobile home
2 or factory-built building, as defined in section 41-4001.
- 3 5. "Manufactured building dealer" means a dealer who either:
4 (a) Is licensed pursuant to title 41, chapter 37, article 4 and who
5 sells manufactured buildings to the final consumer.
6 (b) Supervises, performs or coordinates the excavation and
7 completion of site improvements or the setup of a manufactured building,
8 including the contracting, if any, with any subcontractor or specialty
9 contractor for the completion of the contract.
- 10 6. "Modification" means construction, grading and leveling ground,
11 wreckage or demolition. Modification does not include:
12 (a) Any project described in subsection 0 of this section.
13 (b) Any wreckage or demolition of existing property, or any other
14 activity that is a necessary component of a project described in
15 subsection 0 of this section.
16 (c) Any mobilization or demobilization related to a project
17 described in subsection 0 of this section, such as the erection or removal
18 of temporary facilities to be used by those persons working on the
19 project.
- 20 7. "Modify" means to make a modification or cause a modification to
21 be made.
- 22 8. "Owner" means the person that holds title to the real property
23 or improvements to real property that is the subject of the work, as well
24 as an agent of the title holder and any person with the authority to
25 perform or authorize work on the real property or improvements, including
26 a tenant and a property manager. For the purposes of subsection 0 of this
27 section, a person who is hired by a general contractor that is hired by an
28 owner, or a subcontractor of a general contractor that is hired by an
29 owner, is considered to be hired by the owner.
- 30 9. "Prime contracting" means engaging in business as a prime
31 contractor.
- 32 10. "Prime contractor" means a contractor who supervises, performs
33 or coordinates the modification of any building, highway, road, railroad,
34 excavation, manufactured building or other structure, project, development
35 or improvement, including the contracting, if any, with any subcontractors
36 or specialty contractors and who is responsible for the completion of the
37 contract. Except as provided in subsections E and Q of this section, a
38 person who owns real property, who engages one or more contractors to
39 modify that real property and who does not itself modify that real
40 property is not a prime contractor within the meaning of this paragraph
41 regardless of the existence of a contract for sale or the subsequent sale
42 of that real property.
- 43 11. "Replacement" means the removal from service of one component
44 or system of existing property or tangible personal property installed in
45 existing property, including machinery or equipment, and the installation

1 of a new component or system or new tangible personal property, including
2 machinery or equipment, that provides the same, a similar or an upgraded
3 design or functionality, regardless of the contract amount and regardless
4 of whether the existing component or system or existing tangible personal
5 property is physically removed from the existing property.

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

8 Sec. 8. Effective date

9 Section 42-5029, Arizona Revised Statutes, as amended by Laws 2023,
10 chapter 204, section 6 and this act, is effective from and after December
11 31, 2024.