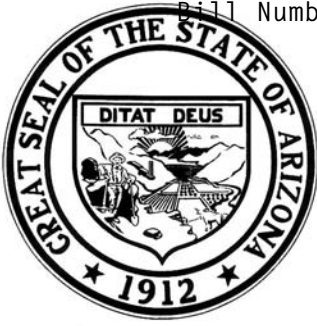


Bill Number: H.B. 2111



**Yarbrough Floor Amendment**  
**Reference to: APPROP amendment**  
**Amendment drafted by:**

## **FLOOR AMENDMENT EXPLANATION**

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Amendment explanation prepared by  
5/23/2013

YARBROUGH FLOOR AMENDMENT  
SENATE AMENDMENTS TO H.B. 2111  
(Reference to APPROP amendment)

1 Page 1, strike lines 2 through 28

2 Strike pages 2 through 7

3 Page 8, strike lines 1 through 31

4 Renumber to conform

5 Page 11, strike lines 3 through 37

6 Strike pages 12 through 15

7 Page 16, strike lines 1 through 30, insert:

8 "Sec. 2. Section 42-2003, Arizona Revised Statutes, is amended to  
9 read:

10 42-2003. Authorized disclosure of confidential information

11 A. Confidential information relating to:

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

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

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

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

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

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

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

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 court.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (a) Regarding income tax or withholding tax.

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

23 9. The United States treasury inspector general for tax administration  
24 for the purpose of reporting a violation of internal revenue code section  
25 7213A (26 United States Code section 7213A), unauthorized inspection of  
26 returns or return information.

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

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

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

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

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

37 (c) Fulfilling its annual reporting responsibility pursuant to section  
38 41-1511, subsections U and V and section 41-1512, subsections U and V.

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

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

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

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

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

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

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

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

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

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

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

25           E. The department, on the request of any person, shall provide the  
26 names and addresses of bingo licensees as defined in section 5-401, verify  
27 whether or not a person has a privilege license and number, a distributor's  
28 license and number or a withholding license and number or disclose the  
29 information to be posted on the department's website or otherwise publicly  
30 accessible pursuant to section 42-1124, subsection F and section 42-3201,  
31 subsection A.

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

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

7           H. Confidential information relating to transaction privilege tax, use  
8 tax, severance tax, jet fuel excise and use tax and ~~and~~ any other tax  
9 collected by the department on behalf of ~~the county~~ ANY JURISDICTION may be  
10 disclosed to any county, city or town tax official if the information relates  
11 to a taxpayer who is or may be taxable by the county, city or town OR WHO MAY  
12 BE SUBJECT TO AUDIT BY THE DEPARTMENT PURSUANT TO SECTION 42-6002. Any  
13 taxpayer information released by the department to the county, city or town:

14           1. May only be used for internal purposes, INCLUDING AUDITS.

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

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

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

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

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

37           K. Except as provided in section 42-2002, subsection C, confidential  
38 information, described in section 42-2001, paragraph 1, subdivision (a), item

1 (ii), may be disclosed to law enforcement agencies for law enforcement  
2 purposes.

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

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

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

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

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

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

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

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

35 T. The department shall release confidential information as requested  
36 by the attorney general for purposes of determining compliance with and  
37 enforcing section 44-7101, the master settlement agreement referred to  
38 therein and subsequent agreements to which the state is a party that amend or

1 implement the master settlement agreement. Information disclosed under this  
2 subsection is limited to luxury tax information relating to tobacco  
3 manufacturers, distributors, wholesalers and retailers and information  
4 collected by the department pursuant to section 44-7101(2)(j).

5 U. For proceedings before the department, the office of administrative  
6 hearings, the board of tax appeals or any state or federal court involving  
7 penalties that were assessed against a return preparer, an electronic return  
8 preparer or a payroll service company pursuant to section 42-1103.02,  
9 42-1125.01 or 43-419, confidential information may be disclosed only before  
10 the judge or administrative law judge adjudicating the proceeding, the  
11 parties to the proceeding and the parties' representatives in the proceeding  
12 prior to its introduction into evidence in the proceeding. The confidential  
13 information may be introduced as evidence in the proceeding only if the  
14 taxpayer's name, the names of any dependents listed on the return, all social  
15 security numbers, the taxpayer's address, the taxpayer's signature and any  
16 attachments containing any of the foregoing information are redacted and if  
17 either:

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

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

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

27 V. The department may disclose to the attorney general confidential  
28 information received under section 44-7111 and requested by the attorney  
29 general for purposes of determining compliance with and enforcing section  
30 44-7111. The department and attorney general shall share with each other the  
31 information received under section 44-7111, and may share the information  
32 with other federal, state or local agencies only for the purposes of  
33 enforcement of section 36-798.06, 44-7101, ~~OR~~ OR 44-7111 or corresponding laws  
34 of other states.

35 W. The department may provide the name and address of qualifying  
36 hospitals and qualifying health care organizations, as defined in section  
37 42-5001, to a business classified and reporting transaction privilege tax  
38 under the utilities classification.



1 X. The department may disclose to the attorney general confidential  
2 information requested by the attorney general for the purposes of determining  
3 compliance with and enforcing section 36-798.06.

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

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

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

16 Sec. 3. Section 42-2059, Arizona Revised Statutes, is amended to read:

17 42-2059. No additional audits or proposed assessments;  
18 exceptions

19 A. When the department completes an audit or the findings of a managed  
20 audit are accepted by the director or approved on appeal and a deficiency has  
21 been completely determined under section 42-1108 or chapter 1, article 6 of  
22 this title, the taxpayer's liability for the particular tax for the period  
23 subjected to the audit is fixed and determined, and no additional audit may  
24 be conducted except under the following circumstances:

25 1. If a taxpayer files a claim for refund under section 42-1251,  
26 subsection B or any other provision authorizing a claim for refund. Any  
27 departmental audit of the claim is limited to the issues presented on the  
28 claim for refund.

29 2. Changes or corrections required to be reported to the department by  
30 section 43-327. The department may audit any such reports or any periods for  
31 which a report was required notwithstanding this section and may determine a  
32 tax deficiency or a refund.

33 ~~3. An audit of state transaction privilege or use tax does not~~  
34 ~~preclude a subsequent audit for a city or town. An audit of transaction~~  
35 ~~privilege or use tax for a city or town does not preclude a subsequent audit~~  
36 ~~for this state.~~

37 ~~4.~~ 3. If the taxpayer failed to disclose material information during  
38 the audit, or has falsified books or records or otherwise engaged in an

1 action that prevented the department from conducting an accurate audit, the  
2 applicability of this subsection may be part of a subsequent protest and may  
3 be contested by the taxpayer pursuant to chapter 1, article 6 of this title.

4 ~~5-~~ 4. If a managed audit is completed under the terms of a limited  
5 managed audit agreement, the department may audit the issues not covered by  
6 the limited managed audit agreement within the statute of limitations  
7 prescribed by section 42-1104.

8 B. If the department issues a notice of proposed assessment of taxes  
9 imposed by chapter 5, article 1 or 4 of this title or title 43, chapter 10,  
10 the department may not increase the amount of the proposed assessment except  
11 in one or more of the following circumstances:

- 12 1. The taxpayer has made a material misrepresentation of facts.
- 13 2. The taxpayer has failed to disclose a material fact to the auditor.
- 14 3. The department has requested information and the taxpayer fails to  
15 provide that information to the department.

16 4. After issuing the notice of proposed assessment but before the  
17 assessment becomes final the tax court, court of appeals or supreme court  
18 issues a decision, the application of which causes the tax initially proposed  
19 to increase.

20 C. Subsection B of this section does not apply to changes or  
21 corrections that are required to be reported to the department by section  
22 43-327.

23 Sec. 4. Section 42-2075, Arizona Revised Statutes, is amended to read:

24 42-2075. Audit duration; definition

25 A. An audit of a taxpayer's return or claim for refund shall not  
26 exceed two years from the date of initial audit contact to the issuance of a  
27 notice of proposed deficiency assessment or proposed overpayment, except:

- 28 1. An audit of a fraudulent tax return.
- 29 2. An audit delayed as the result of the taxpayer's bankruptcy  
30 proceeding.

31 3. An audit in which the department has issued a letter to the  
32 taxpayer or the taxpayer's representative citing the potential imposition of  
33 the penalty described in section 42-1125, subsection C for the taxpayer's  
34 failure or refusal to provide information pursuant to the department's  
35 written request.

36 4. An audit involving proceedings concerning the enforcement or  
37 validity of a subpoena or subpoena duces tecum issued pursuant to section  
38 42-1006, subsection C.

1           5. An audit involving a proceeding under section 42-2056.

2           6. An audit where a taxpayer has filed a petition pursuant to section  
3 43-1148, but only in relation to the effect of the petition request.

4           7. An audit in which the taxpayer provides a written request to extend  
5 the audit beyond the two-year period. A request for extension under this  
6 paragraph is not a substitute for a waiver of the statute of limitations  
7 pursuant to section 42-1104, subsection B, paragraph 9. However, a waiver of  
8 the statute of limitations is considered to be a written request to extend  
9 the audit beyond the two-year period under this paragraph.

10           B. This section applies to audits conducted by the department and to  
11 ~~joint~~ audits conducted by the department and cities and towns pursuant to  
12 section ~~42-6005~~ 42-6002.

13           C. For the purposes of this section, "initial audit contact" means:

14           1. For a field audit, the date of the first meeting between the  
15 taxpayer or the taxpayer's representative and a member of the department's  
16 audit staff.

17           2. For a desk or office audit, the date of the first letter to the  
18 taxpayer regarding the audit."

19           Renumber to conform

20 Page 20, strike lines 9 through 28, insert:

21           "**K. THE DEPARTMENT SHALL PRESCRIBE A FORM FOR A CERTIFICATE TO BE USED**  
22 **BY A CONTRACTOR THAT IS NOT OTHERWISE SUBJECT TO TAX UNDER SECTION 42-5075**  
23 **WHEN PURCHASING TANGIBLE PERSONAL PROPERTY TO BE INCORPORATED OR FABRICATED**  
24 **BY THE PERSON INTO ANY REAL PROPERTY, STRUCTURE, PROJECT, DEVELOPMENT OR**  
25 **IMPROVEMENT. THE CONTRACTOR SHALL OBTAIN A NEW CERTIFICATE FOR EACH PROJECT**  
26 **AND IS SUBJECT TO THE FOLLOWING CONDITIONS:**

27           1. **THE CONTRACTOR IS NOT WORKING FOR THE OWNER OF THE REAL PROPERTY**  
28 **BUT IS WORKING ON A JOB THAT IS IN THE CONTROL OF A PRIME CONTRACTOR AND THAT**  
29 **THE PRIME CONTRACTOR IS LIABLE FOR THE TAX ON THE GROSS INCOME, GROSS**  
30 **PROCEEDS OF SALES OR GROSS RECEIPTS ATTRIBUTABLE TO THE JOB AND FROM WHICH**  
31 **THE CONTRACTOR IS PAID.**

32           2. **THE CONTRACTOR MAY USE THE CERTIFICATE ISSUED PURSUANT TO THIS**  
33 **SUBSECTION ONLY WITH RESPECT TO MATERIALS THAT WILL BE INCORPORATED INTO A**  
34 **PROJECT THE GROSS RECEIPTS OF WHICH ARE SUBJECT TO TAX UNDER SECTION 42-5075.**

35           3. **THE DEPARTMENT SHALL ISSUE THE CERTIFICATE TO THE CONTRACTOR ON**  
36 **RECEIVING SUFFICIENT DOCUMENTATION TO ESTABLISH THAT THE CONTRACTOR MEETS THE**  
37 **REQUIREMENTS OF THIS SUBSECTION.**

1           4. THE DEPARTMENT SHALL NOT ISSUE A CERTIFICATE TO A CONTRACTOR THAT  
2 HAS A DELINQUENT TAX BALANCE OWING THE DEPARTMENT UNDER THIS TITLE OR  
3 TITLE 43.

4           5. IF THE DEPARTMENT DETERMINES THAT THE CONTRACTOR HAS FAILED TO MEET  
5 ANY OF THE REQUIREMENTS OF THIS SUBSECTION, ANY DEDUCTIONS FROM TAXATION FROM  
6 THE USE OF THE CERTIFICATE ARE SUBJECT TO RECAPTURE AND PAYMENT BY THE  
7 CONTRACTOR."

8 Page 21, line 6, strike "~~Prime contracting~~ MANUFACTURED BUILDING DEALER" insert  
9 "Prime contracting"

10 Strike line 12

11 Line 26, strike "AND (m)"

12 Page 22, line 25, after "by" strike remainder of line, insert "prime"

13 Line 26, after "by" strike remainder of line

14 Line 27, strike "BRIDGE" insert "prime"

15 Line 29, strike "~~prime~~ HIGHWAY, STREET OR BRIDGE" insert "prime"

16 Line 32, after "than" strike remainder of line

17 Line 33, strike "STREET OR BRIDGE" insert "prime"; strike "~~42-5075~~ 42-5078"  
18 insert "42-5075"

19 Page 23, line 18, strike "~~twenty~~ FORTY" insert "twenty"

20 Between lines 20 and 21, insert:

21 "Sec. 7. Title 42, chapter 5, article 1, Arizona Revised Statutes, is  
22 amended by adding section 42-5015, to read:

23 42-5015. Online portal

24 ON OR BEFORE JANUARY 1, 2015, THE ONLINE PORTAL PRESCRIBED BY SECTION  
25 42-6001 SHALL BE MODIFIED SO THAT A TAXPAYER WHO IS REQUIRED TO PAY ANY  
26 TRANSACTION PRIVILEGE AND AFFILIATED EXCISE TAXES TO THIS STATE OR A COUNTY  
27 OR MUNICIPALITY MAY REPORT AND PAY THE REQUIRED TAX THROUGH THE ONLINE  
28 PORTAL. THE ONLINE PORTAL SHALL BE ADMINISTERED BY THE DEPARTMENT OF  
29 REVENUE. THE COSTS OF THE ONLINE PORTAL SHALL BE PAID BY THE CITIES AND  
30 TOWNS THAT DID NOT HAVE AN INTERGOVERNMENTAL CONTRACT OR AGREEMENT IN EFFECT  
31 AS OF JANUARY 1, 2013 WITH THE DEPARTMENT TO PROVIDE FOR UNIFIED OR  
32 COORDINATED LICENSING, COLLECTION AND AUDITING PROGRAMS. THE EXPANDED ONLINE  
33 PORTAL SHALL:

34 1. INCLUDE A SINGLE POINT FOR LICENSING, FILING A SINGLE RETURN AND  
35 PAYING TRANSACTION PRIVILEGE AND AFFILIATED EXCISE TAXES FOR ALL STATE,  
36 COUNTY AND MUNICIPAL TAXING JURISDICTIONS.

37 2. CONSOLIDATE DATA IN A MANNER COMPATIBLE WITH THE DATA SYSTEMS OF  
38 THE DEPARTMENT OF REVENUE.

1           3. CAPTURE DATA WITH SUFFICIENT SPECIFICITY TO MEET THE NEEDS OF THE  
2 TAXING JURISDICTIONS.

3           4. ALLOW FOR IDENTIFICATION OF THE CORRECT TAXING JURISDICTIONS AND  
4 TAX RATES BASED ON THE PLACE WHERE THE TRANSACTION IS SOURCED."

5       Renumber to conform

6 Page 23, line 33, strike "~~D~~ E" insert "D"

7 Page 24, line 14, after the period, insert "THE DEPARTMENT SHALL PAY AN ADDITIONAL  
8 DISTRIBUTION AMOUNT TO A QUALIFIED INCORPORATED MUNICIPALITY FOR DISTRIBUTION  
9 PAYMENTS MADE BETWEEN FEBRUARY 15, 2015 AND JANUARY 31, 2020. FOR THE  
10 PURPOSES OF THE ADDITIONAL DISTRIBUTION PAYMENTS:

11           (a) THE DEPARTMENT SHALL CALCULATE THE ADDITIONAL DISTRIBUTION PAYMENT  
12 FOR EACH QUALIFIED INCORPORATED MUNICIPALITY BY AVERAGING THE QUALIFIED  
13 INCORPORATED MUNICIPALITY'S ANNUAL PRIME CONTRACTING COLLECTIONS FOR FISCAL  
14 YEARS 2011-2012 THROUGH 2013-2014 AND DIVIDING THE AVERAGE BY TWELVE TO  
15 ESTABLISH A MONTHLY ADDITIONAL DISTRIBUTION. THE SUM OF THE ADDITIONAL  
16 DISTRIBUTION FROM ALL OF THE QUALIFIED INCORPORATED MUNICIPALITIES  
17 CONSTITUTES THE TOTAL ADDITIONAL DISTRIBUTION.

18           (b) A QUALIFIED INCORPORATED MUNICIPALITY SHALL RECEIVE ITS  
19 DISTRIBUTION BASED ON TWENTY-FIVE PER CENT OF THE DISTRIBUTION BASE AND THE  
20 ADDITIONAL DISTRIBUTION AS CALCULATED IN SUBDIVISION (a) OF THIS PARAGRAPH  
21 FOR DISTRIBUTION PAYMENTS MADE BETWEEN FEBRUARY 15, 2015 AND JANUARY 31,  
22 2020.

23           (c) A NONQUALIFIED INCORPORATED MUNICIPALITY'S DISTRIBUTION UNDER THIS  
24 PARAGRAPH SHALL BE REDUCED BY ITS PROPORTIONATE SHARE OF THE TOTAL MONTHLY  
25 ADDITIONAL DISTRIBUTION PAID TO THE QUALIFIED INCORPORATED MUNICIPALITIES. A  
26 NONQUALIFIED INCORPORATED MUNICIPALITY'S PROPORTIONAL SHARE IS BASED ON ITS  
27 POPULATION IN RELATION TO THE TOTAL POPULATION FOR ALL NONQUALIFIED  
28 INCORPORATED MUNICIPALITIES AS PRESCRIBED BY THIS PARAGRAPH.

29           (d) THE JOINT LEGISLATIVE BUDGET COMMITTEE MAY REVIEW THE INDIVIDUAL  
30 ADDITIONAL DISTRIBUTIONS FOR QUALIFIED INCORPORATED MUNICIPALITIES AND THE  
31 TOTAL OF THE ADDITIONAL DISTRIBUTIONS.

32           (e) 'QUALIFIED INCORPORATED MUNICIPALITY' MEANS AN INCORPORATED  
33 MUNICIPALITY WITH A POPULATION OF FIVE THOUSAND OR FEWER PERSONS."

34 Page 25, line 34, strike "~~D~~ E" insert "D"

35 Page 28, line 13, after the period, strike remainder of line

36       Strike line 14

37       Line 15, strike "allocated costs required to be paid to the taxpayer."

1 Page 30, strike lines 20 through 26, insert:

2 "C. Each month the state treasurer shall pay, from the amount  
3 designated as distribution base pursuant to section 42-5029, subsection D,  
4 the total amount of state transaction privilege tax revenues received from  
5 persons conducting business under the prime contracting classification at a  
6 multipurpose facility that is owned or operated by the tourism and sports  
7 authority pursuant to title 5, chapter 8 for deposit in the authority's  
8 construction account established by section 5-833."

9 Line 27, strike "C. The department shall report the"; strike "AMOUNT under"

10 Line 28, strike "SUBSECTION B"; after "~~C~~" strike remainder of line

11 Strike line 29

12 Page 31, line 7, strike "~~construction phase~~"

13 Strike line 8, insert "construction phase services, as defined in section  
14 42-5075, has been made"

15 Line 13, strike "~~from persons~~"

16 Strike line 14

17 Line 15, strike "USED IN" insert "from persons conducting business under section  
18 42-5075 derived from"

19 Line 16, after the period strike remainder of line

20 Strike lines 17 and 18

21 Line 19, strike "MANUFACTURING FACILITY."

22 Strike lines 28 and 29

23 Line 30, strike "THE MANUFACTURING FACILITY AND TO"

24 Page 32, line 15, strike ", INCLUDING"

25 Strike line 16, insert a period

26 Strike lines 29 through 33, insert:

27 "6. Identify the persons who will be prime contractors on the  
28 construction of buildings and associated improvements for the benefit of a  
29 manufacturing facility and state that each prime contractor has been notified  
30 as to which portion of the contractor's income shall be separately identified  
31 to the department pursuant to section 42-5075, subsection H."

32 Renumber to conform

33 Line 35, after "a" strike remainder of line

34 Strike lines 36 and 37

35 Page 33, strike lines 1 and 2

36 Line 3, strike "IMPROVEMENTS FOR THE BENEFIT OF THE MANUFACTURING FACILITY"

37 insert "prime contractor as identified under paragraph 6 of this subsection

1 resulting from an audit adjustment or claim for credit or refund of taxes  
2 described in subsection C of this section"  
3 Page 33, strike lines 12 through 19, insert:  
4 "9. State that the city, town or county agrees that if, on  
5 notification by the department, the state treasurer ceases payments because  
6 of the condition described in subsection G of this section, the city, town or  
7 county has no claim to additional payments if the department subsequently  
8 pays amounts to a prime contractor identified in an agreement with any city,  
9 town or county, as described in paragraph 6 of this subsection, due to an  
10 audit adjustment or claim for credit or refund of taxes described in  
11 subsection C of this section."  
12 Renumber to conform  
13 Strike lines 22 through 27  
14 Reletter to conform  
15 Page 35, strike lines 11, 12 and 13  
16 Line 14, strike "1. WHERE THE ORDER IS RECEIVED." insert "B. FOR THE PURPOSES  
17 OF THIS SECTION,"  
18 Line 17, after "BUSINESS" insert "OR RESIDENCE"  
19 Strike lines 19 through 24  
20 Page 36, strike lines 1 through 6  
21 Page 39, line 16, strike "~~prime contracting~~ MANUFACTURED BUILDING DEALER" insert  
22 "prime contracting"  
23 Line 17, after ",-" strike remainder of line  
24 Line 18, strike "CLASSIFICATION UNDER SECTION 42-5078"  
25 Line 19, strike "~~prime~~ HIGHWAY, STREET OR BRIDGE" insert "prime"  
26 Line 22, strike "TO BE"; strike "A MANUFACTURED"  
27 Strike lines 23 through 28, insert "any real property, structure, project,  
28 development or improvement as part of the business."  
29 (b) Used in environmental response or remediation activities under  
30 section 42-5075, subsection B, paragraph 6."  
31 Page 43, line 25, after "of" strike remainder of line  
32 Strike lines 26 through 37  
33 Page 44, strike lines 1 through 15, insert "environmental response or remediation  
34 activities under section 42-5075, subsection B, paragraph 6."  
35 Page 45, strike lines 12 through 17  
36 Page 51, line 30, strike "~~prime contracting~~ MANUFACTURED BUILDING DEALER" insert  
37 "Prime contracting"  
38 Strike line 33

1 Page 54, strike lines 21 through 31

2 Reletter to conform

3 Page 58, strike lines 13 through 37

4 Strike pages 59 through 71

5 Page 72, strike lines 1 through 32, insert:

6 "Sec. 14. Section 42-5075, Arizona Revised Statutes, is amended to  
7 read:

8 42-5075. Prime contracting classification; exemptions;  
9 definitions

10 A. The prime contracting classification is comprised of the business  
11 of prime contracting and dealership of manufactured buildings. Sales for  
12 resale to another dealership of manufactured buildings are not subject to  
13 tax. Sales for resale do not include sales to a lessor of manufactured  
14 buildings. The sale of a used manufactured building is not taxable under  
15 this chapter. The proceeds from alteration and repairs to a used  
16 manufactured building are taxable under this section.

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

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

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

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

32 4. The gross proceeds of sales or gross income received from a  
33 contract entered into for the construction, ~~alteration, repair,~~ addition,  
34 subtraction, improvement, movement, wrecking or demolition of any building,  
35 highway, road, railroad, excavation, manufactured building or other  
36 structure, project, development or improvement located in a military reuse  
37 zone for providing aviation or aerospace services or for a manufacturer,  
38 assembler or fabricator of aviation or aerospace products within an active



1 military reuse zone after the zone is initially established or renewed under  
2 section 41-1531. To be eligible to qualify for this deduction, before  
3 beginning work under the contract, the prime contractor must have applied for  
4 a letter of qualification from the department of revenue.

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

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

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

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

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

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

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

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

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

- 25 (a) To be incorporated into real property.
- 26 (b) To become so affixed to real property that it becomes a part of  
27 the real property.
- 28 (c) To be so attached to real property that removal would cause  
29 substantial damage to the real property from which it is removed.

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

- 33 (a) Section 42-5061, subsection A, paragraph 25 or 29.
- 34 (b) Section 42-5061, subsection B.
- 35 (c) Section 42-5159, subsection A, paragraph 13, subdivision (a), (b),  
36 (c), (d), (e), (f), (i), (j) or (l).
- 37 (d) Section 42-5159, subsection B.

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

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

14           11. The gross proceeds of sales or gross income that is derived from  
15 the installation, assembly, repair or maintenance of clean rooms that are  
16 deducted from the tax base of the retail classification pursuant to section  
17 42-5061, subsection B, paragraph 16.

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

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

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

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

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

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

10          18. The gross proceeds of sales or gross income received from a  
11 contract for the construction of any building, or other structure, project,  
12 development or improvement owned by a qualified business under section  
13 41-1516 for harvesting or processing qualifying forest products removed from  
14 qualifying projects as defined in section 41-1516 if actual construction  
15 begins before January 1, 2024. To qualify for this deduction, the prime  
16 contractor must obtain a letter of qualification from the Arizona commerce  
17 authority before beginning work under the contract.

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

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

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

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

35          20. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A CONTRACT  
36 WITH THE OWNER OF REAL PROPERTY FOR THE MAINTENANCE, REPAIR OR REPLACEMENT OF  
37 EXISTING PROPERTY IF THE CONTRACT DOES NOT INCLUDE MODIFICATION ACTIVITIES.  
38 FOR THE PURPOSES OF THIS PARAGRAPH, EACH CONTRACT OR PROJECT IS INDEPENDENT

1 OF ANOTHER CONTRACT. A CONTRACTOR THAT HAS GROSS PROCEEDS OF SALES OR GROSS  
2 INCOME DERIVED FROM A CONTRACT THAT IS NOT SUBJECT TO TAX UNDER THIS  
3 PARAGRAPH IS SUBJECT TO TAX ON A CONTRACT THAT INCLUDES MODIFICATION  
4 ACTIVITIES.

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

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

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

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

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

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

30 4. If a prime contractor is entitled to a deduction by complying with  
31 paragraph 1 of this subsection, the department may require the purchaser who  
32 caused the execution of the certificate to establish the accuracy and  
33 completeness of the information required to be contained in the certificate  
34 that would entitle the prime contractor to the deduction. If the purchaser  
35 cannot establish the accuracy and completeness of the information, the  
36 purchaser is liable in an amount equal to any tax, penalty and interest that  
37 the prime contractor would have been required to pay under article 1 of this  
38 chapter if the prime contractor had not complied with paragraph 1 of this

1 subsection. Payment of the amount under this paragraph exempts the purchaser  
2 from liability for any tax imposed under article 4 of this chapter. The  
3 amount shall be treated as a transaction privilege tax to the purchaser and  
4 as tax revenues collected from the prime contractor in order to designate the  
5 distribution base for purposes of section 42-5029.

6 D. Subcontractors or others who perform services in respect to any  
7 improvement, building, highway, road, railroad, excavation, manufactured  
8 building or other structure, project, development or improvement are not  
9 subject to tax if they can demonstrate that the job was within the control of  
10 a prime contractor or contractors or a dealership of manufactured buildings  
11 and that the prime contractor or dealership is liable for the tax on the  
12 gross income, gross proceeds of sales or gross receipts attributable to the  
13 job and from which the subcontractors or others were paid.

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

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

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

1           H. For the purposes of section 42-5032.02, from and after September  
2           30, 2013, the department shall separately account for revenues reported and  
3           collected under the prime contracting classification from any prime  
4           contractor engaged in the construction of any buildings and associated  
5           improvements that are for the benefit of a manufacturing facility. For the  
6           purposes of this subsection, "associated improvements" and "manufacturing  
7           facility" have the same meanings prescribed in section 42-5032.02.

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

18          J. The gross proceeds of sales or gross income derived from  
19          landscaping activities are subject to tax under this section. Landscaping  
20          includes installing lawns, grading or leveling ground, installing gravel or  
21          boulders, planting trees and other plants, felling trees, removing or  
22          mulching tree stumps, removing other imbedded plants, building or modifying  
23          irrigation berms, repairing sprinkler or watering systems, installing  
24          railroad ties and installing underground sprinkler or watering systems.

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

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

37          M. The following apply ~~to~~ IN DETERMINING THE TAXABLE SITUS OF SALES OF  
38          manufactured buildings:

1           1. For sales in this state where the ~~dealership-of~~ manufactured  
2 ~~buildings~~ BUILDING DEALER contracts to deliver the building to a setup site  
3 or to perform the setup in this state, the taxable situs is the setup site.

4           2. For sales in this state where the ~~dealership-of~~ manufactured  
5 ~~buildings~~ BUILDING DEALER does not contract to deliver the building to a  
6 setup site or does not perform the setup, the taxable situs is the location  
7 of the dealership where the building is delivered to the buyer.

8           3. For sales in this state where the dealership of manufactured  
9 buildings contracts to deliver the building to a setup site that is outside  
10 this state, the situs is outside this state and the transaction is excluded  
11 from tax.

12           N. The gross proceeds of sales or gross income attributable to a  
13 ~~separate,~~ written CONTRACT FOR design phase services ~~contract~~ or professional  
14 services ~~contract~~, executed before modification begins AND WITH TERMS,  
15 CONDITIONS AND PRICING OF ALL OF THESE SERVICES SEPARATELY STATED IN THE  
16 CONTRACT FROM THOSE FOR CONSTRUCTION PHASE SERVICES, is not subject to tax  
17 under this section, regardless of whether the services are provided  
18 sequential to or concurrent with prime contracting activities that are  
19 subject to tax under this section. This subsection does not include the  
20 gross proceeds of sales or gross income attributable to construction phase  
21 services. For the purposes of this subsection:

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

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

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

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

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



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

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

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

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

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

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

24 (i) Master schedule updates.

25 (ii) Modification work cash flow projection updates.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34           (vi) Any bond and insurance premiums.

35           (vii) Any applicable taxes.

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

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

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

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

13 0. Notwithstanding subsection P, paragraph 8 of this section, a person  
14 owning real property who enters into a contract for sale of the real  
15 property, who is responsible to the new owner of the property for  
16 modifications made to the property in the period subsequent to the transfer  
17 of title and who receives a consideration for the modifications is considered  
18 a prime contractor solely for purposes of taxing the gross proceeds of sale  
19 or gross income received for the modifications made subsequent to the  
20 transfer of title. The original owner's gross proceeds of sale or gross  
21 income received for the modifications shall be determined according to the  
22 following methodology:

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

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

37 3. If the original owner is responsible to the new owner for  
38 modifications made to the property in the period subsequent to the transfer

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

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

9 P. For the purposes of this section:

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

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

22 ~~4.~~ 3. "Manufactured building" means a manufactured home, mobile home  
23 or factory-built building, as defined in section 41-2142.

24 ~~3.~~ 4. "~~Dealership of~~ Manufactured ~~buildings~~ BUILDING DEALER" means a  
25 dealer who either:

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

28 (b) Supervises, performs or coordinates the excavation and completion  
29 of site improvements, ~~OR THE~~ setup or moving of a manufactured building  
30 including the contracting, if any, with any subcontractor or specialty  
31 contractor for the completion of the contract.

32 5. "Modification" means construction, ~~alteration, repair,~~ addition,  
33 subtraction, improvement, movement, wreckage or demolition.

34 6. "Modify" means to construct, ~~alter, repair,~~ add to, subtract from,  
35 improve, move, wreck or demolish.

36 7. "Prime contracting" means engaging in business as a prime  
37 contractor.

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

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

14      Renumber to conform

15      Strike pages 73 through 81

16      Page 82, strike lines 1 and 2

17      Renumber to conform

18      Page 84, line 18, strike "~~prime contracting~~"

19      Line 19, strike "MANUFACTURED BUILDING DEALER" insert "prime contracting";  
20      strike "~~,—~~ OR THE"

21      Strike line 20

22      Line 21, strike "~~prime~~ HIGHWAY, STREET OR"

23      Line 22, strike "BRIDGE" insert "prime"; strike "EITHER"

24      Line 24, strike "TO BE"; strike "~~by the contractor~~" insert "by the contractor"

25      Strike lines 25 through 30, insert "structure, project, development or  
26      improvement in fulfillment of a contract.

27           (ii) Used in environmental response or remediation activities under  
28      section 42-5075, subsection B, paragraph 6."

29      Page 89, line 6, strike "FOR THE"

30      Strike lines 7 and 8

31      Page 90, line 10, after "of" strike remainder of line

32      Strike lines 11 through 37, insert "environmental response or remediation  
33      activities under section 42-5075, subsection B, paragraph 6."

34      Page 91, strike lines 35, 36 and 37

35      Page 92, strike lines 1, 2 and 3

36      Line 13, after the period strike remainder of line

37      Strike line 14

1 Page 98, strike lines 11 through 28

2 Renumber to conform

3 Page 99, strike lines 4 through 12, insert:

4 "B. The director ~~may~~ SHALL enter into agreements with cities and towns  
5 of this state that levy transaction privilege and affiliated excise taxes to  
6 provide for unified or coordinated licensing, collection and auditing  
7 programs for such taxes levied by cities and towns and taxes levied pursuant  
8 to chapter 5 of this title. ~~Such~~ Cities and towns ~~may~~ SHALL enter into  
9 agreements with the department to provide for unified or coordinated  
10 licensing, collection and auditing programs for ~~such~~ transaction privilege  
11 and affiliated excise taxes levied by ~~such~~ cities and towns and for taxes  
12 levied pursuant to chapter 5 of this title."

13 Reletter to conform

14 Strike lines 21 through 36

15 Page 100, strike lines 1, 2 and 3, insert:

16 "~~E. D.~~ A taxpayer who is required to pay any municipal transaction  
17 privilege and affiliated excise taxes to a city or town that ~~has~~ DID not  
18 ~~entered into~~ HAVE an intergovernmental contract or agreement with the  
19 department of revenue ~~under subsection B of this section~~ IN EFFECT AS OF  
20 JANUARY 1, 2013 to provide a coordinated method of collecting municipal  
21 transaction privilege and affiliated excise taxes may instead report and pay  
22 the required tax to that city or town through an online portal. The online  
23 portal shall be procured by the department of administration pursuant to a  
24 public-private partnership entered into pursuant to section 41-2559, shall  
25 include access to a single point of filing and paying the tax and shall  
26 provide security measures to protect taxpayer information. ~~The taxpayer may~~  
27 ~~be charged a fee to use the online portal.~~ THE DEPARTMENT OF REVENUE SHALL  
28 ADMINISTER THE PORTAL.

29 E. A TAXPAYER THAT DOES NOT REPORT AND PAY THE REQUIRED TAX TO A CITY  
30 OR TOWN THROUGH THE PORTAL SHALL FILE AND PAY THE TAX TO THE DEPARTMENT OF  
31 REVENUE."

32 Strike line 18

33 Line 19, strike "1. Employ auditors"

34 Line 22, strike "2. Enter into contracts with a third party, other than this  
35 state"

36 Line 23, after "~~state~~" strike remainder of line

37 Strike line 24

38 Line 25, strike "town."

1 Page 100, between lines 30 and 31, insert:

2 "B. AN INTERGOVERNMENTAL CONTRACT OR AGREEMENT ENTERED INTO PURSUANT  
3 TO SECTION 42-6001, SUBSECTION A SHALL INCLUDE THE FOLLOWING ENFORCEMENT  
4 PROVISIONS:

5 1. ALL AUDITS SHALL BE CONDUCTED IN ACCORDANCE WITH STANDARD AUDIT  
6 PROCEDURES DEFINED IN THE DEPARTMENT OF REVENUE AUDIT MANUAL.

7 2. THE AUDIT OF A TAXPAYER THAT HAS LOCATIONS IN TWO OR MORE CITIES OR  
8 TOWNS SHALL BE CONDUCTED BY THE DEPARTMENT.

9 3. ALL AUDITS SHALL INCLUDE ALL TAXING JURISDICTIONS IN THIS STATE  
10 REGARDLESS OF WHICH JURISDICTION CONDUCTS THE AUDIT. A CITY OR TOWN MAY  
11 CONDUCT AN AUDIT OF ANY TAXPAYER THAT IS ENGAGED IN BUSINESS IN ONLY ONE CITY  
12 OR TOWN OR THAT IS ENGAGED IN THE ACTIVITY OF RESIDENTIAL RENTAL OR LOCAL  
13 ADVERTISING LEVIED PURSUANT TO THE MODEL CITY TAX CODE.

14 4. THE DEPARTMENT SHALL ISSUE ALL AUDIT ASSESSMENTS ON BEHALF OF ALL  
15 TAXING JURISDICTIONS IN A SINGLE NOTICE TO THE TAXPAYER.

16 5. APPEALS OF AUDIT ASSESSMENTS SHALL BE DIRECTED TO THE DEPARTMENT.

17 6. THE DEPARTMENT SHALL NOTIFY ALL AFFECTED CITIES AND TOWNS BEFORE  
18 ENTERING INTO ANY COMPROMISE, CLOSING, SETTLEMENT OR OTHER AGREEMENT WITH A  
19 PERSON RELATED TO THE TAX LEVIED AND IMPOSED BY THE CITIES AND TOWNS."

20 Page 102, between lines 26 and 27, insert:

21 "13. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A  
22 CONTRACT WITH THE OWNER OF REAL PROPERTY FOR THE MAINTENANCE, REPAIR OR  
23 REPLACEMENT OF EXISTING PROPERTY IS NOT SUBJECT TO TAX IF THE CONTRACT DOES  
24 NOT INCLUDE MODIFICATION ACTIVITIES. FOR THE PURPOSES OF THIS PARAGRAPH:

25 (a) EACH CONTRACT OR PROJECT IS INDEPENDENT OF ANOTHER CONTRACT.

26 (b) "MODIFICATION" HAS THE SAME MEANING PRESCRIBED IN SECTION  
27 42-5075."

28 Page 103, strike lines 14 through 37

29 Page 104, strike lines 1 through 15, insert:

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

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

36 (b) The attributable amount is equal to the total amount of  
37 development fees paid by the taxpayer or by a contractor providing services  
38 to the taxpayer and the total development fees credited in exchange for the

1 construction of, contribution to or dedication of real property for providing  
2 public infrastructure, public safety or other public services necessary to  
3 the development. The real property must be the subject of the development  
4 fees.

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

9 Page 104, line 36, strike the second "The"

10 Strike line 37

11 Page 105, strike lines 1 through 4

12 Line 5, strike "business."

13 Line 13, strike "C. A taxpayer that conducts business in more than one  
14 jurisdiction"

15 Line 14, after "~~joint~~" strike remainder of line

16 Reletter to conform

17 Strike lines 23 through 37

18 Strike pages 106 through 121

19 Page 122, strike lines 1 through 11

20 Renumber to conform

21 Page 125, strike lines 10 through 37

22 Strike pages 126 through 133

23 Page 134, strike lines 1 through 25

24 Renumber to conform

25 Page 135, strike lines 1 through 4

26 Line 5, strike "dates" insert "date"

27 Strike lines 6 through 14

28 Line 15, strike "Statutes, as amended by this act, are" insert "This act is"

29 Amend title to conform

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