

REFERENCE TITLE: sales tax; broaden the base

State of Arizona
Senate
Forty-ninth Legislature
Second Regular Session
2010

SB 1372

Introduced by
Senator Garcia

AN ACT

AMENDING SECTIONS 28-2154.01, 41-1516, 42-5009 AND 42-5010, ARIZONA REVISED STATUTES; REPEALING SECTION 42-5017, ARIZONA REVISED STATUTES; AMENDING SECTIONS 42-5061, 42-5071, 42-5072 AND 42-5075, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 5, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-5077; REPEALING SECTION 42-5156, ARIZONA REVISED STATUTES; AMENDING SECTIONS 42-6104, 42-6105 AND 42-6106, ARIZONA REVISED STATUTES; RELATING TO TRANSACTION PRIVILEGE AND AFFILIATED EXCISE TAXES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 28-2154.01, Arizona Revised Statutes, is amended to
3 read:

4 28-2154.01. Special ninety day nonresident registration
5 permits: procedures

6 A. A dealer or an authorized third party that issues a special ninety
7 day nonresident registration permit pursuant to section 28-2154 shall send an
8 electronic record of the permit to the department through an authorized third
9 party or through the department's authorized third party electronic service
10 provider.

11 B. The department, an authorized third party or a dealer shall not:

12 1. Issue, assign or deliver a special ninety day nonresident
13 registration permit to any person unless the person does all of the
14 following:

15 (a) Obtains the special ninety day nonresident registration permit
16 pursuant to section 28-2154.

17 (b) Completes an affidavit in a form prescribed by the director
18 pursuant to section 28-2154 or completes a form prescribed by section
19 42-5009, subsection I.

20 (c) Presents to the department, authorized third party or motor
21 vehicle dealer a ~~currently~~ CURRENT valid driver license issued by another
22 state indicating an address outside of this state.

23 (d) Provides any other information reasonably and uniformly required
24 by the department of transportation pursuant to section 28-2154 or the
25 department of revenue pursuant to section 42-5009, subsection I.

26 2. Issue and affix, as prescribed in subsection C of this section, a
27 special ninety day nonresident registration permit unless the permit is
28 recorded in the electronic records of the department.

29 C. A person who issues a special ninety day nonresident registration
30 permit shall affix or insert, clearly and indelibly, on the face of each
31 permit the dates of issuance and expiration and the make and vehicle
32 identification number of the vehicle. The special ninety day nonresident
33 registration permit shall not bear the name or address of the person who
34 purchased the vehicle in a position that is legible from outside of the
35 vehicle.

36 D. A dealer or authorized third party who issues a special ninety day
37 nonresident registration permit shall maintain a record, in a form prescribed
38 by the director, of all special ninety day nonresident registration permits
39 issued by the dealer or authorized third party and a record of other
40 information pertaining to the issuance of special ninety day nonresident
41 registration permits that the department of transportation or the department
42 of revenue requires.

43 E. The dealer or authorized third party shall keep each record for at
44 least three years after the date of entry of the record.

F. A dealer or authorized third party shall allow the director of the department of transportation or the director of the department of revenue full and free access to the records during regular business hours.

G. The electronic record is written notice of the removal of the vehicle from this state for use in the purchaser's state of residence and relieves the dealer or authorized third party of liability in accordance with the requirements of section 42-5009.

H. If a purchaser registers the vehicle in this state within three hundred sixty-five days after the issuance of the special ninety day nonresident registration permit, the purchaser is liable in an amount equal to any tax, penalty and interest that the motor vehicle dealer or authorized third party would have been required to pay under title 42, chapter 5 and under articles IV and VI of the model city tax code as defined in section 42-6051. At the time of issuing the special ninety day nonresident registration permit, a motor vehicle dealer or authorized third party shall inform the purchaser in writing of the purchaser's liability described in this section. Subsequent registration or use of the vehicle in this state does not create a cause of action against a dealer or authorized third party that complies with section 28-2154, subsection A, this section and section 42-5009, subsection I.

I. The department of transportation and the department of revenue shall jointly develop and prescribe forms for the motor vehicle dealer, the authorized third party and the purchaser to complete for the proper administration and enforcement of this section.

J. Compliance with this section and section 28-2154 allows delivery of the vehicle to a nonresident purchaser in this state and retains the applicable deductions pursuant to section 42-5061, subsection A, paragraph 28 27, subdivision (a) and subsection U.

Sec. 2. Section 41-1516, Arizona Revised Statutes, is amended to read: 41-1516. Healthy forest enterprise incentives; definitions

A. The department of commerce shall:

1. Implement a program to encourage counties, cities and towns to provide local incentives to economic enterprises that promote forest health in this state.

2. Identify and certify to the department of revenue the names of and relevant information relating to qualified businesses for the purposes of available state tax incentives for economic enterprises that promote forest health in this state.

B. To qualify for state tax incentives pursuant to this section, a business:

1. Must be primarily engaged in a qualifying project. The business shall submit to the department of commerce evidence that it is engaged in a qualifying project as follows:

(a) The business operation must enhance or sustain forest health, sustain or recover watershed or improve public safety.

(b) If the qualifying forest product is on federal land, the business shall submit a letter from the federal agency administering the land, or official records or documents produced in connection with the project, stating that the business is primarily engaged in the business of harvesting or initial processing of qualifying forest products for commercial use as follows:

(i) At least seventy per cent of the harvested or processed products, measured by weight, must be qualifying forest products.

(ii) At least seventy-five per cent of the qualifying forest products, measured by weight, must be harvested from sources in this state.

(c) If the qualifying forest product is not on federal land, the business shall submit a letter from the state forester stating that the business is primarily engaged in the business of harvesting or initial processing of qualifying forest products for commercial use as follows:

(i) At least seventy per cent of the harvested or processed products must be qualifying forest products.

(ii) At least seventy-five per cent of the harvested or processed products must be from areas in this state.

(d) If the business is engaged in transporting qualifying forest products, it must submit a letter from the state forester or United States forest service, or official records or documents produced in connection with the project, stating that all of the qualifying forest products it transports are harvested from areas in this state. In addition, the business must submit evidence to the department of commerce that at least seventy-five per cent of the mileage traveled by its units each year are for transporting qualifying forest products from or to qualifying projects described in subdivision (b) or (c) of this paragraph, unless a lower mileage is due to forest closures or weather conditions that are beyond the control of the business.

2. Must employ at least three permanent full-time employees.

3. Must agree to:

(a) Furnish to the department of commerce information relating to the amount of state tax benefits that the business receives each year.

(b) The disclosure of the amount of state tax benefits received each year in composite form, without specific identification of the taxpayer.

4. Must enter into a memorandum of understanding with the department of commerce containing:

(a) Employment goals. Each year the business must report in writing to the department of commerce its performance in achieving the goals.

(b) A commitment to continue in business and use the qualifying equipment primarily on qualifying projects in this state as described in paragraph 1 of this subsection, other than for reasons beyond the control of the business. The department of commerce shall consult with the department of revenue in designing the memorandum of understanding to incorporate the legal qualifications for the available tax incentives and shall include the requirement that any qualifying equipment that is purchased or leased free of

1 transaction privilege or use tax must continue to be used in this state for
2 the term of the memorandum of understanding or the duration of its
3 operational life, whichever is shorter.

4 (c) Provisions considered necessary by the department of commerce to
5 ensure the competency and responsibility of businesses that qualify under
6 this section, including registration or other accreditation with trade and
7 professional organizations and compliance with best management and
8 operational practices used by governmental agencies in awarding forestry
9 contracts.

10 (d) The authorization for the department of commerce to terminate,
11 adjust or recapture all or part of the tax benefits provided to the business
12 on noncompliance with the law, noncompliance with the terms of the memorandum
13 or violation of the terms of any contracts with the federal or state
14 government relating to the qualifying project. The department of commerce
15 shall notify the department of revenue of the conditions of noncompliance.
16 The department of revenue may also terminate the certification if it obtains
17 information indicating a failure to qualify and comply. The department of
18 revenue may require the business to file appropriate amended tax returns or
19 to file appropriate use tax returns reflecting the recapture of the direct or
20 indirect tax benefits.

21 5. Must submit a copy of the certification to the department of
22 revenue for approval before using the certification for purposes of any tax
23 incentive. The department of revenue shall review and approve the
24 certification in a timely manner if the business is in good standing with the
25 department and is not delinquent in the payment of any tax collected by the
26 department. A failure to approve or deny the certification within sixty days
27 after the date the business submits it to the department constitutes approval
28 of the certification.

29 C. For the purposes of section 42-5075, subsection B, paragraph ~~19~~ 18,
30 the department of commerce shall certify prime contractors that contract for
31 the construction of any building, or other structure, project, development or
32 improvement owned by a qualified business for purposes of a qualifying
33 project described in subsection B, paragraph 1 of this section.

34 D. To obtain and maintain certification under this section, a business
35 must:

36 1. Apply to the department of commerce.

37 2. Submit and retain copies of all required information, including
38 information relating to the actual or projected number of employees in this
39 state.

40 3. Allow inspections and audits to verify the qualification and
41 accuracy of information submitted to the department of commerce.

42 E. Certification under this section is valid for twelve calendar
43 months from the date of issuance. A business must apply for recertification
44 at least thirty days before the current certification expires. The
45 application for recertification shall be in a form prescribed by the
46 department of commerce and shall confirm that the business is continuing in a

1 qualifying project and is in compliance with all requirements prescribed for
2 certification.

3 F. Within sixty days after receiving a complete and correct
4 application and all required information as prescribed by this section, the
5 department of commerce shall grant or deny certification and give written
6 notice by certified mail to the applicant. The applicant is certified as a
7 qualified business on the date the notice of certification is delivered to
8 the applicant. A failure to respond within sixty days after receiving a
9 complete and correct application constitutes approval of the application.

10 G. The certification shall state an effective date with respect to
11 each authorized tax incentive which, in each case, must be at the start of a
12 taxable year or taxable period.

13 H. On or before March 1 of each year, each qualifying business shall
14 make a report to the department of commerce on all business activity in the
15 preceding calendar year. Business information contained in the reports is
16 confidential and shall not be disclosed to the public except as provided by
17 this section and except that a copy of the report shall be transmitted to the
18 department of revenue. The report shall be in a form prescribed by the
19 department of commerce and include:

20 1. Information prescribed by the department of commerce with respect
21 to both qualifying projects and other projects and business activity that do
22 not qualify for purposes of this section.

23 2. Employment information necessary to confirm eligibility for income
24 tax credits as prescribed by sections 43-1076 and 43-1162.

25 I. For purposes of administering and ensuring compliance with this
26 section, agents of the department of commerce may enter, and a qualified
27 business shall allow access to, a qualifying project site at reasonable times
28 and on reasonable notice to:

29 1. Inspect the facilities at the site.

30 2. Obtain factual data and records pertinent to and required by law to
31 be kept for purposes of tax incentives.

32 3. Otherwise ascertain compliance with law and the terms of the
33 memorandum of understanding.

34 J. The department of commerce shall revoke the business' certification
35 and notify the department of revenue and county assessor if either:

36 1. Within thirty days after a formal request from the department of
37 commerce or the department of revenue the business fails or refuses to
38 provide the information or access for inspections required by this section.

39 2. The business no longer meets the terms and conditions required for
40 qualification for the applicable tax incentives.

41 K. For the purposes of this section:

42 1. "Forest health" means the degree to which the integrity of the
43 forest is sustained, including reducing the risk of catastrophic wildfire and
44 destructive insect infestation, benefiting wildland habitats, watersheds and
45 communities.

1 2. "Harvesting" means all operations relating to felling or otherwise
2 removing trees and other forest plant growth and preparing them for transport
3 for subsequent processing.

4 3. "Initial processing" means:

5 (a) The first change, after harvest, in the physical structure of
6 qualifying forest products removed from a qualifying project into a
7 marketable commercial product or component of a product that has commercial
8 value to a consumer or purchaser and that is ready to be used with or without
9 further altering its form.

10 (b) Burning qualifying forest products in the process of commercial
11 electrical generation or commercial thermal energy production for heating or
12 cooling, regardless of the physical structure of the forest product before
13 burning.

14 4. "Qualifying equipment" means equipment used directly in the
15 harvesting or initial processing of qualifying forest products removed from a
16 qualifying project. Qualifying equipment does not include self-propelled
17 vehicles required to be licensed by this state, but may include other
18 licensed vehicles as provided by this paragraph. Qualifying equipment
19 includes:

20 (a) Forest thinning and residue removal equipment, including mulching
21 and masticating equipment, feller-bunchers, skidders, log loaders, portable
22 chippers and grinders, slash bundlers, delimbers, log trailers, chip trailers
23 and other trailers that are uniquely designed for handling forest products
24 and that are licensed for operation on public highways.

25 (b) Forest residue receiving and handling equipment, including truck
26 dumpers, log unloaders, scales, log decking facilities and equipment and chip
27 pile facilities.

28 (c) Sorting and processing equipment, including portable and
29 stationary log loaders, front end loaders, fork lifts and cranes, chippers
30 and grinders, screens, decks and debarkers, saws and sawmill equipment,
31 firewood processing, wood residue baling and bagging equipment, kilns,
32 planing and molding equipment and laminating and joining equipment.

33 (d) Forest waste and residue disposal and processing equipment,
34 including:

35 (i) Processing and sizing equipment, hogs, chippers, screens,
36 pelletizers and wood splitters.

37 (ii) Transporting and handling equipment, including loaders,
38 conveyors, blowers, receiving hoppers, truck dumpers and dozers.

39 (iii) Waste use equipment, including fuel feed, storage bins, boilers
40 and combustors.

41 (iv) Waste project use equipment, including generators, switchgear and
42 substations and on-site distribution systems.

43 (v) Generated waste disposal equipment, including ash silos and
44 wastewater treatment and disposal equipment.

45 (vi) Shop and maintenance equipment and major spares having a value of
46 more than five thousand dollars each.

5. "Qualifying forest products" means dead standing and fallen timber, and forest thinnings associated with the harvest of small diameter timber, slash, wood chips, peelings, brush and other woody vegetation, removed from federal, state and other public forest land and from private forest land.

6. "Qualifying project" means harvesting, transporting or the initial processing of qualifying forest products as required for certification pursuant to this section.

Sec. 3. Section 42-5009, Arizona Revised Statutes, is amended to read:

42-5009. Certificates establishing deductions; liability for making false certificate

A. A person who conducts any business classified under article 2 of this chapter may establish entitlement to the allowable deductions from the tax base of that business by both:

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

2. Obtaining a certificate executed by the purchaser indicating the name and address of the purchaser, the precise nature of the business of the purchaser, the purpose for which the purchase was made, the necessary facts to establish the appropriate deduction and the tax license number of the purchaser to the extent the deduction depends on the purchaser conducting business classified under article 2 of this chapter and a certification that the person executing the certificate is authorized to do so on behalf of the purchaser. The certificate may be disregarded if the seller has reason to believe that the information contained in the certificate is not accurate or complete.

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

C. The department may prescribe a form for the certificate described in subsection A of this section. Under such rules as it may prescribe, the department may also describe transactions with respect to which a person is not entitled to rely solely on the information contained in the certificate provided for in subsection A of this section but must instead obtain such additional information as required by the rules in order to be entitled to the deduction.

D. If a seller is entitled to a deduction by complying with subsection A of this section, the department may require the purchaser which caused the execution of the certificate to establish the accuracy and completeness of the information required to be contained in the certificate which would entitle the seller to the deduction. If the purchaser cannot establish the accuracy and completeness of the information, the purchaser is liable in an amount equal to any tax, penalty and interest which the seller would have been required to pay under this article if the seller had not complied with subsection A of this section. Payment of the amount under this subsection exempts the purchaser from liability for any tax imposed under article 4 of

1 this chapter. The amount shall be treated as tax revenues collected from the
2 seller in order to designate the distribution base for purposes of section
3 42-5029.

4 E. If a seller is entitled to a deduction by complying with subsection
5 B of this section, the department may require the purchaser to establish the
6 accuracy and completeness of the information provided to the seller that
7 entitled the seller to the deduction. If the purchaser cannot establish the
8 accuracy and completeness of the information, the purchaser is liable in an
9 amount equal to any tax, penalty and interest that the seller would have been
10 required to pay under this article if the seller had not complied with
11 subsection B of this section. Payment of the amount under this subsection
12 exempts the purchaser from liability for any tax imposed under article 4 of
13 this chapter. The amount shall be treated as tax revenues collected from the
14 seller in order to designate the distribution base for purposes of section
15 42-5029.

16 F. The department may prescribe a form for a certificate used to
17 establish entitlement to the deductions described in section 42-5061,
18 subsection A, paragraph ~~47~~ 46 and section 42-5063, subsection B, paragraph 3.
19 Under rules the department may prescribe, the department may also require
20 additional information for the seller to be entitled to the deduction. If a
21 seller is entitled to the deductions described in section 42-5061, subsection
22 A, paragraph ~~47~~ 46 and section 42-5063, subsection B, paragraph 3, the
23 department may require the purchaser who executed the certificate to
24 establish the accuracy and completeness of the information contained in the
25 certificate that would entitle the seller to the deduction. If the purchaser
26 cannot establish the accuracy and completeness of the information, the
27 purchaser is liable in an amount equal to any tax, penalty and interest that
28 the seller would have been required to pay under this article. Payment of
29 the amount under this subsection exempts the purchaser from liability for any
30 tax imposed under article 4 of this chapter. The amount shall be treated as
31 tax revenues collected from the seller in order to designate the distribution
32 base for purposes of section 42-5029.

33 G. If a seller claims a deduction under section 42-5061, subsection A,
34 paragraph ~~25~~ 24 and establishes entitlement to the deduction with an
35 exemption letter that the purchaser received from the department and the
36 exemption letter was based on a contingent event, the department may require
37 the purchaser that received the exemption letter to establish the
38 satisfaction of the contingent event within a reasonable time. If the
39 purchaser cannot establish the satisfaction of the event, the purchaser is
40 liable in an amount equal to any tax, penalty and interest that the seller
41 would have been required to pay under this article if the seller had not been
42 furnished the exemption letter. Payment of the amount under this subsection
43 exempts the purchaser from liability for any tax imposed under article 4 of
44 this chapter. The amount shall be treated as tax revenues collected from the
45 seller in order to designate the distribution base for purposes of section
46 42-5029. For the purposes of this subsection, "reasonable time" means a time

1 limitation that the department determines and that does not exceed the time
2 limitations pursuant to section 42-1104.

3 H. From and after December 31, 2005 through December 31, 2010, the
4 department shall prescribe a form for a certificate used to establish
5 entitlement to the deductions described in section 42-5061, subsection B,
6 paragraph 23, section 42-5066, subsection B, paragraph 5, section 42-5070,
7 subsection C, paragraph 2, section 42-5074, subsection B, paragraph 10,
8 section 42-5075, subsection B, paragraph ~~20~~ 17 and section 42-5159,
9 subsection B, paragraph 23 relating to motion picture production. The
10 certificate is effective for twelve consecutive calendar months from and
11 after the date of issuance and is subject to the following requirements and
12 conditions:

13 1. A motion picture production company as defined in section 41-1517
14 may use a certificate issued pursuant to this subsection only with respect to
15 production costs described in section 41-1517, subsection A, paragraph 2 that
16 are subject to taxation under article 2 or 4 of this chapter.

17 2. The department shall issue the certificate to a motion picture
18 production company on receiving the company's letter of qualification from
19 the department of commerce, except as otherwise provided in this subsection.

20 3. The department shall not issue a certificate to a motion picture
21 production company that has a delinquent tax balance owing to the department
22 under this title or title 43.

23 4. If the department determines that a motion picture production
24 company no longer qualifies for a certificate or has used the certificate for
25 unauthorized purposes, the department shall revoke the certificate and the
26 motion picture production company is liable for an amount equal to the
27 transaction privilege and use taxes that would have been due on taxable
28 transactions during the time the company did not qualify for or improperly
29 used the certificate, with interest and penalties as provided by law.

30 5. The department shall maintain annual data on the total amount of
31 monies exempted through the use of certificates issued pursuant to this
32 subsection and shall provide those data to the department of commerce on
33 request.

34 6. The department of revenue, with the cooperation of the department
35 of commerce, shall adopt rules and publish and prescribe forms and procedures
36 as necessary to effectuate the purposes of this subsection.

37 7. If, after audit, the department determines that a motion picture
38 production company failed to meet any of the requirements prescribed by this
39 subsection, any deductions from taxation from the use of the certificate are
40 subject to recapture and payment by the motion picture production company to
41 the department.

42 I. The department shall prescribe forms for certificates used to
43 establish the satisfaction of the criteria necessary to qualify the sale of a
44 motor vehicle for the deductions described in section 42-5061, subsection A,
45 paragraph ~~14~~, 13, paragraph ~~28~~ 27, subdivision (a) and paragraph ~~45~~ 44 and

subsection U. To establish entitlement to these deductions, a motor vehicle dealer shall retain:

1. A valid certificate as prescribed by this subsection completed by the purchaser and obtained prior to the issuance of the nonresident registration permit authorized by section 28-2154.

2. A copy of the nonresident registration permit authorized by section 28-2154.

3. A legible copy of a current valid driver license issued to the purchaser by another state or foreign country that indicates an address outside of this state. For the sale of a motor vehicle to a nonresident entity, the entity's representative must have a current valid driver license issued by the same jurisdiction as that in which the entity is located.

4. For the purposes of the deduction provided by section 42-5061, subsection A, paragraph ~~14~~ 13, a certificate documenting the delivery of the motor vehicle to an out-of-state location.

J. Notwithstanding subsection A, paragraph 2 of this section, if a motor vehicle dealer has established entitlement to a deduction by complying with subsection I of this section, the department may require the purchaser who executed the certificate to establish the accuracy and completeness of the information contained in the certificate that entitled the motor vehicle dealer to the deduction. If the purchaser cannot establish the accuracy and completeness of the information, the purchaser is liable in an amount equal to any tax, penalty and interest that the motor vehicle dealer would have been required to pay under this article and under articles IV and V of the model city tax code as defined in section 42-6051. Payment of the amount under this subsection exempts the purchaser from liability for any tax imposed under article 4 of this chapter and any tax imposed under article VI of the model city tax code as defined in section 42-6051. The amount shall be treated as tax revenues collected from the motor vehicle dealer in order to designate the distribution base for purposes of section 42-5029.

K. Notwithstanding any other law, compliance with subsection I of this section by a motor vehicle dealer entitles the motor vehicle dealer to the exemption provided in section 42-6004, subsection A, paragraph 4.

Sec. 4. Section 42-5010, Arizona Revised Statutes, is amended to read:
42-5010. Rates; distribution base

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

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

- (a) Transporting classification.
- (b) Utilities classification.
- (c) Telecommunications classification.
- (d) Pipeline classification.
- (e) Private car line classification.
- (f) Publication classification.

- 1 (g) Job printing classification.
- 2 (h) Prime contracting classification.
- 3 (i) Owner builder sales classification.
- 4 (j) Amusement classification.
- 5 (k) Restaurant classification.
- 6 (l) Personal property rental classification.
- 7 (m) Retail classification.
- 8 (n) **SERVICES CLASSIFICATION.**

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

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

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

18 B. Twenty per cent of the tax revenues collected at the rate
 19 prescribed by subsection A, paragraph 1 of this section from persons on
 20 account of engaging in business under the business classifications listed in
 21 subsection A, paragraph 1, subdivisions (a) through (i) of this section is
 22 designated as distribution base for purposes of section 42-5029.

23 C. Forty per cent of the tax revenues collected at the rate prescribed
 24 by subsection A, paragraph 1 of this section from persons on account of
 25 engaging in business under the business classifications listed in subsection
 26 A, paragraph 1, subdivisions (j) through ~~(m)~~ (n) of this section is
 27 designated as distribution base for purposes of section 42-5029.

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

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

36 F. Fifty per cent of the tax revenues collected from persons on
 37 account of engaging in business under the business classification listed in
 38 subsection A, paragraph 2 of this section is designated as distribution base
 39 for purposes of section 42-5029.

40 G. In addition to the rates prescribed by subsection A of this
 41 section, if approved by the qualified electors voting at a statewide general
 42 election, an additional rate increment is imposed and shall be collected
 43 through June 30, 2021. The taxpayer shall pay taxes pursuant to this
 44 subsection at the same time and in the same manner as under subsection A of
 45 this section. The department shall separately account for the revenues
 46 collected with respect to the rates imposed pursuant to this subsection and

1 the state treasurer shall distribute all of those revenues in the manner
2 prescribed by section 42-5029, subsection E. The rates imposed pursuant to
3 this subsection shall not be considered local revenues for purposes of
4 article IX, section 21, Constitution of Arizona. The additional tax rate
5 increment is levied at the rate of six-tenths of one per cent of the tax base
6 of every person engaging or continuing in this state in a business
7 classification listed in subsection A, paragraph 1 of this section.

8 H. Any increase in the rate of tax that is imposed by this chapter and
9 that is enacted by the legislature or by a vote of the people does not apply
10 with respect to contracts entered into by prime contractors or pursuant to
11 written bids made by prime contractors on or before the effective date of the
12 legislation or the date of the election enacting the increase. To qualify
13 for the exemption under this subsection, the prime contractor must maintain
14 sufficient documentation, in a manner and form prescribed by the department,
15 to verify the date of the contract or written bid.

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

18 1. Any increase in the rate of tax that is levied by this article or
19 article 2 of this chapter enacted by the legislature or by a vote of the
20 people does not apply for a period of one hundred twenty days from the date
21 of the tax rate increase to the gross proceeds of sales or gross income from
22 the business of the taxpayer with respect to written contracts entered into
23 before the effective date of the tax rate increase unless the taxpayer has
24 entered into a contract that contains a provision that entitles the taxpayer
25 to recover from the purchaser the amount of the additional tax levied.

26 2. ~~The provisions of~~ This subsection ~~apply~~ APPLIES without regard to
27 the accounting method used by the taxpayer to report the taxes imposed under
28 article 2 of this chapter.

29 3. ~~The provisions of~~ This subsection shall not be considered in
30 determining the rate of tax imposed under chapter 6, article 3 of this title.

31 Sec. 5. Repeal

32 Section ~~42-5017~~, Arizona Revised Statutes, is repealed.

33 Sec. 6. Section 42-5061, Arizona Revised Statutes, is amended to read:

34 ~~42-5061~~. Retail classification; definitions

35 A. The retail classification is comprised of the business of selling
36 tangible personal property at retail. The tax base for the retail
37 classification is the gross proceeds of sales or gross income derived from
38 the business. The tax imposed on the retail classification does not apply to
39 the gross proceeds of sales or gross income from:

40 1. Professional or personal service occupations or businesses which
41 involve sales or transfers of tangible personal property only as
42 inconsequential elements.

43 2. Services rendered in addition to selling tangible personal property
44 at retail.

~~3. Sales of warranty or service contracts. The storage, use or consumption of tangible personal property provided under the conditions of such contracts is subject to tax under section 42-5156.~~

~~4.~~ 3. Sales of tangible personal property by any nonprofit organization organized and operated exclusively for charitable purposes and recognized by the United States internal revenue service under section 501(c)(3) of the internal revenue code.

~~5.~~ 4. Sales to persons engaged in business classified under the restaurant classification of articles used by human beings for food, drink or condiment, whether simple, mixed or compounded.

~~6.~~ 5. Business activity which is properly included in any other business classification which is taxable under THIS article ~~2 of this chapter.~~

~~7.~~ 6. The sale of stocks and bonds.

~~8.~~ 7. Drugs and medical oxygen, including delivery hose, mask or tent, regulator and tank, on the prescription of a member of the medical, dental or veterinarian profession who is licensed by law to administer such substances.

~~9.~~ 8. Prosthetic appliances as defined in section 23-501 prescribed or recommended by a health professional WHO IS licensed pursuant to title 32, chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.

~~10.~~ 9. Insulin, insulin syringes and glucose test strips.

~~11.~~ 10. Prescription eyeglasses or contact lenses.

~~12.~~ 11. Hearing aids as defined in section 36-1901.

~~13.~~ 12. Durable medical equipment which has a centers for medicare and medicaid services common procedure code, is designated reimbursable by medicare, is prescribed by a person who is licensed under title 32, chapter 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and customarily used to serve a medical purpose, is generally not useful to a person in the absence of illness or injury and is appropriate for use in the home.

~~14.~~ 13. Sales to nonresidents of this state for use outside this state if the vendor ships or delivers the tangible personal property out of this state.

~~15.~~ 14. Food, as provided in and subject to the conditions of article 3 of this chapter and section 42-5074.

~~16.~~ 15. Items purchased with United States department of agriculture food stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code section 1786).

~~17.~~ 16. Textbooks by any bookstore that are required by any state university or community college.

~~18.~~ 17. Food and drink to a person who is engaged in business which is classified under the restaurant classification and which provides such food

1 and drink without monetary charge to its employees for their own consumption
2 on the premises during the employees' hours of employment.

3 ~~19.~~ 18. Articles of food, drink or condiment and accessory tangible
4 personal property to a school district if such articles and accessory
5 tangible personal property are to be prepared and served to persons for
6 consumption on the premises of a public school within the district during
7 school hours.

8 ~~20.~~ 19. Lottery tickets or shares pursuant to title 5, chapter 5,
9 article 1.

10 ~~21.~~ 20. The sale of precious metal bullion and monetized bullion to
11 the ultimate consumer, but the sale of coins or other forms of money for
12 manufacture into jewelry or works of art is subject to the tax. For the
13 purposes of this paragraph:

14 (a) "Monetized bullion" means coins and other forms of money which are
15 manufactured from gold, silver or other metals and which have been or are
16 used as a medium of exchange in this or another state, the United States or a
17 foreign nation.

18 (b) "Precious metal bullion" means precious metal, including gold,
19 silver, platinum, rhodium and palladium, which has been smelted or refined so
20 that its value depends on its contents and not on its form.

21 ~~22.~~ 21. Motor vehicle fuel and use fuel which are subject to a tax
22 imposed under title 28, chapter 16, article 1, sales of use fuel to a holder
23 of a valid single trip use fuel tax permit issued under section 28-5739,
24 sales of aviation fuel which are subject to the tax imposed under section
25 28-8344 and sales of jet fuel which are subject to the tax imposed under
26 article 8 of this chapter.

27 ~~23.~~ 22. Tangible personal property sold to a person engaged in the
28 business of leasing or renting such property under the personal property
29 rental classification if such property is to be leased or rented by such
30 person.

31 ~~24.~~ 23. Tangible personal property sold in interstate or foreign
32 commerce if prohibited from being so taxed by the Constitution of the United
33 States or the constitution of this state.

34 ~~25.~~ 24. Tangible personal property sold to:

35 (a) A qualifying hospital as defined in section 42-5001.

36 (b) A qualifying health care organization as defined in section
37 42-5001 if the tangible personal property is used by the organization solely
38 to provide health and medical related educational and charitable services.

39 (c) A qualifying health care organization as defined in section
40 42-5001 if the organization is dedicated to providing educational,
41 therapeutic, rehabilitative and family medical education training for blind,
42 visually impaired and multihandicapped children from the time of birth to age
43 twenty-one.

44 (d) A qualifying community health center as defined in section
45 42-5001.

(e) A nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that regularly serves meals to the needy and indigent on a continuing basis at no cost.

(f) For taxable periods beginning from and after June 30, 2001, a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that provides residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy, if the tangible personal property is used by the organization solely to provide residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy.

~~26.~~ 25. Magazines or other periodicals or other publications by this state to encourage tourist travel.

~~27.~~ 26. Tangible personal property sold to a person that is subject to tax under this article by reason of being engaged in business classified under the prime contracting classification under section 42-5075, or to a subcontractor working under the control of a prime contractor that is subject to tax under article 1 of this chapter, if the property so sold is any of the following:

(a) Incorporated or fabricated by the person into any real property, structure, project, development or improvement as part of the business.

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

~~(c) Incorporated or fabricated by the person into any lake facility development in a commercial enhancement reuse district under conditions prescribed for the deduction allowed by section 42-5075, subsection B, paragraph 8.~~

~~28.~~ 27. The sale of a motor vehicle to:

(a) A nonresident of this state if the purchaser's state of residence does not allow a corresponding use tax exemption to the tax imposed by article 1 of this chapter and if the nonresident has secured a special ninety day nonresident registration permit for the vehicle as prescribed by sections 28-2154 and 28-2154.01.

(b) An enrolled member of an Indian tribe who resides on the Indian reservation established for that tribe.

~~29.~~ 28. Tangible personal property purchased in this state by a nonprofit charitable organization that has qualified under section 501(c)(3) of the United States internal revenue code and that engages in and uses such property exclusively in programs for mentally or physically handicapped persons if the programs are exclusively for training, job placement, rehabilitation or testing.

~~30.~~ 29. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is associated with a major league baseball team or a national touring professional golfing

1 association and no part of the organization's net earnings inures to the
2 benefit of any private shareholder or individual.

3 ~~31.~~ 30. Sales of commodities, as defined by title 7 United States Code
4 section 2, that are consigned for resale in a warehouse in this state in or
5 from which the commodity is deliverable on a contract for future delivery
6 subject to the rules of a commodity market regulated by the United States
7 commodity futures trading commission.

8 ~~32.~~ 31. Sales of tangible personal property by a nonprofit
9 organization that is exempt from taxation under section 501(c)(3), 501(c)(4),
10 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the
11 organization sponsors or operates a rodeo featuring primarily farm and ranch
12 animals and no part of the organization's net earnings inures to the benefit
13 of any private shareholder or individual.

14 ~~33.~~ 32. Sales of seeds, seedlings, roots, bulbs, cuttings and other
15 propagative material to persons who use those items to commercially produce
16 agricultural, horticultural, viticultural or floricultural crops in this
17 state.

18 ~~34.~~ 33. Machinery, equipment, technology or related supplies that are
19 only useful to assist a person who is physically disabled as defined in
20 section 46-191, has a developmental disability as defined in section 36-551
21 or has a head injury as defined in section 41-3201 to be more independent and
22 functional.

23 ~~35.~~ 34. Sales of tangible personal property that is shipped or
24 delivered directly to a destination outside the United States for use in that
25 foreign country.

26 ~~36.~~ 35. Sales of natural gas or liquefied petroleum gas used to propel
27 a motor vehicle.

28 ~~37.~~ 36. Paper machine clothing, such as forming fabrics and dryer
29 felts, sold to a paper manufacturer and directly used or consumed in paper
30 manufacturing.

31 ~~38.~~ 37. Coal, petroleum, coke, natural gas, virgin fuel oil and
32 electricity sold to a qualified environmental technology manufacturer,
33 producer or processor as defined in section 41-1514.02 and directly used or
34 consumed in the generation or provision of on-site power or energy solely for
35 environmental technology manufacturing, producing or processing or
36 environmental protection. This paragraph shall apply for fifteen full
37 consecutive calendar or fiscal years from the date the first paper
38 manufacturing machine is placed in service. In the case of an environmental
39 technology manufacturer, producer or processor who does not manufacture
40 paper, the time period shall begin with the date the first manufacturing,
41 processing or production equipment is placed in service.

42 ~~39.~~ 38. Sales of liquid, solid or gaseous chemicals used in
43 manufacturing, processing, fabricating, mining, refining, metallurgical
44 operations, research and development and, beginning on January 1, 1999,
45 printing, if using or consuming the chemicals, alone or as part of an
46 integrated system of chemicals, involves direct contact with the materials

1 from which the product is produced for the purpose of causing or permitting a
2 chemical or physical change to occur in the materials as part of the
3 production process. This paragraph does not include chemicals that are used
4 or consumed in activities such as packaging, storage or transportation but
5 does not affect any deduction for such chemicals that is otherwise provided
6 by this section. For the purposes of this paragraph, "printing" means a
7 commercial printing operation and includes job printing, engraving,
8 embossing, copying and bookbinding.

9 ~~40-~~ 39. Through December 31, 1994, personal property liquidation
10 transactions, conducted by a personal property liquidator. From and after
11 December 31, 1994, personal property liquidation transactions shall be
12 taxable under this section provided that nothing in this subsection shall be
13 construed to authorize the taxation of casual activities or transactions
14 under this chapter. For the purposes of this paragraph:

15 (a) "Personal property liquidation transaction" means a sale of
16 personal property made by a personal property liquidator acting solely on
17 behalf of the owner of the personal property sold at the dwelling of the
18 owner or upon the death of any owner, on behalf of the surviving spouse, if
19 any, any devisee or heir or the personal representative of the estate of the
20 deceased, if one has been appointed.

21 (b) "Personal property liquidator" means a person who is retained to
22 conduct a sale in a personal property liquidation transaction.

23 ~~41-~~ 40. Sales of food, drink and condiment for consumption within the
24 premises of any prison, jail or other institution under the jurisdiction of
25 the state department of corrections, the department of public safety, the
26 department of juvenile corrections or a county sheriff.

27 ~~42-~~ 41. A motor vehicle and any repair and replacement parts and
28 tangible personal property becoming a part of such motor vehicle sold to a
29 motor carrier who is subject to a fee prescribed in title 28, chapter 16,
30 article 4 and who is engaged in the business of leasing or renting such
31 property.

32 ~~43-~~ 42. Livestock and poultry feed, salts, vitamins and other
33 additives for livestock or poultry consumption that are sold to persons who
34 are engaged in producing livestock, poultry, or livestock or poultry products
35 or who are engaged in feeding livestock or poultry commercially. For the
36 purposes of this paragraph, "poultry" includes ratites.

37 ~~44-~~ 43. Sales of implants used as growth promotants and injectable
38 medicines, not already exempt under paragraph ~~8-~~ 7 of this subsection, for
39 livestock or poultry owned by or in possession of persons who are engaged in
40 producing livestock, poultry, or livestock or poultry products or who are
41 engaged in feeding livestock or poultry commercially. For the purposes of
42 this paragraph, "poultry" includes ratites.

43 ~~45-~~ 44. Sales of motor vehicles at auction to nonresidents of this
44 state for use outside this state if the vehicles are shipped or delivered out
45 of this state, regardless of where title to the motor vehicles passes or its
46 free on board point.

~~46.~~ 45. Tangible personal property sold to a person engaged in business and subject to tax under the transient lodging classification if the tangible personal property is a personal hygiene item or articles used by human beings for food, drink or condiment, except alcoholic beverages, which are furnished without additional charge to and intended to be consumed by the transient during the transient's occupancy.

~~47.~~ 46. Sales of alternative fuel, as defined in section 1-215, to a used oil fuel burner who has received a permit to burn used oil or used oil fuel under section 49-426 or 49-480.

~~48.~~ 47. Sales of materials that are purchased by or for publicly funded libraries including school district libraries, charter school libraries, community college libraries, state university libraries or federal, state, county or municipal libraries for use by the public as follows:

(a) Printed or photographic materials, beginning August 7, 1985.

(b) Electronic or digital media materials, beginning July 17, 1994.

~~49.~~ 48. Tangible personal property sold to a commercial airline and consisting of food, beverages and condiments and accessories used for serving the food and beverages, if those items are to be provided without additional charge to passengers for consumption in flight. For the purposes of this paragraph, "commercial airline" means a person holding a federal certificate of public convenience and necessity or foreign air carrier permit for air transportation to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

~~50.~~ 49. Sales of alternative fuel vehicles if the vehicle was manufactured as a diesel fuel vehicle and converted to operate on alternative fuel and equipment that is installed in a conventional diesel fuel motor vehicle to convert the vehicle to operate on an alternative fuel, as defined in section 1-215.

~~51.~~ 50. Sales of any spirituous, vinous or malt liquor by a person that is licensed in this state as a wholesaler by the department of liquor licenses and control pursuant to title 4, chapter 2, article 1.

~~52.~~ 51. Sales of tangible personal property to be incorporated or installed as part of environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.

~~53.~~ 52. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(6) of the internal revenue code if the organization produces, organizes or promotes cultural or civic related festivals or events and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

~~54.~~ 53. Through August 31, 2014, sales of Arizona centennial medallions by the historical advisory commission.

~~55.~~ 54. Application services that are designed to assess or test student learning or to promote curriculum design or enhancement purchased by

or for any school district, charter school, community college or state university. For the purposes of this paragraph:

(a) "Application services" means software applications provided remotely using hypertext transfer protocol or another network protocol.

(b) "Curriculum design or enhancement" means planning, implementing or reporting on courses of study, lessons, assignments or other learning activities.

B. In addition to the deductions from the tax base prescribed by subsection A of this section, the gross proceeds of sales or gross income derived from sales of the following categories of tangible personal property shall be deducted from the tax base:

1. Machinery, or equipment, used directly in manufacturing, processing, fabricating, job printing, refining or metallurgical operations. The terms "manufacturing", "processing", "fabricating", "job printing", "refining" and "metallurgical" as used in this paragraph refer to and include those operations commonly understood within their ordinary meaning. "Metallurgical operations" includes leaching, milling, precipitating, smelting and refining.

2. Mining machinery, or equipment, used directly in the process of extracting ores or minerals from the earth for commercial purposes, including equipment required to prepare the materials for extraction and handling, loading or transporting such extracted material to the surface. "Mining" includes underground, surface and open pit operations for extracting ores and minerals.

3. Tangible personal property sold to persons engaged in business classified under the telecommunications classification and consisting of central office switching equipment, switchboards, private branch exchange equipment, microwave radio equipment and carrier equipment including optical fiber, coaxial cable and other transmission media which are components of carrier systems.

4. Machinery, equipment or transmission lines used directly in producing or transmitting electrical power, but not including distribution. Transformers and control equipment used at transmission substation sites constitute equipment used in producing or transmitting electrical power.

5. Neat animals, horses, asses, sheep, ratites, swine or goats used or to be used as breeding or production stock, including sales of breedings or ownership shares in such animals used for breeding or production.

6. Pipes or valves four inches in diameter or larger used to transport oil, natural gas, artificial gas, water or coal slurry, including compressor units, regulators, machinery and equipment, fittings, seals and any other part that is used in operating the pipes or valves.

7. Aircraft, navigational and communication instruments and other accessories and related equipment sold to:

(a) A person holding a federal certificate of public convenience and necessity, a supplemental air carrier certificate under federal aviation regulations (14 Code of Federal Regulations part 121) or a foreign air

1 carrier permit for air transportation for use as or in conjunction with or
2 becoming a part of aircraft to be used to transport persons, property or
3 United States mail in intrastate, interstate or foreign commerce.

4 (b) Any foreign government for use by such government outside of this
5 state.

6 (c) Persons who are not residents of this state and who will not use
7 such property in this state other than in removing such property from this
8 state. This subdivision also applies to corporations that are not
9 incorporated in this state, regardless of maintaining a place of business in
10 this state, if the principal corporate office is located outside this state
11 and the property will not be used in this state other than in removing the
12 property from this state.

13 8. Machinery, tools, equipment and related supplies used or consumed
14 directly in repairing, remodeling or maintaining aircraft, aircraft engines
15 or aircraft component parts by or on behalf of a certificated or licensed
16 carrier of persons or property.

17 9. Railroad rolling stock, rails, ties and signal control equipment
18 used directly to transport persons or property.

19 10. Machinery or equipment used directly to drill for oil or gas or
20 used directly in the process of extracting oil or gas from the earth for
21 commercial purposes.

22 11. Buses or other urban mass transit vehicles which are used directly
23 to transport persons or property for hire or pursuant to a governmentally
24 adopted and controlled urban mass transportation program and which are sold
25 to bus companies holding a federal certificate of convenience and necessity
26 or operated by any city, town or other governmental entity or by any person
27 contracting with such governmental entity as part of a governmentally adopted
28 and controlled program to provide urban mass transportation.

29 12. Groundwater measuring devices required under section 45-604.

30 13. New machinery and equipment consisting of tractors, tractor-drawn
31 implements, self-powered implements, machinery and equipment necessary for
32 extracting milk, and machinery and equipment necessary for cooling milk and
33 livestock, and drip irrigation lines not already exempt under paragraph 6 of
34 this subsection and that are used for commercial production of agricultural,
35 horticultural, viticultural and floricultural crops and products in this
36 state. For the purposes of this paragraph:

37 (a) "New machinery and equipment" means machinery and equipment which
38 have never been sold at retail except pursuant to leases or rentals which do
39 not total two years or more.

40 (b) "Self-powered implements" includes machinery and equipment that
41 are electric-powered.

42 14. Machinery or equipment used in research and development. For the
43 purposes of this paragraph, "research and development" means basic and
44 applied research in the sciences and engineering, and designing, developing
45 or testing prototypes, processes or new products, including research and
46 development of computer software that is embedded in or an integral part of

1 the prototype or new product or that is required for machinery or equipment
2 otherwise exempt under this section to function effectively. Research and
3 development do not include manufacturing quality control, routine consumer
4 product testing, market research, sales promotion, sales service, research in
5 social sciences or psychology, computer software research that is not
6 included in the definition of research and development, or other
7 nontechnological activities or technical services.

8 15. Machinery and equipment that are purchased by or on behalf of the
9 owners of a soundstage complex and primarily used for motion picture,
10 multimedia or interactive video production in the complex. This paragraph
11 applies only if the initial construction of the soundstage complex begins
12 after June 30, 1996 and before January 1, 2002 and the machinery and
13 equipment are purchased before the expiration of five years after the start
14 of initial construction. For the purposes of this paragraph:

15 (a) "Motion picture, multimedia or interactive video production"
16 includes products for theatrical and television release, educational
17 presentations, electronic retailing, documentaries, music videos, industrial
18 films, CD-ROM, video game production, commercial advertising and television
19 episode production and other genres that are introduced through developing
20 technology.

21 (b) "Soundstage complex" means a facility of multiple stages including
22 production offices, construction shops and related areas, prop and costume
23 shops, storage areas, parking for production vehicles and areas that are
24 leased to businesses that complement the production needs and orientation of
25 the overall facility.

26 16. Tangible personal property that is used by either of the following
27 to receive, store, convert, produce, generate, decode, encode, control or
28 transmit telecommunications information:

29 (a) Any direct broadcast satellite television or data transmission
30 service that operates pursuant to 47 Code of Federal Regulations part 25.

31 (b) Any satellite television or data transmission facility, if both of
32 the following conditions are met:

33 (i) Over two-thirds of the transmissions, measured in megabytes,
34 transmitted by the facility during the test period were transmitted to or on
35 behalf of one or more direct broadcast satellite television or data
36 transmission services that operate pursuant to 47 Code of Federal Regulations
37 part 25.

38 (ii) Over two-thirds of the transmissions, measured in megabytes,
39 transmitted by or on behalf of those direct broadcast television or data
40 transmission services during the test period were transmitted by the facility
41 to or on behalf of those services.

42 For the purposes of subdivision (b) of this paragraph, "test period" means
43 the three hundred sixty-five day period beginning on the later of the date on
44 which the tangible personal property is purchased or the date on which the
45 direct broadcast satellite television or data transmission service first
46 transmits information to its customers.

1 17. Clean rooms that are used for manufacturing, processing,
2 fabrication or research and development, as defined in paragraph 14 of this
3 subsection, of semiconductor products. For the purposes of this paragraph,
4 "clean room" means all property that comprises or creates an environment
5 where humidity, temperature, particulate matter and contamination are
6 precisely controlled within specified parameters, without regard to whether
7 the property is actually contained within that environment or whether any of
8 the property is affixed to or incorporated into real property. Clean room:

9 (a) Includes the integrated systems, fixtures, piping, movable
10 partitions, lighting and all property that is necessary or adapted to reduce
11 contamination or to control airflow, temperature, humidity, chemical purity
12 or other environmental conditions or manufacturing tolerances, as well as the
13 production machinery and equipment operating in conjunction with the clean
14 room environment.

15 (b) Does not include the building or other permanent, nonremovable
16 component of the building that houses the clean room environment.

17 18. Machinery and equipment used directly in the feeding of poultry,
18 the environmental control of housing for poultry, the movement of eggs within
19 a production and packaging facility or the sorting or cooling of eggs. This
20 exemption does not apply to vehicles used for transporting eggs.

21 19. Machinery or equipment, including related structural components,
22 that is employed in connection with manufacturing, processing, fabricating,
23 job printing, refining, mining, natural gas pipelines, metallurgical
24 operations, telecommunications, producing or transmitting electricity or
25 research and development and that is used directly to meet or exceed rules or
26 regulations adopted by the federal energy regulatory commission, the United
27 States environmental protection agency, the United States nuclear regulatory
28 commission, the Arizona department of environmental quality or a political
29 subdivision of this state to prevent, monitor, control or reduce land, water
30 or air pollution.

31 20. Machinery and equipment that are sold to a person engaged in the
32 commercial production of livestock, livestock products or agricultural,
33 horticultural, viticultural or floricultural crops or products in this state
34 and that are used directly and primarily to prevent, monitor, control or
35 reduce air, water or land pollution.

36 21. Machinery or equipment that enables a television station to
37 originate and broadcast or to receive and broadcast digital television
38 signals and that was purchased to facilitate compliance with the
39 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States
40 Code section 336) and the federal communications commission order issued
41 April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does
42 not exempt any of the following:

43 (a) Repair or replacement parts purchased for the machinery or
44 equipment described in this paragraph.

45 (b) Machinery or equipment purchased to replace machinery or equipment
46 for which an exemption was previously claimed and taken under this paragraph.

(c) Any machinery or equipment purchased after the television station has ceased analog broadcasting, or purchased after November 1, 2009, whichever occurs first.

22. Qualifying equipment that is purchased from and after June 30, 2004 through June 30, 2014 by a qualified business under section 41-1516 for harvesting or the initial processing of qualifying forest products removed from qualifying projects as defined in section 41-1516. To qualify for this deduction, the qualified business at the time of purchase must present its certification approved by the department.

23. Machinery, equipment and other tangible personal property used directly in motion picture production by a motion picture production company. To qualify for this deduction, at the time of purchase, the motion picture production company must present to the retailer its certificate that is issued pursuant to section 42-5009, subsection H and that establishes its qualification for the deduction.

C. The deductions provided by subsection B of this section do not include sales of:

1. Expendable materials. For the purposes of this paragraph, expendable materials do not include any of the categories of tangible personal property specified in subsection B of this section regardless of the cost or useful life of that property.

2. Janitorial equipment and hand tools.

3. Office equipment, furniture and supplies.

4. Tangible personal property used in selling or distributing activities, other than the telecommunications transmissions described in subsection B, paragraph 16 of this section.

5. Motor vehicles required to be licensed by this state, except buses or other urban mass transit vehicles specifically exempted pursuant to subsection B, paragraph 11 of this section, without regard to the use of such motor vehicles.

6. Shops, buildings, docks, depots and all other materials of whatever kind or character not specifically included as exempt.

7. Motors and pumps used in drip irrigation systems.

D. In addition to the deductions from the tax base prescribed by subsection A of this section, there shall be deducted from the tax base the gross proceeds of sales or gross income derived from sales of machinery, equipment, materials and other tangible personal property used directly and predominantly to construct a qualified environmental technology manufacturing, producing or processing facility as described in section 41-1514.02. This subsection applies for ten full consecutive calendar or fiscal years after the start of initial construction.

E. In computing the tax base, gross proceeds of sales or gross income from retail sales of heavy trucks and trailers does not include any amount attributable to federal excise taxes imposed by 26 United States Code section 4051.

F. In computing the tax base, gross proceeds of sales or gross income from the sale of use fuel, as defined in section 28-5601, does not include any amount attributable to federal excise taxes imposed by 26 United States Code section 4091.

G. If a person is engaged in an occupation or business to which subsection A of this section applies, the person's books shall be kept so as to show separately the gross proceeds of sales of tangible personal property and the gross income from sales of services, and if not so kept the tax shall be imposed on the total of the person's gross proceeds of sales of tangible personal property and gross income from services.

H. If a person is engaged in the business of selling tangible personal property at both wholesale and retail, the tax under this section applies only to the gross proceeds of the sales made other than at wholesale if the person's books are kept so as to show separately the gross proceeds of sales of each class, and if the books are not so kept, the tax under this section applies to the gross proceeds of every sale so made.

I. A person who engages in manufacturing, baling, crating, boxing, barreling, canning, bottling, sacking, preserving, processing or otherwise preparing for sale or commercial use any livestock, agricultural or horticultural product or any other product, article, substance or commodity and who sells the product of such business at retail in this state is deemed, as to such sales, to be engaged in business classified under the retail classification. This subsection does not apply to businesses classified under the:

1. Transporting classification.
2. Utilities classification.
3. Telecommunications classification.
4. Pipeline classification.
5. Private car line classification.
6. Publication classification.
7. Job printing classification.
8. Prime contracting classification.
9. Owner builder sales classification.
10. Restaurant classification.

J. The gross proceeds of sales or gross income derived from the following shall be deducted from the tax base for the retail classification:

1. Sales made directly to the United States government or its departments or agencies by a manufacturer, modifier, assembler or repairer.
2. Sales made directly to a manufacturer, modifier, assembler or repairer if such sales are of any ingredient or component part of products sold directly to the United States government or its departments or agencies by the manufacturer, modifier, assembler or repairer.
3. Overhead materials or other tangible personal property that is used in performing a contract between the United States government and a manufacturer, modifier, assembler or repairer, including property used in performing a subcontract with a government contractor who is a manufacturer,

modifier, assembler or repairer, to which title passes to the government under the terms of the contract or subcontract.

4. Sales of overhead materials or other tangible personal property to a manufacturer, modifier, assembler or repairer if the gross proceeds of sales or gross income derived from the property by the manufacturer, modifier, assembler or repairer will be exempt under paragraph 3 of this subsection.

K. There shall be deducted from the tax base fifty per cent of the gross proceeds or gross income from any sale of tangible personal property made directly to the United States government or its departments or agencies, which is not deducted under subsection J of this section.

L. The department shall require every person claiming a deduction provided by subsection J or K of this section to file on forms prescribed by the department at such times as the department directs a sworn statement disclosing the name of the purchaser and the exact amount of sales on which the exclusion or deduction is claimed.

M. In computing the tax base, gross proceeds of sales or gross income does not include:

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

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

N. There shall be deducted from the tax base the amount received from sales of solar energy devices. The retailer shall register with the department as a solar energy retailer. By registering, the retailer acknowledges that it will make its books and records relating to sales of solar energy devices available to the department for examination.

O. In computing the tax base in the case of the sale or transfer of wireless telecommunications equipment as an inducement to a customer to enter into or continue a contract for telecommunications services that are taxable under section 42-5064, gross proceeds of sales or gross income does not include any sales commissions or other compensation received by the retailer as a result of the customer entering into or continuing a contract for the telecommunications services.

P. For the purposes of this section, a sale of wireless telecommunications equipment to a person who holds the equipment for sale or transfer to a customer as an inducement to enter into or continue a contract for telecommunications services that are taxable under section 42-5064 is considered to be a sale for resale in the regular course of business.

Q. Retail sales of prepaid calling cards or prepaid authorization numbers for telecommunications services, including sales of reauthorization of a prepaid card or authorization number, are subject to tax under this section.

R. For the purposes of this section, the diversion of gas from a pipeline by a person engaged in the business of:

1 1. Operating a natural or artificial gas pipeline, for the sole
2 purpose of fueling compressor equipment to pressurize the pipeline, is not a
3 sale of the gas to the operator of the pipeline.

4 2. Converting natural gas into liquefied natural gas, for the sole
5 purpose of fueling compressor equipment used in the conversion process, is
6 not a sale of gas to the operator of the compressor equipment.

7 S. If a seller is entitled to a deduction pursuant to subsection B,
8 paragraph 16, subdivision (b) of this section, the department may require the
9 purchaser to establish that the requirements of subsection B, paragraph 16,
10 subdivision (b) of this section have been satisfied. If the purchaser cannot
11 establish that the requirements of subsection B, paragraph 16, subdivision
12 (b) of this section have been satisfied, the purchaser is liable in an amount
13 equal to any tax, penalty and interest which the seller would have been
14 required to pay under article 1 of this chapter if the seller had not made a
15 deduction pursuant to subsection B, paragraph 16, subdivision (b) of this
16 section. Payment of the amount under this subsection exempts the purchaser
17 from liability for any tax imposed under article 4 of this chapter and
18 related to the tangible personal property purchased. The amount shall be
19 treated as transaction privilege tax to the purchaser and as tax revenues
20 collected from the seller to designate the distribution base pursuant to
21 section 42-5029.

22 T. For the purposes of section 42-5032.01, the department shall
23 separately account for revenues collected under the retail classification
24 from businesses selling tangible personal property at retail:

25 1. On the premises of a multipurpose facility that is owned, leased or
26 operated by the tourism and sports authority pursuant to title 5, chapter 8.

27 2. At professional football contests that are held in a stadium
28 located on the campus of an institution under the jurisdiction of the Arizona
29 board of regents.

30 U. In computing the tax base for the sale of a motor vehicle to a
31 nonresident of this state, if the purchaser's state of residence allows a
32 corresponding use tax exemption to the tax imposed by article 1 of this
33 chapter and the rate of the tax in the purchaser's state of residence is
34 lower than the rate prescribed in article 1 of this chapter or if the
35 purchaser's state of residence does not impose an excise tax, and the
36 nonresident has secured a special ninety day nonresident registration permit
37 for the vehicle as prescribed by sections 28-2154 and 28-2154.01, there shall
38 be deducted from the tax base a portion of the gross proceeds or gross income
39 from the sale so that the amount of transaction privilege tax that is paid in
40 this state is equal to the excise tax that is imposed by the purchaser's
41 state of residence on the nonexempt sale or use of the motor vehicle.

42 V. For the purposes of this section:

43 1. "Aircraft" includes:

44 (a) An airplane flight simulator that is approved by the federal
45 aviation administration for use as a phase II or higher flight simulator
46 under appendix H, 14 Code of Federal Regulations part 121.

1 (b) Tangible personal property that is permanently affixed or attached
2 as a component part of an aircraft that is owned or operated by a
3 certificated or licensed carrier of persons or property.

4 2. "Other accessories and related equipment" includes aircraft
5 accessories and equipment such as ground service equipment that physically
6 contact aircraft at some point during the overall carrier operation.

7 3. "Selling at retail" means a sale for any purpose other than for
8 resale in the regular course of business in the form of tangible personal
9 property, but transfer of possession, lease and rental as used in the
10 definition of sale mean only such transactions as are found on investigation
11 to be in lieu of sales as defined without the words lease or rental.

12 W. For the purposes of subsection J of this section:

13 1. "Assembler" means a person who unites or combines products, wares
14 or articles of manufacture so as to produce a change in form or substance
15 without changing or altering the component parts.

16 2. "Manufacturer" means a person who is principally engaged in the
17 fabrication, production or manufacture of products, wares or articles for use
18 from raw or prepared materials, imparting to those materials new forms,
19 qualities, properties and combinations.

20 3. "Modifier" means a person who reworks, changes or adds to products,
21 wares or articles of manufacture.

22 4. "Overhead materials" means tangible personal property, the gross
23 proceeds of sales or gross income derived from which would otherwise be
24 included in the retail classification, and which are used or consumed in the
25 performance of a contract, the cost of which is charged to an overhead
26 expense account and allocated to various contracts based upon generally
27 accepted accounting principles and consistent with government contract
28 accounting standards.

29 5. "Repairer" means a person who restores or renews products, wares or
30 articles of manufacture.

31 6. "Subcontract" means an agreement between a contractor and any
32 person who is not an employee of the contractor for furnishing of supplies or
33 services that, in whole or in part, are necessary to the performance of one
34 or more government contracts, or under which any portion of the contractor's
35 obligation under one or more government contracts is performed, undertaken or
36 assumed and that includes provisions causing title to overhead materials or
37 other tangible personal property used in the performance of the subcontract
38 to pass to the government or that includes provisions incorporating such
39 title passing clauses in a government contract into the subcontract.

40 Sec. 7. Section 42-5071, Arizona Revised Statutes, is amended to read:

41 42-5071. Personal property rental classification

42 A. The personal property rental classification is comprised of the
43 business of leasing or renting tangible personal property for a
44 consideration. The tax does not apply to:

1 1. Leasing or renting films, tapes or slides used by theaters or
2 movies, which are engaged in business under the amusement classification, or
3 used by television stations or radio stations.

4 2. Activities engaged in by the Arizona exposition and state fair
5 board or county fair commissions in connection with events sponsored by such
6 entities.

7 3. Leasing or renting tangible personal property by a parent
8 corporation to a subsidiary corporation or by a subsidiary corporation to
9 another subsidiary of the same parent corporation if taxes were paid under
10 this chapter on the gross proceeds or gross income accruing from the initial
11 sale of the tangible personal property. For the purposes of this paragraph,
12 "subsidiary" means a corporation of which at least eighty per cent of the
13 voting shares are owned by the parent corporation.

14 4. Operating coin operated washing, drying and dry cleaning machines
15 or coin operated car washing machines at establishments for the use of such
16 machines.

17 5. Leasing or renting tangible personal property for incorporation
18 into or comprising any part of a qualified environmental technology facility
19 as described in section 41-1514.02. This paragraph shall apply for ten full
20 consecutive calendar or fiscal years following the initial lease or rental by
21 each qualified environmental technology manufacturer, producer or processor.

22 6. Leasing or renting aircraft, flight simulators or similar training
23 equipment to students or staff by nonprofit, accredited educational
24 institutions that offer associate or baccalaureate degrees in aviation or
25 aerospace related fields.

26 7. Leasing or renting photographs, transparencies or other creative
27 works used by this state on internet web sites, in magazines or in other
28 publications that encourage tourism.

29 B. The tax base for the personal property rental classification is the
30 gross proceeds of sales or gross income derived from the business, but the
31 gross proceeds of sales or gross income derived from the following shall be
32 deducted from the tax base:

33 1. Reimbursements by the lessee to the lessor of a motor vehicle for
34 payments by the lessor of the applicable fees and taxes imposed by sections
35 28-2003, 28-2352, 28-2402, 28-2481 and 28-5801, title 28, chapter 15,
36 article 2 and article IX, section 11, Constitution of Arizona, to the extent
37 such amounts are separately identified as such fees and taxes and are billed
38 to the lessee.

39 2. Leases or rentals of tangible personal property which, if it had
40 been purchased instead of leased or rented by the lessee, would have been
41 exempt under:

42 (a) Section 42-5061, subsection A, paragraph ~~8, 9, 12, 13, 25, 29, 50~~
43 ~~or 55~~ 7, 8, 11, 12, 24, 28, 49 OR 54.

44 (b) Section 42-5061, subsection B, except that a lease or rental of
45 new machinery or equipment is not exempt pursuant to:

1 (i) Section 42-5061, subsection B, paragraph 13 if the lease is for
2 less than two years.

3 (ii) Section 42-5061, subsection B, paragraph 22 if the lease is for
4 less than five years.

5 (c) Section 42-5061, subsection J, paragraph 1.

6 (d) Section 42-5061, subsection N.

7 3. Motor vehicle fuel and use fuel that are subject to a tax imposed
8 under title 28, chapter 16, article 1, sales of use fuel to a holder of a
9 valid single trip use fuel tax permit issued under section 28-5739 and sales
10 of aviation fuel that are subject to the tax imposed under section 28-8344.

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

13 5. Amounts received by a motor vehicle dealer for the first month of a
14 lease payment if the lease and the lease payment for the first month of the
15 lease are transferred to a third party leasing company.

16 C. Sales of tangible personal property to be leased or rented to a
17 person engaged in a business classified under the personal property rental
18 classification are deemed to be resale sales.

19 D. In computing the tax base, the gross proceeds of sales or gross
20 income from the lease or rental of a motor vehicle does not include any
21 amount attributable to the car rental surcharge under section 28-5810 or
22 48-4234.

23 E. Until December 31, 1988, leasing or renting animals for
24 recreational purposes is exempt from the tax imposed by this section.
25 Beginning January 1, 1989, the gross proceeds or gross income from leasing or
26 renting animals for recreational purposes is subject to taxation under this
27 section. Tax liabilities, penalties and interest paid for taxable periods
28 before January 1, 1989 shall not be refunded unless the taxpayer requesting
29 the refund provides proof satisfactory to the department that the monies paid
30 as taxes will be returned to the customer.

31 Sec. 8. Section 42-5072, Arizona Revised Statutes, is amended to read:

32 42-5072. Mining classification: definition

33 A. The mining classification is comprised of the business of mining,
34 quarrying or producing for sale, profit or commercial use any
35 nonmetalliferous mineral product.

36 B. The tax base for the mining classification is the gross proceeds of
37 sales or gross income derived from the business. The gross proceeds of sales
38 or gross income derived from sales described under section 42-5061,
39 subsection A, paragraph ~~27~~ 26 and subsection J, paragraph 2 shall be deducted
40 from the tax base.

41 C. The tax base includes the value of the entire product mined,
42 quarried or produced for sale, profit or commercial use in this state,
43 regardless of the place of sale of the product or of the fact that deliveries
44 may be made to points without this state. If, however, the sale price of the
45 product includes freight, the sale price shall be reduced by the actual

1 freight paid by any person from the place of production to the place of
2 delivery.

3 D. In the case of a person engaged in business classified under the
4 mining classification all or part of whose income is derived from service or
5 manufacturing charges instead of from sales of the products manufactured or
6 handled, the tax base includes the gross income of the person derived from
7 the service or manufacturing charge.

8 E. If a person engaging in business classified under the mining
9 classification ships or transports all or part of a product out of this state
10 without making sale of the product or ships his product outside of this state
11 in an unfinished condition, the value of the product or article in the
12 condition or form in which it existed when transported out of this state and
13 before it enters interstate commerce is included in the tax base, and the
14 department shall prescribe equitable and uniform rules for ascertaining that
15 value. In determining the tax base, if the product or any part of the
16 product has been processed in this state and the proceeds of such processing
17 have been included in the tax base of the processor under this chapter, the
18 person may deduct from the value of the product when transported out of this
19 state the cost of such processing.

20 F. A person who conducts a business classified under the mining
21 classification may be deemed also to be engaged in business classified under
22 the retail classification to the extent the person's activities comprise
23 business under the retail classification if the tax is paid at the rate
24 imposed on the retail classification by section 42-5010. If the transaction
25 is not subject to taxation under the retail classification, the transaction
26 shall be included in the tax base under this section.

27 G. For THE purposes of this section "nonmetalliferous mineral product"
28 means oil, natural gas, limestone, sand, gravel or any other nonmetalliferous
29 mineral product, compound or combination of nonmetalliferous mineral
30 products.

31 Sec. 9. Section 42-5075, Arizona Revised Statutes, is amended to read:

32 42-5075. Prime contracting classification; exemptions;
33 definitions

34 A. The prime contracting classification is comprised of the business
35 of prime contracting and dealership of manufactured buildings. Sales for
36 resale to another dealership of manufactured buildings are not subject to
37 tax. Sales for resale do not include sales to a lessor of manufactured
38 buildings. The sale of a used manufactured building is not taxable under
39 this chapter. The proceeds from alteration and repairs to a used
40 manufactured building are taxable under this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) To be incorporated into real property.

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

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

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

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

~~(b) All state and local transaction privilege tax returns for the period of time during which the prime contractor received gross proceeds of~~

~~sales or gross income from a contract to construct a lake facility development in a designated commercial enhancement reuse district, showing the amount exempted from state and local taxation.~~

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

~~9.~~ 8. The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from transaction privilege and use tax under:

(a) Section 42-5061, subsection A, paragraph ~~25~~ 24 or ~~29~~ 28.

(b) Section 42-5061, subsection B.

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

(d) Section 42-5159, subsection B.

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

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

~~12.~~ 11. The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of clean rooms that are deducted from the tax base of the retail classification pursuant to section 42-5061, subsection B, paragraph 17.

~~13.~~ 12. For taxable periods beginning from and after June 30, 2001, the gross proceeds of sales or gross income derived from a contract entered into for the construction of a residential apartment housing facility that qualifies for a federal housing subsidy for low income persons over sixty-two years of age and that is owned by a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code.

~~14.~~ 13. For taxable periods beginning from and after December 31, 1996 and ending before January 1, 2011, the gross proceeds of sales or gross income derived from a contract to provide and install a solar energy device. The contractor shall register with the department as a solar energy contractor. By registering, the contractor acknowledges that it will make its books and records relating to sales of solar energy devices available to the department for examination.

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

~~16-~~ 15. The gross proceeds of sales or gross income derived from a contract entered into for the construction of a domestic violence shelter that is owned and operated by a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code.

~~17-~~ 16. The gross proceeds of sales or gross income derived from contracts to perform postconstruction treatment of real property for termite and general pest control, including wood destroying organisms.

~~18-~~ 17. The gross proceeds of sales or gross income received from contracts entered into before July 1, 2006 for constructing a state university research infrastructure project if the project has been reviewed by the joint committee on capital review before the university enters into the construction contract for the project. For the purposes of this paragraph, "research infrastructure" has the same meaning prescribed in section 15-1670.

~~19-~~ 18. The gross proceeds of sales or gross income received from a contract for the construction of any building, or other structure, project, development or improvement owned by a qualified business under section 41-1516 for harvesting or the initial processing of qualifying forest products removed from qualifying projects as defined in section 41-1516 if actual construction begins before January 1, 2010. To qualify for this deduction, the prime contractor must obtain a letter of qualification from the department of commerce before beginning work under the contract.

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

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

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

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

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

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

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

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

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

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

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

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

D. Subcontractors or others who perform services in respect to any improvement, building, highway, road, railroad, excavation, manufactured building or other structure, project, development or improvement are not subject to tax if they can demonstrate that the job was within the control of a prime contractor or contractors or a dealership of manufactured buildings and that the prime contractor or dealership is liable for the tax on the

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

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

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

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

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

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

44 J. The portion of gross proceeds of sales or gross income attributable
45 to the actual direct costs of providing architectural or engineering services
46 that are incorporated in a contract is not subject to tax under this section.

For the purposes of this subsection, "direct costs" means the portion of the actual costs that are directly expended in providing architectural or engineering services.

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

L. The following apply to manufactured buildings:

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

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

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

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

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

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

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

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

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

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.

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

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

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

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

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

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

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

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

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

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

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

(vi) Any bond and insurance premiums.

(vii) Any applicable taxes.

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

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

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

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

N. Notwithstanding subsection 0, paragraph 8 of this section, a person owning real property who enters into a contract for sale of the real property, who is responsible to the new owner of the property for modifications made to the property in the period subsequent to the transfer of title and who receives a consideration for the modifications is considered a prime contractor solely for purposes of taxing the gross proceeds of sale or gross income received for the modifications made subsequent to the

transfer of title. The original owner's gross proceeds of sale or gross income received for the modifications shall be determined according to the following methodology:

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

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

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

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

0. For the purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

Sec. 10. Title 42, chapter 5, article 2, Arizona Revised Statutes, is amended by adding section 42-5077, to read:

42-5077. Services classification

A. THE SERVICES CLASSIFICATION INCLUDES THE FOLLOWING BUSINESSES, NOT OTHERWISE CLASSIFIED FOR TAXATION UNDER THIS ARTICLE:

1. PERSONAL CARE SERVICES, INCLUDING BEAUTY AND NAIL SALONS, BARBER AND PET GROOMING SHOPS.

2. EDUCATION, INCLUDING PROPRIETARY TECHNICAL AND TRADE SCHOOLS, DANCE SCHOOLS AND STUDIOS AND EXAMINATION PREPARATION SEMINARS AND CLASSES.

3. AUTOMOTIVE SERVICES, INCLUDING LUBRICATION AND REPAIR, PAINTING, TIRE REPAIR, WASHING, DETAILING AND UPHOLSTERY REPAIR.

4. HOUSEHOLD MAINTENANCE, INCLUDING ROOFING, PAINTING, CLEANING AND MAID SERVICE, CARPET AND UPHOLSTERY CARE, PEST CONTROL, FUMIGATION, JANITORIAL SERVICES, POOL AND SPA CLEANING, CONDITIONING AND MAINTENANCE SERVICES, WINDOW CLEANING, HOUSEHOLD ELECTRICAL AND PLUMBING AND WATER SOFTENING AND CONDITIONING SERVICES.

B. THE TAX BASE FOR THE SERVICES CLASSIFICATION IS THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM THE BUSINESS.

Sec. 11. Repeal

Section ~~42-5156~~, Arizona Revised Statutes, is repealed.

1 Sec. 12. Section 42-6104, Arizona Revised Statutes, is amended to
2 read:

3 42-6104. County transportation excise tax for roads: counties
4 with population of one million two hundred thousand
5 or more persons

6 A. If a majority of the qualified electors voting at a countywide
7 special election approves the transportation excise tax, a county with a
8 population of one million two hundred thousand or more persons shall levy and
9 the department shall collect a tax:

10 1. At a rate of not more than ten per cent of the transaction
11 privilege tax rate prescribed by section 42-5010, subsection A applying, as
12 of January 1, 1990:

13 (a) To each person engaging or continuing in the county in a business
14 taxed under chapter 5, article 1 of this title.

15 (b) Except that for the purposes of this paragraph with respect to the
16 prime contracting classification under section 42-5075, the gross proceeds of
17 sales or gross income that is deductible pursuant to section 42-5075,
18 subsection B, paragraph 8 or pursuant to section 42-5061, subsection A,
19 paragraph ~~27~~ 26 for sales to a contractor who is exempt under section
20 42-5075, subsection B, paragraph 8 shall be included in the tax base for
21 purposes of this paragraph.

22 2. In the case of persons subject to the tax imposed under section
23 42-5352, subsection A, at a rate of not more than .305 cents per gallon of
24 jet fuel sold.

25 3. On the use or consumption of electricity or natural gas by retail
26 electric or natural gas customers in the county who are subject to use tax
27 under section 42-5155, at a rate equal to the transaction privilege tax rate
28 under paragraph 1 ~~of this subsection~~ applying to persons engaging or
29 continuing in the county in the utilities transaction privilege tax
30 classification. If a majority of the qualified electors in the county
31 approved the transportation excise tax under this section before 1998, a tax
32 under this paragraph may be approved by resolution adopted by a majority of
33 the board of supervisors.

34 B. The net revenues collected under this section shall be deposited in
35 the regional area road fund pursuant to title 28, chapter 17, article 1.

36 C. The tax levied under this section may be in effect for a term of
37 not more than twenty years.

38 Sec. 13. Section 42-6105, Arizona Revised Statutes, is amended to
39 read:

40 42-6105. County transportation excise tax; counties with
41 population of one million two hundred thousand or
42 more persons

43 A. If approved by the qualified electors voting at a countywide
44 election, a county with a population of one million two hundred thousand or
45 more persons shall levy and the department shall collect a tax as provided by
46 this section, in addition to all other taxes.

1 B. The tax shall be levied and collected:

2 1. At a rate of not more than ten per cent of the transaction
3 privilege tax rate prescribed by section 42-5010, subsection A applying, as
4 of January 1, 1990:

5 (a) To each person engaging or continuing in the county in a business
6 taxed under chapter 5, article 1 of this title.

7 (b) Except that for the purposes of this paragraph with respect to the
8 prime contracting classification under section 42-5075, the gross proceeds of
9 sales or gross income that is deductible pursuant to section 42-5075,
10 subsection B, paragraph 8 or pursuant to section 42-5061, subsection A,
11 paragraph ~~27~~ 26 for sales to a contractor who is exempt under section
12 42-5075, subsection B, paragraph 8 shall be included in the tax base for
13 purposes of this paragraph.

14 2. In the case of persons subject to the tax imposed under section
15 42-5352, subsection A, at a rate of not more than .305 cents per gallon of
16 jet fuel sold.

17 3. On the use or consumption of electricity or natural gas by retail
18 electric or natural gas customers in the county who are subject to use tax
19 under section 42-5155, at a rate equal to the transaction privilege tax rate
20 under paragraph 1 of this subsection applying to persons engaging or
21 continuing in the county in the utilities transaction privilege tax
22 classification.

23 C. A tax under this section may not be levied at the same time as a
24 tax in the county under section 42-6104. A tax levy under this section shall
25 not begin until the expiration of the tax under section 42-6104.

26 D. The tax levied under this section shall be in effect for a term of
27 twenty years.

28 E. The net revenues collected under this section shall be distributed
29 and deposited as follows for use consistent with the regional transportation
30 plan adopted under title 28, chapter 17, article 1:

31 1. 56.2 per cent to the regional area road fund pursuant to section
32 28-6303 for freeways and other routes in the state highway system, including
33 capital expense and maintenance.

34 2. 10.5 per cent to the regional area road fund pursuant to section
35 28-6303 for major arterial streets and intersection improvements, including
36 capital expense and implementation studies.

37 3. 33.3 per cent to the public transportation fund pursuant to section
38 48-5103 for:

39 (a) Capital costs, maintenance and operation of public transportation
40 classifications.

41 (b) Capital costs and utility relocation costs associated with a light
42 rail public transit system.

1 Sec. 14. Section 42-6106, Arizona Revised Statutes, is amended to
2 read:

3 42-6106. County transportation excise tax; county population
4 requirements

5 A. In a county with a population exceeding two hundred thousand but
6 fewer than one million two hundred thousand persons, if approved by the
7 qualified electors voting at a countywide election, the regional
8 transportation authority in the county shall levy and the department shall
9 collect a transportation excise tax up to the rate authorized by this section
10 in addition to all other taxes. A county with a population of four hundred
11 thousand or fewer persons but more than two hundred thousand persons shall
12 not levy a tax under both this section and section 42-6107.

13 B. The tax shall be levied and collected:

14 1. At a rate of not more than ten per cent of the transaction
15 privilege tax rate prescribed by section 42-5010, subsection A in effect on
16 January 1, 1990:

17 (a) To each person engaging or continuing in the county in a business
18 taxed under chapter 5, article 1 of this title.

19 (b) Except that for the purposes of this paragraph with respect to the
20 prime contracting classification under section 42-5075, the gross proceeds of
21 sales or gross income that is deductible pursuant to section 42-5075,
22 subsection B, paragraph 8 or pursuant to section 42-5061, subsection A,
23 paragraph ~~27~~ 26 for sales to a contractor who is exempt under section
24 42-5075, subsection B, paragraph 8 shall be included in the tax base for
25 purposes of this paragraph.

26 2. In the case of persons subject to the tax imposed under section
27 42-5352, subsection A, at a rate of not more than .305 cents per gallon of
28 jet fuel sold.

29 3. On the use or consumption of electricity or natural gas by retail
30 electric or natural gas customers in the county who are subject to use tax
31 under section 42-5155, at a rate equal to the transaction privilege tax rate
32 under paragraph 1 applying to persons engaging or continuing in the county in
33 the utilities transaction privilege tax classification.

34 C. Any subsequent reduction in the transaction privilege tax rate
35 prescribed by chapter 5, article 1 of this title shall not reduce the tax
36 which is approved and collected as prescribed in this section. The
37 department shall collect the tax at a variable rate if the variable rate is
38 specified in the ballot proposition. The department shall collect the tax at
39 a modified rate if approved by a majority of the qualified electors voting.

40 D. The net revenues collected under this section:

41 1. In counties with a population exceeding four hundred thousand but
42 fewer than one million two hundred thousand persons shall be deposited in the
43 regional transportation fund ~~pursuant to~~ ESTABLISHED BY section 48-5307.

44 2. In counties with a population of four hundred thousand or fewer
45 persons but more than two hundred thousand persons, shall be deposited in the
46 public transportation authority fund pursuant to section 28-9142 or the

1 regional transportation fund ~~pursuant to~~ ESTABLISHED BY section 48-5307 or
2 shall be allocated between both funds.

3 E. The tax shall be levied under this section beginning January 1 or
4 July 1, whichever date occurs first after approval by the voters, and may be
5 in effect for a period of not more than twenty years.

6 Sec. 15. Requirements for enactment: two-thirds vote

7 Pursuant to article IX, section 22, Constitution of Arizona, this act
8 is effective only on the affirmative vote of at least two-thirds of the
9 members of each house of the legislature and is effective immediately on the
10 signature of the governor or, if the governor vetoes this act, on the
11 subsequent affirmative vote of at least three-fourths of the members of each
12 house of the legislature.