

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2515

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 41-1516, Arizona Revised Statutes, is amended to  
3 read:

4 41-1516. Healthy forest enterprise incentives; definitions

5 A. The department of commerce shall:

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

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

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

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

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

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

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

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

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

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

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

38 (d) If the business is engaged in transporting qualifying forest  
39 products, it must submit a letter from the state forester or United States  
40 forest service, or official records or documents produced in connection with  
41 the project, stating that all of the qualifying forest products it transports  
42 are harvested from areas in this state. In addition, the business must

1 submit evidence to the department of commerce that at least seventy-five per  
2 cent of the mileage traveled by its units each year are for transporting  
3 qualifying forest products from or to qualifying projects described in  
4 subdivision (b) or (c) of this paragraph, unless a lower mileage is due to  
5 forest closures or weather conditions that are beyond the control of the  
6 business.

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

8 3. Must agree to:

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

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

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

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

17 (b) A commitment to continue in business and use the qualifying  
18 equipment primarily on qualifying projects in this state as described in  
19 paragraph 1 of this subsection, other than for reasons beyond the control of  
20 the business. The department of commerce shall consult with the department  
21 of revenue in designing the memorandum of understanding to incorporate the  
22 legal qualifications for the available tax incentives and shall include the  
23 requirement that any qualifying equipment that is purchased or leased free of  
24 transaction privilege or use tax must continue to be used in this state for  
25 the term of the memorandum of understanding or the duration of its  
26 operational life, whichever is shorter.

27 (c) Provisions considered necessary by the department of commerce to  
28 ensure the competency and responsibility of businesses that qualify under  
29 this section, including registration or other accreditation with trade and  
30 professional organizations and compliance with best management and  
31 operational practices used by governmental agencies in awarding forestry  
32 contracts.

33 (d) The authorization for the department of commerce to terminate,  
34 adjust or recapture all or part of the tax benefits provided to the business  
35 on noncompliance with the law, noncompliance with the terms of the memorandum  
36 or violation of the terms of any contracts with the federal or state  
37 government relating to the qualifying project. The department of commerce  
38 shall notify the department of revenue of the conditions of noncompliance.  
39 The department of revenue may also terminate the certification if it obtains  
40 information indicating a failure to qualify and comply. The department of  
41 revenue may require the business to file appropriate amended tax returns or  
42 to file appropriate use tax returns reflecting the recapture of the direct or  
43 indirect tax benefits.

44 5. Must submit a copy of the certification to the department of  
45 revenue for approval before using the certification for purposes of any tax  
46 incentive. The department of revenue shall review and approve the  
47 certification in a timely manner if the business is in good standing with the  
48 department and is not delinquent in the payment of any tax collected by the

1 department. A failure to approve or deny the certification within sixty days  
2 after the date the business submits it to the department constitutes approval  
3 of the certification.

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

9 ~~D.~~ C. To obtain and maintain certification under this section, a  
10 business must:

11 1. Apply to the department of commerce.

12 2. Submit and retain copies of all required information, including  
13 information relating to the actual or projected number of employees in this  
14 state.

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

17 ~~E.~~ D. Certification under this section is valid for twelve calendar  
18 months from the date of issuance. A business must apply for recertification  
19 at least thirty days before the current certification expires. The  
20 application for recertification shall be in a form prescribed by the  
21 department of commerce and shall confirm that the business is continuing in a  
22 qualifying project and is in compliance with all requirements prescribed for  
23 certification.

24 ~~F.~~ E. Within sixty days after receiving a complete and correct  
25 application and all required information as prescribed by this section, the  
26 department of commerce shall grant or deny certification and give written  
27 notice by certified mail to the applicant. The applicant is certified as a  
28 qualified business on the date the notice of certification is delivered to  
29 the applicant. A failure to respond within sixty days after receiving a  
30 complete and correct application constitutes approval of the application.

31 ~~G.~~ F. The certification shall state an effective date with respect to  
32 each authorized tax incentive which, in each case, must be at the start of a  
33 taxable year or taxable period.

34 ~~H.~~ G. On or before March 1 of each year, each qualifying business  
35 shall make a report to the department of commerce on all business activity in  
36 the preceding calendar year. Business information contained in the reports  
37 is confidential and shall not be disclosed to the public except as provided  
38 by this section and except that a copy of the report shall be transmitted to  
39 the department of revenue. The report shall be in a form prescribed by the  
40 department of commerce and include:

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

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

46 ~~I.~~ H. For purposes of administering and ensuring compliance with this  
47 section, agents of the department of commerce may enter, and a qualified

1 business shall allow access to, a qualifying project site at reasonable times  
2 and on reasonable notice to:

- 3 1. Inspect the facilities at the site.
- 4 2. Obtain factual data and records pertinent to and required by law to  
5 be kept for purposes of tax incentives.
- 6 3. Otherwise ascertain compliance with law and the terms of the  
7 memorandum of understanding.

8 ~~I.~~ I. The department of commerce shall revoke the business'  
9 certification and notify the department of revenue and county assessor if  
10 either:

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

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

16 ~~J.~~ J. For the purposes of this section:

17 1. "Forest health" means the degree to which the integrity of the  
18 forest is sustained, including reducing the risk of catastrophic wildfire and  
19 destructive insect infestation, benefiting wildland habitats, watersheds and  
20 communities.

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

24 3. "Initial processing" means:

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

30 (b) Burning qualifying forest products in the process of commercial  
31 electrical generation or commercial thermal energy production for heating or  
32 cooling, regardless of the physical structure of the forest product before  
33 burning.

34 4. "Qualifying equipment" means equipment used directly in the  
35 harvesting or initial processing of qualifying forest products removed from a  
36 qualifying project. Qualifying equipment does not include self-propelled  
37 vehicles required to be licensed by this state, but may include other  
38 licensed vehicles as provided by this paragraph. Qualifying equipment  
39 includes:

40 (a) Forest thinning and residue removal equipment, including mulching  
41 and masticating equipment, feller-bunchers, skidders, log loaders, portable  
42 chippers and grinders, slash bundlers, delimiters, log trailers, chip trailers  
43 and other trailers that are uniquely designed for handling forest products  
44 and that are licensed for operation on public highways.

45 (b) Forest residue receiving and handling equipment, including truck  
46 dumpers, log unloaders, scales, log decking facilities and equipment and chip  
47 pile facilities.

1 (c) Sorting and processing equipment, including portable and  
2 stationary log loaders, front end loaders, fork lifts and cranes, chippers  
3 and grinders, screens, decks and debarkers, saws and sawmill equipment,  
4 firewood processing, wood residue baling and bagging equipment, kilns,  
5 planing and molding equipment and laminating and joining equipment.

6 (d) Forest waste and residue disposal and processing equipment,  
7 including:

8 (i) Processing and sizing equipment, hogs, chippers, screens,  
9 pelletizers and wood splitters.

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

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

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

16 (v) Generated waste disposal equipment, including ash silos and  
17 wastewater treatment and disposal equipment.

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

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

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

27 Sec. 2. Section 41-1532, Arizona Revised Statutes, is amended to read:

28 41-1532. Tax incentives; conditions

29 ~~A. A prime contractor may qualify for an exemption from transaction~~  
30 ~~privilege tax with respect to activities in a military reuse zone as~~  
31 ~~provided, and subject to the terms and conditions prescribed, by section~~  
32 ~~42-5075, subsection B, paragraph 4.~~

33 ~~B.~~ A. A taxpayer that owns or leases income producing property  
34 located in a military reuse zone is eligible for an income tax credit for net  
35 increases in employment of full-time employees who are primarily engaged in  
36 providing aviation or aerospace services or in manufacturing, assembling or  
37 fabricating aviation or aerospace products as provided, and subject to the  
38 terms and conditions prescribed, by section 43-1079 or 43-1167, as  
39 applicable. To qualify for a tax incentive under this subsection the  
40 taxpayer shall:

41 1. Agree with the department of commerce in writing to furnish  
42 information relating to the amount of tax benefits the taxpayer receives for  
43 each taxable year in which the taxpayer claims the credit. If the taxpayer  
44 fails to provide the required information, the department of commerce shall  
45 immediately revoke the taxpayer's qualification and notify the department of  
46 revenue.

1           2. Enter into a memorandum of understanding with this state through  
2 the department of commerce containing employment goals. Each year in which  
3 the taxpayer claims the credit the taxpayer shall report in writing to the  
4 department of commerce its performance in achieving the goals. The  
5 memorandum shall contain provisions that allow:

6           (a) The department of commerce to stop, readjust or recapture all or  
7 part of the tax credit allowed to the taxpayer on noncompliance with the  
8 terms of the memorandum.

9           (b) The department of commerce to notify the department of revenue of  
10 the conditions of noncompliance.

11           (c) The department of revenue to require the taxpayer to file  
12 appropriate amended tax returns reflecting the recapture of the tax credit.

13           ~~E.~~ B. Taxable property in a military reuse zone that is devoted to  
14 providing aviation or aerospace services or to manufacturing, assembling or  
15 fabricating aviation or aerospace products qualifies for assessment as class  
16 six property as provided, and subject to the terms and conditions prescribed,  
17 by sections 42-12006 and 42-15006.

18           ~~D.~~ C. To qualify for a tax incentive described in subsection ~~A or C~~ B  
19 of this section, the taxpayer shall provide to the department of commerce  
20 information relating to the amount of tax benefits the taxpayer receives each  
21 year for each year in which the taxpayer claims the incentives on forms  
22 prescribed by the department of commerce. If the taxpayer fails to provide  
23 the required information, the department of commerce shall immediately revoke  
24 the taxpayer's certification of eligibility and notify the department of  
25 revenue.

26           ~~E.~~ D. Taxpayers who qualify for tax incentives under subsection A OR  
27 B ~~or C~~ of this section shall be certified by the department of commerce as  
28 eligible for a five year period, subject to termination in the event of  
29 changed circumstances rendering the taxpayer no longer eligible.

30           ~~F.~~ E. Notwithstanding subsection ~~C~~ B of this section, an insurer  
31 located in a military reuse zone is eligible for a premium tax credit under  
32 section 20-224.04 for net increases in employment positions of residents of  
33 this state. To qualify for a premium tax credit the insurer shall:

34           1. Agree with the department of commerce in writing to furnish  
35 information relating to the amount of premium tax credits the insurer  
36 receives each year. If the insurer fails to provide the required  
37 information, the department of commerce shall immediately revoke the  
38 insurer's qualification and notify the department of insurance.

39           2. Enter into a memorandum of understanding with this state through  
40 the department of commerce containing employment goals. Each year the  
41 insurer shall report in writing to the department of commerce its performance  
42 in achieving the goals. The memorandum shall contain provisions that allow:

43           (a) The department of commerce to stop, readjust or recapture all or  
44 part of the premium tax credits provided to the insurer on noncompliance with  
45 the terms of the memorandum.

46           (b) The department of commerce to notify the department of insurance  
47 of the conditions of noncompliance.

1           Sec. 3. Section 42-1103, Arizona Revised Statutes, is amended to read:  
2           42-1103. Enjoining delinquent taxpayer from engaging or  
3           continuing in business

4           A. In order to ensure or to compel payment of taxes and to aid in  
5 enforcing this article, the director may apply to the tax court to enjoin any  
6 delinquent taxpayer or person who may be or may become liable for payment of  
7 any tax from engaging or continuing in business until the person ceases to be  
8 a delinquent taxpayer or complies with other requirements ~~which~~ THAT are  
9 reasonably necessary to protect the revenues of this state and ~~which~~ THAT are  
10 prescribed by the director.

11           B. On application for an injunction against a delinquent taxpayer, the  
12 court may forthwith issue an order temporarily restraining the taxpayer from  
13 doing business. The court shall hear the matter within three days and, on a  
14 showing by a preponderance of evidence that the taxpayer is delinquent and  
15 has been given notice of the hearing as required by law, the court may enjoin  
16 the taxpayer from engaging or continuing in business in this state until the  
17 taxpayer ceases to be delinquent. On issuing an injunction, the court may  
18 also order the sheriff to seal the taxpayer's business premises and may allow  
19 the taxpayer access to the premises only on the approval of the court.

20           C. On application for an injunction against a person other than a  
21 delinquent taxpayer, the court may issue an order temporarily restraining the  
22 person from engaging or continuing in business. The court shall hear the  
23 matter within three days and on a showing that the person has been given  
24 notice of the hearing as required by law, that demand has been made on the  
25 taxpayer to furnish security, that the taxpayer has not furnished security  
26 and that the director considers the collection from the primarily responsible  
27 person of the total amount of tax due or reasonably expected to become due to  
28 be in jeopardy, the court may forthwith enjoin the person from engaging or  
29 continuing in business until the person complies in full with the demand of  
30 the director for furnishing security.

31           D. The court shall not issue a temporary restraining order or  
32 injunction under this section against any person who has furnished security  
33 pursuant to section 42-1102, ~~OR~~ 42-5006 ~~or 42-5007~~. On a showing to the  
34 court by any person against whom a temporary restraining order or injunction  
35 has issued under this section that the person has furnished such security,  
36 the court shall dissolve or set aside the temporary restraining order or  
37 injunction.

38           Sec. 4. Section 42-5006, Arizona Revised Statutes, is amended to read:  
39           42-5006. Taxpayer bonds; out of state contractors and  
40           manufactured building dealers

41           A. Notwithstanding section 42-1102, the department shall require a  
42 surety bond for each taxpayer ~~who is required to be licensed under title 32,~~  
43 ~~chapter 10 or~~ who is regulated under title 41, chapter 16, article 2, if the  
44 taxpayer's principal place of business is outside this state or if the  
45 taxpayer has conducted business in this state for less than one year. The  
46 department shall prescribe the form of the bond. The bond shall be maintained  
47 for a period of at least two years.

1           B. The bond, duly executed by the applicant as principal and with a  
2 corporation duly authorized to execute and write bonds in this state as  
3 surety, shall be payable to this state and conditioned on the payment of all  
4 transaction privilege taxes incurred and imposed on the taxpayer by this  
5 state and its political subdivisions. The bond shall be in such amount, but  
6 not less than two thousand dollars, as will assure the payment of the  
7 transaction privilege taxes which may reasonably be expected to be incurred  
8 by the licensed establishment for a period of one hundred fifty days.

9           C. The director, by rule, may establish classes of expected tax  
10 liability in five thousand dollar increments, beginning with the minimum bond  
11 amount prescribed in subsection B of this section. The bond shall provide  
12 that after notice and a hearing the director may order forfeited to this  
13 state and any affected political subdivision part or all of the bond for  
14 nonpayment of taxes, interest and penalties.

15           D. A licensee on application for a new license covered by subsection A  
16 of this section, renewal of a license covered by subsection A of this section  
17 or transfer of a license covered by subsection A of this section is exempt  
18 from posting a bond if the licensee has for at least two years immediately  
19 preceding the application made timely payment of all transaction privilege  
20 taxes incurred.

21           E. If a licensee is not exempt from this section, the director may  
22 exempt the licensee if the director finds that the surety bond is not  
23 necessary to ~~insure~~ ENSURE payment of such taxes to the state and any  
24 affected political subdivision or the licensee had good cause for the late or  
25 insufficient payment of the transaction privilege tax and affiliated excise  
26 taxes incurred.

27           Sec. 5. Repeal

28           Section 42-5007, Arizona Revised Statutes, is repealed.

29           Sec. 6. Section 42-5009, Arizona Revised Statutes, is amended to read:  
30 42-5009. Certificates establishing deductions; liability for  
31 making false certificate

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

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

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

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

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

11           D. If a seller is entitled to a deduction by complying with subsection  
12 A of this section, the department may require the purchaser which caused the  
13 execution of the certificate to establish the accuracy and completeness of  
14 the information required to be contained in the certificate which would  
15 entitle the seller to the deduction. If the purchaser cannot establish the  
16 accuracy and completeness of the information, the purchaser is liable in an  
17 amount equal to any tax, penalty and interest which the seller would have  
18 been required to pay under this article if the seller had not complied with  
19 subsection A of this section. Payment of the amount under this subsection  
20 exempts the purchaser from liability for any tax imposed under article 4 of  
21 this chapter. The amount shall be treated as tax revenues collected from the  
22 seller in order to designate the distribution base for purposes of section  
23 42-5029.

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

36           F. The department may prescribe a form for a certificate used to  
37 establish entitlement to the deductions described in section 42-5061,  
38 subsection A, paragraph 47 and section 42-5063, subsection B, paragraph 3.  
39 Under rules the department may prescribe, the department may also require  
40 additional information for the seller to be entitled to the deduction. If a  
41 seller is entitled to the deductions described in section 42-5061, subsection  
42 A, paragraph 47 and section 42-5063, subsection B, paragraph 3, the  
43 department may require the purchaser who executed the certificate to  
44 establish the accuracy and completeness of the information contained in the  
45 certificate that would entitle the seller to the deduction. If the purchaser  
46 cannot establish the accuracy and completeness of the information, the  
47 purchaser is liable in an amount equal to any tax, penalty and interest that  
48 the seller would have been required to pay under this article. Payment of

1 the amount under this subsection exempts the purchaser from liability for any  
2 tax imposed under article 4 of this chapter. The amount shall be treated as  
3 tax revenues collected from the seller in order to designate the distribution  
4 base for purposes of section 42-5029.

5 G. If a seller claims a deduction under section 42-5061, subsection A,  
6 paragraph 25 and establishes entitlement to the deduction with an exemption  
7 letter that the purchaser received from the department and the exemption  
8 letter was based on a contingent event, the department may require the  
9 purchaser that received the exemption letter to establish the satisfaction of  
10 the contingent event within a reasonable time. If the purchaser cannot  
11 establish the satisfaction of the event, the purchaser is liable in an amount  
12 equal to any tax, penalty and interest that the seller would have been  
13 required to pay under this article if the seller had not been furnished the  
14 exemption letter. Payment of the amount under this subsection exempts the  
15 purchaser from liability for any tax imposed under article 4 of this chapter.  
16 The amount shall be treated as tax revenues collected from the seller in  
17 order to designate the distribution base for purposes of section 42-5029.  
18 For the purposes of this subsection, "reasonable time" means a time  
19 limitation that the department determines and that does not exceed the time  
20 limitations pursuant to section 42-1104.

21 H. From and after December 31, 2005 through December 31, 2010, the  
22 department shall prescribe a form for a certificate used to establish  
23 entitlement to the deductions described in section 42-5061, subsection B,  
24 paragraph 23, section 42-5066, subsection B, paragraph 5, section 42-5070,  
25 subsection C, paragraph 2, section 42-5074, subsection B, paragraph 10,  
26 ~~section 42-5075, subsection B, paragraph 20~~ and section 42-5159, subsection  
27 B, paragraph 23 relating to motion picture production. The certificate is  
28 effective for twelve consecutive calendar months from and after the date of  
29 issuance and is subject to the following requirements and conditions:

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

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

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

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

47 5. The department shall maintain annual data on the total amount of  
48 monies exempted through the use of certificates issued pursuant to this

1 subsection and shall provide those data to the department of commerce on  
2 request.

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

6 7. If, after audit, the department determines that a motion picture  
7 production company failed to meet any of the requirements prescribed by this  
8 subsection, any deductions from taxation from the use of the certificate are  
9 subject to recapture and payment by the motion picture production company to  
10 the department.

11 I. The department shall prescribe forms for certificates used to  
12 establish the satisfaction of the criteria necessary to qualify the sale of a  
13 motor vehicle for the deductions described in section 42-5061, subsection A,  
14 paragraph 14, paragraph 28, subdivision (a) and paragraph 45 and  
15 subsection U. To establish entitlement to these deductions, a motor vehicle  
16 dealer shall retain:

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

20 2. A copy of the nonresident registration permit authorized by section  
21 28-2154.

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

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

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

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

1           Sec. 7. Section 42-5010, Arizona Revised Statutes, is amended to read:  
2           42-5010. Rates; distribution base

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

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

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

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

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

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

30           B. Twenty per cent of the tax revenues collected at the rate  
31 prescribed by subsection A, paragraph 1 of this section from persons on  
32 account of engaging in business under the business classifications listed in  
33 subsection A, paragraph 1, subdivisions (a) through ~~(i)~~ (h) of this section  
34 is designated as distribution base for purposes of section 42-5029.

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

40           D. THIRTY-SIX PER CENT OF THE TAX REVENUES COLLECTED FROM PERSONS ON  
41 ACCOUNT OF ENGAGING IN BUSINESS UNDER THE RETAIL CLASSIFICATION LISTED IN  
42 SUBSECTION A, PARAGRAPH 1, SUBDIVISION (l) OF THIS SECTION IS DESIGNATED AS  
43 DISTRIBUTION BASE FOR THE PURPOSES OF SECTION 42-5029.

44           ~~D.~~ E. Thirty-two per cent of the tax revenues collected from persons  
45 on account of engaging in business under the business classification listed  
46 in subsection A, paragraph 3 of this section is designated as distribution  
47 base for purposes of section 42-5029.

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

5           ~~F.~~ G. Fifty per cent of the tax revenues collected from persons on  
6 account of engaging in business under the business classification listed in  
7 subsection A, paragraph 2 of this section is designated as distribution base  
8 for purposes of section 42-5029.

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

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

31           I. For taxpayers taxable under this chapter ~~other than prime  
32 contractors taxable pursuant to section 42-5075:~~

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

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

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

1           Sec. 8. Section 42-5029, Arizona Revised Statutes, is amended to read:  
2           42-5029. Remission and distribution of monies; definition

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

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

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

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

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

22          C. On notification by the department, the state treasurer shall  
23          distribute the monies deposited in the transaction privilege and severance  
24          tax clearing account in the manner prescribed by this section and by sections  
25          42-5164, 42-5205 and 42-5353, after deducting warrants drawn against the  
26          account pursuant to sections 42-1118 and 42-1254.

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

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

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

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

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

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

43               (a) Average the following proportions:

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

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

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

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

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

29 (a) The legislature shall annually appropriate to:

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

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

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

38 (b) The state treasurer shall transfer to the tourism fund an amount  
39 equal to the sum of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (e) In fiscal year 2005-2006 and each fiscal year thereafter,  
6 \$86,280,500.

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

14 7. After transferring monies pursuant to paragraphs 1, 2 and 3 of this  
15 subsection, no more than seven million dollars may be appropriated by the  
16 legislature each fiscal year to the department of education to be used for  
17 accountability purposes as described in section 15-241 and title 15, chapter  
18 9, article 8.

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

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

27 10. After the payment of monies pursuant to paragraphs 1 through 9 of  
28 this subsection, the remaining monies collected during the preceding month  
29 shall be transferred to the classroom site fund established by section  
30 15-977. The monies shall be allocated as follows in the manner prescribed by  
31 section 15-977:

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

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

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

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

41 G. Notwithstanding subsection D of this section, if a court of  
42 competent jurisdiction finally determines that tax monies distributed under  
43 this section were illegally collected under this article or articles 5 and 8  
44 of this chapter and orders the monies to be refunded to the taxpayer, the  
45 department shall compute the amount of such monies that was distributed to  
46 each city, town and county under this section. The department shall notify  
47 the state treasurer of that amount plus the proportionate share of additional  
48 allocated costs required to be paid to the taxpayer. Each city's, town's and

1 county's proportionate share of the costs shall be based on the amount of the  
2 original tax payment each municipality and county received. Each month the  
3 state treasurer shall reduce the amount otherwise distributable to the city,  
4 town and county under this section by one thirty-sixth of the total amount to  
5 be recovered from the city, town or county until the total amount has been  
6 recovered, but the monthly reduction for any city, town or county shall not  
7 exceed ten per cent of the full monthly distribution to that entity. The  
8 reduction shall begin for the first calendar month after the final  
9 disposition of the case and shall continue until the total amount, including  
10 interest and costs, has been recovered.

11 H. On receiving a certificate of default from the greater Arizona  
12 development authority pursuant to section 41-1554.06 or 41-1554.07 and to the  
13 extent not otherwise expressly prohibited by law, the state treasurer shall  
14 withhold from the next succeeding distribution of monies pursuant to this  
15 section due to the defaulting political subdivision the amount specified in  
16 the certificate of default and immediately deposit the amount withheld in the  
17 greater Arizona development authority revolving fund. The state treasurer  
18 shall continue to withhold and deposit the monies until the greater Arizona  
19 development authority certifies to the state treasurer that the default has  
20 been cured. In no event may the state treasurer withhold any amount that the  
21 defaulting political subdivision certifies to the state treasurer and the  
22 authority as being necessary to make any required deposits then due for the  
23 payment of principal and interest on bonds of the political subdivision that  
24 were issued before the date of the loan repayment agreement or bonds and that  
25 have been secured by a pledge of distributions made pursuant to this section.

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

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

46 K. For the purposes of this section, "community college district"  
47 means a community college district that is established pursuant to sections  
48 15-1402 and 15-1403 and that is a political subdivision of this state.

1           Sec. 9. Section 42-5032.01, Arizona Revised Statutes, is amended to  
2 read:

3           42-5032.01. Distribution of revenues for tourism and sports  
4                                   authority

5           A. Each month the state treasurer shall pay, from the amount  
6 designated as distribution base pursuant to section 42-5029, subsection D,  
7 the amount determined under subsection B of this section to the tourism and  
8 sports authority for deposit in the authority's facility revenue clearing  
9 account established by section 5-834.

10           B. The amount to be paid under subsection A of this section is the  
11 total amount of state transaction privilege tax revenues received from  
12 persons conducting business under:

13           1. The retail, amusement and restaurant classifications at, or with  
14 respect to events held at, a multipurpose facility that is owned or operated  
15 by the authority pursuant to title 5, chapter 8.

16           2. The retail, amusement and restaurant classifications at, or with  
17 respect to, professional football contests that are held beginning July, 2001  
18 in a stadium located on the campus of an institution under the jurisdiction  
19 of the Arizona board of regents.

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

27           ~~D.~~ C. The department shall report the ~~amounts~~ AMOUNT under  
28 ~~subsections~~ SUBSECTION B ~~and C~~ of this section to the state treasurer on or  
29 before the fifteenth day of each month for payment in the following month.

30           Sec. 10. Section 42-5061, Arizona Revised Statutes, is amended to  
31 read:

32           42-5061. Retail classification; definitions

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

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

41           2. Services rendered in addition to selling tangible personal property  
42 at retail.

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

46           4. Sales of tangible personal property by any nonprofit organization  
47 organized and operated exclusively for charitable purposes and recognized by

1 the United States internal revenue service under section 501(c)(3) of the  
2 internal revenue code.

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

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

8 7. The sale of stocks and bonds.

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

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

15 10. Insulin, insulin syringes and glucose test strips.

16 11. Prescription eyeglasses or contact lenses.

17 12. Hearing aids as defined in section 36-1901.

18 13. Durable medical equipment which has a centers for medicare and  
19 medicaid services common procedure code, is designated reimbursable by  
20 medicare, is prescribed by a person who is licensed under title 32, chapter  
21 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and  
22 customarily used to serve a medical purpose, is generally not useful to a  
23 person in the absence of illness or injury and is appropriate for use in the  
24 home.

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

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

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

35 17. Textbooks by any bookstore that are required by any state  
36 university or community college.

37 18. Food and drink to a person who is engaged in business which is  
38 classified under the restaurant classification and which provides such food  
39 and drink without monetary charge to its employees for their own consumption  
40 on the premises during the employees' hours of employment.

41 19. Articles of food, drink or condiment and accessory tangible  
42 personal property to a school district if such articles and accessory  
43 tangible personal property are to be prepared and served to persons for  
44 consumption on the premises of a public school within the district during  
45 school hours.

46 20. Lottery tickets or shares pursuant to title 5, chapter 5,  
47 article 1.

1           21. The sale of precious metal bullion and monetized bullion to the  
2 ultimate consumer, but the sale of coins or other forms of money for  
3 manufacture into jewelry or works of art is subject to the tax. For the  
4 purposes of this paragraph:

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

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

12           22. Motor vehicle fuel and use fuel ~~which~~ THAT are subject to a tax  
13 imposed under title 28, chapter 16, article 1, sales of use fuel to a holder  
14 of a valid single trip use fuel tax permit issued under section 28-5739,  
15 sales of aviation fuel ~~which~~ THAT are subject to the tax imposed under  
16 section 28-8344 and sales of jet fuel ~~which~~ THAT are subject to the tax  
17 imposed under article 8 of this chapter.

18           23. Tangible personal property sold to a person engaged in the business  
19 of leasing or renting such property under the personal property rental  
20 classification if such property is to be leased or rented by such person.

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

24           25. Tangible personal property sold to:

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

26           (b) A qualifying health care organization as defined in section  
27 42-5001 if the tangible personal property is used by the organization solely  
28 to provide health and medical related educational and charitable services.

29           (c) A qualifying health care organization as defined in section  
30 42-5001 if the organization is dedicated to providing educational,  
31 therapeutic, rehabilitative and family medical education training for blind,  
32 visually impaired and multihandicapped children from the time of birth to age  
33 twenty-one.

34           (d) A qualifying community health center as defined in section  
35 42-5001.

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

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

47           26. Magazines or other periodicals or other publications by this state  
48 to encourage tourist travel.

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

7           ~~(a) TO BE incorporated or fabricated by the person into A MANUFACTURED~~  
8 ~~BUILDING. any real property, structure, project, development or improvement~~  
9 ~~as part of the business.~~

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

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

16           28. The sale of a motor vehicle to:

17           (a) A nonresident of this state if the purchaser's state of residence  
18 does not allow a corresponding use tax exemption to the tax imposed by  
19 article 1 of this chapter and if the nonresident has secured a special ninety  
20 day nonresident registration permit for the vehicle as prescribed by sections  
21 28-2154 and 28-2154.01.

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

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

30           30. Sales of tangible personal property by a nonprofit organization  
31 that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6)  
32 of the internal revenue code if the organization is associated with a major  
33 league baseball team or a national touring professional golfing association  
34 and no part of the organization's net earnings inures to the benefit of any  
35 private shareholder or individual.

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

41           32. Sales of tangible personal property by a nonprofit organization  
42 that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6),  
43 501(c)(7) or 501(c)(8) of the internal revenue code if the organization  
44 sponsors or operates a rodeo featuring primarily farm and ranch animals and  
45 no part of the organization's net earnings inures to the benefit of any  
46 private shareholder or individual.

47           33. Sales of seeds, seedlings, roots, bulbs, cuttings and other  
48 propagative material to persons who use those items to commercially produce

1 agricultural, horticultural, viticultural or floricultural crops in this  
2 state.

3 34. Machinery, equipment, technology or related supplies that are only  
4 useful to assist a person who is physically disabled as defined in section  
5 46-191, has a developmental disability as defined in section 36-551 or has a  
6 head injury as defined in section 41-3201 to be more independent and  
7 functional.

8 35. Sales of tangible personal property that is shipped or delivered  
9 directly to a destination outside the United States for use in that foreign  
10 country.

11 36. Sales of natural gas or liquefied petroleum gas used to propel a  
12 motor vehicle.

13 37. Paper machine clothing, such as forming fabrics and dryer felts,  
14 sold to a paper manufacturer and directly used or consumed in paper  
15 manufacturing.

16 38. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity  
17 sold to a qualified environmental technology manufacturer, producer or  
18 processor as defined in section 41-1514.02 and directly used or consumed in  
19 the generation or provision of on-site power or energy solely for  
20 environmental technology manufacturing, producing or processing or  
21 environmental protection. This paragraph shall apply for fifteen full  
22 consecutive calendar or fiscal years from the date the first paper  
23 manufacturing machine is placed in service. In the case of an environmental  
24 technology manufacturer, producer or processor who does not manufacture  
25 paper, the time period shall begin with the date the first manufacturing,  
26 processing or production equipment is placed in service.

27 39. Sales of liquid, solid or gaseous chemicals used in manufacturing,  
28 processing, fabricating, mining, refining, metallurgical operations, research  
29 and development and, beginning on January 1, 1999, printing, if using or  
30 consuming the chemicals, alone or as part of an integrated system of  
31 chemicals, involves direct contact with the materials from which the product  
32 is produced for the purpose of causing or permitting a chemical or physical  
33 change to occur in the materials as part of the production process. This  
34 paragraph does not include chemicals that are used or consumed in activities  
35 such as packaging, storage or transportation but does not affect any  
36 deduction for such chemicals that is otherwise provided by this section. For  
37 the purposes of this paragraph, "printing" means a commercial printing  
38 operation and includes job printing, engraving, embossing, copying and  
39 bookbinding.

40 40. Through December 31, 1994, personal property liquidation  
41 transactions, conducted by a personal property liquidator. From and after  
42 December 31, 1994, personal property liquidation transactions shall be  
43 taxable under this section provided that nothing in this subsection shall be  
44 construed to authorize the taxation of casual activities or transactions  
45 under this chapter. For the purposes of this paragraph:

46 (a) "Personal property liquidation transaction" means a sale of  
47 personal property made by a personal property liquidator acting solely on  
48 behalf of the owner of the personal property sold at the dwelling of the

1 owner or upon the death of any owner, on behalf of the surviving spouse, if  
2 any, any devisee or heir or the personal representative of the estate of the  
3 deceased, if one has been appointed.

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

6 41. Sales of food, drink and condiment for consumption within the  
7 premises of any prison, jail or other institution under the jurisdiction of  
8 the state department of corrections, the department of public safety, the  
9 department of juvenile corrections or a county sheriff.

10 42. A motor vehicle and any repair and replacement parts and tangible  
11 personal property becoming a part of such motor vehicle sold to a motor  
12 carrier who is subject to a fee prescribed in title 28, chapter 16, article 4  
13 and who is engaged in the business of leasing or renting such property.

14 43. Livestock and poultry feed, salts, vitamins and other additives for  
15 livestock or poultry consumption that are sold to persons who are engaged in  
16 producing livestock, poultry, or livestock or poultry products or who are  
17 engaged in feeding livestock or poultry commercially. For the purposes of  
18 this paragraph, "poultry" includes ratites.

19 44. Sales of implants used as growth promotants and injectable  
20 medicines, not already exempt under paragraph 8 of this subsection, for  
21 livestock or poultry owned by or in possession of persons who are engaged in  
22 producing livestock, poultry, or livestock or poultry products or who are  
23 engaged in feeding livestock or poultry commercially. For the purposes of  
24 this paragraph, "poultry" includes ratites.

25 45. Sales of motor vehicles at auction to nonresidents of this state  
26 for use outside this state if the vehicles are shipped or delivered out of  
27 this state, regardless of where title to the motor vehicles passes or its  
28 free on board point.

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

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

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

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

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

44 49. Tangible personal property sold to a commercial airline and  
45 consisting of food, beverages and condiments and accessories used for serving  
46 the food and beverages, if those items are to be provided without additional  
47 charge to passengers for consumption in flight. For the purposes of this  
48 paragraph, "commercial airline" means a person holding a federal certificate

1 of public convenience and necessity or foreign air carrier permit for air  
2 transportation to transport persons, property or United States mail in  
3 intrastate, interstate or foreign commerce.

4 50. Sales of alternative fuel vehicles if the vehicle was manufactured  
5 as a diesel fuel vehicle and converted to operate on alternative fuel and  
6 equipment that is installed in a conventional diesel fuel motor vehicle to  
7 convert the vehicle to operate on an alternative fuel, as defined in section  
8 1-215.

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

12 ~~52. Sales of tangible personal property to be incorporated or installed~~  
13 ~~as part of environmental response or remediation activities under section~~  
14 ~~42-5075, subsection B, paragraph 6.~~

15 ~~53.~~ 52. Sales of tangible personal property by a nonprofit  
16 organization that is exempt from taxation under section 501(c)(6) of the  
17 internal revenue code if the organization produces, organizes or promotes  
18 cultural or civic related festivals or events and no part of the  
19 organization's net earnings inures to the benefit of any private shareholder  
20 or individual.

21 ~~54.~~ 53. Through August 31, 2014, sales of Arizona centennial  
22 medallions by the historical advisory commission.

23 ~~55.~~ 54. Application services that are designed to assess or test  
24 student learning or to promote curriculum design or enhancement purchased by  
25 or for any school district, charter school, community college or state  
26 university. For the purposes of this paragraph:

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

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

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

36 1. Machinery, or equipment, used directly in manufacturing,  
37 processing, fabricating, job printing, refining or metallurgical operations.  
38 The terms "manufacturing", "processing", "fabricating", "job printing",  
39 "refining" and "metallurgical" as used in this paragraph refer to and include  
40 those operations commonly understood within their ordinary meaning.  
41 "Metallurgical operations" includes leaching, milling, precipitating,  
42 smelting and refining. **MANUFACTURING AND PROCESSING DO NOT INCLUDE ENGAGING**  
43 **IN BUSINESS AS A CONTRACTOR.**

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

1 includes underground, surface and open pit operations for extracting ores and  
2 minerals.

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

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

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

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

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

22 (a) A person holding a federal certificate of public convenience and  
23 necessity, a supplemental air carrier certificate under federal aviation  
24 regulations (14 Code of Federal Regulations part 121) or a foreign air  
25 carrier permit for air transportation for use as or in conjunction with or  
26 becoming a part of aircraft to be used to transport persons, property or  
27 United States mail in intrastate, interstate or foreign commerce.

28 (b) Any foreign government for use by such government outside of this  
29 state.

30 (c) Persons who are not residents of this state and who will not use  
31 such property in this state other than in removing such property from this  
32 state. This subdivision also applies to corporations that are not  
33 incorporated in this state, regardless of maintaining a place of business in  
34 this state, if the principal corporate office is located outside this state  
35 and the property will not be used in this state other than in removing the  
36 property from this state.

37 8. Machinery, tools, equipment and related supplies used or consumed  
38 directly in repairing, remodeling or maintaining aircraft, aircraft engines  
39 or aircraft component parts by or on behalf of a certificated or licensed  
40 carrier of persons or property.

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

43 10. Machinery or equipment used directly to drill for oil or gas or  
44 used directly in the process of extracting oil or gas from the earth for  
45 commercial purposes.

46 11. Buses or other urban mass transit vehicles which are used directly  
47 to transport persons or property for hire or pursuant to a governmentally  
48 adopted and controlled urban mass transportation program and which are sold

1 to bus companies holding a federal certificate of convenience and necessity  
2 or operated by any city, town or other governmental entity or by any person  
3 contracting with such governmental entity as part of a governmentally adopted  
4 and controlled program to provide urban mass transportation.

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

6 13. New machinery and equipment consisting of tractors, tractor-drawn  
7 implements, self-powered implements, machinery and equipment necessary for  
8 extracting milk, and machinery and equipment necessary for cooling milk and  
9 livestock, and drip irrigation lines not already exempt under paragraph 6 of  
10 this subsection and that are used for commercial production of agricultural,  
11 horticultural, viticultural and floricultural crops and products in this  
12 state. For the purposes of this paragraph:

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

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

18 14. Machinery or equipment used in research and development. For the  
19 purposes of this paragraph, "research and development" means basic and  
20 applied research in the sciences and engineering, and designing, developing  
21 or testing prototypes, processes or new products, including research and  
22 development of computer software that is embedded in or an integral part of  
23 the prototype or new product or that is required for machinery or equipment  
24 otherwise exempt under this section to function effectively. Research and  
25 development do not include manufacturing quality control, routine consumer  
26 product testing, market research, sales promotion, sales service, research in  
27 social sciences or psychology, computer software research that is not  
28 included in the definition of research and development, or other  
29 nontechnological activities or technical services.

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

37 (a) "Motion picture, multimedia or interactive video production"  
38 includes products for theatrical and television release, educational  
39 presentations, electronic retailing, documentaries, music videos, industrial  
40 films, CD-ROM, video game production, commercial advertising and television  
41 episode production and other genres that are introduced through developing  
42 technology.

43 (b) "Soundstage complex" means a facility of multiple stages including  
44 production offices, construction shops and related areas, prop and costume  
45 shops, storage areas, parking for production vehicles and areas that are  
46 leased to businesses that complement the production needs and orientation of  
47 the overall facility.

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

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

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

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

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

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

22           17. Clean rooms that are used for manufacturing, processing,  
23 fabrication or research and development, as defined in paragraph 14 of this  
24 subsection, of semiconductor products. For the purposes of this paragraph,  
25 "clean room" means all property that comprises or creates an environment  
26 where humidity, temperature, particulate matter and contamination are  
27 precisely controlled within specified parameters, without regard to whether  
28 the property is actually contained within that environment or whether any of  
29 the property is affixed to or incorporated into real property. Clean room:

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

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

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

42           19. Machinery or equipment, including related structural components,  
43 that is employed in connection with manufacturing, processing, fabricating,  
44 job printing, refining, mining, natural gas pipelines, metallurgical  
45 operations, telecommunications, producing or transmitting electricity or  
46 research and development and that is used directly to meet or exceed rules or  
47 regulations adopted by the federal energy regulatory commission, the United  
48 States environmental protection agency, the United States nuclear regulatory

1 commission, the Arizona department of environmental quality or a political  
2 subdivision of this state to prevent, monitor, control or reduce land, water  
3 or air pollution.

4 20. Machinery and equipment that are sold to a person engaged in the  
5 commercial production of livestock, livestock products or agricultural,  
6 horticultural, viticultural or floricultural crops or products in this state  
7 and that are used directly and primarily to prevent, monitor, control or  
8 reduce air, water or land pollution.

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

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

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

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

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

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

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

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

41 2. Janitorial equipment and hand tools.

42 3. Office equipment, furniture and supplies.

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

46 5. Motor vehicles required to be licensed by this state, except buses  
47 or other urban mass transit vehicles specifically exempted pursuant to

1 subsection B, paragraph 11 of this section, without regard to the use of such  
2 motor vehicles.

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

5 7. Motors and pumps used in drip irrigation systems.

6 D. In addition to the deductions from the tax base prescribed by  
7 subsection A of this section, there shall be deducted from the tax base the  
8 gross proceeds of sales or gross income derived from sales of machinery,  
9 equipment, materials and other tangible personal property used directly and  
10 predominantly to construct a qualified environmental technology  
11 manufacturing, producing or processing facility as described in section  
12 41-1514.02. This subsection applies for ten full consecutive calendar or  
13 fiscal years after the start of initial construction.

14 E. In computing the tax base, gross proceeds of sales or gross income  
15 from retail sales of heavy trucks and trailers does not include any amount  
16 attributable to federal excise taxes imposed by 26 United States Code section  
17 4051.

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

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

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

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

- 42 1. Transporting classification.
- 43 2. Utilities classification.
- 44 3. Telecommunications classification.
- 45 4. Pipeline classification.
- 46 5. Private car line classification.
- 47 6. Publication classification.
- 48 7. Job printing classification.

1           8. ~~Prime contracting~~ MANUFACTURED BUILDING DEALER classification.

2           ~~9. Owner builder sales classification.~~

3           ~~10.~~ 9. Restaurant classification.

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

6           1. Sales made directly to the United States government or its  
7 departments or agencies by a manufacturer, modifier, assembler or repairer.

8           2. Sales made directly to a manufacturer, modifier, assembler or  
9 repairer if such sales are of any ingredient or component part of products  
10 sold directly to the United States government or its departments or agencies  
11 by the manufacturer, modifier, assembler or repairer.

12           3. Overhead materials or other tangible personal property that is used  
13 in performing a contract between the United States government and a  
14 manufacturer, modifier, assembler or repairer, including property used in  
15 performing a subcontract with a government contractor who is a manufacturer,  
16 modifier, assembler or repairer, to which title passes to the government  
17 under the terms of the contract or subcontract.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41 U. In computing the tax base for the sale of a motor vehicle to a  
42 nonresident of this state, if the purchaser's state of residence allows a  
43 corresponding use tax exemption to the tax imposed by article 1 of this  
44 chapter and the rate of the tax in the purchaser's state of residence is  
45 lower than the rate prescribed in article 1 of this chapter or if the  
46 purchaser's state of residence does not impose an excise tax, and the  
47 nonresident has secured a special ninety day nonresident registration permit  
48 for the vehicle as prescribed by sections 28-2154 and 28-2154.01, there shall

1 be deducted from the tax base a portion of the gross proceeds or gross income  
2 from the sale so that the amount of transaction privilege tax that is paid in  
3 this state is equal to the excise tax that is imposed by the purchaser's  
4 state of residence on the nonexempt sale or use of the motor vehicle.

5 V. THE SALE OF TANGIBLE PERSONAL PROPERTY TO A CONTRACTOR, REGARDLESS  
6 OF WHETHER IT WILL BE INCORPORATED INTO A BUILDING OR STRUCTURE, IS  
7 CONSIDERED TO BE A SALE AT RETAIL AND SUBJECT TO TAXATION UNDER THIS SECTION  
8 UNLESS THE CONTRACTOR PROVIDES TO THE RETAILER A CERTIFICATE THAT IS SIGNED  
9 BY THE OWNER OF THE PROPERTY TO BE IMPROVED AND THAT STATES THAT THE PERSONAL  
10 PROPERTY PURCHASED BY THE CONTRACTOR WILL BE USED FOR A PURPOSE IDENTIFIED IN  
11 SUBSECTION A OR B OF THIS SECTION. IF A PERSON WHO IS IN THE BUSINESS OF  
12 SELLING TANGIBLE PERSONAL PROPERTY AT RETAIL ALSO ENGAGES IN BUSINESS AS A  
13 CONTRACTOR AND REMOVES TANGIBLE PERSONAL PROPERTY FROM RETAIL STOCK FOR USE  
14 IN CONTRACTING ACTIVITIES, THE ACQUISITION COST OF THAT PERSONAL PROPERTY  
15 SHALL BE INCLUDED IN THE GROSS PROCEEDS OF SALES OR GROSS INCOME OF THE  
16 RETAIL BUSINESS FOR THE PURPOSES OF THIS SECTION.

17 ~~V.~~ W. For the purposes of this section:

18 1. "Aircraft" includes:

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

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

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

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

33 ~~W.~~ X. For the purposes of subsection J of this section:

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

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

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

43 4. "Overhead materials" means tangible personal property, the gross  
44 proceeds of sales or gross income derived from which would otherwise be  
45 included in the retail classification, and which are used or consumed in the  
46 performance of a contract, the cost of which is charged to an overhead  
47 expense account and allocated to various contracts based upon generally

1 accepted accounting principles and consistent with government contract  
2 accounting standards.

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

5 6. "Subcontract" means an agreement between a contractor and any  
6 person who is not an employee of the contractor for furnishing of supplies or  
7 services that, in whole or in part, are necessary to the performance of one  
8 or more government contracts, or under which any portion of the contractor's  
9 obligation under one or more government contracts is performed, undertaken or  
10 assumed and that includes provisions causing title to overhead materials or  
11 other tangible personal property used in the performance of the subcontract  
12 to pass to the government or that includes provisions incorporating such  
13 title passing clauses in a government contract into the subcontract.

14 Sec. 11. Section 42-5071, Arizona Revised Statutes, is amended to  
15 read:

16 42-5071. Personal property rental classification

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

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

23 2. Activities engaged in by the Arizona exposition and state fair  
24 board or county fair commissions in connection with events sponsored by such  
25 entities.

26 3. Leasing or renting tangible personal property by a parent  
27 corporation to a subsidiary corporation or by a subsidiary corporation to  
28 another subsidiary of the same parent corporation if taxes were paid under  
29 this chapter on the gross proceeds or gross income accruing from the initial  
30 sale of the tangible personal property. For the purposes of this paragraph,  
31 "subsidiary" means a corporation of which at least eighty per cent of the  
32 voting shares are owned by the parent corporation.

33 4. Operating coin operated washing, drying and dry cleaning machines  
34 or coin operated car washing machines at establishments for the use of such  
35 machines.

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

41 6. Leasing or renting aircraft, flight simulators or similar training  
42 equipment to students or staff by nonprofit, accredited educational  
43 institutions that offer associate or baccalaureate degrees in aviation or  
44 aerospace related fields.

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

1           B. The tax base for the personal property rental classification is the  
2 gross proceeds of sales or gross income derived from the business, but the  
3 gross proceeds of sales or gross income derived from the following shall be  
4 deducted from the tax base:

5           1. Reimbursements by the lessee to the lessor of a motor vehicle for  
6 payments by the lessor of the applicable fees and taxes imposed by sections  
7 28-2003, 28-2352, 28-2402, 28-2481 and 28-5801, title 28, chapter 15,  
8 article 2 and article IX, section 11, Constitution of Arizona, to the extent  
9 such amounts are separately identified as such fees and taxes and are billed  
10 to the lessee.

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

14           (a) Section 42-5061, subsection A, paragraph 8, 9, 12, 13, 25, 29, 50  
15 or ~~55~~ 54.

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

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

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

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

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

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

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

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

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

36           D. In computing the tax base, the gross proceeds of sales or gross  
37 income from the lease or rental of a motor vehicle does not include any  
38 amount attributable to the car rental surcharge under section 28-5810 or  
39 48-4234.

40           E. Until December 31, 1988, leasing or renting animals for  
41 recreational purposes is exempt from the tax imposed by this section.  
42 Beginning January 1, 1989, the gross proceeds or gross income from leasing or  
43 renting animals for recreational purposes is subject to taxation under this  
44 section. Tax liabilities, penalties and interest paid for taxable periods  
45 before January 1, 1989 shall not be refunded unless the taxpayer requesting  
46 the refund provides proof satisfactory to the department that the monies paid  
47 as taxes will be returned to the customer.

1           Sec. 12. Section 42-5075, Arizona Revised Statutes, is amended to  
2 read:

3           42-5075. Manufactured building dealer classification;  
4                                   exemptions; definitions

5           A. The ~~prime contracting~~ MANUFACTURED BUILDING DEALER classification  
6 is comprised of the business of ~~prime contracting and dealership of~~ SELLING  
7 manufactured buildings. Sales for resale to another dealership of  
8 manufactured buildings are not subject to tax. Sales for resale do not  
9 include sales to a lessor of manufactured buildings. The sale of a used  
10 manufactured building is not taxable under this chapter. The proceeds from  
11 alteration and repairs to a used manufactured building are taxable under this  
12 section.

13           B. The tax base for the ~~prime contracting~~ MANUFACTURED BUILDING DEALER  
14 classification is sixty-five per cent of the gross proceeds of sales or gross  
15 income derived from the business. The following amounts shall be deducted  
16 from the gross proceeds of sales or gross income before computing the tax  
17 base:

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

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

24           ~~3.~~ 2. The sales price of furniture, furnishings, fixtures, appliances  
25 and attachments that are not incorporated as component parts of or attached  
26 to a manufactured building or the setup site. The sale of such items may be  
27 subject to the taxes imposed by article 1 of this chapter separately and  
28 distinctly from the sale of the manufactured building.

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

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

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

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

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

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

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

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

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

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

1 ~~(a) To be incorporated into real property.~~

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

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

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

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

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

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

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

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

25 ~~(b) Section 42-5061, subsection B.~~

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

28 ~~(d) Section 42-5159, subsection B.~~

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

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

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

46 ~~13. For taxable periods beginning from and after June 30, 2001, the~~  
47 ~~gross proceeds of sales or gross income derived from a contract entered into~~  
48 ~~for the construction of a residential apartment housing facility that~~

1 ~~qualifies for a federal housing subsidy for low income persons over sixty-two~~  
2 ~~years of age and that is owned by a nonprofit charitable organization that~~  
3 ~~has qualified under section 501(c)(3) of the internal revenue code.~~

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

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

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

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

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

27 ~~19. The gross proceeds of sales or gross income received from a~~  
28 ~~contract for the construction of any building, or other structure, project,~~  
29 ~~development or improvement owned by a qualified business under section~~  
30 ~~41-1516 for harvesting or the initial processing of qualifying forest~~  
31 ~~products removed from qualifying projects as defined in section 41-1516 if~~  
32 ~~actual construction begins before January 1, 2010. To qualify for this~~  
33 ~~deduction, the prime contractor must obtain a letter of qualification from~~  
34 ~~the department of commerce before beginning work under the contract.~~

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

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

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

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

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

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

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

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

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

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

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

36           ~~4. If a prime contractor is entitled to a deduction by complying with~~  
37 ~~paragraph 1 of this subsection, the department may require the purchaser who~~  
38 ~~caused the execution of the certificate to establish the accuracy and~~  
39 ~~completeness of the information required to be contained in the certificate~~  
40 ~~which would entitle the prime contractor to the deduction. If the purchaser~~  
41 ~~cannot establish the accuracy and completeness of the information, the~~  
42 ~~purchaser is liable in an amount equal to any tax, penalty and interest which~~  
43 ~~the prime contractor would have been required to pay under article 1 of this~~  
44 ~~chapter if the prime contractor had not complied with paragraph 1 of this~~  
45 ~~subsection. Payment of the amount under this paragraph exempts the purchaser~~  
46 ~~from liability for any tax imposed under article 4 of this chapter. The~~  
47 ~~amount shall be treated as a transaction privilege tax to the purchaser and~~

1 ~~as tax revenues collected from the prime contractor in order to designate the~~  
2 ~~distribution base for purposes of section 42-5029.~~

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

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

24 ~~F. C. Every person engaging or continuing in this state in the~~  
25 ~~business of ~~prime contracting or dealership~~ of A manufactured buildings~~  
26 ~~BUILDING DEALERSHIP shall present to the purchaser of ~~such prime contracting~~~~  
27 ~~~~or~~ THE manufactured building a written receipt of the gross income or gross~~  
28 ~~proceeds of sales from ~~such activity~~ THE SALE and shall separately state the~~  
29 ~~taxes to be paid pursuant to this section.~~

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

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

46 ~~I. The gross proceeds of sales or gross income derived from~~  
47 ~~landscaping activities are subject to tax under this section. Landscaping~~  
48 ~~includes installing lawns, grading or leveling ground, installing gravel or~~

1 ~~boulders, planting trees and other plants, felling trees, removing or~~  
2 ~~mulching tree stumps, removing other imbedded plants, building or modifying~~  
3 ~~irrigation berms, repairing sprinkler or watering systems, installing~~  
4 ~~railroad ties and installing underground sprinkler or watering systems.~~

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

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

17 ~~L. D. The following apply to manufactured buildings:~~  
18 1. For sales in this state where the dealership of manufactured  
19 buildings contracts to deliver the building to a setup site or to perform the  
20 setup in this state, the taxable situs is the setup site.  
21 2. For sales in this state where the dealership of manufactured  
22 buildings does not contract to deliver the building to a setup site or does  
23 not perform the setup, the taxable situs is the location of the dealership  
24 where the building is delivered to the buyer.  
25 3. For sales in this state where the dealership of manufactured  
26 buildings contracts to deliver the building to a setup site that is outside  
27 this state, the situs is outside this state and the transaction is excluded  
28 from tax.

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

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

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

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

47 (c) ~~Administration or supervision of any modification performed~~  
48 ~~pursuant to change orders. For the purposes of this subdivision, "change~~

1 ~~order" means a written instrument issued after execution of a contract for~~  
2 ~~modification work, providing for all of the following:~~

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

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

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

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

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

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

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

28 ~~(i) Master schedule updates.~~

29 ~~(ii) Modification work cash flow projection updates.~~

30 ~~(iii) Site reports made on a periodic basis.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28           ~~(vi) Any bond and insurance premiums.~~

29           ~~(vii) Any applicable taxes.~~

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

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

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

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

44           ~~N. Notwithstanding subsection O, paragraph 8 of this section, a person~~  
45 ~~owning real property who enters into a contract for sale of the real~~  
46 ~~property, who is responsible to the new owner of the property for~~  
47 ~~modifications made to the property in the period subsequent to the transfer~~  
48 ~~of title and who receives a consideration for the modifications is considered~~

1 ~~a prime contractor solely for purposes of taxing the gross proceeds of sale~~  
2 ~~or gross income received for the modifications made subsequent to the~~  
3 ~~transfer of title. The original owner's gross proceeds of sale or gross~~  
4 ~~income received for the modifications shall be determined according to the~~  
5 ~~following methodology:~~

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

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

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

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

30 ~~0. E. For the purposes of this section:~~

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

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

43 ~~3. 1. "Dealership of Manufactured buildings BUILDING DEALERSHIP"~~  
44 ~~means a dealer who either:~~

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

47 ~~(b) Supervises, performs or coordinates the excavation and completion~~  
48 ~~of site improvements, setup or moving of a manufactured building including~~

1 the contracting, if any, with any subcontractor or specialty contractor for  
2 the completion of the contract.

3 ~~4.~~ 2. "Manufactured building" means a manufactured home, mobile home  
4 or factory-built building, as defined in section 41-2142.

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

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

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

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

22 ~~9.~~ 3. "Sale of a used manufactured building" does not include a lease  
23 of a used manufactured building.

24 Sec. 13. Repeal

25 Section 42-5076, Arizona Revised Statutes, is repealed.

26 Sec. 14. Section 42-5159, Arizona Revised Statutes, is amended to  
27 read:

28 42-5159. Exemptions

29 A. The tax levied by this article does not apply to the storage, use  
30 or consumption in this state of the following described tangible personal  
31 property:

32 1. Tangible personal property sold in this state, the gross receipts  
33 from the sale of which are included in the measure of the tax imposed by  
34 articles 1 and 2 of this chapter.

35 2. Tangible personal property the sale or use of which has already  
36 been subjected to an excise tax at a rate equal to or exceeding the tax  
37 imposed by this article under the laws of another state of the United States.  
38 If the excise tax imposed by the other state is at a rate less than the tax  
39 imposed by this article, the tax imposed by this article is reduced by the  
40 amount of the tax already imposed by the other state.

41 3. Tangible personal property, the storage, use or consumption of  
42 which the constitution or laws of the United States prohibit this state from  
43 taxing or to the extent that the rate or imposition of tax is  
44 unconstitutional under the laws of the United States.

45 4. Tangible personal property which directly enters into and becomes  
46 an ingredient or component part of any manufactured, fabricated or processed  
47 article, substance or commodity for sale in the regular course of business.

1           5. Motor vehicle fuel and use fuel, the sales, distribution or use of  
2 which in this state is subject to the tax imposed under title 28, chapter 16,  
3 article 1, use fuel which is sold to or used by a person holding a valid  
4 single trip use fuel tax permit issued under section 28-5739, aviation fuel,  
5 the sales, distribution or use of which in this state is subject to the tax  
6 imposed under section 28-8344, and jet fuel, the sales, distribution or use  
7 of which in this state is subject to the tax imposed under article 8 of this  
8 chapter.

9           6. Tangible personal property brought into this state by an individual  
10 who was a nonresident at the time the property was purchased for storage, use  
11 or consumption by the individual if the first actual use or consumption of  
12 the property was outside this state, unless the property is used in  
13 conducting a business in this state.

14           7. Purchases of implants used as growth promotants and injectable  
15 medicines, not already exempt under paragraph 16 of this subsection, for  
16 livestock and poultry owned by, or in possession of, persons who are engaged  
17 in producing livestock, poultry, or livestock or poultry products, or who are  
18 engaged in feeding livestock or poultry commercially. For the purposes of  
19 this paragraph, "poultry" includes ratites.

20           8. Livestock, poultry, supplies, feed, salts, vitamins and other  
21 additives for use or consumption in the businesses of farming, ranching and  
22 feeding livestock or poultry, not including fertilizers, herbicides and  
23 insecticides. For the purposes of this paragraph, "poultry" includes  
24 ratites.

25           9. Seeds, seedlings, roots, bulbs, cuttings and other propagative  
26 material for use in commercially producing agricultural, horticultural,  
27 viticultural or floricultural crops in this state.

28           10. Tangible personal property not exceeding two hundred dollars in any  
29 one month purchased by an individual at retail outside the continental limits  
30 of the United States for the individual's own personal use and enjoyment.

31           11. Advertising supplements which are intended for sale with newspapers  
32 published in this state and which have already been subjected to an excise  
33 tax under the laws of another state in the United States which equals or  
34 exceeds the tax imposed by this article.

35           12. Materials that are purchased by or for publicly funded libraries  
36 including school district libraries, charter school libraries, community  
37 college libraries, state university libraries or federal, state, county or  
38 municipal libraries for use by the public as follows:

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

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

41           13. Tangible personal property purchased by:

42           (a) A hospital organized and operated exclusively for charitable  
43 purposes, no part of the net earnings of which inures to the benefit of any  
44 private shareholder or individual.

45           (b) A hospital operated by this state or a political subdivision of  
46 this state.

47           (c) A licensed nursing care institution or a licensed residential care  
48 institution or a residential care facility operated in conjunction with a

1 licensed nursing care institution or a licensed kidney dialysis center, which  
2 provides medical services, nursing services or health related services and is  
3 not used or held for profit.

4 (d) A qualifying health care organization, as defined in section  
5 42-5001, if the tangible personal property is used by the organization solely  
6 to provide health and medical related educational and charitable services.

7 (e) A qualifying health care organization as defined in section  
8 42-5001 if the organization is dedicated to providing educational,  
9 therapeutic, rehabilitative and family medical education training for blind,  
10 visually impaired and multihandicapped children from the time of birth to age  
11 twenty-one.

12 (f) A nonprofit charitable organization that has qualified under  
13 section 501(c)(3) of the United States internal revenue code and that engages  
14 in and uses such property exclusively in programs for mentally or physically  
15 handicapped persons if the programs are exclusively for training, job  
16 placement, rehabilitation or testing.

17 (g) A person that is subject to tax under article 1 of this chapter by  
18 reason of being engaged in business classified under the ~~prime contracting~~  
19 ~~MANUFACTURED BUILDING DEALER~~ classification under section 42-5075, ~~or a~~  
20 ~~subcontractor working under the control of a prime contractor~~, if the  
21 tangible personal property is ~~any of the following:~~

22 ~~(i) TO BE incorporated or fabricated by the contractor into a~~  
23 ~~MANUFACTURED BUILDING. structure, project, development or improvement in~~  
24 ~~fulfillment of a contract.~~

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

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

31 (h) A nonprofit charitable organization that has qualified under  
32 section 501(c)(3) of the internal revenue code if the property is purchased  
33 from the parent or an affiliate organization that is located outside this  
34 state.

35 (i) A qualifying community health center as defined in section  
36 42-5001.

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

40 (k) A person engaged in business under the transient lodging  
41 classification if the property is a personal hygiene item or articles used by  
42 human beings for food, drink or condiment, except alcoholic beverages, which  
43 are furnished without additional charge to and intended to be consumed by the  
44 transient during the transient's occupancy.

45 (l) For taxable periods beginning from and after June 30, 2001, a  
46 nonprofit charitable organization that has qualified under section 501(c)(3)  
47 of the internal revenue code and that provides residential apartment housing  
48 for low income persons over sixty-two years of age in a facility that

1 qualifies for a federal housing subsidy, if the tangible personal property is  
2 used by the organization solely to provide residential apartment housing for  
3 low income persons over sixty-two years of age in a facility that qualifies  
4 for a federal housing subsidy.

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

10 15. Tangible personal property sold by:

11 (a) Any nonprofit organization organized and operated exclusively for  
12 charitable purposes and recognized by the United States internal revenue  
13 service under section 501(c)(3) of the internal revenue code.

14 (b) A nonprofit organization that is exempt from taxation under  
15 section 501(c)(3) or 501(c)(6) of the internal revenue code if the  
16 organization is associated with a major league baseball team or a national  
17 touring professional golfing association and no part of the organization's  
18 net earnings inures to the benefit of any private shareholder or individual.

19 (c) A nonprofit organization that is exempt from taxation under  
20 section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the  
21 internal revenue code if the organization sponsors or operates a rodeo  
22 featuring primarily farm and ranch animals and no part of the organization's  
23 net earnings inures to the benefit of any private shareholder or individual.

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

27 17. Prosthetic appliances, as defined in section 23-501, prescribed or  
28 recommended by a person who is licensed, registered or otherwise  
29 professionally credentialed as a physician, dentist, podiatrist,  
30 chiropractor, naturopath, homeopath, nurse or optometrist.

31 18. Prescription eyeglasses and contact lenses.

32 19. Insulin, insulin syringes and glucose test strips.

33 20. Hearing aids as defined in section 36-1901.

34 21. Durable medical equipment which has a centers for medicare and  
35 medicaid services common procedure code, is designated reimbursable by  
36 medicare, is prescribed by a person who is licensed under title 32, chapter  
37 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily  
38 used to serve a medical purpose, is generally not useful to a person in the  
39 absence of illness or injury and is appropriate for use in the home.

40 22. Food, as provided in and subject to the conditions of article 3 of  
41 this chapter and section 42-5074.

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

1           24. Food and drink provided without monetary charge by a taxpayer which  
2 is subject to section 42-5074 to its employees for their own consumption on  
3 the premises during the employees' hours of employment.

4           25. Tangible personal property that is used or consumed in a business  
5 subject to section 42-5074 for human food, drink or condiment, whether  
6 simple, mixed or compounded.

7           26. Food, drink or condiment and accessory tangible personal property  
8 that are acquired for use by or provided to a school district or charter  
9 school if they are to be either served or prepared and served to persons for  
10 consumption on the premises of a public school in a school district during  
11 school hours.

12           27. Lottery tickets or shares purchased pursuant to title 5, chapter 5,  
13 article 1.

14           28. Textbooks, sold by a bookstore, that are required by any state  
15 university or community college.

16           29. Magazines, other periodicals or other publications produced by this  
17 state to encourage tourist travel.

18           30. Paper machine clothing, such as forming fabrics and dryer felts,  
19 purchased by a paper manufacturer and directly used or consumed in paper  
20 manufacturing.

21           31. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity  
22 purchased by a qualified environmental technology manufacturer, producer or  
23 processor as defined in section 41-1514.02 and directly used or consumed in  
24 the generation or provision of on-site power or energy solely for  
25 environmental technology manufacturing, producing or processing or  
26 environmental protection. This paragraph shall apply for fifteen full  
27 consecutive calendar or fiscal years from the date the first paper  
28 manufacturing machine is placed in service. In the case of an environmental  
29 technology manufacturer, producer or processor who does not manufacture  
30 paper, the time period shall begin with the date the first manufacturing,  
31 processing or production equipment is placed in service.

32           32. Motor vehicles that are removed from inventory by a motor vehicle  
33 dealer as defined in section 28-4301 and that are provided to:

34           (a) Charitable or educational institutions that are exempt from  
35 taxation under section 501(c)(3) of the internal revenue code.

36           (b) Public educational institutions.

37           (c) State universities or affiliated organizations of a state  
38 university if no part of the organization's net earnings inures to the  
39 benefit of any private shareholder or individual.

40           33. Natural gas or liquefied petroleum gas used to propel a motor  
41 vehicle.

42           34. Machinery, equipment, technology or related supplies that are only  
43 useful to assist a person who is physically disabled as defined in section  
44 46-191, has a developmental disability as defined in section 36-551 or has a  
45 head injury as defined in section 41-3201 to be more independent and  
46 functional.

47           35. Liquid, solid or gaseous chemicals used in manufacturing,  
48 processing, fabricating, mining, refining, metallurgical operations, research

1 and development and, beginning on January 1, 1999, printing, if using or  
2 consuming the chemicals, alone or as part of an integrated system of  
3 chemicals, involves direct contact with the materials from which the product  
4 is produced for the purpose of causing or permitting a chemical or physical  
5 change to occur in the materials as part of the production process. This  
6 paragraph does not include chemicals that are used or consumed in activities  
7 such as packaging, storage or transportation but does not affect any  
8 exemption for such chemicals that is otherwise provided by this section. For  
9 the purposes of this paragraph, "printing" means a commercial printing  
10 operation and includes job printing, engraving, embossing, copying and  
11 bookbinding.

12 36. Food, drink and condiment purchased for consumption within the  
13 premises of any prison, jail or other institution under the jurisdiction of  
14 the state department of corrections, the department of public safety, the  
15 department of juvenile corrections or a county sheriff.

16 37. A motor vehicle and any repair and replacement parts and tangible  
17 personal property becoming a part of such motor vehicle sold to a motor  
18 carrier who is subject to a fee prescribed in title 28, chapter 16, article 4  
19 and who is engaged in the business of leasing or renting such property.

20 38. Tangible personal property which is or directly enters into and  
21 becomes an ingredient or component part of cards used as prescription plan  
22 identification cards.

23 39. Overhead materials or other tangible personal property that is used  
24 in performing a contract between the United States government and a  
25 manufacturer, modifier, assembler or repairer, including property used in  
26 performing a subcontract with a government contractor who is a manufacturer,  
27 modifier, assembler or repairer, to which title passes to the government  
28 under the terms of the contract or subcontract. For the purposes of this  
29 paragraph:

30 (a) "Overhead materials" means tangible personal property, the gross  
31 proceeds of sales or gross income derived from which would otherwise be  
32 included in the retail classification, and which are used or consumed in the  
33 performance of a contract, the cost of which is charged to an overhead  
34 expense account and allocated to various contracts based upon generally  
35 accepted accounting principles and consistent with government contract  
36 accounting standards.

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

46 40. Through December 31, 1994, tangible personal property sold pursuant  
47 to a personal property liquidation transaction, as defined in section  
48 42-5061. From and after December 31, 1994, tangible personal property sold

1 pursuant to a personal property liquidation transaction, as defined in  
2 section 42-5061, if the gross proceeds of the sales were included in the  
3 measure of the tax imposed by article 1 of this chapter or if the personal  
4 property liquidation was a casual activity or transaction.

5 41. Wireless telecommunications equipment that is held for sale or  
6 transfer to a customer as an inducement to enter into or continue a contract  
7 for telecommunications services that are taxable under section 42-5064.

8 42. Alternative fuel, as defined in section 1-215, purchased by a used  
9 oil fuel burner who has received a permit to burn used oil or used oil fuel  
10 under section 49-426 or 49-480.

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

19 44. Alternative fuel vehicles if the vehicle was manufactured as a  
20 diesel fuel vehicle and converted to operate on alternative fuel and  
21 equipment that is installed in a conventional diesel fuel motor vehicle to  
22 convert the vehicle to operate on an alternative fuel, as defined in section  
23 1-215.

24 45. Gas diverted from a pipeline, by a person engaged in the business  
25 of:

26 (a) Operating a natural or artificial gas pipeline, and used or  
27 consumed for the sole purpose of fueling compressor equipment that  
28 pressurizes the pipeline.

29 (b) Converting natural gas into liquefied natural gas, and used or  
30 consumed for the sole purpose of fueling compressor equipment used in the  
31 conversion process.

32 46. Tangible personal property that is excluded, exempt or deductible  
33 from transaction privilege tax pursuant to section 42-5063.

34 ~~47. Tangible personal property purchased to be incorporated or~~  
35 ~~installed as part of environmental response or remediation activities under~~  
36 ~~section 42-5075, subsection B, paragraph 6.~~

37 ~~48.~~ 47. Tangible personal property sold by a nonprofit organization  
38 that is exempt from taxation under section 501(c)(6) of the internal revenue  
39 code if the organization produces, organizes or promotes cultural or civic  
40 related festivals or events and no part of the organization's net earnings  
41 inures to the benefit of any private shareholder or individual.

42 ~~49.~~ 48. Prepared food, drink or condiment donated by a restaurant as  
43 classified in section 42-5074, subsection A to a nonprofit charitable  
44 organization that has qualified under section 501(c)(3) of the internal  
45 revenue code and that regularly serves meals to the needy and indigent on a  
46 continuing basis at no cost.

47 ~~50.~~ 49. Application services that are designed to assess or test  
48 student learning or to promote curriculum design or enhancement purchased by

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

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

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

8 B. In addition to the exemptions allowed by subsection A of this  
9 section, the following categories of tangible personal property are also  
10 exempt:

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

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

24 3. Tangible personal property sold to persons engaged in business  
25 classified under the telecommunications classification under section 42-5064  
26 and consisting of central office switching equipment, switchboards, private  
27 branch exchange equipment, microwave radio equipment and carrier equipment  
28 including optical fiber, coaxial cable and other transmission media which are  
29 components of carrier systems.

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

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

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

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

43 (a) A person holding a federal certificate of public convenience and  
44 necessity, a supplemental air carrier certificate under federal aviation  
45 regulations (14 Code of Federal Regulations part 121) or a foreign air  
46 carrier permit for air transportation for use as or in conjunction with or  
47 becoming a part of aircraft to be used to transport persons, property or  
48 United States mail in intrastate, interstate or foreign commerce.

1 (b) Any foreign government for use by such government outside of this  
2 state, or sold to persons who are not residents of this state and who will  
3 not use such property in this state other than in removing such property from  
4 this state.

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

9 9. Rolling stock, rails, ties and signal control equipment used  
10 directly to transport persons or property.

11 10. Machinery or equipment used directly to drill for oil or gas or  
12 used directly in the process of extracting oil or gas from the earth for  
13 commercial purposes.

14 11. Buses or other urban mass transit vehicles which are used directly  
15 to transport persons or property for hire or pursuant to a governmentally  
16 adopted and controlled urban mass transportation program and which are sold  
17 to bus companies holding a federal certificate of convenience and necessity  
18 or operated by any city, town or other governmental entity or by any person  
19 contracting with such governmental entity as part of a governmentally adopted  
20 and controlled program to provide urban mass transportation.

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

22 13. New machinery and equipment consisting of tractors, tractor-drawn  
23 implements, self-powered implements, machinery and equipment necessary for  
24 extracting milk, and machinery and equipment necessary for cooling milk and  
25 livestock, and drip irrigation lines not already exempt under paragraph 6 of  
26 this subsection and that are used for commercial production of agricultural,  
27 horticultural, viticultural and floricultural crops and products in this  
28 state. For the purposes of this paragraph:

29 (a) "New machinery and equipment" means machinery or equipment which  
30 has never been sold at retail except pursuant to leases or rentals which do  
31 not total two years or more.

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

34 14. Machinery or equipment used in research and development. For the  
35 purposes of this paragraph, "research and development" means basic and  
36 applied research in the sciences and engineering, and designing, developing  
37 or testing prototypes, processes or new products, including research and  
38 development of computer software that is embedded in or an integral part of  
39 the prototype or new product or that is required for machinery or equipment  
40 otherwise exempt under this section to function effectively. Research and  
41 development do not include manufacturing quality control, routine consumer  
42 product testing, market research, sales promotion, sales service, research in  
43 social sciences or psychology, computer software research that is not  
44 included in the definition of research and development, or other  
45 nontechnological activities or technical services.

46 15. Machinery and equipment that are purchased by or on behalf of the  
47 owners of a soundstage complex and primarily used for motion picture,  
48 multimedia or interactive video production in the complex. This paragraph

1 applies only if the initial construction of the soundstage complex begins  
2 after June 30, 1996 and before January 1, 2002 and the machinery and  
3 equipment are purchased before the expiration of five years after the start  
4 of initial construction. For the purposes of this paragraph:

5 (a) "Motion picture, multimedia or interactive video production"  
6 includes products for theatrical and television release, educational  
7 presentations, electronic retailing, documentaries, music videos, industrial  
8 films, CD-ROM, video game production, commercial advertising and television  
9 episode production and other genres that are introduced through developing  
10 technology.

11 (b) "Soundstage complex" means a facility of multiple stages including  
12 production offices, construction shops and related areas, prop and costume  
13 shops, storage areas, parking for production vehicles and areas that are  
14 leased to businesses that complement the production needs and orientation of  
15 the overall facility.

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

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

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

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

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

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

37 17. Clean rooms that are used for manufacturing, processing,  
38 fabrication or research and development, as defined in paragraph 14 of this  
39 subsection, of semiconductor products. For the purposes of this paragraph,  
40 "clean room" means all property that comprises or creates an environment  
41 where humidity, temperature, particulate matter and contamination are  
42 precisely controlled within specified parameters, without regard to whether  
43 the property is actually contained within that environment or whether any of  
44 the property is affixed to or incorporated into real property. Clean room:

45 (a) Includes the integrated systems, fixtures, piping, movable  
46 partitions, lighting and all property that is necessary or adapted to reduce  
47 contamination or to control airflow, temperature, humidity, chemical purity  
48 or other environmental conditions or manufacturing tolerances, as well as the

1 production machinery and equipment operating in conjunction with the clean  
2 room environment.

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

5 18. Machinery and equipment that are used directly in the feeding of  
6 poultry, the environmental control of housing for poultry, the movement of  
7 eggs within a production and packaging facility or the sorting or cooling of  
8 eggs. This exemption does not apply to vehicles used for transporting eggs.

9 19. Machinery or equipment, including related structural components,  
10 that is employed in connection with manufacturing, processing, fabricating,  
11 job printing, refining, mining, natural gas pipelines, metallurgical  
12 operations, telecommunications, producing or transmitting electricity or  
13 research and development and that is used directly to meet or exceed rules or  
14 regulations adopted by the federal energy regulatory commission, the United  
15 States environmental protection agency, the United States nuclear regulatory  
16 commission, the Arizona department of environmental quality or a political  
17 subdivision of this state to prevent, monitor, control or reduce land, water  
18 or air pollution.

19 20. Machinery and equipment that are used in the commercial production  
20 of livestock, livestock products or agricultural, horticultural, viticultural  
21 or floricultural crops or products in this state and that are used directly  
22 and primarily to prevent, monitor, control or reduce air, water or land  
23 pollution.

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

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

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

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

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

44 23. Machinery, equipment and other tangible personal property used  
45 directly in motion picture production by a motion picture production company.  
46 To qualify for this exemption, at the time of purchase, the motion picture  
47 production company must present to the retailer its certificate that is

1 issued pursuant to section 42-5009, subsection H and that establishes its  
2 qualification for the exemption.

3 C. The exemptions provided by subsection B of this section do not  
4 include:

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

9 2. Janitorial equipment and hand tools.

10 3. Office equipment, furniture and supplies.

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

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

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

20 7. Motors and pumps used in drip irrigation systems.

21 D. The following shall be deducted in computing the purchase price of  
22 electricity by a retail electric customer from a utility business:

23 1. Revenues received from sales of ancillary services, electric  
24 distribution services, electric generation services, electric transmission  
25 services and other services related to providing electricity to a retail  
26 electric customer who is located outside this state for use outside this  
27 state if the electricity is delivered to a point of sale outside this state.

28 2. Revenues received from providing electricity, including ancillary  
29 services, electric distribution services, electric generation services,  
30 electric transmission services and other services related to providing  
31 electricity with respect to which the transaction privilege tax imposed under  
32 section 42-5063 has been paid.

33 E. The tax levied by this article does not apply to:

34 1. The storage, use or consumption in Arizona of machinery, equipment,  
35 materials or other tangible personal property if used directly and  
36 predominantly to construct a qualified environmental technology  
37 manufacturing, producing or processing facility, as described in section  
38 41-1514.02. This paragraph applies for ten full consecutive calendar or  
39 fiscal years after the start of initial construction.

40 2. The purchase of electricity by a qualified environmental technology  
41 manufacturer, producer or processor as defined in section 41-1514.02 that is  
42 used directly in environmental technology manufacturing, producing or  
43 processing. This paragraph shall apply for fifteen full consecutive calendar  
44 or fiscal years from the date the first paper manufacturing machine is placed  
45 in service. In the case of an environmental technology manufacturer,  
46 producer or processor who does not manufacture paper, the time period shall  
47 begin with the date the first manufacturing, processing or production  
48 equipment is placed in service.

1           3. The purchase of solar energy devices from a retailer that is  
2 registered with the department as a solar energy retailer or a solar energy  
3 contractor.

4           F. The following shall be deducted in computing the purchase price of  
5 electricity by a retail electric customer from a utility business:

6           1. Fees charged by a municipally owned utility to persons constructing  
7 residential, commercial or industrial developments or connecting residential,  
8 commercial or industrial developments to a municipal utility system or  
9 systems if the fees are segregated and used only for capital expansion,  
10 system enlargement or debt service of the utility system or systems.

11           2. Reimbursement or contribution compensation to any person or persons  
12 owning a utility system for property and equipment installed to provide  
13 utility access to, on or across the land of an actual utility consumer if the  
14 property and equipment become the property of the utility. This deduction  
15 shall not exceed the value of such property and equipment.

16           G. For the purposes of subsection B of this section:

17           1. "Aircraft" includes:

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

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

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

27           H. For the purposes of subsection D of this section, "ancillary  
28 services", "electric distribution service", "electric generation service",  
29 "electric transmission service" and "other services" have the same meanings  
30 prescribed in section 42-5063.

31           Sec. 15. Section 42-5160, Arizona Revised Statutes, is amended to  
32 read:

33           42-5160. Liability for tax

34           Any person who uses, stores or consumes any tangible personal property  
35 upon which a tax is imposed by this article and upon which the tax has not  
36 been collected by a registered retailer or utility business shall pay the tax  
37 as provided by this article, but every retailer and utility business  
38 maintaining a place of business in this state and making sales of tangible  
39 personal property for storage, use or other consumption in this state shall  
40 collect the tax from the purchaser or user unless the property is exempt  
41 under this article or the purchaser or user pays the tax directly to the  
42 department as provided by section 42-5167. In the case of a manufactured  
43 building that is purchased from a dealer outside this state and brought into  
44 this state, any person who is hired to set up the manufactured building and  
45 who is licensed pursuant to title 41, chapter 16, article 4 shall collect the  
46 tax from the owner and remit the tax ~~with any tax that is due under the prime~~  
47 ~~contracting classification.~~

1           Sec. 16. Section 42-6004, Arizona Revised Statutes, is amended to  
2 read:

3           42-6004. Exemption from municipal tax

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

6           1. Exhibition events in this state sponsored, conducted or operated by  
7 a nonprofit organization that is exempt from taxation under section  
8 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the  
9 organization is associated with a major league baseball team or a national  
10 touring professional golfing association and no part of the organization's  
11 net earnings inures to the benefit of any private shareholder or individual.

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

15           3. Sales of warranty or service contracts.

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

19           5. Interest on finance contracts.

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

21           ~~7. Through December 31, 2009, the gross proceeds of sales or gross  
22 income received from a contract from constructing any lake facility  
23 development in a commercial enhancement reuse district established pursuant  
24 to section 9-499.08.~~

25           ~~8.~~ 7. Sales of food or other items purchased with United States  
26 department of agriculture food stamp coupons issued under the food stamp act  
27 of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section  
28 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661,  
29 section 4302; 42 United States Code section 1786) but may impose such a tax  
30 on other sales of food. If a city, town or special taxing district exempts  
31 sales of food from its tax or imposes a different transaction privilege rate  
32 on the gross proceeds of sales or gross income from sales of food and nonfood  
33 items, it shall use the definition of food prescribed by rule adopted by the  
34 department pursuant to section 42-5106.

35           ~~9.~~ 8. Sales of internet access services to the person's subscribers  
36 and customers. For the purposes of this paragraph:

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

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

45           ~~10.~~ 9. The gross proceeds of sales or gross income retained by the  
46 Arizona exposition and state fair board from ride ticket sales at the annual  
47 Arizona state fair.

1           ~~11-~~ 10. Through August 31, 2014, sales of Arizona centennial  
2 medallions by the historical advisory commission.

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

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

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

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

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

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

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

27           ~~6. Through December 31, 2009, and except as provided in section~~  
28 ~~42-6104, a contract from constructing any lake facility development in a~~  
29 ~~commercial enhancement reuse district established pursuant to section~~  
30 ~~9-499.08.~~

31           ~~7-~~ 6. Any amount attributable to development fees that are incurred  
32 in relation to the construction, development or improvement of real property  
33 and paid by the taxpayer as defined in the model city tax code or by a  
34 contractor providing services to the taxpayer. For the purposes of this  
35 paragraph:

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

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

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

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

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

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

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

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

17 Sec. 17. Section 42-6102, Arizona Revised Statutes, is amended to  
18 read:

19 42-6102. Administration

20 ~~A.~~ Unless the context otherwise requires, chapter 5, article 1 of this  
21 title governs the administration of the taxes imposed by this article, except  
22 that:

23 1. A separate license is not required for the taxes imposed by this  
24 article, and the taxes due under this article shall be included, reported and  
25 paid with the transaction privilege tax.

26 2. A separate bond is not required of employees of the department in  
27 administering this article.

28 3. The taxes imposed by this article may be included without  
29 segregation in any notice and lien filed for unpaid transaction privilege  
30 taxes.

31 ~~B. The taxes imposed pursuant to this article do not apply to the  
32 gross proceeds of sales or gross income derived pursuant to contracts entered  
33 into before the date of the election to authorize the tax by prime  
34 contractors and owner builders who are classified under sections 42-5075 and  
35 42-5076 unless the contract contains a provision which entitles the  
36 contractor to recover the amount of the tax from a purchaser. In order to  
37 qualify for this exemption the contractor shall provide sufficient  
38 documentation, in a manner and form prescribed by the department, to verify  
39 that a contract was entered into before the date of the election to authorize  
40 the tax.~~

41 Sec. 18. Section 42-6105, Arizona Revised Statutes, is amended to  
42 read:

43 42-6105. County transportation excise tax; counties with  
44 population of one million two hundred thousand or  
45 more persons

46 A. If approved by the qualified electors voting at a countywide  
47 election, a county with a population of one million two hundred thousand or

1 more persons shall levy and the department shall collect a tax as provided by  
2 this section, in addition to all other taxes.

3 B. The tax shall be levied and collected:

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

7 ~~(a) to each person engaging or continuing in the county in a business~~  
8 ~~taxed under chapter 5, article 1 of this title.~~

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

16 2. In the case of persons subject to the tax imposed under section  
17 42-5352, subsection A, at a rate of not more than .305 cents per gallon of  
18 jet fuel sold.

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

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

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

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

33 1. 56.2 per cent to the regional area road fund pursuant to section  
34 28-6303 for freeways and other routes in the state highway system, including  
35 capital expense and maintenance.

36 2. 10.5 per cent to the regional area road fund pursuant to section  
37 28-6303 for major arterial streets and intersection improvements, including  
38 capital expense and implementation studies.

39 3. 33.3 per cent to the public transportation fund pursuant to section  
40 48-5103 for:

41 (a) Capital costs, maintenance and operation of public transportation  
42 classifications.

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

1           Sec. 19. 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 for sales to a contractor who is exempt under section 42-5075,~~  
24 ~~subsection B, paragraph 8 shall be included in the tax base for purposes of~~  
25 ~~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  
43 the regional transportation fund pursuant to 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  
47 regional transportation fund pursuant to section 48-5307 or shall be  
48 allocated between both funds.

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

4 Sec. 20. Section 43-1072.01, Arizona Revised Statutes, is amended to  
5 read:

6 43-1072.01. Credit for increased excise taxes paid

7 A. Subject to the conditions prescribed by this section and if  
8 approved by the qualified electors voting at a statewide general election,  
9 for tax years beginning from and after December 31, 2000 a credit is allowed  
10 against the taxes imposed by this chapter for a taxable year for a taxpayer  
11 who is not claimed as a dependent by any other taxpayer and whose federal  
12 adjusted gross income is:

13 1. Twenty-five thousand dollars or less for a married couple or a  
14 single person who is a head of a household.

15 2. Twelve thousand five hundred dollars or less for a single person or  
16 a married person filing separately.

17 B. The credit is considered to be in mitigation of increased tax rates  
18 pursuant to section 42-5010, subsection ~~G~~ H and section 42-5155,  
19 subsection D.

20 C. The amount of the credit shall not exceed twenty-five dollars for  
21 each person who is a resident of this state and for whom a personal or  
22 dependent exemption is allowed with respect to the taxpayer pursuant to  
23 section 43-1023, subsection B, paragraph 1 and section 43-1043, but not more  
24 than one hundred dollars for all persons in the taxpayer's household, as  
25 defined in section 43-1072.

26 D. If the allowable amount of the credit exceeds the income taxes  
27 otherwise due on the claimant's income, the amount of the claim not used as  
28 an offset against income taxes shall be paid in the same manner as a refund  
29 granted under section 42-1118. Refunds made pursuant to this subsection are  
30 subject to setoff under section 42-1122.

31 E. The department shall make available suitable forms with  
32 instructions for claimants. Claimants who certify on the prescribed form  
33 that they have no income tax liability for the taxable year and who do not  
34 meet the filing requirements of section 43-301 are not required to file an  
35 individual income tax return. The claim shall be in a form prescribed by the  
36 department.

37 F. For taxable years beginning from and after December 31, 2002, a  
38 person who is sentenced for at least sixty days of the taxable year to the  
39 custody of the federal bureau of prisons, the state department of corrections  
40 or a county jail is not eligible to claim a credit pursuant to this section.

41 Sec. 21. Section 49-290, Arizona Revised Statutes, is amended to read:

42 49-290. Exemption from permit requirements; definition

43 A. Notwithstanding any other statute, a person who performs a remedial  
44 action or a portion of a remedial action that has been approved by the  
45 department if that action or portion is conducted in compliance with this  
46 article is not subject to any requirement to obtain any permit or approval  
47 that may otherwise be required by the department.

1           B. Except as prescribed in subsection D of this section, a person who  
2 conducts a portion of a remedial action, where that portion is entirely on  
3 site and is conducted in compliance with this article, may be exempted from a  
4 requirement to obtain any other state or local permit or approval, other than  
5 any requirement of title 45, at the written request of the person conducting  
6 the remedial action. The written request shall identify the specific permit  
7 to be exempted and the reasons the exemption is requested. The permit may be  
8 exempted if the director finds both of the following:

9           1. The requirement does not arise out of any permit or regulatory  
10 program that is required pursuant to the laws of the United States.

11           2. The requirement presents a substantial impediment to effective  
12 performance of the remedial action selected by the department.

13           C. The director may waive any regulatory requirement adopted pursuant  
14 to this title with respect to a site or portion of a site as part of a record  
15 of decision adopted pursuant to section 49-287.04 for that site or portion of  
16 a site if the regulatory requirement conflicts with the implementation of the  
17 selected remedy, provided that the waiver does not result in adverse impacts  
18 to public health or the environment. No waiver may be granted under this  
19 subsection if it is prohibited by federal law or if the waiver would  
20 jeopardize the continued delegation to the state of authority to implement a  
21 federal environmental program.

22           D. Discharge of wastewater to off-site publicly owned treatment works  
23 and sewer systems does not constitute an activity conducted entirely on site  
24 for purposes of subsection B of this section.

25           E. The director shall give written notice of any request for exemption  
26 made pursuant to subsection B of this section to the remedial action  
27 coordinator designated pursuant to subsection G of this section by the  
28 governmental entity whose permit requirements are the subject of the request.  
29 Before making any finding pursuant to subsection B of this section, the  
30 director or the director's designee shall meet and confer with the remedial  
31 action coordinator and the person conducting the remedial action to identify  
32 alternatives to exemption.

33           F. Any finding made by the director pursuant to subsection B of this  
34 section shall be in writing. The governmental entity whose permit  
35 requirement is preempted as a result of such finding is not liable for  
36 property damage, personal injury damage or violations of state or local law  
37 resulting from the exemption. The director shall notify the affected  
38 governmental entity of any finding made pursuant to subsection B of this  
39 section. A finding of the director made pursuant to subsection B of this  
40 section is a final administrative decision as defined in section 41-1092 and  
41 is subject to judicial review pursuant to title 12, chapter 7, article 6.

42           G. Each city, town and county shall designate a remedial action  
43 coordinator who shall have responsibility for monitoring and facilitating any  
44 remedial actions conducted within its jurisdiction. The designated remedial  
45 action coordinator shall:

46           1. Regularly consult, as needed, with the department and the person  
47 conducting a remedial action throughout the duration of the remedial action.

1           2. Expedite the processing and issuance of permits, approvals or other  
2 authorizations required by the governmental entity represented by the  
3 remedial action coordinator, to facilitate the prompt conduct of a remedial  
4 action.

5           3. Provide information to the department and the person conducting the  
6 remedial action regarding applicable requirements of the governmental entity  
7 represented by the remedial action coordinator and the potential for waiver  
8 of such requirements.

9           ~~H. In order to encourage remediation activities under this article and  
10 to conserve the fund, neither this state nor any county that imposes an  
11 excise or similar tax that is levied at a rate applied as a percentage of the  
12 rates on each business class subject to the tax imposed by title 42, chapter  
13 5, article 1 may impose a tax on the sale or purchase of tangible personal  
14 property incorporated or fabricated into any real property, structure,  
15 project, development or improvement under a contract specified in section  
16 42-5075, subsection B, paragraph 6.~~

17           ~~I.~~ H. For THE purposes of this section, "on site" means the areal  
18 extent of contamination and all suitable areas in close proximity to the  
19 contamination that are reasonably necessary for implementation of the  
20 remedial action.

21           Sec. 22. Preexisting contracts; tax

22           A. This act does not apply to or affect the tax liability with respect  
23 to contracts that were entered into before January 1, 2011 by a person who  
24 engaged in business under the prime contracting classification pursuant to  
25 section 42-5075, Arizona Revised Statutes.

26           B. Notwithstanding section 42-5075, Arizona Revised Statutes, as  
27 amended by this act, the tax imposed by title 42, chapter 5, article 1,  
28 Arizona Revised Statutes, is levied and shall be collected at a rate of five  
29 and six-tenths per cent of the tax base, as determined pursuant to section  
30 42-5075, Arizona Revised Statutes, as in effect on December 31, 2010, derived  
31 pursuant to contracts entered into before January 1, 2011 by prime  
32 contractors who were subject to tax under section 42-5075, Arizona Revised  
33 Statutes, before January 1, 2011.

34           C. Prime contractors shall maintain and provide to the department of  
35 revenue on request documentation regarding payments received in satisfaction  
36 of contracts that are subject to taxation under this section.

37           D. Twenty per cent of the tax revenues collected pursuant to this  
38 section is designated as distribution base for purposes of section 42-5029,  
39 Arizona Revised Statutes.

40           E. The taxes imposed pursuant to title 42, chapter 6, article 3,  
41 Arizona Revised Statutes, apply to the tax base, as determined pursuant to  
42 sections 42-5075 and 42-5076, Arizona Revised Statutes, as in effect on  
43 December 31, 2007, derived pursuant to contracts entered into after the date  
44 of the election to authorize the tax and before January 1, 2011 by prime  
45 contractors and owner builders who engaged in business pursuant to sections  
46 42-5075 and 42-5076, Arizona Revised Statutes. Contracts entered into before  
47 the date of the election to authorize the tax by prime contractors and owner  
48 builders who engaged in business pursuant to sections 42-5075 and 42-5076,

1 Arizona Revised Statutes, are taxable pursuant to title 42, chapter 6,  
2 article 3, Arizona Revised Statutes, on the tax base, as determined pursuant  
3 to sections 42-5075 and 42-5076, Arizona Revised Statutes, as in effect on  
4 December 31, 2010, unless the contract does not contain a provision that  
5 entitles the taxpayer to recover the amount of the tax from a purchaser. The  
6 taxpayer is required to provide sufficient documentation to the department of  
7 revenue.

8 F. Unless the context otherwise requires, title 42, chapter 5, article  
9 1, Arizona Revised Statutes, governs the administration of the tax imposed by  
10 this section.

11 Sec. 23. Preexisting tax exempt contracts

12 After the effective date of this act, the sale of tangible personal  
13 property to a contractor for incorporation or fabrication, pursuant to a  
14 contract entered into before January 1, 2011, into any project that was  
15 subject to a deduction under section 42-5075, subsection B, Arizona Revised  
16 Statutes, as in effect on December 31, 2010, is not subject to tax under  
17 section 42-5061, Arizona Revised Statutes.

18 Sec. 24. Use tax

19 Tangible personal property that was purchased before January 1, 2011 by  
20 a person who engaged in business under the prime contracting classification  
21 or who performed contracting services within the control of a prime  
22 contractor pursuant to section 42-5075, Arizona Revised Statutes, and that  
23 was not incorporated into a project for which the contract was entered into  
24 before January 1, 2011 is subject to use taxation pursuant to section  
25 42-5155, Arizona Revised Statutes.

26 Sec. 25. Effective date

27 This act is effective from and after December 31, 2010."

28 Amend title to conform

RICHARD A. MURPHY

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