

REFERENCE TITLE: gang; immigration intelligence; mission; funding

State of Arizona
House of Representatives
Fiftieth Legislature
First Regular Session
2011

HB 2655

Introduced by
Representatives Campbell, Farley, Hobbs, Tovar: Ableser, Alston, Heinz,
McCune Davis, Meyer, Patterson

AN ACT

AMENDING SECTION 41-1724, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 12, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1725; AMENDING SECTIONS 42-5009, 42-5029, 42-5061, 42-5064, 42-5071, 42-5075, 42-5155, 42-5159 AND 43-1082, ARIZONA REVISED STATUTES; MAKING APPROPRIATIONS; RELATING TO THE DEPARTMENT OF PUBLIC SAFETY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 41-1724, Arizona Revised Statutes, is amended to
3 read:

4 41-1724. Gang and immigration intelligence team enforcement
5 mission fund; accounts

6 A. The gang and immigration intelligence team enforcement mission fund
7 is established consisting of monies deposited pursuant to section 11-1051,
8 SECTION 42-5029, SUBSECTION D, PARAGRAPH 4, SUBDIVISION (c) and monies
9 appropriated by the legislature. The department shall administer the fund.
10 Monies in the fund are subject to legislative appropriation ~~and shall be used~~
11 ~~for gang and immigration enforcement and for county jail reimbursement costs~~
12 ~~relating to illegal immigration.~~

13 B. THE GANG AND IMMIGRATION INTELLIGENCE TEAM ENFORCEMENT MISSION FUND
14 IS DIVIDED INTO THE FOLLOWING ACCOUNTS:

- 15 1. THE MISSION ACCOUNT.
- 16 2. THE BORDER SECURITY EQUIPMENT AND TECHNOLOGY ACCOUNT.
- 17 3. THE BORDER ACTION GRANTS ACCOUNT.
- 18 4. THE BORDER LAW ENFORCEMENT AND PROSECUTORS ACCOUNT.

19 C. THE MONIES DEPOSITED IN THE FUND SHALL BE DEPOSITED IN THE ACCOUNTS
20 ESTABLISHED BY SUBSECTION B OF THIS SECTION AS FOLLOWS:

- 21 1. THIRTY PER CENT IN THE MISSION ACCOUNT.
- 22 2. TWENTY-SIX PER CENT IN THE BORDER SECURITY EQUIPMENT AND TECHNOLOGY
23 ACCOUNT.
- 24 3. TWENTY-TWO PER CENT IN THE BORDER ACTION GRANTS ACCOUNT.
- 25 4. TWENTY-TWO PER CENT IN THE BORDER LAW ENFORCEMENT AND PROSECUTORS
26 ACCOUNT.

27 D. THE MISSION ACCOUNT SHALL BE USED FOR GANG AND IMMIGRATION
28 ENFORCEMENT AND FOR COUNTY JAIL REIMBURSEMENT COSTS RELATING TO ILLEGAL
29 IMMIGRATION CONSISTENT WITH SECTION 41-1725.

30 E. THE DEPARTMENT SHALL DISTRIBUTE THE MONIES IN THE BORDER SECURITY
31 EQUIPMENT AND TECHNOLOGY ACCOUNT IN BLOCK GRANTS TO LOCAL, COUNTY, TRIBAL AND
32 STATE AGENCIES IN THE BORDER REGION FOR BORDER SECURITY EQUIPMENT AND
33 TECHNOLOGY, INCLUDING NIGHT VISION EQUIPMENT, SMART FENCE TECHNOLOGY,
34 INFRARED TECHNOLOGY, OFF-ROAD VEHICLES AND RADIO EQUIPMENT.

35 F. THE DEPARTMENT SHALL DISTRIBUTE THE MONIES IN THE BORDER ACTION
36 GRANTS ACCOUNT IN BLOCK GRANTS TO LOCAL, COUNTY AND TRIBAL AGENCIES IN THE
37 BORDER REGION FOR BORDER COSTS RELATED TO ILLEGAL IMMIGRATION, INCLUDING
38 OVERTIME FOR LAW ENFORCEMENT PERSONNEL, FIRST RESPONDER COSTS, EXTRAORDINARY
39 EXPENSES FOR THE MEDICAL EXAMINER, COUNTY JAIL COSTS, MATERIAL WITNESS
40 EXPENSES AND OTHER MISCELLANEOUS COSTS.

41 G. THE DEPARTMENT SHALL DISTRIBUTE THE MONIES IN THE BORDER LAW
42 ENFORCEMENT AND PROSECUTORS ACCOUNT IN BLOCK GRANTS TO LOCAL, COUNTY AND
43 TRIBAL AGENCIES AND PROSECUTORS IN THE BORDER REGION TO HELP THE ENTITY
44 INCREASE LAW ENFORCEMENT PRESENCE AND CRIMINAL PROSECUTIONS FOR CRIMES
45 RELATED TO HUMAN TRAFFICKING AND SMUGGLING AND METHAMPHETAMINE AND IDENTITY

1 RELATED OFFENSES THAT OCCUR IN THE BORDER REGION BY PROVIDING FUNDING FOR LAW
2 ENFORCEMENT AND PROSECUTOR SALARIES.

3 Sec. 2. Title 41, chapter 12, article 2, Arizona Revised Statutes, is
4 amended by adding section 41-1725, to read:

5 41-1725. Gang and immigration intelligence team enforcement
6 mission

7 A. THE DEPARTMENT SHALL ESTABLISH AND MAINTAIN A MULTIJURISDICTIONAL
8 TASK FORCE. THE TASK FORCE SHALL BE KNOWN AS THE GANG AND IMMIGRATION
9 INTELLIGENCE TEAM ENFORCEMENT MISSION.

10 B. THE TASK FORCE SHALL:

11 1. DETER CRIMINAL GANG ACTIVITY THROUGH INVESTIGATIONS, ARRESTS AND
12 PROSECUTION OF GANG MEMBERS.

13 2. DISMANTLE GANG RELATED CRIMINAL ENTERPRISES.

14 3. DETER BORDER RELATED CRIMES.

15 4. DISRUPT HUMAN SMUGGLING ORGANIZATIONS.

16 5. COLLECT, ANALYZE AND DISSEMINATE GANG AND ILLEGAL IMMIGRATION
17 INTELLIGENCE.

18 6. PROVIDE ANTI-GANG AND ILLEGAL IMMIGRATION AWARENESS TRAINING TO
19 COMMUNITIES AND SCHOOLS.

20 C. IF THE DEPARTMENT SPENDS MONIES FROM THE MISSION ACCOUNT
21 ESTABLISHED BY SECTION 41-1724 THAT ARE APPROPRIATED FOR THE GANG AND
22 IMMIGRATION INTELLIGENCE TEAM ENFORCEMENT MISSION FOR AN AGREEMENT OR
23 CONTRACT WITH A CITY, TOWN, COUNTY OR OTHER ENTITY TO PROVIDE SERVICES FOR
24 THE GANG AND IMMIGRATION INTELLIGENCE TEAM ENFORCEMENT MISSION, THE CITY,
25 TOWN, COUNTY OR OTHER ENTITY SHALL PROVIDE NOT LESS THAN TWENTY-FIVE PER CENT
26 OF THE COST OF THE SERVICES AND THE DEPARTMENT SHALL PROVIDE NOT MORE THAN
27 SEVENTY-FIVE PER CENT OF THE PERSONAL SERVICES AND EMPLOYEE RELATED
28 EXPENDITURES FOR EACH AGREEMENT OR CONTRACT BUT MAY FUND ALL CAPITAL RELATED
29 EQUIPMENT.

30 D. THE DISTRIBUTION OF MONIES IN THE MISSION ACCOUNT PURSUANT TO
31 SUBSECTION C OF THIS SECTION IS CONTINGENT ON THE DEPARTMENT MAKING ALL
32 REASONABLE EFFORTS TO ENTER INTO A 287G MEMORANDUM OF UNDERSTANDING WITH THE
33 UNITED STATES DEPARTMENT OF HOMELAND SECURITY.

34 E. THE DEPARTMENT SHALL SUBMIT AN EXPENDITURE PLAN TO THE JOINT
35 LEGISLATIVE BUDGET COMMITTEE FOR REVIEW BEFORE SPENDING ANY MONIES THAT ARE
36 NOT IDENTIFIED IN THE DEPARTMENT'S PREVIOUS EXPENDITURE PLANS.

37 F. WITHIN THIRTY DAYS AFTER THE LAST DAY OF EACH CALENDAR QUARTER, THE
38 DEPARTMENT SHALL PROVIDE A SUMMARY OF QUARTERLY AND YEAR-TO-DATE EXPENDITURES
39 AND PROGRESS TO THE JOINT LEGISLATIVE BUDGET COMMITTEE, INCLUDING ANY PRIOR
40 YEAR APPROPRIATIONS THAT WERE NONLAPSING.

1 Sec. 3. Section 42-5009, Arizona Revised Statutes, is amended to read:
2 42-5009. Certificates establishing deductions; liability for
3 making false certificate

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

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

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

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

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

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

43 E. If a seller is entitled to a deduction by complying with subsection
44 B of this section, the department may require the purchaser to establish the
45 accuracy and completeness of the information provided to the seller that

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

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

27 G. If a seller claims a deduction under section 42-5061, subsection A,
 28 paragraph 25 and establishes entitlement to the deduction with an exemption
 29 letter that the purchaser received from the department and the exemption
 30 letter was based on a contingent event, the department may require the
 31 purchaser that received the exemption letter to establish the satisfaction of
 32 the contingent event within a reasonable time. If the purchaser cannot
 33 establish the satisfaction of the event, the purchaser is liable in an amount
 34 equal to any tax, penalty and interest that the seller would have been
 35 required to pay under this article if the seller had not been furnished the
 36 exemption letter. Payment of the amount under this subsection exempts the
 37 purchaser from liability for any tax imposed under article 4 of this chapter.
 38 The amount shall be treated as tax revenues collected from the seller in
 39 order to designate the distribution base for purposes of section 42-5029.
 40 For the purposes of this subsection, "reasonable time" means a time
 41 limitation that the department determines and that does not exceed the time
 42 limitations pursuant to section 42-1104.

43 H. From and after December 31, 2005 through December 31, 2010, the
 44 department shall prescribe a form for a certificate used to establish
 45 entitlement to the deductions described in section 42-5061, subsection B,

1 paragraph ~~23~~ 22, section 42-5066, subsection B, paragraph 5, section 42-5070,
2 subsection C, paragraph 2, section 42-5074, subsection B, paragraph 10,
3 section 42-5075, subsection B, paragraph 20 and section 42-5159, subsection
4 B, paragraph ~~23~~ 22 relating to motion picture production. The certificate is
5 effective for twelve consecutive calendar months from and after the date of
6 issuance and is subject to the following requirements and conditions:

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

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

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

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

24 5. The department shall maintain annual data on the total amount of
25 monies exempted through the use of certificates issued pursuant to this
26 subsection and shall provide those data to the department of commerce on
27 request.

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

31 7. If, after audit, the department determines that a motion picture
32 production company failed to meet any of the requirements prescribed by this
33 subsection, any deductions from taxation from the use of the certificate are
34 subject to recapture and payment by the motion picture production company to
35 the department.

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

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

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

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

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

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

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

29 Sec. 4. Section 42-5029, Arizona Revised Statutes, is amended to read:
30 42-5029. Remission and distribution of monies; definition

31 A. The department shall deposit, pursuant to sections 35-146 and
32 35-147, all revenues collected under this article and articles 4, 5 and 8 of
33 this chapter pursuant to section 42-1116, separately accounting for:

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

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

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

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

41 5. REVENUES COLLECTED PURSUANT TO SECTIONS 42-5061 AND 42-5159 FROM
42 TRANSACTION PRIVILEGE AND USE TAXES ON SALES OF PIPES AND VALVES FOUR INCHES
43 IN DIAMETER OR LARGER AND USED TO TRANSPORT OIL, NATURAL GAS, ARTIFICIAL GAS,
44 WATER OR COAL SLURRY, INCLUDING COMPRESSOR UNITS, REGULATORS, MACHINERY AND

1 EQUIPMENT, FITTINGS, SEALS AND ANY OTHER PART THAT IS USED IN OPERATING THE
2 PIPES OR VALVES.

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

12 C. On notification by the department, the state treasurer shall
13 distribute the monies deposited in the transaction privilege and severance
14 tax clearing account in the manner prescribed by this section and by sections
15 42-5164, 42-5205 and 42-5353, after deducting warrants drawn against the
16 account pursuant to sections 42-1118 and 42-1254.

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

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

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

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

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

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

33 (a) Average the following proportions:

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

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

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

17 4. After any distributions required by sections 42-5030, 42-5030.01,
18 42-5031, 42-5032 and 42-5032.01, and after making any transfer to the water
19 quality assurance revolving fund as required by section 49-282, subsection B,
20 credit the remainder of the monies designated as distribution base to the
21 state general fund. From this amount:

22 (a) The legislature shall annually appropriate to:

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

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

27 (iii) The firearms safety and ranges fund established by section
28 17-273, fifty thousand dollars derived from the taxes collected from the
29 retail classification pursuant to section 42-5061 for the current fiscal
30 year.

31 (b) Subject to separate initial legislative authorization, each year
32 the state treasurer shall transfer to the tourism fund an amount equal to the
33 sum of the following:

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

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

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

41 (c) EACH YEAR THE STATE TREASURER SHALL TRANSFER TO THE GANG AND
42 IMMIGRATION INTELLIGENCE TEAM ENFORCEMENT MISSION FUND ESTABLISHED BY SECTION
43 41-1724 THE FULL AMOUNT OF REVENUES IDENTIFIED AND REPORTED PURSUANT TO
44 SUBSECTION A, PARAGRAPH 5 OF THIS SECTION.

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

1 aid under section 15-971 due to added school days and associated teacher
2 salary increases enacted in 2000:

- 3 (a) In fiscal year 2001-2002, \$15,305,900.
- 4 (b) In fiscal year 2002-2003, \$31,530,100.
- 5 (c) In fiscal year 2003-2004, \$48,727,700.
- 6 (d) In fiscal year 2004-2005, \$66,957,200.
- 7 (e) In fiscal year 2005-2006 and each fiscal year thereafter,
8 \$86,280,500.

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

16 7. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
17 subsection, no more than seven million dollars may be appropriated by the
18 legislature each fiscal year to the department of education to be used for
19 accountability purposes as described in section 15-241 and title 15, chapter
20 9, article 8.

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

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

29 10. After the payment of monies pursuant to paragraphs 1 through 9 of
30 this subsection, the remaining monies collected during the preceding month
31 shall be transferred to the classroom site fund established by section
32 15-977. The monies shall be allocated as follows in the manner prescribed by
33 section 15-977:

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

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

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

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

43 G. Notwithstanding subsection D of this section, if a court of
44 competent jurisdiction finally determines that tax monies distributed under
45 this section were illegally collected under this article or articles 5 and 8

1 of this chapter and orders the monies to be refunded to the taxpayer, the
 2 department shall compute the amount of such monies that was distributed to
 3 each city, town and county under this section. The department shall notify
 4 the state treasurer of that amount plus the proportionate share of additional
 5 allocated costs required to be paid to the taxpayer. Each city's, town's and
 6 county's proportionate share of the costs shall be based on the amount of the
 7 original tax payment each municipality and county received. Each month the
 8 state treasurer shall reduce the amount otherwise distributable to the city,
 9 town and county under this section by one thirty-sixth of the total amount to
 10 be recovered from the city, town or county until the total amount has been
 11 recovered, but the monthly reduction for any city, town or county shall not
 12 exceed ten per cent of the full monthly distribution to that entity. The
 13 reduction shall begin for the first calendar month after the final
 14 disposition of the case and shall continue until the total amount, including
 15 interest and costs, has been recovered.

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

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

36 J. Except as otherwise provided by this subsection, on notice from the
 37 department of revenue pursuant to section 42-6010, subsection B, the state
 38 treasurer shall withhold from the distribution of monies pursuant to this
 39 section to the affected city or town the amount of the penalty for business
 40 location municipal tax incentives provided by the city or town to a business
 41 entity that locates a retail business facility in the city or town. The
 42 state treasurer shall continue to withhold monies pursuant to this subsection
 43 until the entire amount of the penalty has been withheld. The state
 44 treasurer shall credit any monies withheld pursuant to this subsection to the
 45 state general fund as provided by subsection D, paragraph 4 of this section.

1 The state treasurer shall not withhold any amount that the city or town
2 certifies to the department of revenue and the state treasurer as being
3 necessary to make any required deposits or payments for debt service on bonds
4 or other long-term obligations of the city or town that were issued or
5 incurred before the location incentives provided by the city or town.

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

14 L. For the purposes of this section, "community college district"
15 means a community college district that is established pursuant to sections
16 15-1402 and 15-1403 and that is a political subdivision of this state.

17 Sec. 5. Section 42-5061, Arizona Revised Statutes, is amended to read:
18 42-5061. Retail classification; definitions

19 A. The retail classification is comprised of the business of selling
20 tangible personal property at retail. The tax base for the retail
21 classification is the gross proceeds of sales or gross income derived from
22 the business. The tax imposed on the retail classification does not apply to
23 the gross proceeds of sales or gross income from:

24 1. Professional or personal service occupations or businesses which
25 involve sales or transfers of tangible personal property only as
26 inconsequential elements.

27 2. Services rendered in addition to selling tangible personal property
28 at retail.

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

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

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

39 6. Business activity which is properly included in any other business
40 classification which is taxable under this article.

41 7. The sale of stocks and bonds.

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

- 1 9. Prosthetic appliances as defined in section 23-501 prescribed or
2 recommended by a health professional who is licensed pursuant to title 32,
3 chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.
- 4 10. Insulin, insulin syringes and glucose test strips.
- 5 11. Prescription eyeglasses or contact lenses.
- 6 12. Hearing aids as defined in section 36-1901.
- 7 13. Durable medical equipment which has a centers for medicare and
8 medicaid services common procedure code, is designated reimbursable by
9 medicare, is prescribed by a person who is licensed under title 32, chapter
10 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and
11 customarily used to serve a medical purpose, is generally not useful to a
12 person in the absence of illness or injury and is appropriate for use in the
13 home.
- 14 14. Sales to nonresidents of this state for use outside this state if
15 the vendor ships or delivers the tangible personal property out of this
16 state.
- 17 15. Food, as provided in and subject to the conditions of article 3 of
18 this chapter and section 42-5074.
- 19 16. Items purchased with United States department of agriculture food
20 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.
21 958) or food instruments issued under section 17 of the child nutrition act
22 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code
23 section 1786).
- 24 17. Textbooks by any bookstore that are required by any state
25 university or community college.
- 26 18. Food and drink to a person who is engaged in business which is
27 classified under the restaurant classification and which provides such food
28 and drink without monetary charge to its employees for their own consumption
29 on the premises during the employees' hours of employment.
- 30 19. Articles of food, drink or condiment and accessory tangible
31 personal property to a school district or charter school if such articles and
32 accessory tangible personal property are to be prepared and served to persons
33 for consumption on the premises of a public school within the district or on
34 the premises of the charter school during school hours.
- 35 20. Lottery tickets or shares pursuant to title 5, chapter 5,
36 article 1.
- 37 21. The sale of precious metal bullion and monetized bullion to the
38 ultimate consumer, but the sale of coins or other forms of money for
39 manufacture into jewelry or works of art is subject to the tax. For the
40 purposes of this paragraph:
- 41 (a) "Monetized bullion" means coins and other forms of money which are
42 manufactured from gold, silver or other metals and which have been or are
43 used as a medium of exchange in this or another state, the United States or a
44 foreign nation.

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

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

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

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

16 25. Tangible personal property sold to:

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

18 (b) A qualifying health care organization as defined in section
19 42-5001 if the tangible personal property is used by the organization solely
20 to provide health and medical related educational and charitable services.

21 (c) A qualifying health care organization as defined in section
22 42-5001 if the organization is dedicated to providing educational,
23 therapeutic, rehabilitative and family medical education training for blind,
24 visually impaired and multihandicapped children from the time of birth to age
25 twenty-one.

26 (d) A qualifying community health center as defined in section
27 42-5001.

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

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

39 26. Magazines or other periodicals or other publications by this state
40 to encourage tourist travel.

41 27. Tangible personal property sold to a person that is subject to tax
42 under this article by reason of being engaged in business classified under
43 the prime contracting classification under section 42-5075, or to a
44 subcontractor working under the control of a prime contractor that is subject

1 to tax under article 1 of this chapter, if the property so sold is any of the
2 following:

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

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

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

11 28. The sale of a motor vehicle to:

12 (a) A nonresident of this state if the purchaser's state of residence
13 does not allow a corresponding use tax exemption to the tax imposed by
14 article 1 of this chapter and if the nonresident has secured a special ninety
15 day nonresident registration permit for the vehicle as prescribed by sections
16 28-2154 and 28-2154.01.

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

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

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

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

36 32. Sales of tangible personal property by a nonprofit organization
37 that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6),
38 501(c)(7) or 501(c)(8) of the internal revenue code if the organization
39 sponsors or operates a rodeo featuring primarily farm and ranch animals and
40 no part of the organization's net earnings inures to the benefit of any
41 private shareholder or individual.

42 33. Sales of seeds, seedlings, roots, bulbs, cuttings and other
43 propagative material to persons who use those items to commercially produce
44 agricultural, horticultural, viticultural or floricultural crops in this
45 state.

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

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

9 36. Sales of natural gas or liquefied petroleum gas used to propel a
10 motor vehicle.

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

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

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

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

44 (a) "Personal property liquidation transaction" means a sale of
45 personal property made by a personal property liquidator acting solely on

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

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

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

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

15 43. Livestock and poultry feed, salts, vitamins and other additives for
16 livestock or poultry consumption that are sold to persons who are engaged in
17 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 44. Sales of implants used as growth promotants and injectable
21 medicines, not already exempt under paragraph 8 of this subsection, for
22 livestock or poultry owned by or in possession of persons who are engaged in
23 producing livestock, poultry, or livestock or poultry products or who are
24 engaged in feeding livestock or poultry commercially. For the purposes of
25 this paragraph, "poultry" includes ratites.

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

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

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

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

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

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

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

9 50. Sales of alternative fuel vehicles if the vehicle was manufactured
10 as a diesel fuel vehicle and converted to operate on alternative fuel and
11 equipment that is installed in a conventional diesel fuel motor vehicle to
12 convert the vehicle to operate on an alternative fuel, as defined in section
13 1-215.

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

17 52. Sales of tangible personal property to be incorporated or installed
18 as part of environmental response or remediation activities under section
19 42-5075, subsection B, paragraph 6.

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

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

27 55. Application services that are designed to assess or test student
28 learning or to promote curriculum design or enhancement purchased by or for
29 any school district, charter school, community college or state university.
30 For the purposes of this paragraph:

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

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

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

40 1. Machinery, or equipment, used directly in manufacturing,
41 processing, fabricating, job printing, refining or metallurgical operations.
42 The terms "manufacturing", "processing", "fabricating", "job printing",
43 "refining" and "metallurgical" as used in this paragraph refer to and include
44 those operations commonly understood within their ordinary meaning.

1 "Metallurgical operations" includes leaching, milling, precipitating,
2 smelting and refining.

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

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

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

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

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

26 ~~7.~~ 6. Aircraft, navigational and communication instruments and other
27 accessories and related equipment sold to:

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

34 (b) Any foreign government for use by such government outside of this
35 state.

36 (c) Persons who are not residents of this state and who will not use
37 such property in this state other than in removing such property from this
38 state. This subdivision also applies to corporations that are not
39 incorporated in this state, regardless of maintaining a place of business in
40 this state, if the principal corporate office is located outside this state
41 and the property will not be used in this state other than in removing the
42 property from this state.

43 ~~8.~~ 7. Machinery, tools, equipment and related supplies used or
44 consumed directly in repairing, remodeling or maintaining aircraft, aircraft

1 engines or aircraft component parts by or on behalf of a certificated or
2 licensed carrier of persons or property.

3 ~~9-~~ 8. Railroad rolling stock, rails, ties and signal control
4 equipment used directly to transport persons or property.

5 ~~10-~~ 9. Machinery or equipment used directly to drill for oil or gas or
6 used directly in the process of extracting oil or gas from the earth for
7 commercial purposes.

8 ~~11-~~ 10. Buses or other urban mass transit vehicles which are used
9 directly to transport persons or property for hire or pursuant to a
10 governmentally adopted and controlled urban mass transportation program and
11 which are sold to bus companies holding a federal certificate of convenience
12 and necessity or operated by any city, town or other governmental entity or
13 by any person contracting with such governmental entity as part of a
14 governmentally adopted and controlled program to provide urban mass
15 transportation.

16 ~~12-~~ 11. Groundwater measuring devices required under section 45-604.

17 ~~13-~~ 12. New machinery and equipment consisting of tractors,
18 tractor-drawn implements, self-powered implements, machinery and equipment
19 necessary for extracting milk, and machinery and equipment necessary for
20 cooling milk and livestock, and drip irrigation lines ~~not already exempt~~
21 ~~under paragraph 6 of this subsection and~~ that are used for commercial
22 production of agricultural, horticultural, viticultural and floricultural
23 crops and products in this state. For the purposes of this paragraph:

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

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

29 ~~14-~~ 13. Machinery or equipment used in research and development. For
30 the purposes of this paragraph, "research and development" means basic and
31 applied research in the sciences and engineering, and designing, developing
32 or testing prototypes, processes or new products, including research and
33 development of computer software that is embedded in or an integral part of
34 the prototype or new product or that is required for machinery or equipment
35 otherwise exempt under this section to function effectively. Research and
36 development do not include manufacturing quality control, routine consumer
37 product testing, market research, sales promotion, sales service, research in
38 social sciences or psychology, computer software research that is not
39 included in the definition of research and development, or other
40 nontechnological activities or technical services.

41 ~~15-~~ 14. Machinery and equipment that are purchased by or on behalf of
42 the owners of a soundstage complex and primarily used for motion picture,
43 multimedia or interactive video production in the complex. This paragraph
44 applies only if the initial construction of the soundstage complex begins
45 after June 30, 1996 and before January 1, 2002 and the machinery and

1 equipment are purchased before the expiration of five years after the start
2 of initial construction. For the purposes of this paragraph:

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

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

14 ~~16.~~ 15. Tangible personal property that is used by either of the
15 following to receive, store, convert, produce, generate, decode, encode,
16 control or transmit telecommunications information:

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

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

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

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

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

35 ~~17.~~ 16. Clean rooms that are used for manufacturing, processing,
36 fabrication or research and development, as defined in paragraph ~~14~~ 13 of
37 this subsection, of semiconductor products. For the purposes of this
38 paragraph, "clean room" means all property that comprises or creates an
39 environment where humidity, temperature, particulate matter and contamination
40 are precisely controlled within specified parameters, without regard to
41 whether the property is actually contained within that environment or whether
42 any of the property is affixed to or incorporated into real property. Clean
43 room:

44 (a) Includes the integrated systems, fixtures, piping, movable
45 partitions, lighting and all property that is necessary or adapted to reduce

1 contamination or to control airflow, temperature, humidity, chemical purity
2 or other environmental conditions or manufacturing tolerances, as well as the
3 production machinery and equipment operating in conjunction with the clean
4 room environment.

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

7 ~~18-~~ 17. Machinery and equipment used directly in the feeding of
8 poultry, the environmental control of housing for poultry, the movement of
9 eggs within a production and packaging facility or the sorting or cooling of
10 eggs. This exemption does not apply to vehicles used for transporting eggs.

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

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

26 ~~21-~~ 20. Machinery or equipment that enables a television station to
27 originate and broadcast or to receive and broadcast digital television
28 signals and that was purchased to facilitate compliance with the
29 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States
30 Code section 336) and the federal communications commission order issued
31 April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does
32 not exempt any of the following:

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

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

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

40 ~~22-~~ 21. Qualifying equipment that is purchased from and after June 30,
41 2004 through June 30, 2014 by a qualified business under section 41-1516 for
42 harvesting or the initial processing of qualifying forest products removed
43 from qualifying projects as defined in section 41-1516. To qualify for this
44 deduction, the qualified business at the time of purchase must present its
45 certification approved by the department.

1 ~~23.~~ 22. Machinery, equipment and other tangible personal property used
2 directly in motion picture production by a motion picture production company.
3 To qualify for this deduction, at the time of purchase, the motion picture
4 production company must present to the retailer its certificate that is
5 issued pursuant to section 42-5009, subsection H and that establishes its
6 qualification for the deduction.

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

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

13 2. Janitorial equipment and hand tools.

14 3. Office equipment, furniture and supplies.

15 4. Tangible personal property used in selling or distributing
16 activities, other than the telecommunications transmissions described in
17 subsection B, paragraph ~~16~~ 15 of this section.

18 5. Motor vehicles required to be licensed by this state, except buses
19 or other urban mass transit vehicles specifically exempted pursuant to
20 subsection B, paragraph ~~11~~ 10 of this section, without regard to the use of
21 such motor vehicles.

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

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

25 D. In addition to the deductions from the tax base prescribed by
26 subsection A of this section, there shall be deducted from the tax base the
27 gross proceeds of sales or gross income derived from sales of machinery,
28 equipment, materials and other tangible personal property used directly and
29 predominantly to construct a qualified environmental technology
30 manufacturing, producing or processing facility as described in section
31 41-1514.02. This subsection applies for ten full consecutive calendar or
32 fiscal years after the start of initial construction.

33 E. In computing the tax base, gross proceeds of sales or gross income
34 from retail sales of heavy trucks and trailers does not include any amount
35 attributable to federal excise taxes imposed by 26 United States Code section
36 4051.

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

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

1 be imposed on the total of the person's gross proceeds of sales of tangible
2 personal property and gross income from services.

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

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

- 17 1. Transporting classification.
- 18 2. Utilities classification.
- 19 3. Telecommunications classification.
- 20 4. Pipeline classification.
- 21 5. Private car line classification.
- 22 6. Publication classification.
- 23 7. Job printing classification.
- 24 8. Prime contracting classification.
- 25 9. Owner builder sales classification.
- 26 10. Restaurant classification.

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

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

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

35 3. Overhead materials or other tangible personal property that is used
36 in performing a contract between the United States government and a
37 manufacturer, modifier, assembler or repairer, including property used in
38 performing a subcontract with a government contractor who is a manufacturer,
39 modifier, assembler or repairer, to which title passes to the government
40 under the terms of the contract or subcontract.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 U. FOR THE PURPOSES OF SECTION 42-5029, SUBSECTION D, PARAGRAPH 4,
25 SUBDIVISION (c), THE DEPARTMENT SHALL SEPARATELY ACCOUNT FOR REVENUES
26 COLLECTED UNDER THE RETAIL CLASSIFICATION FROM BUSINESSES SELLING PIPES AND
27 VALVES FOUR INCHES IN DIAMETER OR LARGER AND USED TO TRANSPORT OIL, NATURAL
28 GAS, ARTIFICIAL GAS, WATER OR COAL SLURRY, INCLUDING COMPRESSOR UNITS,
29 REGULATORS, MACHINERY AND EQUIPMENT, FITTINGS, SEALS AND ANY OTHER PART THAT
30 IS USED IN OPERATING THE PIPES OR VALVES.

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

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

2 1. "Aircraft" includes:

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

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

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

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

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

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

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

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

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

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

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

1 Sec. 6. Section 42-5064, Arizona Revised Statutes, is amended to read:
2 42-5064. Telecommunications classification; definitions

3 A. The telecommunications classification is comprised of the business
4 of providing intrastate telecommunications services. The telecommunications
5 classification does not include:

6 1. Sales of intrastate telecommunications services by a cable
7 television system as defined in section 9-505 or by a microwave television
8 transmission system that transmits television programming to multiple
9 subscribers and that is operated pursuant to 47 Code of Federal Regulations
10 parts 21 and 74.

11 2. Sales of internet access or application services to the person's
12 subscribers and customers. For the purposes of this paragraph:

13 (a) "Application services" means software applications provided
14 remotely using hypertext transfer protocol or another network protocol and
15 purchased by or for any school district, charter school, community college or
16 state university to assess or test student learning or to promote curriculum
17 design or enhancement.

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

21 B. The tax base for the telecommunications classification is the gross
22 proceeds of sales or gross income derived from the business, including the
23 gross income derived from tolls, subscriptions and services on behalf of
24 subscribers or from the publication of a directory of the names of
25 subscribers. However, the gross proceeds of sales or gross income derived
26 from the following shall be deducted from the tax base:

27 1. Sales of intrastate telecommunications services to:

28 (a) Other persons engaged in businesses classified under the
29 telecommunications classification for use in such business.

30 (b) A direct broadcast satellite television or data transmission
31 service that operates pursuant to 47 Code of Federal Regulations part 25 for
32 use in its direct broadcast satellite television or data transmission
33 operation by a facility described in section 42-5061, subsection B, paragraph
34 ~~16~~ 15, subdivision (b).

35 2. End user common line charges established by federal communications
36 commission regulations (47 Code of Federal Regulations section 69.104(a)).

37 3. Carrier access charges established by federal communications
38 commission regulations (47 Code of Federal Regulations sections 69.105(a)
39 through 69.118).

40 4. Sales of direct broadcast satellite television services pursuant to
41 47 Code of Federal Regulations part 25 by a direct broadcast satellite
42 television service that operates pursuant to 47 Code of Federal Regulations
43 part 25.

1 5. Telecommunications services purchased with a prepaid calling card,
2 or a prepaid authorization number for telecommunications services, that is
3 taxable under section 42-5061.

4 C. A person that is engaged in a transient lodging business subject to
5 taxation under section 42-5070 and that provides telephone, fax or internet
6 access services to its customers at an additional charge, which is separately
7 stated on the customer invoice, is considered to be engaged in business
8 subject to taxation under this section for the purposes of taxing the gross
9 proceeds of sales or gross income derived from providing those services.

10 D. The gross proceeds of sales or gross income derived from a bundled
11 transaction of services that are taxable pursuant to section 42-5023 are
12 subject to the following:

13 1. A telecommunications service provider who can reasonably identify
14 the portion of the sales price of the bundled transaction derived from
15 charges for nontaxable services is subject to tax only on the gross proceeds
16 of sales or gross income derived from the taxable services. For the purposes
17 of this section, the telecommunications service provider may elect to
18 reasonably identify the portion of the sales price of the bundled transaction
19 derived from charges for nontaxable services by using allocation percentages
20 derived from the telecommunications service provider's entire service area,
21 including territories outside of this state. On request, the department may
22 require the telecommunications service provider to provide this allocation
23 information. The reasonableness of the allocation is subject to audit by the
24 department.

25 2. Notwithstanding sections 42-1118, 42-1120 and 42-1121, the
26 telecommunications service provider shall waive the right to file a claim for
27 a refund of taxes paid on the bundled transaction if the taxes paid are based
28 on the allocation percentage the telecommunications service provider had
29 determined to be reasonable at the beginning of the tax period at issue.

30 3. The burden of proof is on the telecommunications service provider
31 to establish that the gross proceeds of sales or gross income is derived from
32 charges for nontaxable services.

33 E. For the purposes of this section:

34 1. "Bundled transaction" means a sale of multiple services in which
35 both of the following apply:

36 (a) The sale consists of both taxable and nontaxable services.

37 (b) The telecommunications service provider charges a customer one
38 sales price for all services that are sold instead of separately charging for
39 each individual service.

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

1 3. "Internet access" means a service that enables users to access
2 content, information, electronic mail or other services over the internet.
3 Internet access does not include telecommunications services provided by a
4 common carrier.

5 4. "Intrastate telecommunications services" means transmitting signs,
6 signals, writings, images, sounds, messages, data or other information of any
7 nature by wire, radio waves, light waves or other electromagnetic means if
8 the information transmitted originates and terminates in this state.

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

10 42-5071. Personal property rental classification

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

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

17 2. Activities engaged in by the Arizona exposition and state fair
18 board or county fair commissions in connection with events sponsored by such
19 entities.

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

27 4. Operating coin operated washing, drying and dry cleaning machines
28 or coin operated car washing machines at establishments for the use of such
29 machines.

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

35 6. Leasing or renting aircraft, flight simulators or similar training
36 equipment to students or staff by nonprofit, accredited educational
37 institutions that offer associate or baccalaureate degrees in aviation or
38 aerospace related fields.

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

42 B. The tax base for the personal property rental classification is the
43 gross proceeds of sales or gross income derived from the business, but the
44 gross proceeds of sales or gross income derived from the following shall be
45 deducted from the tax base:

1 1. Reimbursements by the lessee to the lessor of a motor vehicle for
2 payments by the lessor of the applicable fees and taxes imposed by sections
3 28-2003, 28-2352, 28-2402, 28-2481 and 28-5801, title 28, chapter 15,
4 article 2 and article IX, section 11, Constitution of Arizona, to the extent
5 such amounts are separately identified as such fees and taxes and are billed
6 to the lessee.

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

10 (a) Section 42-5061, subsection A, paragraph 8, 9, 12, 13, 25, 29, 50
11 or 55.

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

14 (i) Section 42-5061, subsection B, paragraph ~~13~~ 12 if the lease is for
15 less than two years.

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

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

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

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

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

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

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

32 D. In computing the tax base, the gross proceeds of sales or gross
33 income from the lease or rental of a motor vehicle does not include any
34 amount attributable to the car rental surcharge under section 28-5810 or
35 48-4234.

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

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

1 classification pursuant to section 42-5061, subsection B or that is exempt
2 from use tax pursuant to section 42-5159, subsection B. For the purposes of
3 this paragraph, "permanent attachment" means at least one of the following:

4 (a) To be incorporated into real property.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 12. The gross proceeds of sales or gross income that is derived from
2 the installation, assembly, repair or maintenance of clean rooms that are
3 deducted from the tax base of the retail classification pursuant to section
4 42-5061, subsection B, paragraph ~~17~~ 16.

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

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

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

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

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

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

34 19. The gross proceeds of sales or gross income received from a
35 contract for the construction of any building, or other structure, project,
36 development or improvement owned by a qualified business under section
37 41-1516 for harvesting or the initial processing of qualifying forest
38 products removed from qualifying projects as defined in section 41-1516 if
39 actual construction begins before January 1, 2010. To qualify for this
40 deduction, the prime contractor must obtain a letter of qualification from
41 the department of commerce before beginning work under the contract.

42 20. The gross proceeds of sales or gross income received from a
43 contract for the construction of any building or other structure associated
44 with motion picture production in this state. To qualify for the deduction,
45 at the time the contract is entered into the motion picture production

1 company must present to the prime contractor its certificate that is issued
2 pursuant to section 42-5009, subsection H and that establishes its
3 qualification for the deduction.

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

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

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

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

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

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

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

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

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

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

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

15 D. Subcontractors or others who perform services in respect to any
16 improvement, building, highway, road, railroad, excavation, manufactured
17 building or other structure, project, development or improvement are not
18 subject to tax if they can demonstrate that the job was within the control of
19 a prime contractor or contractors or a dealership of manufactured buildings
20 and that the prime contractor or dealership is liable for the tax on the
21 gross income, gross proceeds of sales or gross receipts attributable to the
22 job and from which the subcontractors or others were paid.

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

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

41 G. For the purposes of section 42-5032.01, the department shall
42 separately account for revenues collected under the prime contracting
43 classification from any prime contractor engaged in the preparation or
44 construction of a multipurpose facility, and related infrastructure, that is

1 owned, operated or leased by the tourism and sports authority pursuant to
2 title 5, chapter 8.

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

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

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

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

32 L. The following apply to manufactured buildings:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (i) Master schedule updates.

5 (ii) Modification work cash flow projection updates.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 (vi) Any bond and insurance premiums.

7 (vii) Any applicable taxes.

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

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

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

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

22 N. Notwithstanding subsection 0, paragraph 8 of this section, a person
23 owning real property who enters into a contract for sale of the real
24 property, who is responsible to the new owner of the property for
25 modifications made to the property in the period subsequent to the transfer
26 of title and who receives a consideration for the modifications is considered
27 a prime contractor solely for purposes of taxing the gross proceeds of sale
28 or gross income received for the modifications made subsequent to the
29 transfer of title. The original owner's gross proceeds of sale or gross
30 income received for the modifications shall be determined according to the
31 following methodology:

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

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

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

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

11 0. For the purposes of this section:

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

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

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

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

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

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

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

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

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

39 8. "Prime contractor" means a contractor who supervises, performs or
40 coordinates the modification of any building, highway, road, railroad,
41 excavation, manufactured building or other structure, project, development or
42 improvement including the contracting, if any, with any subcontractors or
43 specialty contractors and who is responsible for the completion of the
44 contract. Except as provided in subsections E and N of this section, a
45 person who owns real property, who engages one or more contractors to modify

1 that real property and who does not itself modify that real property is not a
2 prime contractor within the meaning of this paragraph regardless of the
3 existence of a contract for sale or the subsequent sale of that real
4 property.

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

7 Sec. 9. Section 42-5155, Arizona Revised Statutes, is amended to read:
8 42-5155. Levy of tax; tax rate; purchaser's liability

9 A. There is levied and imposed an excise tax on the storage, use or
10 consumption in this state of tangible personal property purchased from a
11 retailer or utility business, as a percentage of the sales price. A
12 manufactured building purchased outside this state and set up in this state
13 is subject to tax under this section and in this case the ~~RATE IS A~~
14 percentage ~~is~~ OF sixty-five per cent of the sales price.

15 B. The tax imposed by this section applies to any purchaser which
16 purchased tangible personal property for resale but subsequently uses or
17 consumes the property.

18 C. The tax rate shall equal the rate of tax prescribed by section
19 42-5010, subsection A as applied to retailers and utility businesses
20 according to the respective classification under articles 1 and 2 of this
21 chapter for the same type of transaction or business activity.

22 D. In addition to the rate prescribed by subsection C of this section,
23 if approved by the qualified electors voting at a statewide general election,
24 an additional rate increment of six-tenths of one per cent is imposed and
25 shall be collected through June 30, 2021. The taxpayer shall pay taxes
26 pursuant to this subsection at the same time and in the same manner as under
27 subsection C of this section. The department shall separately account for the
28 revenues collected with respect to the rate imposed pursuant to this
29 subsection, and the state treasurer shall pay all of those revenues in the
30 manner prescribed by section 42-5029, subsection E.

31 E. Every person storing, using or consuming in this state tangible
32 personal property purchased from a retailer or utility business is liable for
33 the tax. The person's liability is not extinguished until the tax has been
34 paid to this state.

35 F. A receipt from a retailer or utility business that maintains a
36 place of business in this state or from a retailer or utility business that
37 is authorized by the department to collect the tax, under such rules as it
38 may prescribe, and that is for the purposes of this article regarded as a
39 retailer or utility business maintaining a place of business in this state,
40 given to the purchaser as provided in section 42-5161 is sufficient to
41 relieve the purchaser from further liability for the tax to which the receipt
42 refers.

43 G. FOR THE PURPOSES OF SECTION 42-5029, SUBSECTION D, PARAGRAPH 4,
44 SUBDIVISION (c), THE DEPARTMENT SHALL SEPARATELY ACCOUNT FOR REVENUES
45 COLLECTED UNDER THIS ARTICLE DERIVED FROM SALES OF PIPES AND VALVES FOUR

1 INCHES IN DIAMETER OR LARGER AND USED TO TRANSPORT OIL, NATURAL GAS,
2 ARTIFICIAL GAS, WATER OR COAL SLURRY, INCLUDING COMPRESSOR UNITS, REGULATORS,
3 MACHINERY AND EQUIPMENT, FITTINGS, SEALS AND ANY OTHER PART THAT IS USED IN
4 OPERATING THE PIPES OR VALVES.

5 Sec. 10. Section 42-5159, Arizona Revised Statutes, is amended to
6 read:

7 42-5159. Exemptions

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

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

14 2. Tangible personal property the sale or use of which has already
15 been subjected to an excise tax at a rate equal to or exceeding the tax
16 imposed by this article under the laws of another state of the United States.
17 If the excise tax imposed by the other state is at a rate less than the tax
18 imposed by this article, the tax imposed by this article is reduced by the
19 amount of the tax already imposed by the other state.

20 3. Tangible personal property, the storage, use or consumption of
21 which the constitution or laws of the United States prohibit this state from
22 taxing or to the extent that the rate or imposition of tax is
23 unconstitutional under the laws of the United States.

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

27 5. Motor vehicle fuel and use fuel, the sales, distribution or use of
28 which in this state is subject to the tax imposed under title 28, chapter 16,
29 article 1, use fuel which is sold to or used by a person holding a valid
30 single trip use fuel tax permit issued under section 28-5739, aviation fuel,
31 the sales, distribution or use of which in this state is subject to the tax
32 imposed under section 28-8344, and jet fuel, the sales, distribution or use
33 of which in this state is subject to the tax imposed under article 8 of this
34 chapter.

35 6. Tangible personal property brought into this state by an individual
36 who was a nonresident at the time the property was purchased for storage, use
37 or consumption by the individual if the first actual use or consumption of
38 the property was outside this state, unless the property is used in
39 conducting a business in this state.

40 7. Purchases of implants used as growth promotants and injectable
41 medicines, not already exempt under paragraph 16 of this subsection, for
42 livestock and poultry owned by, or in possession of, persons who are engaged
43 in producing livestock, poultry, or livestock or poultry products, or who are
44 engaged in feeding livestock or poultry commercially. For the purposes of
45 this paragraph, "poultry" includes ratites.

1 8. Livestock, poultry, supplies, feed, salts, vitamins and other
2 additives for use or consumption in the businesses of farming, ranching and
3 feeding livestock or poultry, not including fertilizers, herbicides and
4 insecticides. For the purposes of this paragraph, "poultry" includes
5 ratites.

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

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

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

16 12. Materials that are purchased by or for publicly funded libraries
17 including school district libraries, charter school libraries, community
18 college libraries, state university libraries or federal, state, county or
19 municipal libraries for use by the public as follows:

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

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

22 13. Tangible personal property purchased by:

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

26 (b) A hospital operated by this state or a political subdivision of
27 this state.

28 (c) A licensed nursing care institution or a licensed residential care
29 institution or a residential care facility operated in conjunction with a
30 licensed nursing care institution or a licensed kidney dialysis center, which
31 provides medical services, nursing services or health related services and is
32 not used or held for profit.

33 (d) A qualifying health care organization, as defined in section
34 42-5001, if the tangible personal property is used by the organization solely
35 to provide health and medical related educational and charitable services.

36 (e) A qualifying health care organization as defined in section
37 42-5001 if the organization is dedicated to providing educational,
38 therapeutic, rehabilitative and family medical education training for blind,
39 visually impaired and multihandicapped children from the time of birth to age
40 twenty-one.

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

1 (g) A person that is subject to tax under article 1 of this chapter by
2 reason of being engaged in business classified under the prime contracting
3 classification under section 42-5075, or a subcontractor working under the
4 control of a prime contractor, if the tangible personal property is any of
5 the following:

6 (i) Incorporated or fabricated by the contractor into a structure,
7 project, development or improvement in fulfillment of a contract.

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

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

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

18 (i) A qualifying community health center as defined in section
19 42-5001.

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

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

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

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

41 15. Tangible personal property sold by:

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

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

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

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

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

18 18. Prescription eyeglasses and contact lenses.

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

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

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

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

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

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

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

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

- 1 27. Lottery tickets or shares purchased pursuant to title 5, chapter 5,
2 article 1.
- 3 28. Textbooks, sold by a bookstore, that are required by any state
4 university or community college.
- 5 29. Magazines, other periodicals or other publications produced by this
6 state to encourage tourist travel.
- 7 30. Paper machine clothing, such as forming fabrics and dryer felts,
8 purchased by a paper manufacturer and directly used or consumed in paper
9 manufacturing.
- 10 31. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity
11 purchased by a qualified environmental technology manufacturer, producer or
12 processor as defined in section 41-1514.02 and directly used or consumed in
13 the generation or provision of on-site power or energy solely for
14 environmental technology manufacturing, producing or processing or
15 environmental protection. This paragraph shall apply for twenty full
16 consecutive calendar or fiscal years from the date the first paper
17 manufacturing machine is placed in service. In the case of an environmental
18 technology manufacturer, producer or processor who does not manufacture
19 paper, the time period shall begin with the date the first manufacturing,
20 processing or production equipment is placed in service.
- 21 32. Motor vehicles that are removed from inventory by a motor vehicle
22 dealer as defined in section 28-4301 and that are provided to:
- 23 (a) Charitable or educational institutions that are exempt from
24 taxation under section 501(c)(3) of the internal revenue code.
- 25 (b) Public educational institutions.
- 26 (c) State universities or affiliated organizations of a state
27 university if no part of the organization's net earnings inures to the
28 benefit of any private shareholder or individual.
- 29 33. Natural gas or liquefied petroleum gas used to propel a motor
30 vehicle.
- 31 34. Machinery, equipment, technology or related supplies that are only
32 useful to assist a person who is physically disabled as defined in section
33 46-191, has a developmental disability as defined in section 36-551 or has a
34 head injury as defined in section 41-3201 to be more independent and
35 functional.
- 36 35. Liquid, solid or gaseous chemicals used in manufacturing,
37 processing, fabricating, mining, refining, metallurgical operations, research
38 and development and, beginning on January 1, 1999, printing, if using or
39 consuming the chemicals, alone or as part of an integrated system of
40 chemicals, involves direct contact with the materials from which the product
41 is produced for the purpose of causing or permitting a chemical or physical
42 change to occur in the materials as part of the production process. This
43 paragraph does not include chemicals that are used or consumed in activities
44 such as packaging, storage or transportation but does not affect any
45 exemption for such chemicals that is otherwise provided by this section. For

1 the purposes of this paragraph, "printing" means a commercial printing
2 operation and includes job printing, engraving, embossing, copying and
3 bookbinding.

4 36. Food, drink and condiment purchased for consumption within the
5 premises of any prison, jail or other institution under the jurisdiction of
6 the state department of corrections, the department of public safety, the
7 department of juvenile corrections or a county sheriff.

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

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

15 39. Overhead materials or other tangible personal property that is used
16 in performing a contract between the United States government and a
17 manufacturer, modifier, assembler or repairer, including property used in
18 performing a subcontract with a government contractor who is a manufacturer,
19 modifier, assembler or repairer, to which title passes to the government
20 under the terms of the contract or subcontract. For the purposes of this
21 paragraph:

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

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

38 40. Through December 31, 1994, tangible personal property sold pursuant
39 to a personal property liquidation transaction, as defined in section
40 42-5061. From and after December 31, 1994, tangible personal property sold
41 pursuant to a personal property liquidation transaction, as defined in
42 section 42-5061, if the gross proceeds of the sales were included in the
43 measure of the tax imposed by article 1 of this chapter or if the personal
44 property liquidation was a casual activity or transaction.

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

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

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

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

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

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

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

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

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

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

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

43 50. Application services that are designed to assess or test student
44 learning or to promote curriculum design or enhancement purchased by or for

1 any school district, charter school, community college or state university.
2 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.~~ 6. 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

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

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

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

12 ~~9-~~ 8. Rolling stock, rails, ties and signal control equipment used
13 directly to transport persons or property.

14 ~~10-~~ 9. Machinery or equipment used directly to drill for oil or gas or
15 used directly in the process of extracting oil or gas from the earth for
16 commercial purposes.

17 ~~11-~~ 10. Buses or other urban mass transit vehicles which are used
18 directly to transport persons or property for hire or pursuant to a
19 governmentally adopted and controlled urban mass transportation program and
20 which are sold to bus companies holding a federal certificate of convenience
21 and necessity or operated by any city, town or other governmental entity or
22 by any person contracting with such governmental entity as part of a
23 governmentally adopted and controlled program to provide urban mass
24 transportation.

25 ~~12-~~ 11. Groundwater measuring devices required under section 45-604.

26 ~~13-~~ 12. New machinery and equipment consisting of tractors,
27 tractor-drawn implements, self-powered implements, machinery and equipment
28 necessary for extracting milk, and machinery and equipment necessary for
29 cooling milk and livestock, and drip irrigation lines ~~not already exempt~~
30 ~~under paragraph 6 of this subsection and~~ that are used for commercial
31 production of agricultural, horticultural, viticultural and floricultural
32 crops and products in this state. For the purposes of this paragraph:

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

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

38 ~~14-~~ 13. Machinery or equipment used in research and development. For
39 the purposes of this paragraph, "research and development" means basic and
40 applied research in the sciences and engineering, and designing, developing
41 or testing prototypes, processes or new products, including research and
42 development of computer software that is embedded in or an integral part of
43 the prototype or new product or that is required for machinery or equipment
44 otherwise exempt under this section to function effectively. Research and
45 development do not include manufacturing quality control, routine consumer

1 product testing, market research, sales promotion, sales service, research in
2 social sciences or psychology, computer software research that is not
3 included in the definition of research and development, or other
4 nontechnological activities or technical services.

5 ~~15-~~ 14. Machinery and equipment that are purchased by or on behalf of
6 the owners of a soundstage complex and primarily used for motion picture,
7 multimedia or interactive video production in the complex. This paragraph
8 applies only if the initial construction of the soundstage complex begins
9 after June 30, 1996 and before January 1, 2002 and the machinery and
10 equipment are purchased before the expiration of five years after the start
11 of initial construction. For the purposes of this paragraph:

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

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

23 ~~16-~~ 15. Tangible personal property that is used by either of the
24 following to receive, store, convert, produce, generate, decode, encode,
25 control or transmit telecommunications information:

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

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

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

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

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

1 ~~17.~~ 16. Clean rooms that are used for manufacturing, processing,
2 fabrication or research and development, as defined in paragraph ~~14~~ 13 of
3 this subsection, of semiconductor products. For the purposes of this
4 paragraph, "clean room" means all property that comprises or creates an
5 environment where humidity, temperature, particulate matter and contamination
6 are precisely controlled within specified parameters, without regard to
7 whether the property is actually contained within that environment or whether
8 any of the property is affixed to or incorporated into real property. Clean
9 room:

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

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

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

22 ~~19.~~ 18. Machinery or equipment, including related structural
23 components, that is employed in connection with manufacturing, processing,
24 fabricating, job printing, refining, mining, natural gas pipelines,
25 metallurgical operations, telecommunications, producing or transmitting
26 electricity or research and development and that is used directly to meet or
27 exceed rules or regulations adopted by the federal energy regulatory
28 commission, the United States environmental protection agency, the United
29 States nuclear regulatory commission, the Arizona department of environmental
30 quality or a political subdivision of this state to prevent, monitor, control
31 or reduce land, water or air pollution.

32 ~~20.~~ 19. Machinery and equipment that are used in the commercial
33 production of livestock, livestock products or agricultural, horticultural,
34 viticultural or floricultural crops or products in this state and that are
35 used directly and primarily to prevent, monitor, control or reduce air, water
36 or land pollution.

37 ~~21.~~ 20. Machinery or equipment that enables a television station to
38 originate and broadcast or to receive and broadcast digital television
39 signals and that was purchased to facilitate compliance with the
40 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States
41 Code section 336) and the federal communications commission order issued
42 April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does
43 not exempt any of the following:

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

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

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

6 ~~22-~~ 21. Qualifying equipment that is purchased from and after June 30,
7 2004 through June 30, 2014 by a qualified business under section 41-1516 for
8 harvesting or the initial processing of qualifying forest products removed
9 from qualifying projects as defined in section 41-1516. To qualify for this
10 exemption, the qualified business must obtain and present its certification
11 from the department of commerce at the time of purchase.

12 ~~23-~~ 22. Machinery, equipment and other tangible personal property used
13 directly in motion picture production by a motion picture production company.
14 To qualify for this exemption, at the time of purchase, the motion picture
15 production company must present to the retailer its certificate that is
16 issued pursuant to section 42-5009, subsection H and that establishes its
17 qualification for the exemption.

18 C. The exemptions provided by subsection B of this section do not
19 include:

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

24 2. Janitorial equipment and hand tools.

25 3. Office equipment, furniture and supplies.

26 4. Tangible personal property used in selling or distributing
27 activities, other than the telecommunications transmissions described in
28 subsection B, paragraph ~~16~~ 15 of this section.

29 5. Motor vehicles required to be licensed by this state, except buses
30 or other urban mass transit vehicles specifically exempted pursuant to
31 subsection B, paragraph ~~11~~ 10 of this section, without regard to the use of
32 such motor vehicles.

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

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

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

38 1. Revenues received from sales of ancillary services, electric
39 distribution services, electric generation services, electric transmission
40 services and other services related to providing electricity to a retail
41 electric customer who is located outside this state for use outside this
42 state if the electricity is delivered to a point of sale outside this state.

43 2. Revenues received from providing electricity, including ancillary
44 services, electric distribution services, electric generation services,
45 electric transmission services and other services related to providing

1 electricity with respect to which the transaction privilege tax imposed under
2 section 42-5063 has been paid.

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

4 1. The storage, use or consumption in Arizona of machinery, equipment,
5 materials or other tangible personal property if used directly and
6 predominantly to construct a qualified environmental technology
7 manufacturing, producing or processing facility, as described in section
8 41-1514.02. This paragraph applies for ten full consecutive calendar or
9 fiscal years after the start of initial construction.

10 2. The purchase of electricity by a qualified environmental technology
11 manufacturer, producer or processor as defined in section 41-1514.02 that is
12 used directly in environmental technology manufacturing, producing or
13 processing. This paragraph shall apply for twenty full consecutive calendar
14 or fiscal years from the date the first paper manufacturing machine is placed
15 in service. In the case of an environmental technology manufacturer,
16 producer or processor who does not manufacture paper, the time period shall
17 begin with the date the first manufacturing, processing or production
18 equipment is placed in service.

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

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

24 1. Fees charged by a municipally owned utility to persons constructing
25 residential, commercial or industrial developments or connecting residential,
26 commercial or industrial developments to a municipal utility system or
27 systems if the fees are segregated and used only for capital expansion,
28 system enlargement or debt service of the utility system or systems.

29 2. Reimbursement or contribution compensation to any person or persons
30 owning a utility system for property and equipment installed to provide
31 utility access to, on or across the land of an actual utility consumer if the
32 property and equipment become the property of the utility. This deduction
33 shall not exceed the value of such property and equipment.

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

35 1. "Aircraft" includes:

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

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

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

1 H. For the purposes of subsection D of this section, "ancillary
2 services", "electric distribution service", "electric generation service",
3 "electric transmission service" and "other services" have the same meanings
4 prescribed in section 42-5063.

5 Sec. 11. Section 43-1082, Arizona Revised Statutes, is amended to
6 read:

7 43-1082. Credit for construction materials incorporated into
8 qualifying facility; definitions

9 A. A credit is allowed against the tax imposed by this title for new
10 construction materials incorporated into a qualifying facility located
11 entirely within this state, construction of which is begun on or after
12 January 1, 1994 and completed on or before December 31, 1999. The credit
13 shall be computed as five per cent of the purchase price of the materials.
14 The credit shall be claimed in the taxable year in which the qualified
15 facility receives a certificate of occupancy.

16 B. Co-owners of a business, including partners in a partnership and
17 shareholders of an S corporation, as defined in section 1361 of the internal
18 revenue code, may each claim only the pro rata share of the credit allowed
19 under this section based on the ownership interest, except that partners in a
20 partnership and members in a limited liability company may allocate among
21 themselves any credit for construction materials that are incorporated into a
22 facility that is predominantly used for direct broadcast satellite television
23 or data transmission services in any proportion stated in their partnership
24 or operating agreement. The total of the credits allowed all such owners may
25 not exceed the amount that would have been allowed a sole owner.

26 C. If the allowable tax credit exceeds the taxes otherwise due under
27 this title on the claimant's income, or if there are no taxes due under this
28 title, the taxpayer may carry the amount of the claim not used to offset the
29 taxes under this title forward for not more than five taxable years' income
30 tax liability.

31 D. The department shall prescribe a form to be filed in the year the
32 credit arises by a partnership or limited liability company that allocates
33 the credit among its partners or members. The form constitutes an election
34 by the business as to the proportion of the credit allocable to each of the
35 specific owners. The election is irrevocable.

36 E. For purposes of this section:

37 1. "Construction materials" means tangible personal property
38 incorporated into and permanently affixed to the taxpayer's qualifying
39 facility other than materials exempt from taxation pursuant to section
40 42-5061 or 42-5159, subsection B.

41 2. "Direct broadcast satellite television or data transmission
42 services" means either:

43 (a) Receiving, converting, processing, storing or transmitting
44 telecommunications information by a business that operates pursuant to 47
45 Code of Federal Regulations parts 25 and 100.

1 (b) Transmitting telecommunications information to a business that
2 operates pursuant to 47 Code of Federal Regulations parts 25 and 100 if the
3 transmitting meets the requirements of section 42-5061, subsection B,
4 paragraph ~~16~~ 15, subdivision (b).

5 3. "Purchase price" means either the direct cost of materials
6 purchased by the taxpayer from a supplier for incorporation into the
7 qualifying facility, or the direct cost of materials paid by a contractor for
8 incorporation into the taxpayer's qualifying facility.

9 4. "Qualifying facility" means a new building or structure, or
10 expansion of an existing building or structure, located entirely within this
11 state, predominantly used for manufacturing, fabricating, mining, refining,
12 metallurgical operations, direct broadcast satellite television or data
13 transmission services or research and development as described in section
14 43-1168, and which has a total cost of construction in excess of five million
15 dollars.

16 Sec. 12. Appropriations; border security prosecutors; human
17 smuggling; terrorism; border inspections

18 Notwithstanding section 41-1724, Arizona Revised Statutes, as amended
19 by this act:

20 1. The sum of \$1,320,200 and 18 FTE positions are appropriated from
21 the gang and immigration intelligence team enforcement mission fund
22 established by section 41-1724, Arizona Revised Statutes, in fiscal year
23 2011-2012 to the department of law for the purpose of hiring border security
24 prosecutors to handle increased caseloads related to prosecution of cases
25 involving methamphetamine, human trafficking, human smuggling and identity
26 theft.

27 2. The sum of \$1,773,100 and 16 FTE positions are appropriated from
28 the gang and immigration intelligence team enforcement mission fund
29 established by section 41-1724, Arizona Revised Statutes, in fiscal year
30 2011-2012 to the department of public safety for two human trafficking and
31 human smuggling squads to be established in the gang and immigration
32 intelligence team enforcement mission and that are dedicated to combating
33 human trafficking and human smuggling.

34 3. The sum of \$1,984,000 and 12 FTE positions are appropriated from
35 the gang and immigration intelligence team enforcement mission fund
36 established by section 41-1724, Arizona Revised Statutes, in fiscal year
37 2011-2012 to the department of public safety for a domestic terrorism squad
38 to be established in the gang and immigration intelligence team enforcement
39 mission to follow up on leads produced by the Arizona counterterrorism
40 information center.

41 4. The sum of \$163,800 and 2 FTE positions are appropriated from the
42 gang and immigration intelligence team enforcement mission fund established
43 by section 41-1724, Arizona Revised Statutes, in fiscal year 2011-2012 to the
44 department of transportation to increase safety and security inspections at
45 the Nogales port of entry.

1 Sec. 13. Requirements for enactment: two-thirds vote

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