

REFERENCE TITLE: gang; immigration intelligence; mission; funding

State of Arizona  
House of Representatives  
Fiftieth Legislature  
Second Regular Session  
2012

# HB 2509

Introduced by  
Representative Campbell

AN ACT

AMENDING SECTIONS 12-116.04, 28-2154.01 AND 41-1724, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 12, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1726; 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 12-116.04, Arizona Revised Statutes, is amended to  
3 read:

4 12-116.04. Assessment; law enforcement officer equipment; gang  
5 and immigration intelligence team enforcement  
6 mission

7 A. In addition to any other penalty assessment provided by law, a  
8 penalty assessment shall be levied in an amount of thirteen dollars on every  
9 fine, penalty and forfeiture imposed and collected by the courts for criminal  
10 offenses and any civil penalty imposed and collected for a civil traffic  
11 violation and fine, penalty or forfeiture for a violation of the motor  
12 vehicle statutes, for any local ordinance relating to the stopping, standing  
13 or operation of a vehicle or for a violation of the game and fish statutes in  
14 title 17.

15 B. The court shall transmit the assessments collected pursuant to this  
16 section and a remittance report of the fines, civil penalties and assessments  
17 collected pursuant to this section to the county treasurer, except that  
18 municipal courts shall transmit the assessments and the remittance report of  
19 the fines, civil penalties and assessments to the city treasurer.

20 C. The city or county treasurer shall transmit eight dollars of the  
21 assessment and the remittance report to the state treasurer. The state  
22 treasurer shall deposit four dollars of the assessment in the public safety  
23 equipment fund established by section 41-1723 and the remaining four dollars  
24 of the assessment in the gang and immigration intelligence team enforcement  
25 mission ~~border security and law enforcement subaccount~~ FUND established by  
26 section 41-1724.

27 D. The city or county treasurer shall transmit four dollars of the  
28 assessment and the remittance report to the agency that investigated the  
29 offense or issued the citation to be used to supplement, not supplant, monies  
30 available for officer safety equipment.

31 E. The city treasurer shall transmit one dollar of the assessment and  
32 the remittance report to the county treasurer. The county treasurer shall  
33 transmit one dollar of the assessment and any monies received from the city  
34 treasurer pursuant to this subsection to the following entities to be used to  
35 improve, maintain and enhance the ability to collect and manage monies  
36 assessed or received by the courts, to improve court automation and to  
37 improve case processing or the administration of justice:

38 1. In a county with a population of less than two million persons, to  
39 the justice courts, distributed proportionally based on the judicial  
40 productivity credits calculated pursuant to section 22-125.

41 2. In a county with a population of two million persons or more, to  
42 the justice court administration.



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

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

8 H. If a purchaser registers the vehicle in this state within three  
9 hundred sixty-five days after the issuance of the special ninety day  
10 nonresident registration permit, the purchaser is liable in an amount equal  
11 to any tax, penalty and interest that the motor vehicle dealer or authorized  
12 third party would have been required to pay under title 42, chapter 5 and  
13 under articles IV and VI of the model city tax code as defined in  
14 section 42-6051. At the time of issuing the special ninety day nonresident  
15 registration permit, a motor vehicle dealer or authorized third party shall  
16 inform the purchaser in writing of the purchaser's liability described in  
17 this section. Subsequent registration or use of the vehicle in this state  
18 does not create a cause of action against a dealer or authorized third party  
19 that complies with section 28-2154, subsection A, this section and section  
20 42-5009, subsection I.

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

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

29 Sec. 3. Section 41-1724, Arizona Revised Statutes, is amended to read:  
30 41-1724. Gang and immigration intelligence team enforcement  
31 mission fund; accounts

32 A. The gang and immigration intelligence team enforcement mission fund  
33 is established consisting of monies deposited pursuant to section 11-1051,  
34 SECTION 42-5029, SUBSECTION D, PARAGRAPH 4, SUBDIVISION (c) and monies  
35 appropriated by the legislature. The department shall administer the fund.  
36 ~~Any monies distributed from the fund to a county sheriff shall go directly to~~  
37 ~~the county sheriff and are not subject to any form of approval by the board~~  
38 ~~of supervisors.~~ Monies in the fund are subject to legislative appropriation.

39 ~~B. Monies in the fund shall be used for employer sanctions~~  
40 ~~enforcement, enforcing human smuggling and drug smuggling laws, gang and~~  
41 ~~strict immigration enforcement, county jail reimbursement costs relating to~~  
42 ~~illegal immigration and any other use previously authorized in an allocation~~  
43 ~~made by law for the gang and immigration intelligence team enforcement~~  
44 ~~mission.~~

1 ~~C. Each year that monies are available in the fund the first one~~  
2 ~~million six hundred thousand dollars shall be allocated to a county sheriff~~  
3 ~~of a county with a population of more than three million persons, then five~~  
4 ~~hundred thousand dollars shall be allocated to a county sheriff of a county~~  
5 ~~with a population of less than five hundred thousand persons but more than~~  
6 ~~three hundred thousand persons and any remaining monies shall be used for~~  
7 ~~agreements or contracts in accordance with subsection D of this section.~~

8 ~~D. If the department uses monies from the fund for an agreement or~~  
9 ~~contract with a city, town, county or other entity to provide services for~~  
10 ~~the gang and immigration intelligence team enforcement mission, the city,~~  
11 ~~town, county or other entity shall provide not less than twenty five per cent~~  
12 ~~of the cost of the services and the department shall provide not more than~~  
13 ~~seventy five per cent of personal services and employee related expenditures~~  
14 ~~for each agreement or contract but may fund all capital related equipment.~~  
15 ~~This subsection does not apply to a county with a population of more than~~  
16 ~~three million persons or a county with a population of less than five hundred~~  
17 ~~thousand persons but more than three hundred thousand persons.~~

18 ~~E. The gang and immigration intelligence team enforcement mission~~  
19 ~~border security and law enforcement subaccount is established consisting of~~  
20 ~~monies deposited pursuant to section 12-116.04 and monies appropriated by the~~  
21 ~~legislature. The department shall administer the fund. Any monies~~  
22 ~~distributed from the fund to a county sheriff shall go directly to the county~~  
23 ~~sheriff and are not subject to any form of approval by the board of~~  
24 ~~supervisors. Monies in the subaccount are subject to legislative~~  
25 ~~appropriation. Monies in the subaccount shall be used for law enforcement~~  
26 ~~purposes related to border security, including border personnel.~~

27 ~~F. A law enforcement agency shall not receive any monies from the fund~~  
28 ~~unless the law enforcement agency certifies each fiscal year in writing to~~  
29 ~~the director of the department of public safety that the law enforcement~~  
30 ~~agency is complying with section 11 1051 to the fullest extent allowed by~~  
31 ~~law.~~

32 ~~G. The department shall submit an expenditure plan to the joint~~  
33 ~~legislative budget committee for review before expending any monies not~~  
34 ~~identified in the department's previous expenditure plans. Within thirty~~  
35 ~~days after the last day of each calendar quarter, the department shall~~  
36 ~~provide a summary of quarterly and year-to-date expenditures and progress to~~  
37 ~~the joint legislative budget committee, including any prior year~~  
38 ~~appropriations that were nonlapsing.~~

39 **B. THE GANG AND IMMIGRATION INTELLIGENCE TEAM ENFORCEMENT MISSION FUND**  
40 **IS DIVIDED INTO THE FOLLOWING ACCOUNTS:**

- 41 1. THE MISSION ACCOUNT.
- 42 2. THE BORDER SECURITY EQUIPMENT AND TECHNOLOGY ACCOUNT.
- 43 3. THE BORDER ACTION GRANTS ACCOUNT.
- 44 4. THE BORDER LAW ENFORCEMENT AND PROSECUTORS ACCOUNT.

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

- 3 1. THIRTY PER CENT IN THE MISSION ACCOUNT.
- 4 2. TWENTY-SIX PER CENT IN THE BORDER SECURITY EQUIPMENT AND TECHNOLOGY  
5 ACCOUNT.
- 6 3. TWENTY-TWO PER CENT IN THE BORDER ACTION GRANTS ACCOUNT.
- 7 4. TWENTY-TWO PER CENT IN THE BORDER LAW ENFORCEMENT AND PROSECUTORS  
8 ACCOUNT.

9 D. THE MISSION ACCOUNT SHALL BE USED FOR GANG AND IMMIGRATION  
10 ENFORCEMENT AND FOR COUNTY JAIL REIMBURSEMENT COSTS RELATING TO ILLEGAL  
11 IMMIGRATION CONSISTENT WITH SECTION 41-1726.

12 E. THE DEPARTMENT SHALL DISTRIBUTE THE MONIES IN THE BORDER SECURITY  
13 EQUIPMENT AND TECHNOLOGY ACCOUNT IN BLOCK GRANTS TO LOCAL, COUNTY, TRIBAL AND  
14 STATE AGENCIES IN THE BORDER REGION FOR BORDER SECURITY EQUIPMENT AND  
15 TECHNOLOGY, INCLUDING NIGHT VISION EQUIPMENT, SMART FENCE TECHNOLOGY,  
16 INFRARED TECHNOLOGY, OFF-ROAD VEHICLES AND RADIO EQUIPMENT.

17 F. THE DEPARTMENT SHALL DISTRIBUTE THE MONIES IN THE BORDER ACTION  
18 GRANTS ACCOUNT IN BLOCK GRANTS TO LOCAL, COUNTY AND TRIBAL AGENCIES IN THE  
19 BORDER REGION FOR BORDER COSTS RELATED TO ILLEGAL IMMIGRATION, INCLUDING  
20 OVERTIME FOR LAW ENFORCEMENT PERSONNEL, FIRST RESPONDER COSTS, EXTRAORDINARY  
21 EXPENSES FOR THE MEDICAL EXAMINER, COUNTY JAIL COSTS, MATERIAL WITNESS  
22 EXPENSES AND OTHER MISCELLANEOUS COSTS.

23 G. THE DEPARTMENT SHALL DISTRIBUTE THE MONIES IN THE BORDER LAW  
24 ENFORCEMENT AND PROSECUTORS ACCOUNT IN BLOCK GRANTS TO LOCAL, COUNTY AND  
25 TRIBAL AGENCIES AND PROSECUTORS IN THE BORDER REGION TO HELP THE ENTITY  
26 INCREASE LAW ENFORCEMENT PRESENCE AND CRIMINAL PROSECUTIONS FOR CRIMES  
27 RELATED TO HUMAN TRAFFICKING AND SMUGGLING AND METHAMPHETAMINE AND IDENTITY  
28 RELATED OFFENSES THAT OCCUR IN THE BORDER REGION BY PROVIDING FUNDING FOR LAW  
29 ENFORCEMENT AND PROSECUTOR SALARIES.

30 Sec. 4. Title 41, chapter 12, article 2, Arizona Revised Statutes, is  
31 amended by adding section 41-1726, to read:

32 41-1726. Gang and immigration intelligence team enforcement  
33 mission

34 A. THE DEPARTMENT SHALL ESTABLISH AND MAINTAIN A MULTIJURISDICTIONAL  
35 TASK FORCE. THE TASK FORCE SHALL BE KNOWN AS THE GANG AND IMMIGRATION  
36 INTELLIGENCE TEAM ENFORCEMENT MISSION.

37 B. THE TASK FORCE SHALL:

- 38 1. DETER CRIMINAL GANG ACTIVITY THROUGH INVESTIGATIONS, ARRESTS AND  
39 PROSECUTION OF GANG MEMBERS.
- 40 2. DISMANTLE GANG RELATED CRIMINAL ENTERPRISES.
- 41 3. DETER BORDER RELATED CRIMES.
- 42 4. DISRUPT HUMAN SMUGGLING ORGANIZATIONS.
- 43 5. COLLECT, ANALYZE AND DISSEMINATE GANG AND ILLEGAL IMMIGRATION  
44 INTELLIGENCE.



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

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

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

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

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

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

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

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

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

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

40 4. If the department determines that a motion picture production  
41 company no longer qualifies for a certificate or has used the certificate for  
42 unauthorized purposes, the department shall revoke the certificate and the  
43 motion picture production company is liable for an amount equal to the  
44 transaction privilege and use taxes that would have been due on taxable

1 transactions during the time the company did not qualify for or improperly  
2 used the certificate, with interest and penalties as provided by law.

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

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

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

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

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

24 2. A copy of the nonresident registration permit authorized by section  
25 28-2154.

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

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

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

1 of the model city tax code as defined in section 42-6051. The amount shall  
2 be treated as tax revenues collected from the motor vehicle dealer in order  
3 to designate the distribution base for purposes of section 42-5029.

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

7 Sec. 6. Section 42-5029, Arizona Revised Statutes, is amended to read:  
8 42-5029. Remission and distribution of monies; definition

9 A. The department shall deposit, pursuant to sections 35-146 and  
10 35-147, all revenues collected under this article and articles 4, 5 and 8 of  
11 this chapter pursuant to section 42-1116, separately accounting for:

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

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

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

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

19 5. REVENUES COLLECTED PURSUANT TO SECTIONS 42-5061 AND 42-5159 FROM  
20 TRANSACTION PRIVILEGE AND USE TAXES ON SALES OF PIPES AND VALVES FOUR INCHES  
21 IN DIAMETER OR LARGER AND USED TO TRANSPORT OIL, NATURAL GAS, ARTIFICIAL GAS,  
22 WATER OR COAL SLURRY, INCLUDING COMPRESSOR UNITS, REGULATORS, MACHINERY AND  
23 EQUIPMENT, FITTINGS, SEALS AND ANY OTHER PART THAT IS USED IN OPERATING THE  
24 PIPES OR VALVES.

25 B. The department shall credit payments of estimated tax to an  
26 estimated tax clearing account and each month shall transfer all monies in  
27 the estimated tax clearing account to a fund designated as the transaction  
28 privilege and severance tax clearing account. The department shall credit  
29 all other payments to the transaction privilege and severance tax clearing  
30 account, separately accounting for the monies designated as distribution base  
31 under sections 42-5010, 42-5164, 42-5205 and 42-5353. Each month the  
32 department shall report to the state treasurer the amount of monies collected  
33 pursuant to this article and articles 4, 5 and 8 of this chapter.

34 C. On notification by the department, the state treasurer shall  
35 distribute the monies deposited in the transaction privilege and severance  
36 tax clearing account in the manner prescribed by this section and by sections  
37 42-5164, 42-5205 and 42-5353, after deducting warrants drawn against the  
38 account pursuant to sections 42-1118 and 42-1254.

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

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

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

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

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

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

11 (a) Average the following proportions:

12 (i) The proportion that the assessed valuation used to determine  
13 secondary property taxes of each county, after deducting that part of the  
14 assessed valuation that is exempt from taxation at the beginning of the month  
15 for which the amount is to be paid, bears to the total assessed valuations  
16 used to determine secondary property taxes of all the counties after  
17 deducting that portion of the assessed valuations that is exempt from  
18 taxation at the beginning of the month for which the amount is to be paid.  
19 Property of a city or town that is not within or contiguous to the municipal  
20 corporate boundaries and from which water is or may be withdrawn or diverted  
21 and transported for use on other property is considered to be taxable  
22 property in the county for purposes of determining assessed valuation in the  
23 county under this item.

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

30 (b) If the proportion computed under subdivision (a) of this paragraph  
31 for any county is greater than the proportion computed under paragraph 2 of  
32 this subsection, the department shall compute the difference between the  
33 amount distributed to that county under paragraph 2 of this subsection and  
34 the amount that would have been distributed under paragraph 2 of this  
35 subsection using the proportion computed under subdivision (a) of this  
36 paragraph and shall pay that difference to the county from the amount  
37 available for distribution under this paragraph. Any monies remaining after  
38 all payments under this subdivision shall be distributed among the counties  
39 according to the proportions computed under paragraph 2 of this subsection.

40 4. After any distributions required by sections 42-5030, 42-5030.01,  
41 42-5031, 42-5032 and 42-5032.01, and after making any transfer to the water  
42 quality assurance revolving fund as required by section 49-282, subsection B,  
43 credit the remainder of the monies designated as distribution base to the  
44 state general fund. From this amount:

- 1 (a) The legislature shall annually appropriate to:  
2 (i) The department of revenue sufficient monies to administer and  
3 enforce this article and articles 5 and 8 of this chapter.  
4 (ii) The department of economic security monies to be used for the  
5 purposes stated in title 46, chapter 1.  
6 (iii) The firearms safety and ranges fund established by section  
7 17-273, fifty thousand dollars derived from the taxes collected from the  
8 retail classification pursuant to section 42-5061 for the current fiscal  
9 year.

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

- 13 (i) Three and one-half per cent of the gross revenues derived from the  
14 transient lodging classification pursuant to section 42-5070 during the  
15 preceding fiscal year.  
16 (ii) Three per cent of the gross revenues derived from the amusement  
17 classification pursuant to section 42-5073 during the preceding fiscal year.  
18 (iii) Two per cent of the gross revenues derived from the restaurant  
19 classification pursuant to section 42-5074 during the preceding fiscal year.

20 (c) EACH YEAR THE STATE TREASURER SHALL TRANSFER TO THE GANG AND  
21 IMMIGRATION INTELLIGENCE TEAM ENFORCEMENT MISSION FUND ESTABLISHED BY SECTION  
22 41-1724 THE FULL AMOUNT OF REVENUES IDENTIFIED AND REPORTED PURSUANT TO  
23 SUBSECTION A, PARAGRAPH 5 OF THIS SECTION.

24 E. If approved by the qualified electors voting at a statewide general  
25 election, all monies collected pursuant to section 42-5010, subsection G and  
26 section 42-5155, subsection D shall be distributed each fiscal year pursuant  
27 to this subsection. The monies distributed pursuant to this subsection are  
28 in addition to any other appropriation, transfer or other allocation of  
29 public or private monies from any other source and shall not supplant,  
30 replace or cause a reduction in other school district, charter school,  
31 university or community college funding sources. The monies shall be  
32 distributed as follows:

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

42 2. After any transfer of monies pursuant to paragraph 1 of this  
43 subsection, twelve per cent of the remaining monies collected during the  
44 preceding month shall be transferred to the technology and research  
45 initiative fund established by section 15-1648 to be distributed among the

1 universities for the purpose of investment in technology and research-based  
2 initiatives.

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

8 4. After transferring monies pursuant to paragraphs 1, 2 and 3 of this  
9 subsection, one-twelfth of the amount a community college that is owned,  
10 operated or chartered by a qualifying Indian tribe on its own Indian  
11 reservation would receive pursuant to section 15-1472, subsection D,  
12 paragraph 2 if it were a community college district shall be distributed each  
13 month to the treasurer or other designated depository of a qualifying Indian  
14 tribe. Monies distributed pursuant to this paragraph are for the exclusive  
15 purpose of providing support to one or more community colleges owned,  
16 operated or chartered by a qualifying Indian tribe and shall be used in a  
17 manner consistent with section 15-1472, subsection B. For the purposes of  
18 this paragraph, "qualifying Indian tribe" has the same meaning ~~as defined~~  
19 **PRESCRIBED** in section 42-5031.01, ~~subsection D~~.

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

- 25 (a) In fiscal year 2001-2002, \$15,305,900.
- 26 (b) In fiscal year 2002-2003, \$31,530,100.
- 27 (c) In fiscal year 2003-2004, \$48,727,700.
- 28 (d) In fiscal year 2004-2005, \$66,957,200.
- 29 (e) In fiscal year 2005-2006 and each fiscal year thereafter,  
30 \$86,280,500.

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

38 7. After transferring monies pursuant to paragraphs 1, 2 and 3 of this  
39 subsection, no more than seven million dollars may be appropriated by the  
40 legislature each fiscal year to the department of education to be used for  
41 accountability purposes as described in section 15-241 and title 15, chapter  
42 9, article 8.

43 8. After transferring monies pursuant to paragraphs 1, 2 and 3 of this  
44 subsection, one million five hundred thousand dollars is appropriated each

1 fiscal year, to be paid in monthly installments, to the failing schools  
2 tutoring fund established by section 15-241.

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

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

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

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

16 (c) Forty per cent shall be allocated for maintenance and operation  
17 purposes.

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

21 G. Notwithstanding subsection D of this section, if a court of  
22 competent jurisdiction finally determines that tax monies distributed under  
23 this section were illegally collected under this article or articles 5 and 8  
24 of this chapter and orders the monies to be refunded to the taxpayer, the  
25 department shall compute the amount of such monies that was distributed to  
26 each city, town and county under this section. The department shall notify  
27 the state treasurer of that amount plus the proportionate share of additional  
28 allocated costs required to be paid to the taxpayer. Each city's, town's and  
29 county's proportionate share of the costs shall be based on the amount of the  
30 original tax payment each municipality and county received. Each month the  
31 state treasurer shall reduce the amount otherwise distributable to the city,  
32 town and county under this section by one thirty-sixth of the total amount to  
33 be recovered from the city, town or county until the total amount has been  
34 recovered, but the monthly reduction for any city, town or county shall not  
35 exceed ten per cent of the full monthly distribution to that entity. The  
36 reduction shall begin for the first calendar month after the final  
37 disposition of the case and shall continue until the total amount, including  
38 interest and costs, has been recovered.

39 H. On receiving a certificate of default from the greater Arizona  
40 development authority pursuant to section 41-2257 or 41-2258 and to the  
41 extent not otherwise expressly prohibited by law, the state treasurer shall  
42 withhold from the next succeeding distribution of monies pursuant to this  
43 section due to the defaulting political subdivision the amount specified in  
44 the certificate of default and immediately deposit the amount withheld in the  
45 greater Arizona development authority revolving fund. The state treasurer

1 shall continue to withhold and deposit the monies until the greater Arizona  
2 development authority certifies to the state treasurer that the default has  
3 been cured. In no event may the state treasurer withhold any amount that the  
4 defaulting political subdivision certifies to the state treasurer and the  
5 authority as being necessary to make any required deposits then due for the  
6 payment of principal and interest on bonds of the political subdivision that  
7 were issued before the date of the loan repayment agreement or bonds and that  
8 have been secured by a pledge of distributions made pursuant to this section.

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

14 J. Except as otherwise provided by this subsection, on notice from the  
15 department of revenue pursuant to section 42-6010, subsection B, the state  
16 treasurer shall withhold from the distribution of monies pursuant to this  
17 section to the affected city or town the amount of the penalty for business  
18 location municipal tax incentives provided by the city or town to a business  
19 entity that locates a retail business facility in the city or town. The  
20 state treasurer shall continue to withhold monies pursuant to this subsection  
21 until the entire amount of the penalty has been withheld. The state  
22 treasurer shall credit any monies withheld pursuant to this subsection to the  
23 state general fund as provided by subsection D, paragraph 4 of this section.  
24 The state treasurer shall not withhold any amount that the city or town  
25 certifies to the department of revenue and the state treasurer as being  
26 necessary to make any required deposits or payments for debt service on bonds  
27 or other long-term obligations of the city or town that were issued or  
28 incurred before the location incentives provided by the city or town.

29 K. On notice from the auditor general pursuant to section 9-626,  
30 subsection D, the state treasurer shall withhold from the distribution of  
31 monies pursuant to this section to the affected city the amount computed  
32 pursuant to section 9-626, subsection D. The state treasurer shall continue  
33 to withhold monies pursuant to this subsection until the entire amount  
34 specified in the notice has been withheld. The state treasurer shall credit  
35 any monies withheld pursuant to this subsection to the state general fund as  
36 provided by subsection D, paragraph 4 of this section.

37 L. For the purposes of this section, "community college district"  
38 means a community college district that is established pursuant to sections  
39 15-1402 and 15-1403 and that is a political subdivision of this state and,  
40 subject to the distribution procedures specified in section 15-1472,  
41 subsection D, paragraph 2, subdivision (b), includes a community college  
42 district established pursuant to section 15-1402.01 and, subject to the  
43 distribution procedures specified in section 15-1472, subsection D, paragraph  
44 2, subdivision (b), includes a provisional community college district  
45 established pursuant to section 15-1409.

1           Sec. 7. Section 42-5061, Arizona Revised Statutes, is amended to read:  
2           42-5061. Retail classification; definitions

3           A. The retail classification is comprised of the business of selling  
4 tangible personal property at retail. The tax base for the retail  
5 classification is the gross proceeds of sales or gross income derived from  
6 the business. The tax imposed on the retail classification does not apply to  
7 the gross proceeds of sales or gross income from:

8           1. Professional or personal service occupations or businesses which  
9 involve sales or transfers of tangible personal property only as  
10 inconsequential elements.

11           2. Services rendered in addition to selling tangible personal property  
12 at retail.

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

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

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

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

25           7. The sale of stocks and bonds.

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

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

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

33           11. Prescription eyeglasses or contact lenses.

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

35           13. Durable medical equipment which has a centers for medicare and  
36 medicaid services common procedure code, is designated reimbursable by  
37 medicare, is prescribed by a person who is licensed under title 32, chapter  
38 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and  
39 customarily used to serve a medical purpose, is generally not useful to a  
40 person in the absence of illness or injury and is appropriate for use in the  
41 home.

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

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

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

8           17. Textbooks by any bookstore that are required by any state  
9 university or community college.

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

14          19. Articles of food, drink or condiment and accessory tangible  
15 personal property to a school district or charter school if such articles and  
16 accessory tangible personal property are to be prepared and served to persons  
17 for consumption on the premises of a public school within the district or on  
18 the premises of the charter school during school hours.

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

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

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

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

32          22. Motor vehicle fuel and use fuel that are subject to a tax imposed  
33 under title 28, chapter 16, article 1, sales of use fuel to a holder of a  
34 valid single trip use fuel tax permit issued under section 28-5739, sales of  
35 aviation fuel that are subject to the tax imposed under section 28-8344 and  
36 sales of jet fuel that are subject to the tax imposed under article 8 of this  
37 chapter.

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

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

- 1           25. Tangible personal property sold to:
- 2           (a) A qualifying hospital as defined in section 42-5001.
- 3           (b) A qualifying health care organization as defined in section
- 4 42-5001 if the tangible personal property is used by the organization solely
- 5 to provide health and medical related educational and charitable services.
- 6           (c) A qualifying health care organization as defined in section
- 7 42-5001 if the organization is dedicated to providing educational,
- 8 therapeutic, rehabilitative and family medical education training for blind,
- 9 visually impaired and multihandicapped children from the time of birth to age
- 10 twenty-one.
- 11           (d) A qualifying community health center as defined in section
- 12 42-5001.
- 13           (e) A nonprofit charitable organization that has qualified under
- 14 section 501(c)(3) of the internal revenue code and that regularly serves
- 15 meals to the needy and indigent on a continuing basis at no cost.
- 16           (f) For taxable periods beginning from and after June 30, 2001, a
- 17 nonprofit charitable organization that has qualified under section 501(c)(3)
- 18 of the internal revenue code and that provides residential apartment housing
- 19 for low income persons over sixty-two years of age in a facility that
- 20 qualifies for a federal housing subsidy, if the tangible personal property is
- 21 used by the organization solely to provide residential apartment housing for
- 22 low income persons over sixty-two years of age in a facility that qualifies
- 23 for a federal housing subsidy.
- 24           26. Magazines or other periodicals or other publications by this state
- 25 to encourage tourist travel.
- 26           27. Tangible personal property sold to a person that is subject to tax
- 27 under this article by reason of being engaged in business classified under
- 28 the prime contracting classification under section 42-5075, or to a
- 29 subcontractor working under the control of a prime contractor that is subject
- 30 to tax under article 1 of this chapter, if the property so sold is any of the
- 31 following:
- 32           (a) Incorporated or fabricated by the person into any real property,
- 33 structure, project, development or improvement as part of the business.
- 34           (b) Used in environmental response or remediation activities under
- 35 section 42-5075, subsection B, paragraph 6.
- 36           (c) Incorporated or fabricated by the person into any lake facility
- 37 development in a commercial enhancement reuse district under conditions
- 38 prescribed for the deduction allowed by section 42-5075, subsection B,
- 39 paragraph 8.
- 40           28. The sale of a motor vehicle to:
- 41           (a) A nonresident of this state if the purchaser's state of residence
- 42 does not allow a corresponding use tax exemption to the tax imposed by
- 43 article 1 of this chapter and if the nonresident has secured a special ninety
- 44 day nonresident registration permit for the vehicle as prescribed by sections
- 45 28-2154 and 28-2154.01.

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

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

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

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

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

26 33. Sales of seeds, seedlings, roots, bulbs, cuttings and other  
27 propagative material to persons who use those items to commercially produce  
28 agricultural, horticultural, viticultural or floricultural crops in this  
29 state.

30 34. Machinery, equipment, technology or related supplies that are only  
31 useful to assist a person who is physically disabled as defined in section  
32 46-191, has a developmental disability as defined in section 36-551 or has a  
33 head injury as defined in section 41-3201 to be more independent and  
34 functional.

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

38 36. Sales of natural gas or liquefied petroleum gas used to propel a  
39 motor vehicle.

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

43 38. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity  
44 sold to a qualified environmental technology manufacturer, producer or  
45 processor as defined in section 41-1514.02 and directly used or consumed in

1 the generation or provision of on-site power or energy solely for  
2 environmental technology manufacturing, producing or processing or  
3 environmental protection. This paragraph shall apply for twenty full  
4 consecutive calendar or fiscal years from the date the first paper  
5 manufacturing machine is placed in service. In the case of an environmental  
6 technology manufacturer, producer or processor who does not manufacture  
7 paper, the time period shall begin with the date the first manufacturing,  
8 processing or production equipment is placed in service.

9 39. Sales of liquid, solid or gaseous chemicals used in manufacturing,  
10 processing, fabricating, mining, refining, metallurgical operations, research  
11 and development and, beginning on January 1, 1999, printing, if using or  
12 consuming the chemicals, alone or as part of an integrated system of  
13 chemicals, involves direct contact with the materials from which the product  
14 is produced for the purpose of causing or permitting a chemical or physical  
15 change to occur in the materials as part of the production process. This  
16 paragraph does not include chemicals that are used or consumed in activities  
17 such as packaging, storage or transportation but does not affect any  
18 deduction for such chemicals that is otherwise provided by this section. For  
19 the purposes of this paragraph, "printing" means a commercial printing  
20 operation and includes job printing, engraving, embossing, copying and  
21 bookbinding.

22 40. Through December 31, 1994, personal property liquidation  
23 transactions, conducted by a personal property liquidator. From and after  
24 December 31, 1994, personal property liquidation transactions shall be  
25 taxable under this section provided that nothing in this subsection shall be  
26 construed to authorize the taxation of casual activities or transactions  
27 under this chapter. For the purposes of this paragraph:

28 (a) "Personal property liquidation transaction" means a sale of  
29 personal property made by a personal property liquidator acting solely on  
30 behalf of the owner of the personal property sold at the dwelling of the  
31 owner or upon the death of any owner, on behalf of the surviving spouse, if  
32 any, any devisee or heir or the personal representative of the estate of the  
33 deceased, if one has been appointed.

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

36 41. Sales of food, drink and condiment for consumption within the  
37 premises of any prison, jail or other institution under the jurisdiction of  
38 the state department of corrections, the department of public safety, the  
39 department of juvenile corrections or a county sheriff.

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

44 43. Livestock and poultry feed, salts, vitamins and other additives for  
45 livestock or poultry consumption that are sold to persons who are engaged in

1 producing livestock, poultry, or livestock or poultry products or who are  
2 engaged in feeding livestock or poultry commercially. For the purposes of  
3 this paragraph, "poultry" includes ratites.

4 44. Sales of implants used as growth promotants and injectable  
5 medicines, not already exempt under paragraph 8 of this subsection, for  
6 livestock or poultry owned by or in possession of persons who are engaged in  
7 producing livestock, poultry, or livestock or poultry products or who are  
8 engaged in feeding livestock or poultry commercially. For the purposes of  
9 this paragraph, "poultry" includes ratites.

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

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

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

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

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

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

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

37 50. Sales of alternative fuel vehicles if the vehicle was manufactured  
38 as a diesel fuel vehicle and converted to operate on alternative fuel and  
39 equipment that is installed in a conventional diesel fuel motor vehicle to  
40 convert the vehicle to operate on an alternative fuel, as defined in section  
41 1-215.

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

1           52. Sales of tangible personal property to be incorporated or installed  
2 as part of environmental response or remediation activities under section  
3 42-5075, subsection B, paragraph 6.

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

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

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

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

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

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

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

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

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

43           4. Machinery, equipment or transmission lines used directly in  
44 producing or transmitting electrical power, but not including distribution.

1 Transformers and control equipment used at transmission substation sites  
2 constitute equipment used in producing or transmitting electrical power.

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

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

10 ~~7.~~ 6. Aircraft, navigational and communication instruments and other  
11 accessories and related equipment sold to:

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

18 (b) Any foreign government.

19 (c) Persons who are not residents of this state and who will not use  
20 such property in this state other than in removing such property from this  
21 state. This subdivision also applies to corporations that are not  
22 incorporated in this state, regardless of maintaining a place of business in  
23 this state, if the principal corporate office is located outside this state  
24 and the property will not be used in this state other than in removing the  
25 property from this state.

26 ~~8.~~ 7. Machinery, tools, equipment and related supplies used or  
27 consumed directly in repairing, remodeling or maintaining aircraft, aircraft  
28 engines or aircraft component parts by or on behalf of a certificated or  
29 licensed carrier of persons or property.

30 ~~9.~~ 8. Railroad rolling stock, rails, ties and signal control  
31 equipment used directly to transport persons or property.

32 ~~10.~~ 9. Machinery or equipment used directly to drill for oil or gas or  
33 used directly in the process of extracting oil or gas from the earth for  
34 commercial purposes.

35 ~~11.~~ 10. Buses or other urban mass transit vehicles which are used  
36 directly to transport persons or property for hire or pursuant to a  
37 governmentally adopted and controlled urban mass transportation program and  
38 which are sold to bus companies holding a federal certificate of convenience  
39 and necessity or operated by any city, town or other governmental entity or  
40 by any person contracting with such governmental entity as part of a  
41 governmentally adopted and controlled program to provide urban mass  
42 transportation.

43 ~~12.~~ 11. Groundwater measuring devices required under section 45-604.

44 ~~13.~~ 12. New machinery and equipment consisting of tractors,  
45 tractor-drawn implements, self-powered implements, machinery and equipment

1 necessary for extracting milk, and machinery and equipment necessary for  
2 cooling milk and livestock, and drip irrigation lines ~~not already exempt~~  
3 ~~under paragraph 6 of this subsection and~~ that are used for commercial  
4 production of agricultural, horticultural, viticultural and floricultural  
5 crops and products in this state. For the purposes of this paragraph:

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

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

11 ~~14.~~ 13. Machinery or equipment used in research and development. For  
12 the purposes of this paragraph, "research and development" means basic and  
13 applied research in the sciences and engineering, and designing, developing  
14 or testing prototypes, processes or new products, including research and  
15 development of computer software that is embedded in or an integral part of  
16 the prototype or new product or that is required for machinery or equipment  
17 otherwise exempt under this section to function effectively. Research and  
18 development do not include manufacturing quality control, routine consumer  
19 product testing, market research, sales promotion, sales service, research in  
20 social sciences or psychology, computer software research that is not  
21 included in the definition of research and development, or other  
22 nontechnological activities or technical services.

23 ~~15.~~ 14. Machinery and equipment that are purchased by or on behalf of  
24 the owners of a soundstage complex and primarily used for motion picture,  
25 multimedia or interactive video production in the complex. This paragraph  
26 applies only if the initial construction of the soundstage complex begins  
27 after June 30, 1996 and before January 1, 2002 and the machinery and  
28 equipment are purchased before the expiration of five years after the start  
29 of initial construction. For the purposes of this paragraph:

30 (a) "Motion picture, multimedia or interactive video production"  
31 includes products for theatrical and television release, educational  
32 presentations, electronic retailing, documentaries, music videos, industrial  
33 films, CD-ROM, video game production, commercial advertising and television  
34 episode production and other genres that are introduced through developing  
35 technology.

36 (b) "Soundstage complex" means a facility of multiple stages including  
37 production offices, construction shops and related areas, prop and costume  
38 shops, storage areas, parking for production vehicles and areas that are  
39 leased to businesses that complement the production needs and orientation of  
40 the overall facility.

41 ~~16.~~ 15. Tangible personal property that is used by either of the  
42 following to receive, store, convert, produce, generate, decode, encode,  
43 control or transmit telecommunications information:

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

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

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

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

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

17 ~~17.~~ 16. Clean rooms that are used for manufacturing, processing,  
18 fabrication or research and development, as defined in paragraph ~~14~~ 13 of  
19 this subsection, of semiconductor products. For the purposes of this  
20 paragraph, "clean room" means all property that comprises or creates an  
21 environment where humidity, temperature, particulate matter and contamination  
22 are precisely controlled within specified parameters, without regard to  
23 whether the property is actually contained within that environment or whether  
24 any of the property is affixed to or incorporated into real property. Clean  
25 room:

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

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

34 ~~18.~~ 17. Machinery and equipment used directly in the feeding of  
35 poultry, the environmental control of housing for poultry, the movement of  
36 eggs within a production and packaging facility or the sorting or cooling of  
37 eggs. This exemption does not apply to vehicles used for transporting eggs.

38 ~~19.~~ 18. Machinery or equipment, including related structural  
39 components, that is employed in connection with manufacturing, processing,  
40 fabricating, job printing, refining, mining, natural gas pipelines,  
41 metallurgical operations, telecommunications, producing or transmitting  
42 electricity or research and development and that is used directly to meet or  
43 exceed rules or regulations adopted by the federal energy regulatory  
44 commission, the United States environmental protection agency, the United  
45 States nuclear regulatory commission, the Arizona department of environmental

1 quality or a political subdivision of this state to prevent, monitor, control  
2 or reduce land, water or air pollution.

3 ~~20-~~ 19. Machinery and equipment that are sold to a person engaged in  
4 the commercial production of livestock, livestock products or agricultural,  
5 horticultural, viticultural or floricultural crops or products in this state  
6 and that are used directly and primarily to prevent, monitor, control or  
7 reduce air, water or land pollution.

8 ~~21-~~ 20. Machinery or equipment that enables a television station to  
9 originate and broadcast or to receive and broadcast digital television  
10 signals and that was purchased to facilitate compliance with the  
11 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States  
12 Code section 336) and the federal communications commission order issued  
13 April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does  
14 not exempt any of the following:

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

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

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

22 ~~22-~~ 21. Qualifying equipment that is purchased from and after June 30,  
23 2004 through June 30, 2014 by a qualified business under section 41-1516 for  
24 harvesting or the initial processing of qualifying forest products removed  
25 from qualifying projects as defined in section 41-1516. To qualify for this  
26 deduction, the qualified business at the time of purchase must present its  
27 certification approved by the department.

28 ~~23-~~ 22. Machinery, equipment and other tangible personal property used  
29 directly in motion picture production by a motion picture production company.  
30 To qualify for this deduction, at the time of purchase, the motion picture  
31 production company must present to the retailer its certificate that is  
32 issued pursuant to section 42-5009, subsection H and that establishes its  
33 qualification for the deduction.

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

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

40 2. Janitorial equipment and hand tools.

41 3. Office equipment, furniture and supplies.

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

1           5. Motor vehicles required to be licensed by this state, except buses  
2 or other urban mass transit vehicles specifically exempted pursuant to  
3 subsection B, paragraph ~~10~~ 10 of this section, without regard to the use of  
4 such motor vehicles.

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

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

8           D. In addition to the deductions from the tax base prescribed by  
9 subsection A of this section, there shall be deducted from the tax base the  
10 gross proceeds of sales or gross income derived from sales of machinery,  
11 equipment, materials and other tangible personal property used directly and  
12 predominantly to construct a qualified environmental technology  
13 manufacturing, producing or processing facility as described in section  
14 41-1514.02. This subsection applies for ten full consecutive calendar or  
15 fiscal years after the start of initial construction.

16           E. In computing the tax base, gross proceeds of sales or gross income  
17 from retail sales of heavy trucks and trailers does not include any amount  
18 attributable to federal excise taxes imposed by 26 United States Code section  
19 4051.

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

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

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

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

44           1. Transporting classification.

45           2. Utilities classification.

- 1           3. Telecommunications classification.
- 2           4. Pipeline classification.
- 3           5. Private car line classification.
- 4           6. Publication classification.
- 5           7. Job printing classification.
- 6           8. Prime contracting classification.
- 7           9. Owner builder sales classification.
- 8           10. Restaurant classification.
- 9           J. The gross proceeds of sales or gross income derived from the  
10 following shall be deducted from the tax base for the retail classification:  
11           1. Sales made directly to the United States government or its  
12 departments or agencies by a manufacturer, modifier, assembler or repairer.  
13           2. Sales made directly to a manufacturer, modifier, assembler or  
14 repairer if such sales are of any ingredient or component part of products  
15 sold directly to the United States government or its departments or agencies  
16 by the manufacturer, modifier, assembler or repairer.  
17           3. Overhead materials or other tangible personal property that is used  
18 in performing a contract between the United States government and a  
19 manufacturer, modifier, assembler or repairer, including property used in  
20 performing a subcontract with a government contractor who is a manufacturer,  
21 modifier, assembler or repairer, to which title passes to the government  
22 under the terms of the contract or subcontract.  
23           4. Sales of overhead materials or other tangible personal property to  
24 a manufacturer, modifier, assembler or repairer if the gross proceeds of  
25 sales or gross income derived from the property by the manufacturer,  
26 modifier, assembler or repairer will be exempt under paragraph 3 of this  
27 subsection.
- 28           K. There shall be deducted from the tax base fifty per cent of the  
29 gross proceeds or gross income from any sale of tangible personal property  
30 made directly to the United States government or its departments or agencies,  
31 which is not deducted under subsection J of this section.
- 32           L. The department shall require every person claiming a deduction  
33 provided by subsection J or K of this section to file on forms prescribed by  
34 the department at such times as the department directs a sworn statement  
35 disclosing the name of the purchaser and the exact amount of sales on which  
36 the exclusion or deduction is claimed.
- 37           M. In computing the tax base, gross proceeds of sales or gross income  
38 does not include:  
39           1. A manufacturer's cash rebate on the sales price of a motor vehicle  
40 if the buyer assigns the buyer's right in the rebate to the retailer.  
41           2. The waste tire disposal fee imposed pursuant to section 44-1302.
- 42           N. There shall be deducted from the tax base the amount received from  
43 sales of solar energy devices. The retailer shall register with the  
44 department as a solar energy retailer. By registering, the retailer

1 acknowledges that it will make its books and records relating to sales of  
2 solar energy devices available to the department for examination.

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

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

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

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

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

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

27 S. If a seller is entitled to a deduction pursuant to subsection B,  
28 paragraph ~~16~~ 15, subdivision (b) of this section, the department may require  
29 the purchaser to establish that the requirements of subsection B, paragraph  
30 ~~16~~ 15, subdivision (b) of this section have been satisfied. If the purchaser  
31 cannot establish that the requirements of subsection B, paragraph ~~16~~ 15,  
32 subdivision (b) of this section have been satisfied, the purchaser is liable  
33 in an amount equal to any tax, penalty and interest which the seller would  
34 have been required to pay under article 1 of this chapter if the seller had  
35 not made a deduction pursuant to subsection B, paragraph ~~16~~ 15, subdivision  
36 (b) of this section. Payment of the amount under this subsection exempts the  
37 purchaser from liability for any tax imposed under article 4 of this chapter  
38 and related to the tangible personal property purchased. The amount shall be  
39 treated as transaction privilege tax to the purchaser and as tax revenues  
40 collected from the seller to designate the distribution base pursuant to  
41 section 42-5029.

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

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

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

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

13           ~~V.~~ V. In computing the tax base for the sale of a motor vehicle to a  
14 nonresident of this state, if the purchaser's state of residence allows a  
15 corresponding use tax exemption to the tax imposed by article 1 of this  
16 chapter and the rate of the tax in the purchaser's state of residence is  
17 lower than the rate prescribed in article 1 of this chapter or if the  
18 purchaser's state of residence does not impose an excise tax, and the  
19 nonresident has secured a special ninety day nonresident registration permit  
20 for the vehicle as prescribed by sections 28-2154 and 28-2154.01, there shall  
21 be deducted from the tax base a portion of the gross proceeds or gross income  
22 from the sale so that the amount of transaction privilege tax that is paid in  
23 this state is equal to the excise tax that is imposed by the purchaser's  
24 state of residence on the nonexempt sale or use of the motor vehicle.

25           ~~W.~~ W. For the purposes of this section:

26           1. "Aircraft" includes:

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

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

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

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

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

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

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

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

7           4. "Overhead materials" means tangible personal property, the gross  
8 proceeds of sales or gross income derived from which would otherwise be  
9 included in the retail classification, and which are used or consumed in the  
10 performance of a contract, the cost of which is charged to an overhead  
11 expense account and allocated to various contracts based upon generally  
12 accepted accounting principles and consistent with government contract  
13 accounting standards.

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

16           6. "Subcontract" means an agreement between a contractor and any  
17 person who is not an employee of the contractor for furnishing of supplies or  
18 services that, in whole or in part, are necessary to the performance of one  
19 or more government contracts, or under which any portion of the contractor's  
20 obligation under one or more government contracts is performed, undertaken or  
21 assumed and that includes provisions causing title to overhead materials or  
22 other tangible personal property used in the performance of the subcontract  
23 to pass to the government or that includes provisions incorporating such  
24 title passing clauses in a government contract into the subcontract.

25           Sec. 8. Section 42-5064, Arizona Revised Statutes, is amended to read:  
26 [42-5064. Telecommunications classification; definitions](#)

27           A. The telecommunications classification is comprised of the business  
28 of providing intrastate telecommunications services. The telecommunications  
29 classification does not include:

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

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

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

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

1           B. The tax base for the telecommunications classification is the gross  
2 proceeds of sales or gross income derived from the business, including the  
3 gross income derived from tolls, subscriptions and services on behalf of  
4 subscribers or from the publication of a directory of the names of  
5 subscribers. However, the gross proceeds of sales or gross income derived  
6 from the following shall be deducted from the tax base:

7           1. Sales of intrastate telecommunications services to:

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

10           (b) A direct broadcast satellite television or data transmission  
11 service that operates pursuant to 47 Code of Federal Regulations part 25 for  
12 use in its direct broadcast satellite television or data transmission  
13 operation by a facility described in section 42-5061, subsection B, paragraph  
14 ~~16~~ 15, subdivision (b).

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

17           3. Carrier access charges established by federal communications  
18 commission regulations (47 Code of Federal Regulations sections 69.105(a)  
19 through 69.118).

20           4. Sales of direct broadcast satellite television services pursuant to  
21 47 Code of Federal Regulations part 25 by a direct broadcast satellite  
22 television service that operates pursuant to 47 Code of Federal Regulations  
23 part 25.

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

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

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

36           1. A telecommunications service provider who can reasonably identify  
37 the portion of the sales price of the bundled transaction derived from  
38 charges for nontaxable services is subject to tax only on the gross proceeds  
39 of sales or gross income derived from the taxable services. For the purposes  
40 of this section, the telecommunications service provider may elect to  
41 reasonably identify the portion of the sales price of the bundled transaction  
42 derived from charges for nontaxable services by using allocation percentages  
43 derived from the telecommunications service provider's entire service area,  
44 including territories outside of this state. On request, the department may  
45 require the telecommunications service provider to provide this allocation

1 information. The reasonableness of the allocation is subject to audit by the  
2 department.

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

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

11 E. For the purposes of this section:

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

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

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

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

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

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

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

31 42-5071. Personal property rental classification

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

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

38 2. Activities engaged in by the Arizona exposition and state fair  
39 board or county fair commissions in connection with events sponsored by such  
40 entities.

41 3. Leasing or renting tangible personal property by a parent  
42 corporation to a subsidiary corporation or by a subsidiary corporation to  
43 another subsidiary of the same parent corporation if taxes were paid under  
44 this chapter on the gross proceeds or gross income accruing from the initial  
45 sale of the tangible personal property. For the purposes of this paragraph,

1 "subsidiary" means a corporation of which at least eighty per cent of the  
2 voting shares are owned by the parent corporation.

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

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

11 6. Leasing or renting aircraft, flight simulators or similar training  
12 equipment to students or staff by nonprofit, accredited educational  
13 institutions that offer associate or baccalaureate degrees in aviation or  
14 aerospace related fields.

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

18 B. The tax base for the personal property rental classification is the  
19 gross proceeds of sales or gross income derived from the business, but the  
20 gross proceeds of sales or gross income derived from the following shall be  
21 deducted from the tax base:

22 1. Reimbursements by the lessee to the lessor of a motor vehicle for  
23 payments by the lessor of the applicable fees and taxes imposed by sections  
24 28-2003, 28-2352, 28-2402, 28-2481 and 28-5801, title 28, chapter 15,  
25 article 2 and article IX, section 11, Constitution of Arizona, to the extent  
26 such amounts are separately identified as such fees and taxes and are billed  
27 to the lessee.

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

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

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

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

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

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

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

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

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

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

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

9           D. In computing the tax base, the gross proceeds of sales or gross  
10 income from the lease or rental of a motor vehicle does not include any  
11 amount attributable to the car rental surcharge under section 28-5810 or  
12 48-4234.

13           E. Until December 31, 1988, leasing or renting animals for  
14 recreational purposes is exempt from the tax imposed by this section.  
15 Beginning January 1, 1989, the gross proceeds or gross income from leasing or  
16 renting animals for recreational purposes is subject to taxation under this  
17 section. Tax liabilities, penalties and interest paid for taxable periods  
18 before January 1, 1989 shall not be refunded unless the taxpayer requesting  
19 the refund provides proof satisfactory to the department that the monies paid  
20 as taxes will be returned to the customer.

21           Sec. 10. Section 42-5075, Arizona Revised Statutes, is amended to  
22 read:

23           42-5075. Prime contracting classification; exemptions;  
24 definitions

25           A. The prime contracting classification is comprised of the business  
26 of prime contracting and dealership of manufactured buildings. Sales for  
27 resale to another dealership of manufactured buildings are not subject to  
28 tax. Sales for resale do not include sales to a lessor of manufactured  
29 buildings. The sale of a used manufactured building is not taxable under  
30 this chapter. The proceeds from alteration and repairs to a used  
31 manufactured building are taxable under this section.

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

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

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

42           3. The sales price of furniture, furnishings, fixtures, appliances and  
43 attachments that are not incorporated as component parts of or attached to a  
44 manufactured building or the setup site. The sale of such items may be

1 subject to the taxes imposed by article 1 of this chapter separately and  
2 distinctly from the sale of the manufactured building.

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

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

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

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

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

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

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

43 (e) The installation of structures, such as cutoff walls or caps, to  
44 contain contaminants present in groundwater or soil and prevent them from

1 reaching a location where they could threaten human health or welfare or the  
2 environment.

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

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

27 (a) To be incorporated into real property.

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

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

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

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

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

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

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

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

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

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

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

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

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

24 12. The gross proceeds of sales or gross income that is derived from  
25 the installation, assembly, repair or maintenance of clean rooms that are  
26 deducted from the tax base of the retail classification pursuant to section  
27 42-5061, subsection B, paragraph ~~17~~ 16.

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

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

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

44 16. The gross proceeds of sales or gross income derived from a contract  
45 entered into for the construction of a domestic violence shelter that is

1 owned and operated by a nonprofit charitable organization that has qualified  
2 under section 501(c)(3) of the internal revenue code.

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

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

12 19. The gross proceeds of sales or gross income received from a  
13 contract for the construction of any building, or other structure, project,  
14 development or improvement owned by a qualified business under section  
15 41-1516 for harvesting or the initial processing of qualifying forest  
16 products removed from qualifying projects as defined in section 41-1516 if  
17 actual construction begins before January 1, 2010. To qualify for this  
18 deduction, the prime contractor must obtain a letter of qualification from  
19 the department of commerce before beginning work under the contract.

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

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

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

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

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

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

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

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

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

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

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

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

38           D. Subcontractors or others who perform services in respect to any  
39 improvement, building, highway, road, railroad, excavation, manufactured  
40 building or other structure, project, development or improvement are not  
41 subject to tax if they can demonstrate that the job was within the control of  
42 a prime contractor or contractors or a dealership of manufactured buildings  
43 and that the prime contractor or dealership is liable for the tax on the  
44 gross income, gross proceeds of sales or gross receipts attributable to the  
45 job and from which the subcontractors or others were paid.

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

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

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

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

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

42 J. The portion of gross proceeds of sales or gross income attributable  
43 to the actual direct costs of providing architectural or engineering services  
44 that are incorporated in a contract is not subject to tax under this section.  
45 For the purposes of this subsection, "direct costs" means the portion of the

1 actual costs that are directly expended in providing architectural or  
2 engineering services.

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

9 L. The following apply to manufactured buildings:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (i) Master schedule updates.

25 (ii) Modification work cash flow projection updates.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (vi) Any bond and insurance premiums.

29 (vii) Any applicable taxes.

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

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

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

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

44 N. Notwithstanding subsection 0, paragraph 8 of this section, a person  
45 owning real property who enters into a contract for sale of the real

1 property, who is responsible to the new owner of the property for  
2 modifications made to the property in the period subsequent to the transfer  
3 of title and who receives a consideration for the modifications is considered  
4 a prime contractor solely for purposes of taxing the gross proceeds of sale  
5 or gross income received for the modifications made subsequent to the  
6 transfer of title. The original owner's gross proceeds of sale or gross  
7 income received for the modifications shall be determined according to the  
8 following methodology:

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

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

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

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

33 0. For the purposes of this section:

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

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

- 1           3. "Dealership of manufactured buildings" means a dealer who either:  
2           (a) Is licensed pursuant to title 41, chapter 16 and who sells  
3 manufactured buildings to the final consumer.  
4           (b) Supervises, performs or coordinates the excavation and completion  
5 of site improvements, setup or moving of a manufactured building including  
6 the contracting, if any, with any subcontractor or specialty contractor for  
7 the completion of the contract.
- 8           4. "Manufactured building" means a manufactured home, mobile home or  
9 factory-built building, as defined in section 41-2142.
- 10          5. "Modification" means construction, alteration, repair, addition,  
11 subtraction, improvement, movement, wreckage or demolition.
- 12          6. "Modify" means to construct, alter, repair, add to, subtract from,  
13 improve, move, wreck or demolish.
- 14          7. "Prime contracting" means engaging in business as a prime  
15 contractor.
- 16          8. "Prime contractor" means a contractor who supervises, performs or  
17 coordinates the modification of any building, highway, road, railroad,  
18 excavation, manufactured building or other structure, project, development or  
19 improvement including the contracting, if any, with any subcontractors or  
20 specialty contractors and who is responsible for the completion of the  
21 contract. Except as provided in subsections E and N of this section, a  
22 person who owns real property, who engages one or more contractors to modify  
23 that real property and who does not itself modify that real property is not a  
24 prime contractor within the meaning of this paragraph regardless of the  
25 existence of a contract for sale or the subsequent sale of that real  
26 property.
- 27          9. "Sale of a used manufactured building" does not include a lease of  
28 a used manufactured building.
- 29          Sec. 11. Section 42-5155, Arizona Revised Statutes, is amended to  
30 read:
- 31          42-5155. Levy of tax; tax rate; purchaser's liability  
32          A. There is levied and imposed an excise tax on the storage, use or  
33 consumption in this state of tangible personal property purchased from a  
34 retailer or utility business, as a percentage of the sales price. A  
35 manufactured building purchased outside this state and set up in this state  
36 is subject to tax under this section and in this case the **RATE IS A**  
37 percentage ~~is~~ **OF** sixty-five per cent of the sales price.
- 38          B. The tax imposed by this section applies to any purchaser which  
39 purchased tangible personal property for resale but subsequently uses or  
40 consumes the property.
- 41          C. The tax rate shall equal the rate of tax prescribed by section  
42 42-5010, subsection A as applied to retailers and utility businesses  
43 according to the respective classification under articles 1 and 2 of this  
44 chapter for the same type of transaction or business activity.

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

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

14 F. A receipt from a retailer or utility business that maintains a  
15 place of business in this state or from a retailer or utility business that  
16 is authorized by the department to collect the tax, under such rules as it  
17 may prescribe, and that is for the purposes of this article regarded as a  
18 retailer or utility business maintaining a place of business in this state,  
19 given to the purchaser as provided in section 42-5161 is sufficient to  
20 relieve the purchaser from further liability for the tax to which the receipt  
21 refers.

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

29 Sec. 12. Section 42-5159, Arizona Revised Statutes, is amended to  
30 read:

31 42-5159. Exemptions

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

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

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

44 3. Tangible personal property, the storage, use or consumption of  
45 which the constitution or laws of the United States prohibit this state from

1 taxing or to the extent that the rate or imposition of tax is  
2 unconstitutional under the laws of the United States.

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

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

14 6. Tangible personal property brought into this state by an individual  
15 who was a nonresident at the time the property was purchased for storage, use  
16 or consumption by the individual if the first actual use or consumption of  
17 the property was outside this state, unless the property is used in  
18 conducting a business in this state.

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

25 8. Livestock, poultry, supplies, feed, salts, vitamins and other  
26 additives for use or consumption in the businesses of farming, ranching and  
27 feeding livestock or poultry, not including fertilizers, herbicides and  
28 insecticides. For the purposes of this paragraph, "poultry" includes  
29 ratites.

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

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

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

40 12. Materials that are purchased by or for publicly funded libraries  
41 including school district libraries, charter school libraries, community  
42 college libraries, state university libraries or federal, state, county or  
43 municipal libraries for use by the public as follows:

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

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

- 1           13. Tangible personal property purchased by:
- 2           (a) A hospital organized and operated exclusively for charitable
- 3 purposes, no part of the net earnings of which inures to the benefit of any
- 4 private shareholder or individual.
- 5           (b) A hospital operated by this state or a political subdivision of
- 6 this state.
- 7           (c) A licensed nursing care institution or a licensed residential care
- 8 institution or a residential care facility operated in conjunction with a
- 9 licensed nursing care institution or a licensed kidney dialysis center, which
- 10 provides medical services, nursing services or health related services and is
- 11 not used or held for profit.
- 12           (d) A qualifying health care organization, as defined in section
- 13 42-5001, if the tangible personal property is used by the organization solely
- 14 to provide health and medical related educational and charitable services.
- 15           (e) A qualifying health care organization as defined in section
- 16 42-5001 if the organization is dedicated to providing educational,
- 17 therapeutic, rehabilitative and family medical education training for blind,
- 18 visually impaired and multihandicapped children from the time of birth to age
- 19 twenty-one.
- 20           (f) A nonprofit charitable organization that has qualified under
- 21 section 501(c)(3) of the United States internal revenue code and that engages
- 22 in and uses such property exclusively in programs for mentally or physically
- 23 handicapped persons if the programs are exclusively for training, job
- 24 placement, rehabilitation or testing.
- 25           (g) A person that is subject to tax under article 1 of this chapter by
- 26 reason of being engaged in business classified under the prime contracting
- 27 classification under section 42-5075, or a subcontractor working under the
- 28 control of a prime contractor, if the tangible personal property is any of
- 29 the following:
- 30           (i) Incorporated or fabricated by the contractor into a structure,
- 31 project, development or improvement in fulfillment of a contract.
- 32           (ii) Used in environmental response or remediation activities under
- 33 section 42-5075, subsection B, paragraph 6.
- 34           (iii) Incorporated or fabricated by the person into any lake facility
- 35 development in a commercial enhancement reuse district under conditions
- 36 prescribed for the deduction allowed by section 42-5075, subsection B,
- 37 paragraph 8.
- 38           (h) A nonprofit charitable organization that has qualified under
- 39 section 501(c)(3) of the internal revenue code if the property is purchased
- 40 from the parent or an affiliate organization that is located outside this
- 41 state.
- 42           (i) A qualifying community health center as defined in section
- 43 42-5001.

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

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

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

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

22 15. Tangible personal property sold by:

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

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

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

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

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

43 18. Prescription eyeglasses and contact lenses.

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

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

1           21. Durable medical equipment which has a centers for medicare and  
2 medicaid services common procedure code, is designated reimbursable by  
3 medicare, is prescribed by a person who is licensed under title 32, chapter  
4 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily  
5 used to serve a medical purpose, is generally not useful to a person in the  
6 absence of illness or injury and is appropriate for use in the home.

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

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

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

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

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

25           27. Lottery tickets or shares purchased pursuant to title 5, chapter 5,  
26 article 1.

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

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

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

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

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

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

5           (b) Public educational institutions.

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

9           33. Natural gas or liquefied petroleum gas used to propel a motor  
10 vehicle.

11           34. Machinery, equipment, technology or related supplies that are only  
12 useful to assist a person who is physically disabled as defined in section  
13 46-191, has a developmental disability as defined in section 36-551 or has a  
14 head injury as defined in section 41-3201 to be more independent and  
15 functional.

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

29           36. Food, drink and condiment purchased for consumption within the  
30 premises of any prison, jail or other institution under the jurisdiction of  
31 the state department of corrections, the department of public safety, the  
32 department of juvenile corrections or a county sheriff.

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

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

40           39. Overhead materials or other tangible personal property that is used  
41 in performing a contract between the United States government and a  
42 manufacturer, modifier, assembler or repairer, including property used in  
43 performing a subcontract with a government contractor who is a manufacturer,  
44 modifier, assembler or repairer, to which title passes to the government

1 under the terms of the contract or subcontract. For the purposes of this  
2 paragraph:

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

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

19 40. Through December 31, 1994, tangible personal property sold pursuant  
20 to a personal property liquidation transaction, as defined in section  
21 42-5061. From and after December 31, 1994, tangible personal property sold  
22 pursuant to a personal property liquidation transaction, as defined in  
23 section 42-5061, if the gross proceeds of the sales were included in the  
24 measure of the tax imposed by article 1 of this chapter or if the personal  
25 property liquidation was a casual activity or transaction.

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

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

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

40 44. Alternative fuel vehicles if the vehicle was manufactured as a  
41 diesel fuel vehicle and converted to operate on alternative fuel and  
42 equipment that is installed in a conventional diesel fuel motor vehicle to  
43 convert the vehicle to operate on an alternative fuel, as defined in section  
44 1-215.

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

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

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

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

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

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

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

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

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

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

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

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

43           2. Machinery, or equipment, used directly in the process of extracting  
44 ores or minerals from the earth for commercial purposes, including equipment  
45 required to prepare the materials for extraction and handling, loading or

1 transporting such extracted material to the surface. "Mining" includes  
2 underground, surface and open pit operations for extracting ores and  
3 minerals.

4 3. Tangible personal property sold to persons engaged in business  
5 classified under the telecommunications classification under section 42-5064  
6 and consisting of central office switching equipment, switchboards, private  
7 branch exchange equipment, microwave radio equipment and carrier equipment  
8 including optical fiber, coaxial cable and other transmission media which are  
9 components of carrier systems.

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

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

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

21 ~~7.~~ 6. Aircraft, navigational and communication instruments and other  
22 accessories and related equipment sold to:

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

29 (b) Any foreign government, or sold to persons who are not residents  
30 of this state and who will not use such property in this state other than in  
31 removing such property from this state.

32 ~~8.~~ 7. Machinery, tools, equipment and related supplies used or  
33 consumed directly in repairing, remodeling or maintaining aircraft, aircraft  
34 engines or aircraft component parts by or on behalf of a certificated or  
35 licensed carrier of persons or property.

36 ~~9.~~ 8. Rolling stock, rails, ties and signal control equipment used  
37 directly to transport persons or property.

38 ~~10.~~ 9. Machinery or equipment used directly to drill for oil or gas or  
39 used directly in the process of extracting oil or gas from the earth for  
40 commercial purposes.

41 ~~11.~~ 10. Buses or other urban mass transit vehicles which are used  
42 directly to transport persons or property for hire or pursuant to a  
43 governmentally adopted and controlled urban mass transportation program and  
44 which are sold to bus companies holding a federal certificate of convenience  
45 and necessity or operated by any city, town or other governmental entity or

1 by any person contracting with such governmental entity as part of a  
2 governmentally adopted and controlled program to provide urban mass  
3 transportation.

4 ~~12-~~ 11. Groundwater measuring devices required under section 45-604.

5 ~~13-~~ 12. New machinery and equipment consisting of tractors,  
6 tractor-drawn implements, self-powered implements, machinery and equipment  
7 necessary for extracting milk, and machinery and equipment necessary for  
8 cooling milk and livestock, and drip irrigation lines ~~not already exempt~~  
9 ~~under paragraph 6 of this subsection and~~ that are used for commercial  
10 production of agricultural, horticultural, viticultural and floricultural  
11 crops and products in this state. For the purposes of this paragraph:

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

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

17 ~~14-~~ 13. Machinery or equipment used in research and development. For  
18 the purposes of this paragraph, "research and development" means basic and  
19 applied research in the sciences and engineering, and designing, developing  
20 or testing prototypes, processes or new products, including research and  
21 development of computer software that is embedded in or an integral part of  
22 the prototype or new product or that is required for machinery or equipment  
23 otherwise exempt under this section to function effectively. Research and  
24 development do not include manufacturing quality control, routine consumer  
25 product testing, market research, sales promotion, sales service, research in  
26 social sciences or psychology, computer software research that is not  
27 included in the definition of research and development, or other  
28 nontechnological activities or technical services.

29 ~~15-~~ 14. Machinery and equipment that are purchased by or on behalf of  
30 the owners of a soundstage complex and primarily used for motion picture,  
31 multimedia or interactive video production in the complex. This paragraph  
32 applies only if the initial construction of the soundstage complex begins  
33 after June 30, 1996 and before January 1, 2002 and the machinery and  
34 equipment are purchased before the expiration of five years after the start  
35 of initial construction. For the purposes of this paragraph:

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

42 (b) "Soundstage complex" means a facility of multiple stages including  
43 production offices, construction shops and related areas, prop and costume  
44 shops, storage areas, parking for production vehicles and areas that are

1 leased to businesses that complement the production needs and orientation of  
2 the overall facility.

3 ~~16-~~ 15. Tangible personal property that is used by either of the  
4 following to receive, store, convert, produce, generate, decode, encode,  
5 control or transmit telecommunications information:

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

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

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

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

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

24 ~~17-~~ 16. Clean rooms that are used for manufacturing, processing,  
25 fabrication or research and development, as defined in paragraph ~~14~~ 13 of  
26 this subsection, of semiconductor products. For the purposes of this  
27 paragraph, "clean room" means all property that comprises or creates an  
28 environment where humidity, temperature, particulate matter and contamination  
29 are precisely controlled within specified parameters, without regard to  
30 whether the property is actually contained within that environment or whether  
31 any of the property is affixed to or incorporated into real property. Clean  
32 room:

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

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

41 ~~18-~~ 17. Machinery and equipment that are used directly in the feeding  
42 of poultry, the environmental control of housing for poultry, the movement of  
43 eggs within a production and packaging facility or the sorting or cooling of  
44 eggs. This exemption does not apply to vehicles used for transporting eggs.

1       ~~19-~~ 18. Machinery or equipment, including related structural  
2 components, that is employed in connection with manufacturing, processing,  
3 fabricating, job printing, refining, mining, natural gas pipelines,  
4 metallurgical operations, telecommunications, producing or transmitting  
5 electricity or research and development and that is used directly to meet or  
6 exceed rules or regulations adopted by the federal energy regulatory  
7 commission, the United States environmental protection agency, the United  
8 States nuclear regulatory commission, the Arizona department of environmental  
9 quality or a political subdivision of this state to prevent, monitor, control  
10 or reduce land, water or air pollution.

11       ~~20-~~ 19. Machinery and equipment that are used in the commercial  
12 production of livestock, livestock products or agricultural, horticultural,  
13 viticultural or floricultural crops or products in this state and that are  
14 used directly and primarily to prevent, monitor, control or reduce air, water  
15 or land pollution.

16       ~~21-~~ 20. Machinery or equipment that enables a television station to  
17 originate and broadcast or to receive and broadcast digital television  
18 signals and that was purchased to facilitate compliance with the  
19 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States  
20 Code section 336) and the federal communications commission order issued  
21 April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does  
22 not exempt any of the following:

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

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

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

30       ~~22-~~ 21. Qualifying equipment that is purchased from and after June 30,  
31 2004 through June 30, 2014 by a qualified business under section 41-1516 for  
32 harvesting or the initial processing of qualifying forest products removed  
33 from qualifying projects as defined in section 41-1516. To qualify for this  
34 exemption, the qualified business must obtain and present its certification  
35 from the Arizona commerce authority at the time of purchase.

36       ~~23-~~ 22. Machinery, equipment and other tangible personal property used  
37 directly in motion picture production by a motion picture production company.  
38 To qualify for this exemption, at the time of purchase, the motion picture  
39 production company must present to the retailer its certificate that is  
40 issued pursuant to section 42-5009, subsection H and that establishes its  
41 qualification for the exemption.

42           C. The exemptions provided by subsection B of this section do not  
43 include:

44           1. Expendable materials. For the purposes of this paragraph,  
45 expendable materials do not include any of the categories of tangible

1 personal property specified in subsection B of this section regardless of the  
2 cost or useful life of that property.

3 2. Janitorial equipment and hand tools.

4 3. Office equipment, furniture and supplies.

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

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

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

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

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

17 1. Revenues received from sales of ancillary services, electric  
18 distribution services, electric generation services, electric transmission  
19 services and other services related to providing electricity to a retail  
20 electric customer who is located outside this state for use outside this  
21 state if the electricity is delivered to a point of sale outside this state.

22 2. Revenues received from providing electricity, including ancillary  
23 services, electric distribution services, electric generation services,  
24 electric transmission services and other services related to providing  
25 electricity with respect to which the transaction privilege tax imposed under  
26 section 42-5063 has been paid.

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

28 1. The storage, use or consumption in Arizona of machinery, equipment,  
29 materials or other tangible personal property if used directly and  
30 predominantly to construct a qualified environmental technology  
31 manufacturing, producing or processing facility, as described in section  
32 41-1514.02. This paragraph applies for ten full consecutive calendar or  
33 fiscal years after the start of initial construction.

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

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

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

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

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

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

14 1. "Aircraft" includes:

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

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

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

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

28 Sec. 13. Section 43-1082, Arizona Revised Statutes, is amended to  
29 read:

30 43-1082. Credit for construction materials incorporated into  
31 qualifying facility: definitions

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

39 B. Co-owners of a business, including partners in a partnership and  
40 shareholders of an S corporation, as defined in section 1361 of the internal  
41 revenue code, may each claim only the pro rata share of the credit allowed  
42 under this section based on the ownership interest, except that partners in a  
43 partnership and members in a limited liability company may allocate among  
44 themselves any credit for construction materials that are incorporated into a  
45 facility that is predominantly used for direct broadcast satellite television

1 or data transmission services in any proportion stated in their partnership  
2 or operating agreement. The total of the credits allowed all such owners may  
3 not exceed the amount that would have been allowed a sole owner.

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

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

14 E. For ~~THE~~ purposes of this section:

15 1. "Construction materials" means tangible personal property  
16 incorporated into and permanently affixed to the taxpayer's qualifying  
17 facility other than materials exempt from taxation pursuant to section  
18 42-5061 or 42-5159, subsection B.

19 2. "Direct broadcast satellite television or data transmission  
20 services" means either:

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

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

28 3. "Purchase price" means either the direct cost of materials  
29 purchased by the taxpayer from a supplier for incorporation into the  
30 qualifying facility, or the direct cost of materials paid by a contractor for  
31 incorporation into the taxpayer's qualifying facility.

32 4. "Qualifying facility" means a new building or structure, or  
33 expansion of an existing building or structure, located entirely within this  
34 state, predominantly used for manufacturing, fabricating, mining, refining,  
35 metallurgical operations, direct broadcast satellite television or data  
36 transmission services or research and development as described in section  
37 43-1168, and which has a total cost of construction in excess of five million  
38 dollars.

39 Sec. 14. Appropriations; border security prosecutors; human  
40 smuggling; terrorism; border inspections

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

43 1. The sum of \$1,320,200 and 18 FTE positions are appropriated from  
44 the gang and immigration intelligence team enforcement mission fund  
45 established by section 41-1724, Arizona Revised Statutes, in fiscal year

1 2012-2013 to the department of law for the purpose of hiring border security  
2 prosecutors to handle increased caseloads related to prosecution of cases  
3 involving methamphetamine, human trafficking, human smuggling and identity  
4 theft.

5 2. The sum of \$1,773,100 and 16 FTE positions are appropriated from  
6 the gang and immigration intelligence team enforcement mission fund  
7 established by section 41-1724, Arizona Revised Statutes, in fiscal year  
8 2012-2013 to the department of public safety for two human trafficking and  
9 human smuggling squads to be established in the gang and immigration  
10 intelligence team enforcement mission and that are dedicated to combating  
11 human trafficking and human smuggling.

12 3. The sum of \$1,984,000 and 12 FTE positions are appropriated from  
13 the gang and immigration intelligence team enforcement mission fund  
14 established by section 41-1724, Arizona Revised Statutes, in fiscal year  
15 2012-2013 to the department of public safety for a domestic terrorism squad  
16 to be established in the gang and immigration intelligence team enforcement  
17 mission to follow up on leads produced by the Arizona counterterrorism  
18 information center.

19 4. The sum of \$163,800 and 2 FTE positions are appropriated from the  
20 gang and immigration intelligence team enforcement mission fund established  
21 by section 41-1724, Arizona Revised Statutes, in fiscal year 2012-2013 to the  
22 department of transportation to increase safety and security inspections at  
23 the Nogales port of entry.

24 Sec. 15. Requirements for enactment; two-thirds vote

25 Pursuant to article IX, section 22, Constitution of Arizona, this act  
26 is effective only on the affirmative vote of at least two-thirds of the  
27 members of each house of the legislature and is effective immediately on the  
28 signature of the governor or, if the governor vetoes this act, on the  
29 subsequent affirmative vote of at least three-fourths of the members of each  
30 house of the legislature.