

COMMITTEE ON FINANCE

SENATE AMENDMENTS TO H.B. 2111

(Reference to House engrossed bill)

1 Strike everything after the enacting clause and insert:

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

4           41-1516. Healthy forest enterprise incentives: definitions

5           A. The Arizona commerce authority shall:

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

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

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

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

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

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

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

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

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

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

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

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

21           2. Must employ at least one permanent full-time employee.

22           3. Must agree to furnish to the authority information relating to the  
23 amount of state tax benefits that the business receives each year.

24           4. Must enter into a memorandum of understanding with the authority  
25 containing:

26           (a) Employment goals. Each year the business must report in writing  
27 to the authority its performance in achieving the goals.

28           (b) A commitment to continue in business and use the qualifying  
29 equipment primarily on qualifying projects in this state as described in  
30 paragraph 1 of this subsection, other than for reasons beyond the control of  
31 the business. The authority shall consult with the department of revenue in  
32 designing the memorandum of understanding to incorporate the legal

1 qualifications for the available tax incentives and shall include the  
2 requirement that any qualifying equipment that is purchased or leased free of  
3 transaction privilege or use tax must continue to be used in this state for  
4 the term of the memorandum of understanding or the duration of its  
5 operational life, whichever is shorter.

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

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

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

30 ~~C. For the purposes of section 42-5075, subsection B, paragraph 18,~~  
31 ~~the authority shall certify prime contractors that contract for the~~  
32 ~~construction of any building, or other structure, project, development or~~

~~improvement owned by a qualified business for purposes of a qualifying project described in subsection B, paragraph 1 of this section.~~

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

1. Apply to the authority.

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

3. Allow inspections and audits to verify the qualification and accuracy of information submitted to the authority.

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

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

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

~~H.~~ G. On or before March 1 of each year, each qualifying business shall make a report to the authority on all business activity in the preceding calendar year. Business information contained in the reports is confidential and shall not be disclosed to the public except as provided by this section and except that a copy of the report shall be transmitted to the

1 department of revenue. The report shall be in a form prescribed by the  
2 authority and include:

3 1. Information prescribed by the authority with respect to both  
4 qualifying projects and other projects and business activity that do not  
5 qualify for purposes of this section.

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

8 3. The quantity, measured by weight, of qualifying forest products  
9 harvested, transported or processed.

10 ~~I.~~ H. On or before May 1 of each year, the authority shall report to  
11 the joint legislative budget committee:

12 1. The quantity, measured by weight, of qualifying forest products  
13 reported by harvesters, by transporters and by processors in the preceding  
14 calendar year.

15 2. The number of new full-time employees hired in qualified employment  
16 positions in this state in the preceding calendar year and reported for tax  
17 credit purposes.

18 3. The total number of all full-time employees employed in qualified  
19 employment positions in this state in the preceding calendar year and  
20 reported for tax credit purposes.

21 ~~J.~~ I. For purposes of administering and ensuring compliance with this  
22 section, agents of the authority may enter, and a qualified business shall  
23 allow access to, a qualifying project site at reasonable times and on  
24 reasonable notice to:

25 1. Inspect the facilities at the site.

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

28 3. Otherwise ascertain compliance with law and the terms of the  
29 memorandum of understanding.

30 ~~K.~~ J. The authority shall revoke the business' certification and  
31 notify the department of revenue and county assessor if either:

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

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

6           ~~L.~~ K. For the purposes of this section:

7           1. "Forest health" means the degree to which the integrity of the  
8 forest is sustained, including reducing the risk of catastrophic wildfire and  
9 destructive insect infestation, benefiting wildland habitats, watersheds and  
10 communities.

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

14           3. "Processing" means:

15           (a) Any change in the physical structure of qualifying forest products  
16 removed from a qualifying project into a marketable commercial product or  
17 component of a product that has commercial value to a consumer or purchaser  
18 and that is ready to be used with or without further altering its form.

19           (b) Burning qualifying forest products in the process of commercial  
20 electrical generation or commercial thermal energy production for heating or  
21 cooling, regardless of the physical structure of the forest product before  
22 burning.

23           4. "Qualifying equipment" means equipment used directly in harvesting  
24 or processing qualifying forest products removed from a qualifying project.  
25 Qualifying equipment does not include self-propelled vehicles required to be  
26 licensed by this state, but may include other licensed vehicles as provided  
27 by this paragraph. Qualifying equipment includes:

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

1 (b) Forest residue receiving and handling equipment, including truck  
2 dumpers, log unloaders, scales, log decking facilities and equipment and chip  
3 pile facilities.

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

9 (d) Forest waste and residue disposal and processing equipment,  
10 including:

11 (i) Processing and sizing equipment, hogs, chippers, screens,  
12 pelletizers and wood splitters.

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

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

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

19 (v) Generated waste disposal equipment, including ash silos and  
20 wastewater treatment and disposal equipment.

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

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

27 6. "Qualifying project" means harvesting, transporting or processing  
28 qualifying forest products as required for certification pursuant to this  
29 section.

30 Sec. 1. Section 41-1532, Arizona Revised Statutes, is amended to read:

31 41-1532. Tax incentives; conditions

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

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

13           1. Agree with the Arizona commerce authority in writing to furnish  
14           information relating to the amount of tax benefits the taxpayer receives for  
15           each taxable year in which the taxpayer claims the credit. If the taxpayer  
16           fails to provide the required information, the authority shall immediately  
17           revoke the taxpayer's qualification and notify the department of revenue.

18           2. Enter into a memorandum of understanding with this state through  
19           the authority containing employment goals. Each year in which the taxpayer  
20           claims the credit the taxpayer shall report in writing to the authority its  
21           performance in achieving the goals. The memorandum shall contain provisions  
22           that allow:

23           (a) The authority to stop, readjust or recapture all or part of the  
24           tax credit allowed to the taxpayer on noncompliance with the terms of the  
25           memorandum.

26           (b) The authority to notify the department of revenue of the  
27           conditions of noncompliance.

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

30           ~~C.~~ B. Taxable property in a military reuse zone that is devoted to  
31           providing aviation or aerospace services or to manufacturing, assembling or  
32           fabricating aviation or aerospace products qualifies for assessment as class

1 six property as provided, and subject to the terms and conditions prescribed,  
2 by sections 42-12006 and 42-15006.

3 ~~D.~~ C. To qualify for a tax incentive described in subsection ~~A or C~~ B  
4 of this section, the taxpayer shall provide to the authority information  
5 relating to the amount of tax benefits the taxpayer receives each year for  
6 each year in which the taxpayer claims the incentives on forms prescribed by  
7 the authority. If the taxpayer fails to provide the required information,  
8 the authority shall immediately revoke the taxpayer's certification of  
9 eligibility and notify the department of revenue.

10 ~~E.~~ D. Taxpayers who qualify for tax incentives under subsection A OR  
11 B ~~or C~~ of this section shall be certified by the authority as eligible for a  
12 five-year period, subject to termination in the event of changed  
13 circumstances rendering the taxpayer no longer eligible.

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

18 1. Agree with the authority in writing to furnish information relating  
19 to the amount of premium tax credits the insurer receives each year. If the  
20 insurer fails to provide the required information, the authority shall  
21 immediately revoke the insurer's qualification and notify the department of  
22 insurance.

23 2. Enter into a memorandum of understanding with this state through  
24 the authority containing employment goals. Each year the insurer shall  
25 report in writing to the authority its performance in achieving the goals.  
26 The memorandum shall contain provisions that allow:

27 (a) The authority to stop, readjust or recapture all or part of the  
28 premium tax credits provided to the insurer on noncompliance with the terms  
29 of the memorandum.

30 (b) The authority to notify the department of insurance of the  
31 conditions of noncompliance.

32 Sec. 3. Section 42-1004, Arizona Revised Statutes, is amended to read:

1           42-1004. General powers and duties of the department: res  
2                           judicata: remedies; enforcement; special  
3                           collections account

4           A. The department shall administer and enforce this title, title 43  
5 and other laws assigned to it and has all the powers and duties prescribed by  
6 law for such purposes. In all proceedings prescribed by law the department  
7 may act on behalf of this state. In addition, the department shall:

8           1. Formulate policies, plans and programs to effectuate the missions  
9 and purposes of the department.

10          2. Employ and remove personnel subject to title 41, chapter 4, article  
11 4 and, as applicable, articles 5 and 6, determine the conditions of  
12 employment and prescribe the duties and powers of administrative,  
13 professional, technical, secretarial, clerical and other personnel as may be  
14 necessary in the performance of its duties, and contract for the services of  
15 outside advisors, consultants and aides as may be reasonably necessary.

16          3. Make contracts and incur obligations within the general scope of  
17 its activities and operations subject to the availability of its funds.

18          4. Contract with or assist other departments, agencies or institutions  
19 of the state, local, Indian tribal and federal governments in the furtherance  
20 of its purposes, objectives and programs.

21          5. Accept grants, matching funds and direct payments from public or  
22 private agencies for the conduct of programs which are consistent with the  
23 overall purposes and objectives of the department.

24          6. Provide information and advice within the scope of its duties  
25 subject to the laws on confidentiality of information and departmental rules  
26 adopted pursuant to such laws.

27          7. Advise with and make recommendations to the governor and the  
28 legislature on all matters concerning its objectives.

29          8. Have an official seal which shall be judicially noticed.

30          9. Provide an integrated, coordinated and uniform system of tax  
31 administration and revenue collection for the state, **INCLUDING A COORDINATED**  
32 **ELECTRONIC METHOD OF COLLECTING STATE AND MUNICIPAL TRANSACTION PRIVILEGE AND**  
33 **AFFILIATED EXCISE TAXES.**

34          B. The department may:

35           1. With the approval of the attorney general:

36           (a) Abate any balance owed by a taxpayer if the balance is  
37 uncollectible. Related liens, if any, are extinguished on abatement.

1 (b) Abate all or part of the unpaid portion of any tax if the director  
2 determines that the administration and collection costs involved would exceed  
3 the amount of the tax.

4 2. Offer publications relating to the administration of state taxes  
5 for sale at a price equal to the pro rata cost of publication and  
6 distribution. Monies received from the sale of publications shall be placed  
7 in a revenue publications revolving fund. Monies in the fund:

8 (a) Shall be used to meet publication and distribution expenses.

9 (b) Are exempt from the provisions of section 35-190 relating to  
10 lapsing of appropriations.

11 3. Enter into contingent fee contracts to collect delinquent state  
12 taxes, penalties, interest and other amounts owed to the department under  
13 title 43 and chapter 5, article 1 of this title, consistent with the  
14 requirements of chapter 2, article 1 of this title. No contract may be  
15 entered into for the hiring of auditors on a contingent fee basis except  
16 auditors that are hired to enforce title 44, chapter 3.

17 C. In the determination of any issue of law or fact under this title  
18 or title 43, neither the department, nor any officer or agency having any  
19 administrative duties under this title or title 43, nor any court is bound by  
20 the determination of any other executive officer or administrative agency of  
21 this state. In the determination of any case arising under this title or  
22 title 43, the rule of res judicata is applicable only if the liability  
23 involved is for the same year or period as was involved in another case  
24 previously determined under this title or title 43.

25 D. The remedies of this state provided for in this title and title 43  
26 are cumulative, and no action taken by the department constitutes an election  
27 by this state to pursue any remedy to the exclusion of any other remedy  
28 provided by law.

29 E. The attorney general shall prosecute in the name of this state all  
30 actions necessary to enforce this title and title 43. The attorney general  
31 may defend all actions brought against this state or an officer or agency of  
32 this state arising under this title and title 43. The attorney general may  
33 delegate the prosecuting authority to any county attorney for prosecution in  
34 that county.

1 F. A special collections account is established in the state general  
2 fund. All monies collected pursuant to contracts authorized by subsection B,  
3 paragraph 3 of this section shall be deposited in the special collections  
4 account. The department shall pay from the account all fees and court costs  
5 provided for in the contracts authorized under subsection B, paragraph 3 of  
6 this section. The department shall allocate the remainder of the amounts  
7 collected under subsection B, paragraph 3 of this section to the state or the  
8 political subdivision in the proportion that the monies would have been  
9 distributed pursuant to chapter 5 of this title or section 43-206,  
10 respectively.

11 Sec. 4. Section 42-1103, Arizona Revised Statutes, is amended to read:

12 42-1103. Enjoining delinquent taxpayer from engaging or  
13 continuing in business

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

21 B. On application for an injunction against a delinquent taxpayer, the  
22 court may forthwith issue an order temporarily restraining the taxpayer from  
23 doing business. The court shall hear the matter within three days and, on a  
24 showing by a preponderance of evidence that the taxpayer is delinquent and  
25 has been given notice of the hearing as required by law, the court may enjoin  
26 the taxpayer from engaging or continuing in business in this state until the  
27 taxpayer ceases to be delinquent. On issuing an injunction, the court may  
28 also order the sheriff to seal the taxpayer's business premises and may allow  
29 the taxpayer access to the premises only on the approval of the court.

30 C. On application for an injunction against a person other than a  
31 delinquent taxpayer, the court may issue an order temporarily restraining the  
32 person from engaging or continuing in business. The court shall hear the

1 matter within three days and on a showing that the person has been given  
2 notice of the hearing as required by law, that demand has been made on the  
3 taxpayer to furnish security, that the taxpayer has not furnished security  
4 and that the director considers the collection from the primarily responsible  
5 person of the total amount of tax due or reasonably expected to become due to  
6 be in jeopardy, the court may forthwith enjoin the person from engaging or  
7 continuing in business until the person complies in full with the demand of  
8 the director for furnishing security.

9 D. The court shall not issue a temporary restraining order or  
10 injunction under this section against any person who has furnished security  
11 pursuant to section 42-1102, ~~OR~~ 42-5006 ~~or 42-5007~~. On a showing to the  
12 court by any person against whom a temporary restraining order or injunction  
13 has issued under this section that the person has furnished such security,  
14 the court shall dissolve or set aside the temporary restraining order or  
15 injunction.

16 Sec. 5. Section 42-5001, Arizona Revised Statutes, is amended to read:

17 42-5001. Definitions

18 In this article and article 2 of this chapter, unless the context  
19 otherwise requires:

20 1. "Business" includes all activities or acts, personal or corporate,  
21 engaged in or caused to be engaged in with the object of gain, benefit or  
22 advantage, either directly or indirectly, but does not include either:

23 (a) Casual activities or sales.

24 (b) The transfer of electricity from a solar photovoltaic generation  
25 system to an electric utility distribution system.

26 2. "CONTRACTING" MEANS ENGAGING IN BUSINESS AS A CONTRACTOR.

27 3. "CONTRACTOR" IS SYNONYMOUS WITH THE TERM "BUILDER" AND MEANS ANY  
28 PERSON OR ORGANIZATION THAT UNDERTAKES TO OR OFFERS TO UNDERTAKE TO, OR  
29 PURPORTS TO HAVE THE CAPACITY TO UNDERTAKE TO, OR SUBMITS A BID TO, OR DOES  
30 PERSONALLY OR BY OR THROUGH OTHERS, MODIFY ANY BUILDING, HIGHWAY, ROAD,  
31 RAILROAD, EXCAVATION, MANUFACTURED BUILDING OR OTHER STRUCTURE, PROJECT,  
32 DEVELOPMENT OR IMPROVEMENT, OR TO DO ANY PART OF SUCH A PROJECT, INCLUDING

1 THE ERECTION OF SCAFFOLDING OR OTHER STRUCTURE OR WORKS IN CONNECTION WITH  
2 SUCH A PROJECT, AND INCLUDES SUBCONTRACTORS AND SPECIALTY CONTRACTORS. FOR  
3 ALL PURPOSES OF TAXATION OR DEDUCTION, THIS DEFINITION GOVERNS WITHOUT REGARD  
4 TO WHETHER OR NOT THE CONTRACTOR IS ACTING IN FULFILLMENT OF A CONTRACT.

5 ~~2.~~ 4. "Distribution base" means the portion of the revenues derived  
6 from the tax levied by this article and articles 5 and 8 of this chapter  
7 designated for distribution to counties, municipalities and other purposes  
8 according to section 42-5029, subsection D.

9 ~~3.~~ 5. "Engaging", when used with reference to engaging or continuing  
10 in business, includes the exercise of corporate or franchise powers.

11 ~~4.~~ 6. "Gross income" means the gross receipts of a taxpayer derived  
12 from trade, business, commerce or sales and the value proceeding or accruing  
13 from the sale of tangible personal property or service, or both, and without  
14 any deduction on account of losses.

15 ~~5.~~ 7. "Gross proceeds of sales" means the value proceeding or  
16 accruing from the sale of tangible personal property without any deduction on  
17 account of the cost of property sold, expense of any kind or losses, but cash  
18 discounts allowed and taken on sales are not included as gross income.

19 ~~6.~~ 8. "Gross income" and "gross proceeds of sales" do not include  
20 goods, wares or merchandise, or value thereof, returned by customers if the  
21 sale price is refunded either in cash or by credit, nor the value of  
22 merchandise traded in on the purchase of new merchandise when the trade-in  
23 allowance is deducted from the sales price of the new merchandise before  
24 completion of the sale.

25 ~~7.~~ 9. "Gross receipts" means the total amount of the sale, lease or  
26 rental price, as the case may be, of the retail sales of retailers, including  
27 any services that are a part of the sales, valued in money, whether received  
28 in money or otherwise, including all receipts, cash, credits and property of  
29 every kind or nature, and any amount for which credit is allowed by the  
30 seller to the purchaser without any deduction from the amount on account of  
31 the cost of the property sold, materials used, labor or service performed,  
32 interest paid, losses or any other expense. Gross receipts do not include

1 cash discounts allowed and taken nor the sale price of property returned by  
2 customers if the full sale price is refunded either in cash or by credit.

3 ~~8.~~ 10. "Person" or "company" includes an individual, firm,  
4 partnership, joint venture, association, corporation, estate or trust, this  
5 state, any county, city, town, district, other than a school district, or  
6 other political subdivision and any other group or combination acting as a  
7 unit, and the plural as well as the singular number.

8 ~~9.~~ 11. "Qualifying community health center":

9 (a) Means an entity that is recognized as nonprofit under section  
10 501(c)(3) of the United States internal revenue code, that is a  
11 community-based, primary care clinic that has a community-based board of  
12 directors and that is either:

13 (i) The sole provider of primary care in the community.

14 (ii) A nonhospital affiliated clinic that is located in a federally  
15 designated medically underserved area in this state.

16 (b) Includes clinics that are being constructed as qualifying  
17 community health centers.

18 ~~10.~~ 12. "Qualifying health care organization" means an entity that is  
19 recognized as nonprofit under section 501(c) of the United States internal  
20 revenue code and that uses, saves or invests at least eighty per cent of all  
21 monies that it receives from all sources each year only for health and  
22 medical related educational and charitable services, as documented by annual  
23 financial audits prepared by an independent certified public accountant,  
24 performed according to generally accepted auditing standards and filed  
25 annually with the department. Monies that are used, saved or invested to  
26 lease, purchase or construct a facility for health and medical related  
27 education and charitable services are included in the eighty per cent  
28 requirement.

1           ~~11-~~ 13. "Qualifying hospital" means any of the following:

2           (a) A licensed hospital ~~which~~ THAT is organized and operated  
3 exclusively for charitable purposes, no part of the net earnings of which  
4 inures to the benefit of any private shareholder or individual.

5           (b) A licensed nursing care institution or a licensed residential care  
6 institution or a residential care facility operated in conjunction with a  
7 licensed nursing care institution or a licensed kidney dialysis center, which  
8 provides medical services, nursing services or health related services and is  
9 not used or held for profit.

10           (c) A hospital, nursing care institution or residential care  
11 institution ~~which~~ THAT is operated by the federal government, this state or a  
12 political subdivision of this state.

13           (d) A facility that is under construction and that on completion will  
14 be a facility under subdivision (a), (b) or (c) of this paragraph.

15           ~~12-~~ 14. "Retailer" includes every person engaged in the business  
16 classified under the retail classification pursuant to section 42-5061 and,  
17 when in the opinion of the department it is necessary for the efficient  
18 administration of this article, includes dealers, distributors, supervisors,  
19 employers and salesmen, representatives, peddlers or canvassers as the agents  
20 of the dealers, distributors, supervisors or employers under whom they  
21 operate or from whom they obtain the tangible personal property sold by them,  
22 whether in making sales on their own behalf or on behalf of the dealers,  
23 distributors, supervisors or employers.

24           ~~13-~~ 15. "Sale" means any transfer of title or possession, or both,  
25 exchange, barter, lease or rental, conditional or otherwise, in any manner or  
26 by any means whatever, including consignment transactions and auctions, of  
27 tangible personal property or other activities taxable under this chapter,  
28 for a consideration, and includes:

29           (a) Any transaction by which the possession of property is transferred  
30 but the seller retains the title as security for the payment of the price.

31           (b) Fabricating tangible personal property for consumers who furnish  
32 either directly or indirectly the materials used in the fabrication work.

1 (c) Furnishing, preparing or serving for a consideration any tangible  
2 personal property consumed on the premises of the person furnishing,  
3 preparing or serving the tangible personal property.

4 ~~14.~~ 16. "Solar daylighting" means a device that is specifically  
5 designed to capture and redirect the visible portion of the solar beam, while  
6 controlling the infrared portion, for use in illuminating interior building  
7 spaces in lieu of artificial lighting.

8 ~~15.~~ 17. "Solar energy device" means a system or series of mechanisms  
9 designed primarily to provide heating, to provide cooling, to produce  
10 electrical power, to produce mechanical power, to provide solar daylighting  
11 or to provide any combination of the foregoing by means of collecting and  
12 transferring solar generated energy into such uses either by active or  
13 passive means, including wind generator systems that produce electricity.  
14 Solar energy systems may also have the capability of storing solar energy for  
15 future use. Passive systems shall clearly be designed as a solar energy  
16 device, such as a trombe wall, and not merely as a part of a normal  
17 structure, such as a window.

18 ~~16.~~ 18. "Tangible personal property" means personal property ~~which~~  
19 THAT may be seen, weighed, measured, felt or touched or THAT is in any other  
20 manner perceptible to the senses.

21 ~~17.~~ 19. "Tax year" or "taxable year" means either the calendar year or  
22 the taxpayer's fiscal year, if permission is obtained from the department to  
23 use a fiscal year as the tax period instead of the calendar year.

24 ~~18.~~ 20. "Taxpayer" means any person who is liable for any tax ~~which~~  
25 THAT is imposed by this article.

26 ~~19.~~ 21. "Wholesaler" or "jobber" means any person who sells tangible  
27 personal property for resale and not for consumption by the purchaser.

28 Sec. 6. Section 42-5006, Arizona Revised Statutes, is amended to read:

29 ~~42-5006.~~ Taxpayer bonds; out of state licensed contractors and  
30 manufactured building dealers

31 A. Notwithstanding section 42-1102, the department shall require a  
32 surety bond for each taxpayer ~~who is required to be licensed under title 32,~~

1 ~~chapter 10 or~~ who is regulated under title 41, chapter 16, article 2, if the  
2 taxpayer's principal place of business is outside this state or if the  
3 taxpayer has conducted business in this state for less than one year. The  
4 department shall prescribe the form of the bond. The bond shall be maintained  
5 for a period of at least two years.

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

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

21 D. A licensee on application for a new license covered by subsection A  
22 of this section, renewal of a license covered by subsection A of this section  
23 or transfer of a license covered by subsection A of this section is exempt  
24 from posting a bond if the licensee has for at least two years immediately  
25 preceding the application made timely payment of all transaction privilege  
26 taxes incurred.

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

1           Sec. 7. Repeal

2           Section 42-5007, Arizona Revised Statutes, is repealed from and after  
3 December 31, 2014.

4           Sec. 8. Section 42-5009, Arizona Revised Statutes, is amended to read:  
5 42-5009. Certificates establishing deductions: liability for  
6 making false certificate

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

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

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

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

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

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

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

26           F. The department may prescribe a form for a certificate used to  
27 establish entitlement to the deductions described in section 42-5061,  
28 subsection A, paragraph ~~47~~ 45 and section 42-5063, subsection B, paragraph 3.  
29 Under rules the department may prescribe, the department may also require  
30 additional information for the seller to be entitled to the deduction. If a  
31 seller is entitled to the deductions described in section 42-5061, subsection  
32 A, paragraph ~~47~~ 45 and section 42-5063, subsection B, paragraph 3, the

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

11 G. If a seller claims a deduction under section 42-5061, subsection A,  
12 paragraph ~~25~~ 24 and establishes entitlement to the deduction with an  
13 exemption letter that the purchaser received from the department and the  
14 exemption letter was based on a contingent event, the department may require  
15 the purchaser that received the exemption letter to establish the  
16 satisfaction of the contingent event within a reasonable time. If the  
17 purchaser cannot establish the satisfaction of the event, the purchaser is  
18 liable in an amount equal to any tax, penalty and interest that the seller  
19 would have been required to pay under this article if the seller had not been  
20 furnished the exemption letter. Payment of the amount under this subsection  
21 exempts the purchaser from liability for any tax imposed under article 4 of  
22 this chapter. The amount shall be treated as tax revenues collected from the  
23 seller in order to designate the distribution base for purposes of section  
24 42-5029. For the purposes of this subsection, "reasonable time" means a time  
25 limitation that the department determines and that does not exceed the time  
26 limitations pursuant to section 42-1104.

27 H. The department shall prescribe forms for certificates used to  
28 establish the satisfaction of the criteria necessary to qualify the sale of a  
29 motor vehicle for the deductions described in section 42-5061, subsection A,  
30 paragraph 14, paragraph ~~28~~ 27, subdivision (a) and paragraph ~~45~~ 43 and  
31 subsection U. To establish entitlement to these deductions, a motor vehicle  
32 dealer shall retain:

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

4           2. A copy of the nonresident registration permit authorized by section  
5 28-2154.

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

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

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

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

32           K. THE DEPARTMENT SHALL PRESCRIBE A FORM FOR A CERTIFICATE TO BE USED  
33 TO ESTABLISH ENTITLEMENT TO THE DEDUCTION DESCRIBED IN SECTION 42-5061,

1 SUBSECTION A, PARAGRAPH 27, SUBDIVISION (b) RELATING TO HIGHWAY, STREET AND  
2 BRIDGE CONSTRUCTION. A HIGHWAY, STREET OR BRIDGE CONTRACTOR SHALL OBTAIN A  
3 NEW CERTIFICATE FOR EACH PROJECT AND IS SUBJECT TO THE FOLLOWING REQUIREMENTS  
4 AND CONDITIONS:

5 1. A HIGHWAY, STREET OR BRIDGE CONTRACTOR MAY USE A CERTIFICATE ISSUED  
6 PURSUANT TO THIS SUBSECTION ONLY WITH RESPECT TO MATERIALS THAT WILL BE  
7 INCORPORATED INTO A HIGHWAY, STREET OR BRIDGE.

8 2. THE DEPARTMENT SHALL ISSUE THE CERTIFICATE TO A HIGHWAY, STREET OR  
9 BRIDGE CONTRACTOR ON RECEIVING SUFFICIENT DOCUMENTATION TO ESTABLISH THAT THE  
10 HIGHWAY, STREET OR BRIDGE CONTRACTOR MEETS THE REQUIREMENTS OF THIS  
11 SUBSECTION.

12 3. THE DEPARTMENT SHALL NOT ISSUE A CERTIFICATE TO A HIGHWAY, STREET  
13 OR BRIDGE CONTRACTOR THAT HAS A DELINQUENT TAX BALANCE OWING TO THE  
14 DEPARTMENT UNDER THIS TITLE OR TITLE 43.

15 4. IF THE DEPARTMENT DETERMINES THAT A HIGHWAY, STREET OR BRIDGE  
16 CONTRACTOR HAS FAILED TO MEET ANY OF THE REQUIREMENTS PRESCRIBED BY THIS  
17 SUBSECTION, ANY DEDUCTIONS FROM TAXATION FROM THE USE OF THE CERTIFICATE ARE  
18 SUBJECT TO RECAPTURE AND PAYMENT BY THE HIGHWAY, STREET OR BRIDGE CONTRACTOR.

19 Sec. 9. Section 42-5010, Arizona Revised Statutes, is amended to read:

20 42-5010. Rates; distribution base

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

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

26 (a) Transporting classification.

27 (b) Utilities classification.

28 (c) Telecommunications classification.

29 (d) Pipeline classification.

30 (e) Private car line classification.

31 (f) Publication classification.

32 (g) Job printing classification.

33 (h) ~~Prime contracting~~ MANUFACTURED BUILDING DEALER classification.

34 ~~(i) Owner builder sales classification.~~

1           ~~(j)~~ (i) Amusement classification.

2           ~~(k)~~ (j) Restaurant classification.

3           ~~(l)~~ (k) Personal property rental classification.

4           ~~(m)~~ (l) Retail classification.

5           (m) HIGHWAY, STREET AND BRIDGE CONSTRUCTION CLASSIFICATION.

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

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

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

15           B. Except as provided by subsection J of this section, twenty per cent  
16 of the tax revenues collected at the rate prescribed by subsection A,  
17 paragraph 1 of this section from persons on account of engaging in business  
18 under the business classifications listed in subsection A, paragraph 1,  
19 subdivisions (a) through ~~(i)~~ (h) AND (m) of this section is designated as  
20 distribution base for purposes of section 42-5029.

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

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

30           E. Fifty-three and one-third per cent of the tax revenues collected  
31 from persons on account of engaging in business under the business

1 classification listed in subsection A, paragraph 4 of this section is  
2 designated as distribution base for purposes of section 42-5029.

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

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

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

30 I. For taxpayers taxable under this chapter other than ~~prime~~ HIGHWAY,  
31 STREET OR BRIDGE contractors taxable pursuant to section ~~42-5075~~ 42-5078:

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

9           2. The provisions of this subsection apply without regard to the  
10 accounting method used by the taxpayer to report the taxes imposed under  
11 article 2 of this chapter.

12           3. The provisions of this subsection shall not be considered in  
13 determining the rate of tax imposed under chapter 6, article 3 of this title.

14           **J.** Zero per cent of the tax revenues that are collected at the rate  
15 prescribed by subsection A, paragraph 1 of this section from persons on  
16 account of engaging in business under the business classification listed in  
17 subsection A, paragraph 1, subdivision ~~(h)~~ (l) of this section, and that are  
18 subject to any distribution required by section 42-5032.02, is designated as  
19 distribution base for the purposes of section 42-5029 until the total amount  
20 subject to distribution pursuant to section 42-5032.02 has reached the  
21 maximum amount prescribed by section 42-5032.02, subsection C. Thereafter,  
22 ~~twenty~~ **FORTY** per cent of the remaining tax revenues is designated as  
23 distribution base for the purposes of section 42-5029 as provided by  
24 subsection B of this section.

25           Sec. 10. Section 42-5029, Arizona Revised Statutes, is amended to  
26 read:

27           **42-5029. Remission and distribution of monies; definition**

28           A. The department shall deposit, pursuant to sections 35-146 and  
29 35-147, all revenues collected under this article and articles 4, 5 and 8 of  
30 this chapter pursuant to section 42-1116, separately accounting for:

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

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

4           4. Revenues collected pursuant to section 42-5010, subsection G and  
5 section 42-5155, subsection ~~D~~ E.

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

15           C. On notification by the department, the state treasurer shall  
16 distribute the monies deposited in the transaction privilege and severance  
17 tax clearing account in the manner prescribed by this section and by sections  
18 42-5164, 42-5205 and 42-5353, after deducting warrants drawn against the  
19 account pursuant to sections 42-1118 and 42-1254.

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

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

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

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

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

1 subsection B, section 42-5205, subsection B and section 42-5353 throughout  
2 the state for the calendar month.

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

5 (a) Average the following proportions:

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

18 (ii) The proportion that the distribution base monies collected during  
19 the calendar month in each county under this article, section 42-5164,  
20 subsection B, section 42-5205, subsection B and section 42-5353 bear to the  
21 total distribution base monies collected under this article, section 42-5164,  
22 subsection B, section 42-5205, subsection B and section 42-5353 throughout  
23 the state for the calendar month.

24 (b) If the proportion computed under subdivision (a) of this paragraph  
25 for any county is greater than the proportion computed under paragraph 2 of  
26 this subsection, the department shall compute the difference between the  
27 amount distributed to that county under paragraph 2 of this subsection and  
28 the amount that would have been distributed under paragraph 2 of this  
29 subsection using the proportion computed under subdivision (a) of this  
30 paragraph and shall pay that difference to the county from the amount  
31 available for distribution under this paragraph. Any monies remaining after

1 all payments under this subdivision shall be distributed among the counties  
2 according to the proportions computed under paragraph 2 of this subsection.

3 4. After any distributions required by sections 42-5030, 42-5030.01,  
4 42-5031, 42-5032, 42-5032.01 and 42-5032.02, and after making any transfer to  
5 the water quality assurance revolving fund as required by section 49-282,  
6 subsection B, credit the remainder of the monies designated as distribution  
7 base to the state general fund. From this amount the legislature shall  
8 annually appropriate to:

9 (a) The department of revenue sufficient monies to administer and  
10 enforce this article and articles 5 and 8 of this chapter.

11 (b) The department of economic security monies to be used for the  
12 purposes stated in title 46, chapter 1.

13 (c) The firearms safety and ranges fund established by section 17-273,  
14 fifty thousand dollars derived from the taxes collected from the retail  
15 classification pursuant to section 42-5061 for the current fiscal year.

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

25 1. If there are outstanding state school facilities revenue bonds  
26 pursuant to title 15, chapter 16, article 7, each month one-twelfth of the  
27 amount that is necessary to pay the fiscal year's debt service on outstanding  
28 state school improvement revenue bonds for the current fiscal year shall be  
29 transferred each month to the school improvement revenue bond debt service  
30 fund established by section 15-2084. The total amount of bonds for which  
31 these monies may be allocated for the payment of debt service shall not

1 exceed a principal amount of eight hundred million dollars exclusive of  
2 refunding bonds and other refinancing obligations.

3 2. After any transfer of monies pursuant to paragraph 1 of this  
4 subsection, twelve per cent of the remaining monies collected during the  
5 preceding month shall be transferred to the technology and research  
6 initiative fund established by section 15-1648 to be distributed among the  
7 universities for the purpose of investment in technology and research-based  
8 initiatives.

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

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

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

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

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

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

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

3 (e) In fiscal year 2005-2006 and each fiscal year thereafter,  
4 \$86,280,500.

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

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

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

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

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

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

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

3           (c) Forty per cent shall be allocated for maintenance and operation  
4           purposes.

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

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

26          H. On receiving a certificate of default from the greater Arizona  
27          development authority pursuant to section 41-2257 or 41-2258 and to the  
28          extent not otherwise expressly prohibited by law, the state treasurer shall  
29          withhold from the next succeeding distribution of monies pursuant to this  
30          section due to the defaulting political subdivision the amount specified in  
31          the certificate of default and immediately deposit the amount withheld in the  
32          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

1 to withhold monies pursuant to this subsection until the entire amount  
2 specified in the notice has been withheld. The state treasurer shall credit  
3 any monies withheld pursuant to this subsection to the state general fund as  
4 provided by subsection D, paragraph 4 of this section.

5 L. For the purposes of this section, "community college district"  
6 means a community college district that is established pursuant to sections  
7 15-1402 and 15-1403 and that is a political subdivision of this state and,  
8 unless otherwise specified, includes a community college district established  
9 pursuant to section 15-1402.01 and a provisional community college district  
10 established pursuant to section 15-1409.

11 Sec. 11. Section 42-5032.01, Arizona Revised Statutes, is amended to  
12 read:

13 42-5032.01. Distribution of revenues for tourism and sports  
14 authority

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

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

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

26 2. The retail, amusement and restaurant classifications at, or with  
27 respect to, professional football contests that are held beginning July,~~—~~  
28 2001 in a stadium located on the campus of an institution under the  
29 jurisdiction of the Arizona board of regents.

30 ~~C. Each month the state treasurer shall pay, from the amount~~  
31 ~~designated as distribution base pursuant to section 42-5029, subsection D,~~  
32 ~~the total amount of state transaction privilege tax revenues received from~~

~~persons conducting business under the prime contracting classification at a multipurpose facility that is owned or operated by the tourism and sports authority pursuant to title 5, chapter 8 for deposit in the authority's construction account established by section 5-833.~~

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

Sec. 12. Section 42-5032.02, Arizona Revised Statutes, is amended to read:

42-5032.02. Distribution of revenues for city, town or county infrastructure improvements related to manufacturing facilities; definitions

A. Subject to subsection B of this section, from and after September 30, 2013 through September 30, 2023, each month the state treasurer shall pay a city, town or county the amount determined under subsection C of this section for the purpose of funding up to eighty per cent of the cost of public infrastructure improvements for the benefit of a manufacturing facility.

B. The state treasurer shall not make any payments under subsection C of this section until both of the following apply:

1. Twenty-five per cent of the capital investment that is certified under subsection D of this section and that constitutes ~~construction phase services, as defined in section 42-5075;~~ CONTRACTING ACTIVITY has been made by the manufacturing facility.

2. From and after June 30, 2014.

C. The amount to be paid to a city, town or county under subsection A of this section is the total amount of state transaction privilege tax revenues collected under section 42-5010, subsection A ~~from persons conducting business under section 42-5075 derived from~~ FOR SALES OF MATERIALS USED IN contracts to construct buildings and associated improvements for the benefit of a manufacturing facility. THE AMOUNT TO BE DISTRIBUTED EACH MONTH SHALL BE PAID IN EQUAL INSTALLMENTS OVER THE LIFE OF THE CONTRACT TO

1 CONSTRUCT BUILDINGS AND ASSOCIATED IMPROVEMENTS FOR THE BENEFIT OF THE  
2 MANUFACTURING FACILITY. The total amount paid to all cities, towns and  
3 counties under this subsection shall not exceed a maximum of fifty million  
4 dollars.

5 D. Before the commencement of the construction of buildings and  
6 associated improvements for the benefit of a manufacturing facility that will  
7 require a city, town or county to make infrastructure improvements, the  
8 manufacturing facility shall file a sworn certification with the Arizona  
9 commerce authority, and submit a copy of this sworn certification to the  
10 applicable city, town or county, that the manufacturing facility agrees to  
11 PROVIDE A COPY OF THE CONSTRUCTION CONTRACT SHOWING THE COST OF THE MATERIALS  
12 TO BE USED IN THE CONSTRUCTION OF BUILDINGS AND ASSOCIATED IMPROVEMENTS FOR  
13 THE MANUFACTURING FACILITY AND TO either:

14 1. Make at least five hundred million dollars in capital investment if  
15 the manufacturing facility is located in a county that has a population of  
16 eight hundred thousand persons or more.

17 2. Make at least fifty million dollars in capital investment if the  
18 manufacturing facility is located in a county that has a population of less  
19 than eight hundred thousand persons.

20 E. The certification under subsection D of this section shall contain  
21 a sworn statement or certification, signed by an officer of the manufacturing  
22 facility under penalty of perjury, that the information contained is true and  
23 correct according to the best belief and knowledge of the person submitting  
24 the information to the department after a reasonable investigation of the  
25 facts.

26 F. On receipt of a sworn certification from a manufacturing facility  
27 pursuant to subsection D of this section and before the commencement of the  
28 construction of buildings and associated improvements for the benefit of a  
29 manufacturing facility that will require a city, town or county to make  
30 infrastructure improvements, the city, town or county shall enter into a  
31 written agreement with the department. This agreement and any amendments or  
32 changes to the agreement shall:

1           1. State the cost of the public infrastructure improvements and  
2 separately identify the particular improvements that will be made, **INCLUDING**  
3 **SPECIFICALLY IDENTIFYING THE COST OF MATERIALS USED.**

4           2. State that the monies received under this section will be used  
5 exclusively to pay for public infrastructure improvements that are necessary  
6 to support the activities of the manufacturing facility.

7           3. State that the city, town or county will pay a minimum of twenty  
8 per cent of the cost of the public infrastructure improvements with its own  
9 monies or with monies from the manufacturing facility.

10          4. State that the city, town or county will immediately notify the  
11 department when monies received under this section exceed eighty per cent of  
12 the cost of the infrastructure improvements and will return the amount of the  
13 excess to the state treasurer for deposit to the state general fund.

14          5. Stipulate the actual amount of the construction funding that will  
15 be derived from sources other than the state.

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

21          ~~7.~~ 6. State that the city, town or county agrees that any amounts  
22 paid by the department to a ~~prime contractor as identified under paragraph 6~~  
23 ~~of this subsection resulting from an audit adjustment or claim for credit or~~  
24 ~~refund of taxes described in subsection C of this section~~ **CITY, TOWN OR**  
25 **COUNTY THAT EXCEED THE AMOUNT OF THE TRANSACTION PRIVILEGE TAX PAID ON THE**  
26 **SALE OF MATERIALS USED IN THE CONSTRUCTION OF BUILDINGS OR OTHER ASSOCIATED**  
27 **IMPROVEMENTS FOR THE BENEFIT OF THE MANUFACTURING FACILITY** shall be recovered  
28 by the department from the city, town or county by reducing the amount paid  
29 to the city, town or county under section 42-5029 from monies designated as  
30 distribution base in the month next succeeding the month in which the  
31 adjustment or claim is paid.

1           ~~8.~~ 7. State that the city, town or county agrees that the department  
2 will use the amounts subject to any distribution required under subsection A  
3 of this section in calculating the maximum amount set by subsection C of this  
4 section.

5           ~~9. State that the city, town or county agrees that if, on notification~~  
6 ~~by the department, the state treasurer ceases payments because of the~~  
7 ~~condition described in subsection G of this section, the city, town or county~~  
8 ~~has no claim to additional payments if the department subsequently pays~~  
9 ~~amounts to a prime contractor identified in an agreement with any city, town~~  
10 ~~or county, as described in paragraph 6 of this subsection, due to an audit~~  
11 ~~adjustment or claim for credit or refund of taxes described in subsection C~~  
12 ~~of this section.~~

13           ~~10.~~ 8. Provide any other information deemed necessary by the  
14 department.

15           G. EACH YEAR AND ON COMPLETION OF THE CONTRACT TO CONSTRUCT BUILDINGS  
16 AND OTHER ASSOCIATED IMPROVEMENTS FOR THE BENEFIT OF A MANUFACTURING  
17 FACILITY, THE MANUFACTURING FACILITY SHALL PROVIDE A RECONCILIATION OF THE  
18 COST OF MATERIALS USED IN THE CONSTRUCTION OF THE BUILDINGS AND OTHER  
19 ASSOCIATED IMPROVEMENTS, INCLUDING AMOUNTS REPRESENTING A REIMBURSEMENT OF  
20 TRANSACTION PRIVILEGE TAXES PAID BY THE RETAILER.

21           ~~G.~~ H. On notification by the department, the state treasurer shall  
22 cease payments under subsection A of this section if either of the following  
23 occurs:

24           1. A city, town or county has received monies that meet or exceed  
25 eighty per cent of the cost of the public infrastructure improvements that  
26 are necessary to support the activities related to the manufacturing facility  
27 as described in the written agreement pursuant to subsection ~~E~~ F of this  
28 section.

29           2. The total amount subject to any distribution required under  
30 subsection A of this section has met the maximum amount set by subsection C  
31 of this section.

32           ~~H.~~ I. For the purposes of this section:

1           1. "Associated improvement" includes any public infrastructure  
2 improvement that is made for the benefit of the manufacturing facility  
3 outside of the parcel or parcels of real property where the manufacturing  
4 facility is located.

5           2. "Capital investment" means an expenditure to acquire, lease or  
6 improve property that is used for the benefit of a manufacturing facility,  
7 including land, buildings, machinery and fixtures.

8           3. "Manufacturing facility":

9           (a) Means an establishment THAT IS engaged in the mechanical, physical  
10 or chemical transformation or fabrication of materials, substances or  
11 components into new products in this state, and that is classified within  
12 sections 31 through 33 inclusive of the 2007 edition of the north American  
13 industry classification system as published by the national technical  
14 information service of the United States department of commerce and the  
15 establishment THAT agrees to either:

16           ~~(a)~~ (i) Make at least five hundred million dollars in capital  
17 investment if the manufacturing facility is located in a county that has a  
18 population of eight hundred thousand persons or more.

19           ~~(b)~~ (ii) Make at least fifty million dollars in capital investment if  
20 the manufacturing facility is located in a county that has a population of  
21 less than eight hundred thousand persons.

22 ~~Manufacturing facility~~

23           (b) Does not include mining, milling or smelting mineral ore or  
24 generating electricity.

25           4. "Population" means the population determined in the most recent  
26 United States decennial census or the most recent special census as provided  
27 in section 28-6532.

28           5. "Public infrastructure" means water facilities, wastewater  
29 facilities and roads that are necessary to support the activities of the  
30 manufacturing facility.

31           Sec. 13. Title 42, chapter 5, article 1, Arizona Revised Statutes, is  
32 amended by adding section 42-5039, to read:



1           1. "LESSEE'S ADDRESS" MEANS THE RESIDENTIAL ADDRESS OF AN INDIVIDUAL  
2 LESSEE AND THE PRIMARY BUSINESS ADDRESS OF ANY OTHER LESSEE.

3           2. "LESSOR'S BUSINESS LOCATION" MEANS THE BUSINESS ADDRESS THAT  
4 APPEARS ON THE LESSOR'S TRANSACTION PRIVILEGE TAX LICENSE.

5           3. "SELLER'S BUSINESS LOCATION" MEANS THE LOCATION WHERE ANY OF THE  
6 FOLLOWING OCCURS:

7           (a) THE ORDER IS RECEIVED.

8           (b) THE STOCK IS LOCATED FROM WHICH THE TANGIBLE PERSONAL PROPERTY IS  
9 TAKEN.

10          (c) THE TRANSFER OF TITLE OR POSSESSION OCCURS.

11          Sec. 14. Section 42-5061, Arizona Revised Statutes, is amended to  
12 read:

13          42-5061. Retail classification; definitions

14          A. The retail classification is comprised of the business of selling  
15 tangible personal property at retail. The tax base for the retail  
16 classification is the gross proceeds of sales or gross income derived from  
17 the business. The tax imposed on the retail classification does not apply to  
18 the gross proceeds of sales or gross income from:

19           1. Professional or personal service occupations or businesses that  
20 involve sales or transfers of tangible personal property only as  
21 inconsequential elements.

22           2. Services rendered in addition to selling tangible personal property  
23 at retail.

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

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

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

4           6. Business activity that is properly included in any other business  
5 classification that is taxable under this article.

6           7. The sale of stocks and bonds.

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

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

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

14          11. Prescription eyeglasses or contact lenses.

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

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

23          14. Sales OF MOTOR VEHICLES to nonresidents of this state for use  
24 outside this state if the ~~vendor~~ MOTOR VEHICLE DEALER ships or delivers the  
25 ~~tangible personal property~~ MOTOR VEHICLE TO A DESTINATION out of this state.

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

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

1           17. Textbooks by any bookstore that are required by any state  
2 university or community college.

3           18. Food and drink to a person ~~who~~ THAT is engaged in A business that  
4 is classified under the restaurant classification and that provides such food  
5 and drink without monetary charge to its employees for their own consumption  
6 on the premises during the employees' hours of employment.

7           19. Articles of food, drink or condiment and accessory tangible  
8 personal property to a school district or charter school if such articles and  
9 accessory tangible personal property are to be prepared and served to persons  
10 for consumption on the premises of a public school within the district or on  
11 the premises of the charter school during school hours.

12           20. Lottery tickets or shares pursuant to title 5, chapter 5.1,  
13 article 1.

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

18           (a) "Monetized bullion" means coins and other forms of money that are  
19 manufactured from gold, silver or other metals and that have been or are used  
20 as a medium of exchange in this or another state, the United States or a  
21 foreign nation.

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

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

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

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

7           25. Tangible personal property sold to:

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

9           (b) A qualifying health care organization as defined in section  
10 42-5001 if the tangible personal property is used by the organization solely  
11 to provide health and medical related educational and charitable services.

12           (c) A qualifying health care organization as defined in section  
13 42-5001 if the organization is dedicated to providing educational,  
14 therapeutic, rehabilitative and family medical education training for blind,  
15 visually impaired and multihandicapped children from the time of birth to age  
16 twenty-one.

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

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

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

30           26. Magazines or other periodicals or other publications by this state  
31 to encourage tourist travel.

1           27. Tangible personal property sold to a person that is subject to tax  
2 under this article by reason of being engaged in business classified under  
3 the ~~prime contracting~~ MANUFACTURED BUILDING DEALER classification under  
4 section 42-5075, ~~OR THE HIGHWAY, STREET AND BRIDGE CONSTRUCTION~~  
5 CLASSIFICATION UNDER SECTION 42-5078 or to a subcontractor working under the  
6 control of a ~~prime~~ HIGHWAY, STREET OR BRIDGE contractor that is subject to  
7 tax under article 1 of this chapter, if the property so sold is any of the  
8 following:

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

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

14           (b) ~~TO BE INCORPORATED OR FABRICATED BY THE PERSON INTO A HIGHWAY,~~  
15 STREET OR BRIDGE.

16           28. The sale of a motor vehicle to:

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

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

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

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

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

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

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

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

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

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

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

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

31 ~~38.~~ 37. Coal, petroleum, coke, natural gas, virgin fuel oil and  
32 electricity sold to a qualified environmental technology manufacturer,

1 producer or processor as defined in section 41-1514.02 and directly used or  
2 consumed in the generation or provision of on-site power or energy solely for  
3 environmental technology manufacturing, producing or processing or  
4 environmental protection. This paragraph shall apply for twenty full  
5 consecutive calendar or fiscal years from the date the first paper  
6 manufacturing machine is placed in service. In the case of an environmental  
7 technology manufacturer, producer or processor who does not manufacture  
8 paper, the time period shall begin with the date the first manufacturing,  
9 processing or production equipment is placed in service.

10 ~~39.~~ 38. Sales of liquid, solid or gaseous chemicals used in  
11 manufacturing, processing, fabricating, mining, refining, metallurgical  
12 operations, research and development and, beginning on January 1, 1999,  
13 printing, if using or consuming the chemicals, alone or as part of an  
14 integrated system of chemicals, involves direct contact with the materials  
15 from which the product is produced for the purpose of causing or permitting a  
16 chemical or physical change to occur in the materials as part of the  
17 production process. This paragraph does not include chemicals that are used  
18 or consumed in activities such as packaging, storage or transportation but  
19 does not affect any deduction for such chemicals that is otherwise provided  
20 by this section. For the purposes of this paragraph, "printing" means a  
21 commercial printing operation and includes job printing, engraving,  
22 embossing, copying and bookbinding.

23 ~~40.~~ 39. Through December 31, 1994, personal property liquidation  
24 transactions, conducted by a personal property liquidator. From and after  
25 December 31, 1994, personal property liquidation transactions shall be  
26 taxable under this section provided that nothing in this subsection shall be  
27 construed to authorize the taxation of casual activities or transactions  
28 under this chapter. For the purposes of this paragraph:

29 (a) "Personal property liquidation transaction" means a sale of  
30 personal property made by a personal property liquidator acting solely on  
31 behalf of the owner of the personal property sold at the dwelling of the  
32 owner or on the death of any owner, on behalf of the surviving spouse, if

1 any, any devisee or heir or the personal representative of the estate of the  
2 deceased, if one has been appointed.

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

5 ~~41.~~ 40. Sales of food, drink and condiment for consumption within the  
6 premises of any prison, jail or other institution under the jurisdiction of  
7 the state department of corrections, the department of public safety, the  
8 department of juvenile corrections or a county sheriff.

9 ~~42.~~ 41. A motor vehicle and any repair and replacement parts and  
10 tangible personal property becoming a part of such motor vehicle sold to a  
11 motor carrier who is subject to a fee prescribed in title 28, chapter 16,  
12 article 4 and who is engaged in the business of leasing or renting such  
13 property.

14 ~~43.~~ 42. Livestock and poultry feed, salts, vitamins and other additives  
15 for livestock or poultry consumption that are sold to persons who are engaged  
16 in producing livestock, poultry, or livestock or poultry products or who are  
17 engaged in feeding livestock or poultry commercially. For the purposes of  
18 this paragraph, "poultry" includes ratites.

19 ~~44.~~ 43. Sales of implants used as growth promotants and injectable  
20 medicines, not already exempt under paragraph 8 of this subsection, for  
21 livestock or poultry owned by or in possession of persons who are engaged in  
22 producing livestock, poultry, or livestock or poultry products or who are  
23 engaged in feeding livestock or poultry commercially. For the purposes of  
24 this paragraph, "poultry" includes ratites.

25 ~~45.~~ 44. Sales of motor vehicles at auction to nonresidents of this  
26 state for use outside this state if the vehicles are shipped or delivered out  
27 of this state, regardless of where title to the motor vehicles passes or its  
28 free on board point.

29 ~~46.~~ 45. Tangible personal property sold to a person engaged in business  
30 and subject to tax under the transient lodging classification if the tangible  
31 personal property is a personal hygiene item or articles used by human beings  
32 for food, drink or condiment, except alcoholic beverages, that are furnished

1 without additional charge to and intended to be consumed by the transient  
2 during the transient's occupancy.

3 ~~47.~~ 46. Sales of alternative fuel, as defined in section 1-215, to a  
4 used oil fuel burner who has received a permit to burn used oil or used oil  
5 fuel under section 49-426 or 49-480.

6 ~~48.~~ 47. Sales of materials that are purchased by or for publicly funded  
7 libraries including school district libraries, charter school libraries,  
8 community college libraries, state university libraries or federal, state,  
9 county or municipal libraries for use by the public as follows:

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

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

12 ~~49.~~ 48. Tangible personal property sold to a commercial airline and  
13 consisting of food, beverages and condiments and accessories used for serving  
14 the food and beverages, if those items are to be provided without additional  
15 charge to passengers for consumption in flight. For the purposes of this  
16 paragraph, "commercial airline" means a person holding a federal certificate  
17 of public convenience and necessity or foreign air carrier permit for air  
18 transportation to transport persons, property or United States mail in  
19 intrastate, interstate or foreign commerce.

20 ~~50.~~ 49. Sales of alternative fuel vehicles if the vehicle was  
21 manufactured as a diesel fuel vehicle and converted to operate on alternative  
22 fuel and equipment that is installed in a conventional diesel fuel motor  
23 vehicle to convert the vehicle to operate on an alternative fuel, as defined  
24 in section 1-215.

25 ~~51.~~ 50. Sales of any spirituous, vinous or malt liquor by a person that  
26 is licensed in this state as a wholesaler by the department of liquor  
27 licenses and control pursuant to title 4, chapter 2, article 1.

28 ~~52.~~ 51. Sales of tangible personal property to be incorporated or  
29 installed as part of ~~environmental response or remediation activities under~~  
30 ~~section 42-5075, subsection B, paragraph 6~~ SITE PREPARATION, CONSTRUCTING,  
31 FURNISHING OR INSTALLING MACHINERY, EQUIPMENT OR OTHER TANGIBLE PERSONAL  
32 PROPERTY, INCLUDING STRUCTURES NECESSARY TO PROTECT EXEMPT INCORPORATED  
33 MATERIALS OR INSTALLED MACHINERY OR EQUIPMENT, AND TANGIBLE PERSONAL PROPERTY

1 INCORPORATED, TO PERFORM ONE OR MORE OF THE FOLLOWING ACTIONS IN RESPONSE TO  
2 A RELEASE OR SUSPECTED RELEASE OF A HAZARDOUS SUBSTANCE, POLLUTANT OR  
3 CONTAMINANT FROM A FACILITY TO THE ENVIRONMENT, UNLESS THE RELEASE WAS  
4 AUTHORIZED BY A PERMIT ISSUED BY A GOVERNMENTAL AUTHORITY:

5 (a) ACTIONS TO MONITOR, ASSESS AND EVALUATE SUCH A RELEASE OR A  
6 SUSPECTED RELEASE.

7 (b) EXCAVATION, REMOVAL AND TRANSPORTATION OF CONTAMINATED SOIL AND  
8 ITS TREATMENT OR DISPOSAL.

9 (c) TREATMENT OF CONTAMINATED SOIL BY VAPOR EXTRACTION, CHEMICAL OR  
10 PHYSICAL STABILIZATION, SOIL WASHING OR BIOLOGICAL TREATMENT TO REDUCE THE  
11 CONCENTRATION, TOXICITY OR MOBILITY OF A CONTAMINANT.

12 (d) PUMPING AND TREATMENT OR IN SITU TREATMENT OF CONTAMINATED  
13 GROUNDWATER OR SURFACE WATER TO REDUCE THE CONCENTRATION OR TOXICITY OR A  
14 CONTAMINANT.

15 (e) THE INSTALLATION OF STRUCTURES, SUCH AS CUTOFF WALLS OR CAPS, TO  
16 CONTAIN CONTAMINANTS PRESENT IN GROUNDWATER OR SOIL AND PREVENT THEM FROM  
17 REACHING A LOCATION WHERE THEY COULD THREATEN HUMAN HEALTH OR WELFARE OR THE  
18 ENVIRONMENT.

19 THIS PARAGRAPH DOES NOT INCLUDE ASBESTOS REMOVAL OR THE CONSTRUCTION OR USE  
20 OF ANCILLARY STRUCTURES SUCH AS MAINTENANCE SHEDS, OFFICES OR STORAGE  
21 FACILITIES FOR UNATTACHED EQUIPMENT, POLLUTION CONTROL EQUIPMENT, FACILITIES  
22 OR OTHER CONTROL ITEMS REQUIRED OR TO BE USED BY A PERSON TO PREVENT OR  
23 CONTROL CONTAMINATION BEFORE IT REACHES THE ENVIRONMENT.

24 ~~53.~~ 52. Sales of tangible personal property by a nonprofit  
25 organization that is exempt from taxation under section 501(c)(6) of the  
26 internal revenue code if the organization produces, organizes or promotes  
27 cultural or civic related festivals or events and no part of the  
28 organization's net earnings inures to the benefit of any private shareholder  
29 or individual.

30 ~~54.~~ 53. Through August 31, 2014, sales of Arizona centennial  
31 medallions by the historical advisory commission.

32 ~~55.~~ 54. Application services that are designed to assess or test  
33 student learning or to promote curriculum design or enhancement purchased by  
34 or for any school district, charter school, community college or state  
35 university. For the purposes of this paragraph:

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

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

6 ~~56.~~ 55. Sales of motor vehicle fuel and use fuel to a qualified  
7 business under section 41-1516 for off-road use in harvesting, processing or  
8 transporting qualifying forest products removed from qualifying projects as  
9 defined in section 41-1516.

10 ~~57.~~ 56. Sales of repair parts installed in equipment used directly by  
11 a qualified business under section 41-1516 in harvesting, processing or  
12 transporting qualifying forest products removed from qualifying projects as  
13 defined in section 41-1516.

14 ~~58.~~ 57. Sales or other transfers of renewable energy credits or any  
15 other unit created to track energy derived from renewable energy resources.  
16 For the purposes of this paragraph, "renewable energy credit" means a unit  
17 created administratively by the corporation commission or governing body of a  
18 public power utility to track kilowatt hours of electricity derived from a  
19 renewable energy resource or the kilowatt hour equivalent of conventional  
20 energy resources displaced by distributed renewable energy resources.

21 58. TANGIBLE PERSONAL PROPERTY SOLD TO A QUALIFIED BUSINESS UNDER  
22 SECTION 41-1516 IF THE PROPERTY SOLD IS TO BE INCORPORATED OR FABRICATED INTO  
23 A BUILDING, OR OTHER STRUCTURE, PROJECT, DEVELOPMENT OR IMPROVEMENT OWNED BY  
24 THE QUALIFIED BUSINESS FOR HARVESTING OR PROCESSING QUALIFYING FOREST  
25 PRODUCTS. TO QUALIFY FOR THIS DEDUCTION, THE QUALIFIED BUSINESS AT THE TIME  
26 OF PURCHASE MUST PRESENT ITS CERTIFICATION APPROVED BY THE DEPARTMENT.

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

31 1. Machinery, or equipment, used directly in manufacturing,  
32 processing, fabricating, job printing, refining or metallurgical operations.

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

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

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

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

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

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

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

31 (a) A person holding a federal certificate of public convenience and  
32 necessity, a supplemental air carrier certificate under federal aviation

1 regulations (14 Code of Federal Regulations part 121) or a foreign air  
2 carrier permit for air transportation for use as or in conjunction with or  
3 becoming a part of aircraft to be used to transport persons, property or  
4 United States mail in intrastate, interstate or foreign commerce.

5 (b) Any foreign government.

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

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

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

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

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

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

31 13. New machinery and equipment consisting of tractors, tractor-drawn  
32 implements, self-powered implements, machinery and equipment necessary for

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

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

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

11 14. Machinery or equipment used in research and development. For the  
12 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. Tangible personal property that is used by either of the following  
24 to receive, store, convert, produce, generate, decode, encode, control or  
25 transmit telecommunications information:

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

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

30 (i) Over two-thirds of the transmissions, measured in megabytes,  
31 transmitted by the facility during the test period were transmitted to or on  
32 behalf of one or more direct broadcast satellite television or data

1 transmission services that operate pursuant to 47 Code of Federal Regulations  
2 part 25.

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

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

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

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

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

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

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

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

16          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          21. Qualifying equipment that is purchased from and after June 30, 2004  
31          through June 30, 2024 by a qualified business under section 41-1516 for  
32          harvesting or processing qualifying forest products removed from qualifying

1 projects as defined in section 41-1516. To qualify for this deduction, the  
2 qualified business at the time of purchase must present its certification  
3 approved by the department.

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

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

10 2. Janitorial equipment and hand tools.

11 3. Office equipment, furniture and supplies.

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

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

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

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

22 8. MACHINERY AND EQUIPMENT OR OTHER TANGIBLE PERSONAL PROPERTY USED BY  
23 A CONTRACTOR IN THE PERFORMANCE OF A CONTRACT.

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

1           E. In computing the tax base, gross proceeds of sales or gross income  
2 from retail sales of heavy trucks and trailers does not include any amount  
3 attributable to federal excise taxes imposed by 26 United States Code section  
4 4051.

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

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

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

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

- 29           1. Transporting classification.
- 30           2. Utilities classification.
- 31           3. Telecommunications classification.
- 32           4. Pipeline classification.

- 1           5. Private car line classification.
- 2           6. Publication classification.
- 3           7. Job printing classification.
- 4           8. ~~Prime contracting~~ MANUFACTURED BUILDING DEALER classification.
- 5           ~~9. Owner builder sales classification.~~
- 6           ~~10.~~ 9. Restaurant classification.

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

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

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

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

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

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

30           L. The department shall require every person claiming a deduction  
31 provided by subsection J or K of this section to file on forms prescribed by  
32 the department at such times as the department directs a sworn statement

1 disclosing the name of the purchaser and the exact amount of sales on which  
2 the exclusion or deduction is claimed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30           U. In computing the tax base for the sale of a motor vehicle to a  
31 nonresident of this state, if the purchaser's state of residence allows a  
32 corresponding use tax exemption to the tax imposed by article 1 of this

1 chapter and the rate of the tax in the purchaser's state of residence is  
2 lower than the rate prescribed in article 1 of this chapter or if the  
3 purchaser's state of residence does not impose an excise tax, and the  
4 nonresident has secured a special ninety day nonresident registration permit  
5 for the vehicle as prescribed by sections 28-2154 and 28-2154.01, there shall  
6 be deducted from the tax base a portion of the gross proceeds or gross income  
7 from the sale so that the amount of transaction privilege tax that is paid in  
8 this state is equal to the excise tax that is imposed by the purchaser's  
9 state of residence on the nonexempt sale or use of the motor vehicle.

10 V. THE SALE OF TANGIBLE PERSONAL PROPERTY TO A CONTRACTOR, REGARDLESS  
11 OF WHETHER IT WILL BE INCORPORATED INTO A BUILDING OR STRUCTURE, IS  
12 CONSIDERED TO BE A SALE AT RETAIL AND IS SUBJECT TO TAXATION UNDER THIS  
13 SECTION UNLESS THE CONTRACTOR PROVIDES TO THE RETAILER A CERTIFICATE THAT IS  
14 SIGNED BY THE OWNER OF THE PROPERTY TO BE IMPROVED AND THAT STATES THAT THE  
15 PERSONAL PROPERTY PURCHASED BY THE CONTRACTOR WILL BE USED FOR A PURPOSE  
16 IDENTIFIED IN SUBSECTION A OR B OF THIS SECTION. IF A PERSON WHO IS IN THE  
17 BUSINESS OF SELLING TANGIBLE PERSONAL PROPERTY AT RETAIL ALSO ENGAGES IN  
18 BUSINESS AS A CONTRACTOR AND REMOVES TANGIBLE PERSONAL PROPERTY FROM RETAIL  
19 STOCK FOR USE IN CONTRACTING ACTIVITIES, THE PURCHASE PRICE OF THAT PERSONAL  
20 PROPERTY IS SUBJECT TO USE TAX UNDER SECTION 42-5155.

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

22 1. "Aircraft" includes:

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

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

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

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

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

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

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

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

16           4. "Overhead materials" means tangible personal property, the gross  
17 proceeds of sales or gross income derived from that would otherwise be  
18 included in the retail classification, and that are used or consumed in the  
19 performance of a contract, the cost of which is charged to an overhead  
20 expense account and allocated to various contracts based on generally  
21 accepted accounting principles and consistent with government contract  
22 accounting standards.

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

25           6. "Subcontract" means an agreement between a contractor and any  
26 person who is not an employee of the contractor for furnishing of supplies or  
27 services that, in whole or in part, are necessary to the performance of one  
28 or more government contracts, or under which any portion of the contractor's  
29 obligation under one or more government contracts is performed, undertaken or  
30 assumed and that includes provisions causing title to overhead materials or  
31 other tangible personal property used in the performance of the subcontract  
32 to pass to the government or that includes provisions incorporating such

1 title passing clauses in a government contract into the subcontract. FOR THE  
2 PURPOSES OF THIS PARAGRAPH, "CONTRACTOR" HAS ITS ORDINARY AND COMMON MEANING  
3 AND DOES NOT HAVE THE MEANING PRESCRIBED BY SECTION 42-5001.

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

6 42-5071. Personal property rental classification

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

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

13 2. Activities engaged in by the Arizona exposition and state fair  
14 board or county fair commissions in connection with events sponsored by such  
15 entities.

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

23 4. Operating coin-operated washing, drying and dry cleaning machines  
24 or coin-operated car washing machines at establishments for the use of such  
25 machines.

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

31 6. Leasing or renting aircraft, flight simulators or similar training  
32 equipment to students or staff by nonprofit, accredited educational

1 institutions that offer associate or baccalaureate degrees in aviation or  
2 aerospace related fields.

3 7. Leasing or renting photographs, transparencies or other creative  
4 works used by this state on internet ~~web-sites~~ WEBSITES, in magazines or in  
5 other publications that encourage tourism.

6 B. The tax base for the personal property rental classification is the  
7 gross proceeds of sales or gross income derived from the business, but the  
8 gross proceeds of sales or gross income derived from the following shall be  
9 deducted from the tax base:

10 1. Reimbursements by the lessee to the lessor of a motor vehicle for  
11 payments by the lessor of the applicable fees and taxes imposed by sections  
12 28-2003, 28-2352, 28-2402, 28-2481 and 28-5801, title 28, chapter 15,  
13 article 2 and article IX, section 11, Constitution of Arizona, to the extent  
14 such amounts are separately identified as such fees and taxes and are billed  
15 to the lessee.

16 2. Leases or rentals of tangible personal property ~~which~~ THAT, if it  
17 had been purchased instead of leased or rented by the lessee, would have been  
18 exempt under:

19 (a) Section 42-5061, subsection A, paragraph 8, 9, 12, 13, ~~25, 29, 50~~  
20 ~~24, 28, 48, 49~~ or ~~55~~ 54.

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

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

25 (ii) Section 42-5061, subsection B, paragraph 21.

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

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

28 3. Motor vehicle fuel and use fuel that are subject to a tax imposed  
29 under title 28, chapter 16, article 1, sales of use fuel to a holder of a  
30 valid single trip use fuel tax permit issued under section 28-5739 and sales  
31 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. 16. Section 42-5072, Arizona Revised Statutes, is amended to  
22 read:

23           42-5072. Mining classification; definition

24           A. The mining classification is comprised of the business of mining,  
25 quarrying or producing for sale, profit or commercial use any  
26 nonmetalliferous mineral product that has been mined, quarried or otherwise  
27 extracted within the boundaries of this state described in article I, section  
28 1, Constitution of Arizona.

29           B. The tax base for the mining classification is the gross proceeds of  
30 sales or gross income derived from the business. The gross proceeds of sales  
31 or gross income derived from sales described under section 42-5061,

1 subsection A, paragraph 27, SUBDIVISION (b) and subsection J, paragraph 2  
2 shall be deducted from the tax base.

3 C. The tax base includes the value of the entire product mined,  
4 quarried or produced for sale, profit or commercial use in this state,  
5 regardless of the place of sale of the product or of the fact that deliveries  
6 may be made to points without this state. If, however, the sale price of the  
7 product includes freight, the sale price shall be reduced by the actual  
8 freight paid by any person from the place of production to the place of  
9 delivery.

10 D. In the case of a person engaged in business classified under the  
11 mining classification all or part of whose income is derived from service or  
12 manufacturing charges instead of from sales of the products manufactured or  
13 handled, the tax base includes the gross income of the person derived from  
14 the service or manufacturing charge.

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

27 F. A person who conducts a business classified under the mining  
28 classification may be deemed also to be engaged in business classified under  
29 the retail classification to the extent the person's activities comprise  
30 business under the retail classification if the tax is paid at the rate  
31 imposed on the retail classification by section 42-5010. If the transaction

1 is not subject to taxation under the retail classification, the transaction  
2 shall be included in the tax base under this section.

3 G. For the purposes of this section, "nonmetalliferous mineral  
4 product" means oil, natural gas, limestone, sand, gravel or any other  
5 nonmetalliferous mineral product, compound or combination of nonmetalliferous  
6 mineral products.

7 Sec. 17. Section 42-5075, Arizona Revised Statutes, is amended to  
8 read:

9 42-5075. Manufactured building dealer classification;  
10 exemptions; definitions

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

19 B. The tax base for the ~~prime contracting~~ MANUFACTURED BUILDING DEALER  
20 classification is sixty-five per cent of the gross proceeds of sales or gross  
21 income derived from the business. The following amounts shall be deducted  
22 from the gross proceeds of sales or gross income before computing the tax  
23 base:

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

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

30 ~~3.~~ 2. The sales price of furniture, furnishings, fixtures, appliances  
31 and attachments that are not incorporated as component parts of or attached  
32 to a 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:~~

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

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

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

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

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

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

20           ~~7. The gross proceeds of sales or gross income that is derived from a~~  
21 ~~contract entered into for the installation, assembly, repair or maintenance~~  
22 ~~of machinery, equipment or other tangible personal property that is deducted~~  
23 ~~from the tax base of the retail classification pursuant to section 42-5061,~~  
24 ~~subsection B, or that is exempt from use tax pursuant to section 42-5159,~~  
25 ~~subsection B, and that does not become a permanent attachment to a building,~~  
26 ~~highway, road, railroad, excavation or manufactured building or other~~  
27 ~~structure, project, development or improvement. If the ownership of the~~  
28 ~~realty is separate from the ownership of the machinery, equipment or tangible~~  
29 ~~personal property, the determination as to permanent attachment shall be made~~  
30 ~~as if the ownership were the same. The deduction provided in this paragraph~~  
31 ~~does not include gross proceeds of sales or gross income from that portion of~~  
32 ~~any contracting activity that consists of the development of, or modification~~

1 ~~to, real property in order to facilitate the installation, assembly, repair,~~  
2 ~~maintenance or removal of machinery, equipment or other tangible personal~~  
3 ~~property that is deducted from the tax base of the retail classification~~  
4 ~~pursuant to section 42-5061, subsection B or that is exempt from use tax~~  
5 ~~pursuant to section 42-5159, subsection B. For the purposes of this~~  
6 ~~paragraph, "permanent attachment" means at least one of the following:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28          ~~17. The gross proceeds of sales or gross income received from contracts~~  
29          ~~entered into before July 1, 2006 for constructing a state university research~~  
30          ~~infrastructure project if the project has been reviewed by the joint~~  
31          ~~committee on capital review before the university enters into the~~

1 ~~construction contract for the project. For the purposes of this paragraph,~~  
2 ~~"research infrastructure" has the same meaning prescribed in section 15-1670.~~

3 ~~18. The gross proceeds of sales or gross income received from a~~  
4 ~~contract for the construction of any building, or other structure, project,~~  
5 ~~development or improvement owned by a qualified business under section~~  
6 ~~41-1516 for harvesting or processing qualifying forest products removed from~~  
7 ~~qualifying projects as defined in section 41-1516 if actual construction~~  
8 ~~begins before January 1, 2024. To qualify for this deduction, the prime~~  
9 ~~contractor must obtain a letter of qualification from the Arizona commerce~~  
10 ~~authority before beginning work under the contract.~~

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

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

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

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

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

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

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

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

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

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

22           ~~4. If a prime contractor is entitled to a deduction by complying with~~  
23           ~~paragraph 1 of this subsection, the department may require the purchaser who~~  
24           ~~caused the execution of the certificate to establish the accuracy and~~  
25           ~~completeness of the information required to be contained in the certificate~~  
26           ~~that would entitle the prime contractor to the deduction. If the purchaser~~  
27           ~~cannot establish the accuracy and completeness of the information, the~~  
28           ~~purchaser is liable in an amount equal to any tax, penalty and interest that~~  
29           ~~the prime contractor would have been required to pay under article 1 of this~~  
30           ~~chapter if the prime contractor had not complied with paragraph 1 of this~~  
31           ~~subsection. Payment of the amount under this paragraph exempts the purchaser~~  
32           ~~from liability for any tax imposed under article 4 of this chapter. The~~

1 ~~amount shall be treated as a transaction privilege tax to the purchaser and~~  
2 ~~as tax revenues collected from the prime contractor in order to designate the~~  
3 ~~distribution base for purposes of section 42-5029.~~

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

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

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

30 ~~G. For the purposes of section 42-5032.01, the department shall~~  
31 ~~separately account for revenues collected under the prime contracting~~  
32 ~~classification from any prime contractor engaged in the preparation or~~

1 ~~construction of a multipurpose facility, and related infrastructure, that is~~  
2 ~~owned, operated or leased by the tourism and sports authority pursuant to~~  
3 ~~title 5, chapter 8.~~

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

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

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

28 ~~K. The portion of gross proceeds of sales or gross income attributable~~  
29 ~~to the actual direct costs of providing architectural or engineering services~~  
30 ~~that are incorporated in a contract is not subject to tax under this section.~~  
31 ~~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 ~~L. 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 ~~M. C.~~ The following apply ~~to~~ IN DETERMINING THE TAXABLE SITUS OF  
10 SALES OF manufactured buildings:

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

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

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

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

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

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

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

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

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

15           ~~(ii) The amount of an adjustment, if any, to the guaranteed maximum~~  
16 ~~price as set in the contract for modification work. For the purposes of this~~  
17 ~~item, "guaranteed maximum price" means the amount guaranteed to be the~~  
18 ~~maximum amount due to a prime contractor for the performance of all~~  
19 ~~modification work for the project.~~

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

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

27           ~~(e) Inspection to determine the dates of substantial completion or~~  
28 ~~final completion.~~

29           ~~(f) Preparation of any manuals, warranties, as-built drawings, spares~~  
30 ~~or other items the prime contractor must furnish pursuant to the contract for~~  
31 ~~modification work. For the purposes of this subdivision, "as-built drawing"~~  
32 ~~means a drawing that indicates field changes made to adapt to field~~

1 ~~conditions, field changes resulting from change orders or buried and~~  
2 ~~concealed installation of piping, conduit and utility services.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30           ~~3. If the original owner is responsible to the new owner for~~  
31           ~~modifications made to the property in the period subsequent to the transfer~~  
32           ~~of title and derives any gross proceeds of sale or gross income from the~~

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

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

8 ~~P.~~ D. For the purposes of this section:

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

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

21 ~~4.~~ 1. "Manufactured building" means a manufactured home, mobile home  
22 or factory-built building, as defined in section 41-2142.

23 ~~3.~~ 2. ~~"Dealership of Manufactured buildings~~ BUILDING DEALER" means a  
24 dealer who either:

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

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

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

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

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

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

16           ~~9. 3. "Sale of a used manufactured building" does not include a lease~~  
17 ~~of a used manufactured building.~~

18           Sec. 18. Repeal

19           Section ~~42-5076~~, Arizona Revised Statutes, is repealed from and after  
20 December 31, 2014.

21           Sec. 19. Title 42, chapter 5, article 2, Arizona Revised Statutes, is  
22 amended by adding section 42-5078, to read:

23           ~~42-5078. Highway, street and bridge construction~~  
24 ~~classification; definitions~~

25           A. THE HIGHWAY, STREET AND BRIDGE CONSTRUCTION CLASSIFICATION IS  
26 COMPRISED OF THE BUSINESS OF CONSTRUCTING A HIGHWAY, STREET OR BRIDGE.

27           B. THE TAX BASE FOR THE HIGHWAY, STREET AND BRIDGE CONSTRUCTION  
28 CLASSIFICATION IS SIXTY-FIVE PER CENT OF THE GROSS PROCEEDS OF SALES OR GROSS  
29 INCOME DERIVED FROM THE BUSINESS. THE FOLLOWING AMOUNTS SHALL BE DEDUCTED  
30 FROM THE GROSS PROCEEDS OF SALES OR GROSS INCOME BEFORE COMPUTING THE TAX  
31 BASE:

32           1. THE GROSS PROCEEDS OF SALES OR GROSS INCOME RECEIVED FROM A  
33 CONTRACT ENTERED INTO FOR THE CONSTRUCTION, ALTERATION OR REPAIR OF ANY  
34 HIGHWAY, STREET OR BRIDGE LOCATED WITHIN AN ACTIVE MILITARY REUSE ZONE AFTER

1 THE ZONE IS INITIALLY ESTABLISHED OR RENEWED UNDER SECTION 41-1531. TO BE  
2 ELIGIBLE TO QUALIFY FOR THIS DEDUCTION, BEFORE BEGINNING WORK UNDER THE  
3 CONTRACT, THE HIGHWAY, STREET OR BRIDGE CONTRACTOR MUST HAVE APPLIED FOR A  
4 LETTER OF QUALIFICATION FROM THE DEPARTMENT OF REVENUE.

5 2. THE GROSS PROCEEDS OF SALES OR GROSS INCOME ATTRIBUTABLE TO A  
6 SEPARATE, WRITTEN DESIGN PHASE SERVICES OR PROFESSIONAL SERVICES CONTRACT,  
7 EXECUTED BEFORE THE CONSTRUCTION, ALTERATION OR REPAIR OF A HIGHWAY, STREET  
8 OR BRIDGE BEGINS, REGARDLESS OF WHETHER THE SERVICES ARE PROVIDED SEQUENTIAL  
9 TO OR CONCURRENT WITH CONSTRUCTION ACTIVITIES SUBJECT TO TAX UNDER THIS  
10 SECTION. THIS DEDUCTION DOES NOT INCLUDE THE GROSS PROCEEDS OF SALES OR THE  
11 GROSS INCOME ATTRIBUTABLE TO CONSTRUCTION PHASE SERVICES.

12 3. THE PORTION OF GROSS PROCEEDS OF SALES OR GROSS INCOME ATTRIBUTABLE  
13 TO THE ACTUAL DIRECT COSTS OF PROVIDING ARCHITECTURAL OR ENGINEERING SERVICES  
14 THAT ARE INCORPORATED IN A CONTRACT IS NOT SUBJECT TO TAX UNDER THIS SECTION.  
15 FOR THE PURPOSES OF THIS PARAGRAPH, "DIRECT COSTS" MEANS THE PORTION OF THE  
16 ACTUAL COSTS THAT ARE DIRECTLY EXPENDED IN PROVIDING ARCHITECTURAL OR  
17 ENGINEERING SERVICES.

18 C. SUBCONTRACTORS WHO PERFORM SERVICES WITH RESPECT TO THE  
19 CONSTRUCTION, ALTERATION OR REPAIR OF A HIGHWAY, STREET OR BRIDGE ARE NOT  
20 SUBJECT TO TAX IF THEY CAN DEMONSTRATE THAT THE JOB WAS WITHIN THE CONTROL OF  
21 A HIGHWAY, STREET OR BRIDGE CONTRACTOR AND THAT THE HIGHWAY, STREET, OR  
22 BRIDGE CONTRACTOR IS LIABLE FOR THE TAX ON THE GROSS INCOME, GROSS PROCEEDS  
23 OF SALES OR GROSS RECEIPTS ATTRIBUTABLE TO THE JOB AND FROM WHICH THE  
24 SUBCONTRACTORS WERE PAID.

25 D. FOR THE PURPOSES OF THIS SECTION:

26 1. "CONSTRUCTION PHASE SERVICES" MEANS SERVICES FOR THE EXECUTION AND  
27 COMPLETION OF ANY CONSTRUCTION, ALTERATION OR REPAIR OF A HIGHWAY, STREET OR  
28 BRIDGE, INCLUDING THE FOLLOWING:

29 (a) ADMINISTRATION OR SUPERVISION OF ANY CONSTRUCTION, ALTERATION OR  
30 REPAIR OF A HIGHWAY, STREET OR BRIDGE, INCLUDING TEAM MANAGEMENT AND  
31 COORDINATION, SCHEDULING, COST CONTROLS, SUBMITTAL PROCESS MANAGEMENT, FIELD  
32 MANAGEMENT, SAFETY PROGRAM, CLOSE-OUT PROCESS AND WARRANTY PERIOD SERVICES.

33 (b) ADMINISTRATION OR SUPERVISION OF ANY PUNCH LIST. FOR THE PURPOSES  
34 OF THIS SUBDIVISION, "PUNCH LIST" MEANS MINOR ITEMS OF WORK PERFORMED AFTER  
35 SUBSTANTIAL COMPLETION AND BEFORE FINAL COMPLETION OF THE PROJECT.

36 (c) ADMINISTRATION OR SUPERVISION OF ANY WORK PERFORMED PURSUANT TO  
37 CHANGE ORDERS. FOR THE PURPOSES OF THIS SUBDIVISION, "CHANGE ORDER" MEANS A

1 WRITTEN INSTRUMENT ISSUED AFTER EXECUTION OF A CONTRACT FOR THE CONSTRUCTION  
2 OF A HIGHWAY, STREET OR BRIDGE, PROVIDING FOR ALL OF THE FOLLOWING:

3 (i) THE SCOPE OF CHANGE IN THE WORK.

4 (ii) THE AMOUNT OF AN ADJUSTMENT, IF ANY, TO THE GUARANTEED MAXIMUM  
5 PRICE AS SET IN THE CONTRACT FOR CONSTRUCTION OF THE HIGHWAY, STREET OR  
6 BRIDGE. FOR THE PURPOSES OF THIS ITEM, "GUARANTEED MAXIMUM PRICE" MEANS THE  
7 AMOUNT GUARANTEED TO BE THE MAXIMUM AMOUNT DUE TO A HIGHWAY, STREET OR BRIDGE  
8 CONTRACTOR FOR THE PERFORMANCE OF THE CONSTRUCTION, ALTERATION OR REPAIR OF A  
9 HIGHWAY, STREET OR BRIDGE.

10 (iii) THE EXTENT OF AN ADJUSTMENT, IF ANY, TO THE CONTRACT TIME OF  
11 PERFORMANCE SET FORTH IN THE CONTRACT.

12 (d) ADMINISTRATION OR SUPERVISION OF ANY CONSTRUCTION, ALTERATION OR  
13 REPAIR WORK PERFORMED PURSUANT TO CHANGE DIRECTIVES. FOR THE PURPOSES OF  
14 THIS SUBDIVISION, "CHANGE DIRECTIVE" MEANS A WRITTEN ORDER DIRECTING A CHANGE  
15 IN CONSTRUCTION, ALTERATION OR REPAIR WORK BEFORE AGREEMENT ON AN ADJUSTMENT  
16 OF THE GUARANTEED MAXIMUM PRICE OR CONTRACT TIME.

17 (e) INSPECTION TO DETERMINE THE DATES OF SUBSTANTIAL COMPLETION OR  
18 FINAL COMPLETION.

19 (f) PREPARATION OF ANY MANUALS, WARRANTIES, AS-BUILT DRAWINGS, SPARES  
20 OR OTHER ITEMS THE HIGHWAY, STREET OR BRIDGE CONSTRUCTION CONTRACTOR MUST  
21 FURNISH PURSUANT TO A CONTRACT FOR THE CONSTRUCTION, ALTERATION OR REPAIR OF  
22 A HIGHWAY, STREET OR BRIDGE. FOR THE PURPOSES OF THIS SUBDIVISION, "AS-BUILT  
23 DRAWING" MEANS A DRAWING THAT INDICATES FIELD CHANGES MADE TO ADAPT TO FIELD  
24 CONDITIONS, FIELD CHANGES RESULTING FROM CHANGE ORDERS OR BURIED AND  
25 CONCEALED INSTALLATION OF PIPING, CONDUIT AND UTILITY SERVICES.

26 (g) PREPARATION OF STATUS REPORTS AFTER THE CONSTRUCTION, ALTERATION  
27 OR REPAIR WORK HAS BEGUN DETAILING THE PROGRESS OF WORK PERFORMED, INCLUDING  
28 PREPARATION OF ANY OF THE FOLLOWING:

29 (i) MASTER SCHEDULE UPDATES.

30 (ii) CONSTRUCTION, ALTERATION OR REPAIR CASH FLOW PROJECTION DATES.

31 (iii) SITE REPORTS MADE ON A PERIODIC BASIS.

32 (iv) IDENTIFICATION OF DISCREPANCIES, CONFLICTS OR AMBIGUITIES IN  
33 CONSTRUCTION, ALTERATION OR REPAIR WORK DOCUMENTS THAT REQUIRE RESOLUTION.

34 (v) IDENTIFICATION OF ANY HEALTH AND SAFETY ISSUES THAT HAVE ARISEN IN  
35 CONNECTION WITH THE CONSTRUCTION, ALTERATION OR REPAIR WORK.

1 (h) PREPARATION OF DAILY LOGS OF CONSTRUCTION, ALTERATION OR REPAIR  
2 WORK, INCLUDING DOCUMENTATION OF PERSONNEL, WEATHER CONDITIONS AND ON-SITE  
3 OCCURRENCES.

4 (i) PREPARATION OF ANY SUBMITTALS OR SHOP DRAWINGS USED BY THE  
5 HIGHWAY, STREET AND BRIDGE CONSTRUCTION CONTRACTOR TO ILLUSTRATE DETAILS OF  
6 THE CONSTRUCTION, ALTERATION OR REPAIR WORK.

7 (j) ADMINISTRATION OR SUPERVISION OF ANY OTHER ACTIVITIES FOR WHICH A  
8 HIGHWAY, STREET OR BRIDGE CONSTRUCTION CONTRACTOR RECEIVES A CERTIFICATE OF  
9 PAYMENT OR CERTIFICATE FOR FINAL PAYMENT BASED ON THE PROGRESS OF  
10 CONSTRUCTION, ALTERATION OR REPAIR WORK PERFORMED ON THE PROJECT.

11 2. "DESIGN PHASE SERVICES" MEANS SERVICES FOR DEVELOPING AND  
12 COMPLETING A DESIGN FOR A PROJECT THAT ARE NOT CONSTRUCTION PHASE SERVICES,  
13 INCLUDING THE FOLLOWING:

14 (a) EVALUATING SURVEYS, REPORTS, TEST RESULTS OR ANY OTHER INFORMATION  
15 ON SITE CONDITIONS FOR THE PROJECT, INCLUDING PHYSICAL CHARACTERISTICS, LEGAL  
16 LIMITATIONS AND UTILITY LOCATIONS FOR THE SITE.

17 (b) EVALUATING ANY CRITERIA OR PROGRAMMING OBJECTIVES FOR THE PROJECT  
18 TO ASCERTAIN REQUIREMENTS FOR THE PROJECT, SUCH AS PHYSICAL REQUIREMENTS  
19 AFFECTING COST OR PROJECTED UTILIZATION OF THE PROJECT.

20 (c) PREPARING DRAWINGS AND SPECIFICATIONS FOR ARCHITECTURAL PROGRAM  
21 DOCUMENTS, SCHEMATIC DESIGN DOCUMENTS, DESIGN DEVELOPMENT DOCUMENTS,  
22 CONSTRUCTION, ALTERATION OR REPAIR DOCUMENTS OR DOCUMENTS THAT IDENTIFY THE  
23 SCOPE OF OR MATERIALS FOR THE PROJECT.

24 (d) PREPARING AN INITIAL SCHEDULE FOR THE PROJECT, EXCLUDING THE  
25 PREPARATION OF UPDATES TO THE MASTER SCHEDULE AFTER CONSTRUCTION, ALTERATION  
26 OR REPAIR WORK HAS BEGUN.

27 (e) PREPARING PRELIMINARY ESTIMATES OF COSTS OF CONSTRUCTION,  
28 ALTERATION OR REPAIR WORK BEFORE COMPLETION OF THE FINAL DESIGN OF THE  
29 PROJECT, INCLUDING AN ESTIMATE OR SCHEDULE OF VALUES FOR ANY OF THE  
30 FOLLOWING:

31 (i) LABOR, MATERIALS, MACHINERY AND EQUIPMENT, TOOLS, WATER, HEAT,  
32 UTILITIES, TRANSPORTATION AND OTHER FACILITIES AND SERVICES USED IN THE  
33 EXECUTION AND COMPLETION OF CONSTRUCTION, ALTERATION OR REPAIR WORK,  
34 REGARDLESS OF WHETHER THEY ARE TEMPORARY OR PERMANENT OR WHETHER THEY ARE  
35 INCORPORATED IN THE CONSTRUCTION, ALTERATION OR REPAIR.

36 (ii) THE COST OF LABOR AND MATERIALS TO BE FURNISHED BY THE OWNER OF  
37 THE PROPERTY.

1 (iii) ANY FEE PAID BY THE OWNER OF THE REAL PROPERTY TO THE HIGHWAY,  
2 STREET OR BRIDGE CONSTRUCTION CONTRACTOR PURSUANT TO THE CONTRACT FOR  
3 CONSTRUCTION, ALTERATION OR REPAIR WORK.

4 (iv) ANY BOND AND INSURANCE PREMIUMS.

5 (v) ANY APPLICABLE TAXES.

6 (vi) ANY CONTINGENCY FEES FOR THE HIGHWAY, STREET OR BRIDGE  
7 CONSTRUCTION CONTRACTOR THAT MAY BE USED BEFORE FINAL COMPLETION OF THE  
8 PROJECT.

9 (f) REVIEWING AND EVALUATING COST ESTIMATES AND PROJECT DOCUMENTS TO  
10 PREPARE RECOMMENDATIONS ON SITE USE, SITE IMPROVEMENTS, SELECTION OF  
11 MATERIALS, BUILDING SYSTEMS AND EQUIPMENT, CONSTRUCTION, ALTERATION OR REPAIR  
12 FEASIBILITY, AVAILABILITY OF MATERIALS AND LABOR, LOCAL CONSTRUCTION,  
13 ALTERATION OR REPAIR ACTIVITY AS RELATED TO SCHEDULES AND TIME REQUIREMENTS  
14 FOR CONSTRUCTION, ALTERATION OR REPAIR WORK.

15 (g) PREPARING THE PLAN AND PROCEDURES FOR SELECTION OF SUBCONTRACTORS,  
16 INCLUDING ANY PREQUALIFICATIONS OF SUBCONTRACTOR CANDIDATES.

17 3. "HIGHWAY, STREET OR BRIDGE CONTRACTOR" MEANS A CONTRACTOR WHO HOLDS  
18 A CLASSIFICATION A LICENSE FROM THE REGISTRAR OF CONTRACTORS AND WHO  
19 SUPERVISES, PERFORMS OR COORDINATES THE CONSTRUCTION, ALTERATION OR REPAIR OF  
20 A HIGHWAY, STREET OR BRIDGE, INCLUDING THE CONTRACTING, IF ANY, WITH ANY  
21 SUBCONTRACTORS.

22 4. "PROFESSIONAL SERVICES" MEANS ARCHITECT SERVICES, ASSAYER SERVICES,  
23 ENGINEER SERVICES, GEOLOGIST SERVICES, LAND SURVEYING SERVICES OR LANDSCAPE  
24 ARCHITECT SERVICES THAT ARE WITHIN THE SCOPE OF THOSE SERVICES AS PROVIDED IN  
25 TITLE 32, CHAPTER 1 AND FOR WHICH GROSS PROCEEDS OF SALES OR GROSS INCOME HAS  
26 NOT OTHERWISE BEEN DEDUCTED UNDER SUBSECTION B, PARAGRAPH 3 OF THIS SECTION.

27 Sec. 20. Section 42-5151, Arizona Revised Statutes, is amended to  
28 read:

29 42-5151. Definitions

30 In this article, unless the context otherwise requires:

31 1. "Ancillary services" means those services so designated in federal  
32 energy regulatory commission order 888 adopted in 1996 that include the  
33 services necessary to support the transmission of electricity from resources  
34 to loads while maintaining reliable operation of the transmission system  
35 according to good utility practice.

1           2. "CONTRACTING" MEANS ENGAGING IN BUSINESS AS A CONTRACTOR.

2           3. "CONTRACTOR" IS SYNONYMOUS WITH THE TERM "BUILDER" AND MEANS ANY  
3 PERSON OR ORGANIZATION THAT UNDERTAKES TO OR OFFERS TO UNDERTAKE TO, OR  
4 PURPORTS TO HAVE THE CAPACITY TO UNDERTAKE TO, OR SUBMITS A BID TO, OR DOES  
5 PERSONALLY OR BY OR THROUGH OTHERS, MODIFY ANY BUILDING, HIGHWAY, ROAD,  
6 RAILROAD, EXCAVATION, MANUFACTURED BUILDING OR OTHER STRUCTURE, PROJECT,  
7 DEVELOPMENT OR IMPROVEMENT, OR TO DO ANY PART OF SUCH A PROJECT, INCLUDING  
8 THE ERECTION OF SCAFFOLDING OR OTHER STRUCTURE OR WORKS IN CONNECTION WITH  
9 SUCH A PROJECT, AND INCLUDES SUBCONTRACTORS AND SPECIALTY CONTRACTORS. FOR  
10 ALL PURPOSES OF TAXATION OR DEDUCTION, THIS DEFINITION GOVERNS WITHOUT REGARD  
11 TO WHETHER OR NOT THE CONTRACTOR IS ACTING IN FULFILLMENT OF A CONTRACT.

12           ~~2.~~ 4. "Electric distribution service" means distributing electricity  
13 to retail electric customers through the use of electric distribution  
14 facilities.

15           ~~3.~~ 5. "Electric generation service" means providing electricity for  
16 sale to retail electric customers but excluding electric distribution or  
17 transmission services.

18           ~~4.~~ 6. "Electric transmission service" means transmitting electricity  
19 to retail electric customers or to electric distribution facilities so  
20 classified by the federal energy regulatory commission or, to the extent  
21 permitted by law, so classified by the Arizona corporation commission.

22           ~~5.~~ 7. "Electric utility services" means the business of providing  
23 electric ancillary services, electric distribution services, electric  
24 generation services, electric transmission services and other services  
25 related to providing electricity.

26           ~~6.~~ 8. "Electricity" means electric energy, electric capacity or  
27 electric capacity and energy.

28           ~~7.~~ 9. "Electricity supplier" means a person, whether acting in a  
29 principal, agent or other capacity, that offers to sell electricity to a  
30 retail electric customer in this state.

1           ~~8.~~ 10. "Natural gas" means natural or artificial gas, and includes  
2 methane and propane gas, the natural gas commodity, natural gas pipeline  
3 capacity or natural gas commodity and pipeline capacity.

4           ~~9.~~ 11. "Natural gas utility services" means the business of selling  
5 natural gas or providing natural gas transportation services or other  
6 services related to providing natural gas.

7           ~~10.~~ 12. "Notice" means written notice served personally or by  
8 certified mail and addressed to the last known address of the person to whom  
9 such notice is given.

10          ~~11.~~ 13. "Other services" includes metering, meter reading services,  
11 billing and collecting services.

12          ~~12.~~ 14. "Person" means an individual, firm, partnership, joint  
13 venture, association, corporation, estate, trust, receiver or syndicate, this  
14 state or a county, city, municipality, district or other political  
15 subdivision or agency thereof.

16          ~~13.~~ 15. "Purchase" means any transfer, exchange or barter, conditional  
17 or otherwise, in any manner or by any means, of tangible personal property  
18 for a consideration, including transactions by which the possession of  
19 property is transferred but the seller retains the title as security for  
20 payment.

21          ~~14.~~ 16. "Purchase price" or "sales price" means the total amount for  
22 which tangible personal property is sold, including any services that are a  
23 part of the sale, valued in money, whether paid in money or otherwise, and  
24 any amount for which credit is given to the purchaser by the seller without  
25 any deduction on account of the cost of the property sold, materials used,  
26 labor or services performed, interest charged, losses or other expenses, but  
27 does not include:

28           (a) Discounts allowed and taken.

29           (b) Charges for labor or services in installing, remodeling or  
30 repairing.

1 (c) Freight costs billed to and collected from a purchaser by a  
2 retailer for tangible personal property which, on the order of the retailer,  
3 is shipped directly from a manufacturer or wholesaler to the purchaser.

4 (d) Amounts attributable to federal excise taxes imposed by 26 United  
5 States Code section 4001, 4051 or 4081 on sales of heavy trucks and trailers  
6 and automobiles or on sales of use fuel, as defined in section 28-5601.

7 (e) The value of merchandise that is traded in on the purchase of new  
8 or pre-owned merchandise when the trade-in allowance is deducted from the  
9 sales price of the new or pre-owned merchandise before the completion of the  
10 sale.

11 ~~15-~~ 17. "Retail electric customer" means a person who purchases  
12 electricity for that person's own use, including use in that person's trade  
13 or business, and not for resale, redistribution or retransmission.

14 ~~16-~~ 18. "Retail natural gas customer" means a person who purchases  
15 natural gas for that person's own use, including use in that person's trade  
16 or business, and not for resale, redistribution or retransmission.

17 ~~17-~~ 19. "Retailer" includes:

18 (a) Every person engaged in the business of making sales of tangible  
19 personal property for storage, use or other consumption or in the business of  
20 making sales at auction of tangible personal property owned by that person or  
21 others for storage, use or other consumption. If in the opinion of the  
22 department it is necessary for the efficient administration of this article  
23 to regard any salesmen, representatives, peddlers or canvassers as the agents  
24 of the dealers, distributors, supervisors or employers under whom they  
25 operate or from whom they obtain the tangible personal property sold by them,  
26 regardless of whether they are making sales on their own behalf or on behalf  
27 of such dealers, distributors, supervisors or employers, the department may  
28 so regard them and may regard the dealers, distributors, supervisors or  
29 employers as retailers for purposes of this article.

30 (b) A person who solicits orders for tangible personal property by  
31 mail if the solicitations are substantial and recurring or if the retailer  
32 benefits from any banking, financing, debt collection, telecommunication,

1 television shopping system, cable, optic, microwave or other communication  
2 system or marketing activities occurring in this state or benefits from the  
3 location in this state of authorized installation, servicing or repair  
4 facilities.

5 ~~18.~~ 20. "Solar daylighting" means a device that is specifically  
6 designed to capture and redirect the visible portion of the solar beam, while  
7 controlling the infrared portion, for use in illuminating interior building  
8 spaces in lieu of artificial lighting.

9 ~~19.~~ 21. "Solar energy device" means a system or series of mechanisms  
10 designed primarily to provide heating, to provide cooling, to produce  
11 electrical power, to produce mechanical power, to provide solar daylighting  
12 or to provide any combination of the foregoing by means of collecting and  
13 transferring solar generated energy into such uses by either active or  
14 passive means, including wind generator systems that produce electricity.  
15 Solar energy systems may also have the capability of storing solar energy for  
16 future use. Passive systems shall clearly be designed as a solar energy  
17 device, such as a trombe wall, and not merely as a part of a normal  
18 structure, such as a window.

19 ~~20.~~ 22. "Storage" means keeping or retaining tangible personal  
20 property purchased from a retailer for any purpose except sale in the regular  
21 course of business or subsequent use solely outside this state.

22 ~~21.~~ 23. "Taxpayer" means any retailer or person storing, using or  
23 consuming tangible personal property the storage, use or consumption of which  
24 is subject to the tax imposed by this article when such tax was not paid to a  
25 retailer.

26 ~~22.~~ 24. "Use or consumption" means the exercise of any right or power  
27 over tangible personal property incidental to owning the property except  
28 holding for sale or selling the property in the regular course of business.

29 ~~23.~~ 25. "Utility business" means a person that is engaged in the  
30 business of providing electric utility services to retail electric customers  
31 or natural gas utility services to retail natural gas customers.

1           Sec. 21. Section 42-5155, Arizona Revised Statutes, is amended to  
2 read:

3           42-5155. Levy of tax; tax rate; purchaser's liability

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

10           B. The tax imposed by this section applies to any purchaser ~~which~~ **THAT**  
11 purchased tangible personal property for resale but subsequently uses or  
12 consumes the property.

13           **C. THE PURCHASE OF TANGIBLE PERSONAL PROPERTY BY A CONTRACTOR,**  
14 **REGARDLESS OF WHETHER IT WILL BE INCORPORATED INTO A BUILDING OR STRUCTURE,**  
15 **IS CONSIDERED TO BE A PURCHASE AT RETAIL AND IS SUBJECT TO TAXATION UNDER**  
16 **THIS SECTION UNLESS THE CONTRACTOR PROVIDES TO THE RETAILER A CERTIFICATE**  
17 **THAT IS SIGNED BY THE OWNER OF THE PROPERTY TO BE IMPROVED AND THAT STATES**  
18 **THAT THE PERSONAL PROPERTY PURCHASED BY THE CONTRACTOR WILL BE USED FOR A**  
19 **PURPOSE IDENTIFIED IN SECTION 42-5159, SUBSECTION A OR B. IF A PERSON WHO IS**  
20 **IN THE BUSINESS OF SELLING TANGIBLE PERSONAL PROPERTY AT RETAIL ALSO ENGAGES**  
21 **IN BUSINESS AS A CONTRACTOR AND REMOVES TANGIBLE PERSONAL PROPERTY FROM**  
22 **RETAIL STOCK FOR USE IN CONTRACTING ACTIVITIES, THE PURCHASE PRICE OF THAT**  
23 **PERSONAL PROPERTY SHALL BE SUBJECT TO TAX UNDER SUBSECTION B OF THIS SECTION.**

24           ~~C.~~ **D.** The tax rate shall equal the rate of tax prescribed by section  
25 42-5010, subsection A as applied to retailers and utility businesses  
26 according to the respective classification under articles 1 and 2 of this  
27 chapter for the same type of transaction or business activity.

28           ~~D.~~ **E.** In addition to the rate prescribed by subsection ~~C.~~ **D** of this  
29 section, if approved by the qualified electors voting at a statewide general  
30 election, an additional rate increment of six-tenths of one per cent is  
31 imposed and shall be collected through June 30, 2021. The taxpayer shall pay  
32 taxes pursuant to this subsection at the same time and in the same manner as

1 under subsection ~~E~~ D of this section. The department shall separately  
2 account for the revenues collected with respect to the rate imposed pursuant  
3 to this subsection, and the state treasurer shall pay all of those revenues  
4 in the manner prescribed by section 42-5029, subsection E.

5 ~~E~~ F. Every person storing, using or consuming in this state tangible  
6 personal property purchased from a retailer or utility business is liable for  
7 the tax. The person's liability is not extinguished until the tax has been  
8 paid to this state.

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

17 Sec. 22. Section 42-5159, Arizona Revised Statutes, is amended to  
18 read:

19 42-5159. Exemptions

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

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

26 2. Tangible personal property the sale or use of which has already  
27 been subjected to an excise tax at a rate equal to or exceeding the tax  
28 imposed by this article under the laws of another state of the United States.  
29 If the excise tax imposed by the other state is at a rate less than the tax  
30 imposed by this article, the tax imposed by this article is reduced by the  
31 amount of the tax already imposed by the other state.

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

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

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

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

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

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

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

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

7           11. Advertising supplements ~~which~~ THAT are intended for sale with  
8 newspapers published in this state and ~~which~~ THAT have already been subjected  
9 to an excise tax under the laws of another state in the United States ~~which~~  
10 THAT equals or exceeds the tax imposed by this article.

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

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

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

17           13. Tangible personal property purchased by:

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

21           (b) A hospital operated by this state or a political subdivision of  
22 this state.

23           (c) A licensed nursing care institution or a licensed residential care  
24 institution or a residential care facility operated in conjunction with a  
25 licensed nursing care institution or a licensed kidney dialysis center, which  
26 provides medical services, nursing services or health related services and is  
27 not used or held for profit.

28           (d) A qualifying health care organization, as defined in section  
29 42-5001, if the tangible personal property is used by the organization solely  
30 to provide health and medical related educational and charitable services.

31           (e) A qualifying health care organization as defined in section  
32 42-5001 if the organization is dedicated to providing educational,

1 therapeutic, rehabilitative and family medical education training for blind,  
2 visually impaired and multihandicapped children from the time of birth to age  
3 twenty-one.

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

9 (g) A person that is subject to tax under article 1 of this chapter by  
10 reason of being engaged in business classified under the ~~prime contracting~~  
11 ~~MANUFACTURED BUILDING DEALER~~ classification under section 42-5075, ~~OR THE~~  
12 ~~HIGHWAY, STREET AND BRIDGE CONSTRUCTION CLASSIFICATION UNDER SECTION 42-5078~~  
13 or a subcontractor working under the control of a ~~prime~~ HIGHWAY, STREET OR  
14 BRIDGE contractor, if the tangible personal property is ~~any~~ EITHER of the  
15 following:

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

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

21 (ii) ~~TO BE INCORPORATED OR FABRICATED BY THE PERSON INTO A HIGHWAY,~~  
22 ~~STREET OR BRIDGE.~~

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

27 (i) A qualifying community health center as defined in section  
28 42-5001.

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

32 (k) A person engaged in business under the transient lodging  
33 classification if the property is a personal hygiene item or articles used by  
34 human beings for food, drink or condiment, except alcoholic beverages, which

1 are furnished without additional charge to and intended to be consumed by the  
2 transient during the transient's occupancy.

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

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

16 15. Tangible personal property sold by:

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

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

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

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

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

5           18. Prescription eyeglasses and contact lenses.

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

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

8           21. Durable medical equipment ~~which~~ THAT has a centers for medicare and  
9 medicaid services common procedure code, is designated reimbursable by  
10 medicare, is prescribed by a person who is licensed under title 32, chapter  
11 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily  
12 used to serve a medical purpose, is generally not useful to a person in the  
13 absence of illness or injury and is appropriate for use in the home.

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

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

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

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

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

1           27. Lottery tickets or shares purchased pursuant to title 5, chapter  
2 5.1, article 1.

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

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

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

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

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

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

25           (b) Public educational institutions.

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

29           33. Natural gas or liquefied petroleum gas used to propel a motor  
30 vehicle.

31           34. Machinery, equipment, technology or related supplies that are only  
32 useful to assist a person who is physically disabled as defined in section

1 46-191, has a developmental disability as defined in section 36-551 or has a  
2 head injury as defined in section 41-3201 to be more independent and  
3 functional.

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

17 36. Food, drink and condiment purchased for consumption within the  
18 premises of any prison, jail or other institution under the jurisdiction of  
19 the state department of corrections, the department of public safety, the  
20 department of juvenile corrections or a county sheriff.

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

25 38. Tangible personal property ~~which~~ THAT is or directly enters into  
26 and becomes an ingredient or component part of cards used as prescription  
27 plan identification cards.

28 39. Overhead materials or other tangible personal property that is used  
29 in performing a contract between the United States government and a  
30 manufacturer, modifier, assembler or repairer, including property used in  
31 performing a subcontract with a government contractor who is a manufacturer,  
32 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~~ THAT IS used or consumed  
6 in the performance of a contract, the cost of which is charged to an overhead  
7 expense account and allocated to various contracts based ~~upon~~ ON 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. FOR THE  
19 PURPOSES OF THIS SUBDIVISION, "CONTRACTOR" HAS ITS ORDINARY AND COMMON  
20 MEANING AND DOES NOT HAVE THE MEANING PRESCRIBED IN SECTION 42-5151.

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

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

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

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

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

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

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

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

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

27           47. Tangible personal property purchased to be incorporated or  
28 installed as part of ~~environmental response or remediation activities under~~  
29 ~~section 42-5075, subsection B, paragraph 6~~ SITE PREPARATION, CONSTRUCTING,  
30 FURNISHING OR INSTALLING MACHINERY, EQUIPMENT OR OTHER TANGIBLE PERSONAL  
31 PROPERTY, INCLUDING STRUCTURES NECESSARY TO PROTECT EXEMPT INCORPORATED  
32 MATERIALS OR INSTALLED MACHINERY OR EQUIPMENT, AND TANGIBLE PERSONAL PROPERTY  
33 INCORPORATED, TO PERFORM ONE OR MORE OF THE FOLLOWING ACTIONS IN RESPONSE TO

1 A RELEASE OR SUSPECTED RELEASE OF A HAZARDOUS SUBSTANCE, POLLUTANT OR  
2 CONTAMINANT FROM A FACILITY TO THE ENVIRONMENT, UNLESS THE RELEASE WAS  
3 AUTHORIZED BY A PERMIT ISSUED BY A GOVERNMENTAL AUTHORITY:

4 (a) ACTIONS TO MONITOR, ASSESS AND EVALUATE SUCH A RELEASE OR A  
5 SUSPECTED RELEASE.

6 (b) EXCAVATION, REMOVAL AND TRANSPORTATION OF CONTAMINATED SOIL AND  
7 ITS TREATMENT OR DISPOSAL.

8 (c) TREATMENT OF CONTAMINATED SOIL BY VAPOR EXTRACTION, CHEMICAL OR  
9 PHYSICAL STABILIZATION, SOIL WASHING OR BIOLOGICAL TREATMENT TO REDUCE THE  
10 CONCENTRATION, TOXICITY OR MOBILITY OF A CONTAMINANT.

11 (d) PUMPING AND TREATMENT OR IN SITU TREATMENT OF CONTAMINATED  
12 GROUNDWATER OR SURFACE WATER TO REDUCE THE CONCENTRATION OR TOXICITY OR A  
13 CONTAMINANT.

14 (e) THE INSTALLATION OF STRUCTURES, SUCH AS CUTOFF WALLS OR CAPS, TO  
15 CONTAIN CONTAMINANTS PRESENT IN GROUNDWATER OR SOIL AND PREVENT THEM FROM  
16 REACHING A LOCATION WHERE THEY COULD THREATEN HUMAN HEALTH OR WELFARE OR THE  
17 ENVIRONMENT.

18 THIS PARAGRAPH DOES NOT INCLUDE ASBESTOS REMOVAL OR THE CONSTRUCTION OR USE OF  
19 ANCILLARY STRUCTURES SUCH AS MAINTENANCE SHEDS, OFFICES OR STORAGE FACILITIES  
20 FOR UNATTACHED EQUIPMENT, POLLUTION CONTROL EQUIPMENT, FACILITIES OR OTHER  
21 CONTROL ITEMS REQUIRED OR TO BE USED BY A PERSON TO PREVENT OR CONTROL  
22 CONTAMINATION BEFORE IT REACHES THE ENVIRONMENT.

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

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

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

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

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

10          51. Motor vehicle fuel and use fuel to a qualified business under  
11 section 41-1516 for off-road use in harvesting, processing or transporting  
12 qualifying forest products removed from qualifying projects as defined in  
13 section 41-1516.

14          52. Repair parts installed in equipment used directly by a qualified  
15 business under section 41-1516 in harvesting, processing or transporting  
16 qualifying forest products removed from qualifying projects as defined in  
17 section 41-1516.

18          53. Renewable energy credits or any other unit created to track energy  
19 derived from renewable energy resources. For the purposes of this paragraph,  
20 "renewable energy credit" means a unit created administratively by the  
21 corporation commission or governing body of a public power entity to track  
22 kilowatt hours of electricity derived from a renewable energy resource or the  
23 kilowatt hour equivalent of conventional energy resources displaced by  
24 distributed renewable energy resources.

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

28           1. Machinery, or equipment, used directly in manufacturing,  
29 processing, fabricating, job printing, refining or metallurgical operations.  
30 The terms "manufacturing", "processing", "fabricating", "job printing",  
31 "refining" and "metallurgical" as used in this paragraph refer to and include  
32 those operations commonly understood within their ordinary meaning.

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

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

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

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

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

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

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

28 (a) A person holding a federal certificate of public convenience and  
29 necessity, a supplemental air carrier certificate under federal aviation  
30 regulations (14 Code of Federal Regulations part 121) or a foreign air  
31 carrier permit for air transportation for use as or in conjunction with or

1 becoming a part of aircraft to be used to transport persons, property or  
2 United States mail in intrastate, interstate or foreign commerce.

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

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

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

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

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

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

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

1           (a) "New machinery and equipment" means machinery or equipment ~~which~~  
2           ~~THAT~~ has never been sold at retail except pursuant to leases or rentals ~~which~~  
3           ~~THAT~~ do not total two years or more.

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

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

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

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

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

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

30                     (ii) Over two-thirds of the transmissions, measured in megabytes,  
31                     transmitted by or on behalf of those direct broadcast television or data

1 transmission services during the test period were transmitted by the facility  
2 to or on behalf of those services.

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

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

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

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

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

28 18. Machinery or equipment, including related structural components,  
29 that is employed in connection with manufacturing, processing, fabricating,  
30 job printing, refining, mining, natural gas pipelines, metallurgical  
31 operations, telecommunications, producing or transmitting electricity or  
32 research and development and that is used directly to meet or exceed rules or

1 regulations adopted by the federal energy regulatory commission, the United  
2 States environmental protection agency, the United States nuclear regulatory  
3 commission, the Arizona department of environmental quality or a political  
4 subdivision of this state to prevent, monitor, control or reduce land, water  
5 or air pollution.

6 19. Machinery and equipment that are used in the commercial production  
7 of livestock, livestock products or agricultural, horticultural, viticultural  
8 or floricultural crops or products in this state and that are used directly  
9 and primarily to prevent, monitor, control or reduce air, water or land  
10 pollution.

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

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

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

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

25 21. Qualifying equipment that is purchased from and after June 30, 2004  
26 through June 30, 2024 by a qualified business under section 41-1516 for  
27 harvesting or processing qualifying forest products removed from qualifying  
28 projects as defined in section 41-1516. To qualify for this exemption, the  
29 qualified business must obtain and present its certification from the Arizona  
30 commerce authority at the time of purchase.

31 C. The exemptions provided by subsection B of this section do not  
32 include:

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

5           2. Janitorial equipment and hand tools.

6           3. Office equipment, furniture and supplies.

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

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

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

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

17          8. MACHINERY AND EQUIPMENT OR TANGIBLE PERSONAL PROPERTY USED BY A  
18          CONTRACTOR IN THE PERFORMANCE OF A CONTRACT.

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

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

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

1           E. The tax levied by this article does not apply to the purchase of  
2 solar energy devices from a retailer that is registered with the department  
3 as a solar energy retailer or a solar energy contractor.

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

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

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

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

17           1. "Aircraft" includes:

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

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

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

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

1           Sec. 23. Section 42-5160, Arizona Revised Statutes, is amended to  
2 read:

3           42-5160. Liability for tax

4           Any person who uses, stores or consumes any tangible personal property  
5 ~~upon~~ ON which a tax is imposed by this article and ~~upon~~ ON which the tax has  
6 not been collected by a registered retailer or utility business shall pay the  
7 tax as provided by this article, but every retailer and utility business  
8 maintaining a place of business in this state and making sales of tangible  
9 personal property for storage, use or other consumption in this state shall  
10 collect the tax from the purchaser or user unless the property is exempt  
11 under this article or the purchaser or user pays the tax directly to the  
12 department as provided by section 42-5167. In the case of a manufactured  
13 building that is purchased from a dealer outside this state and brought into  
14 this state, any person who is hired to set up the manufactured building and  
15 who is licensed pursuant to title 41, chapter 16, article 4 shall collect the  
16 tax from the owner and remit the tax with any tax that is due under the ~~prime~~  
17 ~~contracting~~ MANUFACTURED BUILDING DEALER classification PURSUANT TO SECTION  
18 42-5075.

19           Sec. 24. Section 42-6001, Arizona Revised Statutes, is amended to  
20 read:

21           42-6001. Collection and administration of transaction privilege  
22 tax and affiliated excise taxes: committee

23           A. The department ~~may~~ SHALL collect and administer any transaction  
24 privilege and affiliated excise taxes, including use tax, severance tax, jet  
25 fuel excise and use tax, and rental occupancy tax, imposed by any city or  
26 town, and the department and any city or town ~~may~~ SHALL enter into  
27 intergovernmental contracts or agreements to provide a uniform method of  
28 administration, collection, audit and licensing of transaction privilege and  
29 affiliated excise taxes imposed by the state or cities or towns pursuant to  
30 title 11, chapter 7, article 3.

31           ~~B. The director may enter into agreements with cities and towns of~~  
32 ~~this state that levy transaction privilege and affiliated excise taxes to~~

1 ~~provide for unified or coordinated licensing, collection and auditing~~  
2 ~~programs for such taxes levied by cities and towns and taxes levied pursuant~~  
3 ~~to chapter 5 of this title. Such cities and towns may enter into agreements~~  
4 ~~with the department to provide for unified or coordinated licensing,~~  
5 ~~collection and auditing programs for such transaction privilege and~~  
6 ~~affiliated excise taxes levied by such cities and towns and for taxes levied~~  
7 ~~pursuant to chapter 5 of this title.~~

8 ~~C. A city or town that does not enter into an agreement with the~~  
9 ~~department for the collection of municipal transaction privilege and~~  
10 ~~affiliated excise taxes shall report to the department on or before September~~  
11 ~~1 of each year the total amount of those taxes collected by the city or town~~  
12 ~~in the preceding fiscal year.~~

13 ~~D.~~ B. The director shall establish with ~~such~~ THE cities and towns a  
14 uniform licensing, collection and audit committee to direct such unified or  
15 coordinated functions.

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

27 C. THE GOVERNING BODY OF AN INCORPORATED CITY OR TOWN AND THE  
28 DEPARTMENT MAY ENTER INTO AN AGREEMENT WHEREBY:

29 1. THE DEPARTMENT WILL FURNISH PART-TIME OR FULL-TIME PERSONNEL TO  
30 PERFORM AUDIT SERVICES WITHIN THE BOUNDARIES OF THE CITY OR TOWN, AS PROVIDED  
31 IN THE AGREEMENT.



1           Sec. 26. Section 42-6004, Arizona Revised Statutes, is amended to  
2 read:

3           42-6004. Exemption from municipal tax

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

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

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

15           3. Sales of warranty or service contracts.

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

19           ~~5.~~ 4. Interest on finance contracts.

20           ~~6.~~ 5. Dealer documentation fees on the sales of motor vehicles.

21           ~~7.~~ 6. Sales of food or other items purchased with United States  
22 department of agriculture food stamp coupons issued under the food stamp act  
23 of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section  
24 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661,  
25 section 4302; 42 United States Code section 1786) but may impose such a tax  
26 on other sales of food. If a city, town or special taxing district exempts  
27 sales of food from its tax or imposes a different transaction privilege rate  
28 on the gross proceeds of sales or gross income from sales of food and nonfood  
29 items, it shall use the definition of food prescribed by rule adopted by the  
30 department pursuant to section 42-5106.

31           ~~8.~~ 7. Sales of internet access services to the person's subscribers  
32 and customers. For the purposes of this paragraph:

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

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

9 ~~9.~~ 8. The gross proceeds of sales or gross income retained by the  
10 Arizona exposition and state fair board from ride ticket sales at the annual  
11 Arizona state fair.

12 ~~10.~~ 9. Through August 31, 2014, sales of Arizona centennial medallions  
13 by the historical advisory commission.

14 ~~11.~~ 10. The gross proceeds of sales or gross income derived from a  
15 commercial lease in which a reciprocal insurer or a corporation leases real  
16 property to an affiliated corporation. For the purposes of this paragraph:

17 (a) "Affiliated corporation" means a corporation that meets one of the  
18 following conditions:

19 (i) The corporation owns or controls at least eighty per cent of the  
20 lessor.

21 (ii) The corporation is at least eighty per cent owned or controlled  
22 by the lessor.

23 (iii) The corporation is at least eighty per cent owned or controlled  
24 by a corporation that also owns or controls at least eighty per cent of the  
25 lessor.

26 (iv) The corporation is at least eighty per cent owned or controlled  
27 by a corporation that is at least eighty per cent owned or controlled by a  
28 reciprocal insurer.

29 (b) For the purposes of subdivision (a) of this paragraph, ownership  
30 and control are determined by reference to the voting shares of a  
31 corporation.

1 (c) "Reciprocal insurer" has the same meaning prescribed in section  
2 20-762.

3 ~~12.~~ 11. The gross proceeds of sales or gross income derived from a  
4 commercial lease in which a corporation leases real property to a corporation  
5 of which at least eighty per cent of the voting shares of each corporation  
6 are owned by the same shareholders.

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

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

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

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

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

25 4. Incarcerating or detaining in a privately operated prison, jail or  
26 detention facility prisoners who are under the jurisdiction of the United  
27 States, this state or any other state or a political subdivision of this  
28 state or of any other state.

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

31 ~~6. Any amount attributable to development fees that are incurred in~~  
32 ~~relation to the construction, development or improvement of real property and~~

1 ~~paid by the taxpayer as defined in the model city tax code or by a contractor~~  
2 ~~providing services to the taxpayer. For the purposes of this paragraph:~~

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

5 ~~(b) The attributable amount is equal to the total amount of~~  
6 ~~development fees paid by the taxpayer or by a contractor providing services~~  
7 ~~to the taxpayer and the total development fees credited in exchange for the~~  
8 ~~construction of, contribution to or dedication of real property for providing~~  
9 ~~public infrastructure, public safety or other public services necessary to~~  
10 ~~the development. The real property must be the subject of the development~~  
11 ~~fees.~~

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

16 6. CONSTRUCTION CONTRACTING, OWNER BUILDER SALES OR SPECULATIVE  
17 BUILDING.

18 7. SALES OF TANGIBLE PERSONAL PROPERTY TO A PERSON THAT IS SUBJECT TO  
19 TAX BY REASON OF BEING ENGAGED IN BUSINESS CLASSIFIED UNDER THE HIGHWAY,  
20 STREET AND BRIDGE CONSTRUCTION CLASSIFICATION UNDER SECTION 42-6020, OR TO A  
21 SUBCONTRACTOR WORKING UNDER THE CONTROL OF A HIGHWAY, STREET OR BRIDGE  
22 CONTRACTOR THAT IS SUBJECT TO TAX UNDER SECTION 42-6020, IF THE PROPERTY SOLD  
23 IS TO BE INCORPORATED OR FABRICATED BY THE PERSON INTO A HIGHWAY, STREET OR  
24 BRIDGE.

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

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

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

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

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

10 Sec. 27. Section 42-6005, Arizona Revised Statutes, is amended to  
11 read:

12 42-6005. Unified audit committee: audits

13 A. The director shall establish a unified audit committee with cities  
14 and towns. The committee shall coordinate uniform audit functions. The  
15 committee shall publish uniform guidelines that interpret the model city tax  
16 code and that apply to all cities and towns that have adopted the model city  
17 tax code.

18 B. If the department intends to conduct an audit of a taxpayer, the  
19 department shall notify the cities or towns in which the taxpayer conducts  
20 business. ~~A city or town may accept the audit as a joint audit and may elect  
21 to have a representative participate in the audit provided that no more than  
22 two city or town representatives in total may participate. If a city or town  
23 does not accept the audit as a joint audit, the city or town may not conduct  
24 an audit of the taxpayer for forty-two months from the close of the last tax  
25 period covered by the audit unless an exception applies to that taxpayer  
26 pursuant to section 42-2059. An audit conducted by a city or town serves as  
27 a joint audit for all cities and towns that have taxing jurisdiction.~~

28 C. A taxpayer that conducts business in more than one jurisdiction ~~may~~  
29 ~~allow a joint~~ IS SUBJECT TO A SINGLE audit for all taxing jurisdictions.  
30 ~~A taxpayer that does not allow a joint audit for all taxing jurisdictions is~~  
31 ~~subject to an audit by another jurisdiction at any time. If a joint audit is~~  
32 ~~performed by a city or town, this section shall not be construed to prohibit~~  
33 ~~the department from conducting any audit that does not violate the provisions~~  
34 ~~of section 42-2059.~~

1 D. When the state statutes and model city tax code are the same and  
2 where the department has issued written guidance, the department's  
3 interpretation is binding on cities and towns.

4 Sec. 28. Title 42, chapter 6, Arizona Revised Statutes, is amended by  
5 adding article 1.1, to read:

6 ARTICLE 1.1. MUNICIPAL CONTRACTING EXCISE TAX

7 42-6020. Highway, street and bridge construction; definitions

8 A. THE HIGHWAY, STREET AND BRIDGE CONSTRUCTION CLASSIFICATION IS  
9 COMPRISED OF THE BUSINESS OF CONSTRUCTING A HIGHWAY, STREET OR BRIDGE.

10 B. THE TAX BASE FOR THE HIGHWAY, STREET AND BRIDGE CONSTRUCTION  
11 CLASSIFICATION IS SIXTY-FIVE PER CENT OF THE GROSS PROCEEDS OF SALES OR GROSS  
12 INCOME DERIVED FROM THE BUSINESS. THE FOLLOWING AMOUNTS SHALL BE DEDUCTED  
13 FROM THE GROSS PROCEEDS OF SALES OR GROSS INCOME BEFORE COMPUTING THE TAX  
14 BASE:

15 1. THE GROSS PROCEEDS OF SALES OR GROSS INCOME RECEIVED FROM A  
16 CONTRACT ENTERED INTO FOR THE CONSTRUCTION, ALTERATION, OR REPAIR OF ANY  
17 HIGHWAY, STREET OR BRIDGE LOCATED WITHIN AN ACTIVE MILITARY REUSE ZONE AFTER  
18 THE ZONE IS INITIALLY ESTABLISHED OR RENEWED UNDER SECTION 41-1531. TO BE  
19 ELIGIBLE TO QUALIFY FOR THIS DEDUCTION, BEFORE BEGINNING WORK UNDER THE  
20 CONTRACT, THE HIGHWAY, STREET OR BRIDGE CONTRACTOR MUST HAVE APPLIED FOR A  
21 LETTER OF QUALIFICATION FROM THE DEPARTMENT OF REVENUE.

22 2. THE GROSS PROCEEDS OF SALES OR GROSS INCOME ATTRIBUTABLE TO A  
23 SEPARATE, WRITTEN DESIGN PHASE SERVICES OR PROFESSIONAL SERVICES CONTRACT,  
24 EXECUTED BEFORE THE CONSTRUCTION, ALTERATION OR REPAIR OF A HIGHWAY, STREET  
25 OR BRIDGE BEGINS, REGARDLESS OF WHETHER THE SERVICES ARE PROVIDED SEQUENTIAL  
26 TO OR CONCURRENT WITH CONSTRUCTION ACTIVITIES SUBJECT TO TAX UNDER THIS  
27 SECTION. THIS DEDUCTION DOES NOT INCLUDE THE GROSS PROCEEDS OF SALES OR THE  
28 GROSS INCOME ATTRIBUTABLE TO CONSTRUCTION PHASE SERVICES.

29 3. THE PORTION OF GROSS PROCEEDS OF SALES OR GROSS INCOME ATTRIBUTABLE  
30 TO THE ACTUAL DIRECT COSTS OF PROVIDING ARCHITECTURAL OR ENGINEERING SERVICES  
31 THAT ARE INCORPORATED IN A CONTRACT IS NOT SUBJECT TO TAX UNDER THIS SECTION.  
32 FOR THE PURPOSES OF THIS PARAGRAPH, "DIRECT COSTS" MEANS THE PORTION OF THE  
33 ACTUAL COSTS THAT ARE DIRECTLY EXPENDED IN PROVIDING ARCHITECTURAL OR  
34 ENGINEERING SERVICES.

35 C. SUBCONTRACTORS WHO PERFORM SERVICES WITH RESPECT TO THE  
36 CONSTRUCTION, ALTERATION OR REPAIR OF A HIGHWAY, STREET OR BRIDGE ARE NOT  
37 SUBJECT TO TAX IF THEY CAN DEMONSTRATE THAT THE JOB WAS WITHIN THE CONTROL OF

1 A HIGHWAY, STREET OR BRIDGE CONTRACTOR AND THAT THE HIGHWAY, STREET, OR  
2 BRIDGE CONTRACTOR IS LIABLE FOR THE TAX ON THE GROSS INCOME, GROSS PROCEEDS  
3 OF SALES OR GROSS RECEIPTS ATTRIBUTABLE TO THE JOB AND FROM WHICH THE  
4 SUBCONTRACTORS WERE PAID.

5 D. FOR THE PURPOSES OF THIS SECTION:

6 1. "CONSTRUCTION PHASE SERVICES" MEANS SERVICES FOR THE EXECUTION AND  
7 COMPLETION OF ANY CONSTRUCTION, ALTERATION OR REPAIR OF A HIGHWAY, STREET OR  
8 BRIDGE, INCLUDING THE FOLLOWING:

9 (a) ADMINISTRATION OR SUPERVISION OF ANY CONSTRUCTION, ALTERATION OR  
10 REPAIR OF A HIGHWAY, STREET OR BRIDGE, INCLUDING TEAM MANAGEMENT AND  
11 COORDINATION, SCHEDULING, COST CONTROLS, SUBMITTAL PROCESS MANAGEMENT, FIELD  
12 MANAGEMENT, SAFETY PROGRAM, CLOSE-OUT PROCESS AND WARRANTY PERIOD SERVICES.

13 (b) ADMINISTRATION OR SUPERVISION OF ANY PUNCH LIST. FOR THE PURPOSES  
14 OF THIS SUBDIVISION, "PUNCH LIST" MEANS MINOR ITEMS OF WORK PERFORMED AFTER  
15 SUBSTANTIAL COMPLETION AND BEFORE FINAL COMPLETION OF THE PROJECT.

16 (c) ADMINISTRATION OR SUPERVISION OF ANY WORK PERFORMED PURSUANT TO  
17 CHANGE ORDERS. FOR THE PURPOSES OF THIS SUBDIVISION, "CHANGE ORDER" MEANS A  
18 WRITTEN INSTRUMENT ISSUED AFTER EXECUTION OF A CONTRACT FOR THE CONSTRUCTION  
19 OF A HIGHWAY, STREET OR BRIDGE, PROVIDING FOR ALL OF THE FOLLOWING:

20 (i) THE SCOPE OF CHANGE IN THE WORK.

21 (ii) THE AMOUNT OF AN ADJUSTMENT, IF ANY, TO THE GUARANTEED MAXIMUM  
22 PRICE AS SET IN THE CONTRACT FOR CONSTRUCTION OF THE HIGHWAY, STREET OR  
23 BRIDGE. FOR PURPOSES OF THIS ITEM, "GUARANTEED MAXIMUM PRICE" MEANS THE  
24 AMOUNT GUARANTEED TO BE THE MAXIMUM AMOUNT DUE TO HIGHWAY, STREET OR BRIDGE  
25 CONTRACTOR FOR THE PERFORMANCE OF THE CONSTRUCTION, ALTERATION OR REPAIR OF A  
26 HIGHWAY, STREET OR BRIDGE.

27 (iii) THE EXTENT OF AN ADJUSTMENT, IF ANY TO THE CONTRACT TIME OF  
28 PERFORMANCE SET FORTH IN THE CONTRACT.

29 (d) ADMINISTRATION OR SUPERVISION OF ANY CONSTRUCTION, ALTERATION OR  
30 REPAIR WORK PERFORMED PURSUANT TO CHANGE DIRECTIVES. FOR THE PURPOSES OF  
31 THIS SUBSECTION, "CHANGE DIRECTIVE" MEANS A WRITTEN ORDER DIRECTING A CHANGE  
32 IN CONSTRUCTION, ALTERATION OR REPAIR WORK BEFORE AGREEMENT ON AN ADJUSTMENT  
33 OF THE GUARANTEED MAXIMUM PRICE OR CONTRACT TIME.

34 (e) INSPECTION TO DETERMINE THE DATES OF SUBSTANTIAL COMPLETION OR  
35 FINAL COMPLETION.

36 (f) PREPARATION OF ANY MANUALS, WARRANTIES, AS-BUILT DRAWINGS, SPARES  
37 OR OTHER ITEMS THE HIGHWAY, STREET OR BRIDGE CONSTRUCTION CONTRACTOR MUST

1 FURNISH PURSUANT TO A CONTRACT FOR THE CONSTRUCTION, ALTERATION OR REPAIR OF  
2 A HIGHWAY, STREET OR BRIDGE. FOR PURPOSES OF THIS SUBDIVISION, "AS-BUILT  
3 DRAWING" MEANS A DRAWING THAT INDICATES FIELD CHANGES MADE TO ADAPT TO FIELD  
4 CONDITIONS, FIELD CHANGES RESULTING FROM CHANGE ORDERS OR BURIED AND  
5 CONCEALED INSTALLATION OF PIPING, CONDUIT AND UTILITY SERVICES.

6 (g) PREPARATION OF STATUS REPORTS AFTER THE CONSTRUCTION, ALTERATION  
7 OR REPAIR WORK HAS BEGUN DETAILING THE PROGRESS OF WORK PERFORMED, INCLUDING  
8 PREPARATION OF ANY OF THE FOLLOWING:

9 (i) MASTER SCHEDULE UPDATES.

10 (ii) CONSTRUCTION, ALTERATION OR REPAIR CASH FLOW PROJECTION DATES.

11 (iii) SITE REPORTS MADE ON A PERIODIC BASIS.

12 (iv) IDENTIFICATION OF DISCREPANCIES, CONFLICTS OR AMBIGUITIES IN  
13 CONSTRUCTION, ALTERATION OR REPAIR WORK DOCUMENTS THAT REQUIRE RESOLUTION.

14 (v) IDENTIFICATION OF ANY HEALTH AND SAFETY ISSUES THAT HAVE ARISEN IN  
15 CONNECTION WITH THE CONSTRUCTION, ALTERATION OR REPAIR WORK.

16 (h) PREPARATION OF DAILY LOGS OF CONSTRUCTION, ALTERATION OR REPAIR  
17 WORK, INCLUDING DOCUMENTATION OF PERSONNEL, WEATHER CONDITIONS AND ON-SITE  
18 OCCURRENCES.

19 (i) PREPARATION OF ANY SUBMITTALS OR SHOP DRAWINGS USED BY THE  
20 HIGHWAY, STREET AND BRIDGE CONSTRUCTION CONTRACTOR TO ILLUSTRATE DETAILS OF  
21 THE CONSTRUCTION, ALTERATION OR REPAIR WORK.

22 (j) ADMINISTRATION OR SUPERVISION OF ANY OTHER ACTIVITIES FOR WHICH A  
23 HIGHWAY, STREET OR BRIDGE CONSTRUCTION CONTRACTOR RECEIVES A CERTIFICATE OF  
24 PAYMENT OR CERTIFICATE FOR FINAL PAYMENT BASED ON THE PROGRESS OF  
25 CONSTRUCTION, ALTERATION OR REPAIR WORK PERFORMED ON THE PROJECT.

26 2. "DESIGN PHASE SERVICES" MEANS SERVICES FOR DEVELOPING AND  
27 COMPLETING A DESIGN FOR A PROJECT THAT ARE NOT CONSTRUCTION PHASE SERVICES,  
28 INCLUDING THE FOLLOWING:

29 (a) EVALUATING SURVEYS, REPORTS, TEST RESULTS OR ANY OTHER INFORMATION  
30 ON SITE CONDITIONS FOR THE PROJECT, INCLUDING PHYSICAL CHARACTERISTICS, LEGAL  
31 LIMITATIONS AND UTILITY LOCATIONS FOR THE SITE.

32 (b) EVALUATING ANY CRITERIA OR PROGRAMMING OBJECTIVES FOR THE PROJECT  
33 TO ASCERTAIN REQUIREMENTS FOR THE PROJECT, SUCH AS PHYSICAL REQUIREMENTS  
34 AFFECTING COST OR PROJECTED UTILIZATION OF THE PROJECT.

35 (c) PREPARING DRAWINGS AND SPECIFICATIONS FOR ARCHITECTURAL PROGRAM  
36 DOCUMENTS, SCHEMATIC DESIGN DOCUMENTS, DESIGN DEVELOPMENT DOCUMENTS,

1 CONSTRUCTION, ALTERATION OR REPAIR DOCUMENTS OR DOCUMENTS THAT IDENTIFY THE  
2 SCOPE OF OR MATERIALS FOR THE PROJECT.

3 (d) PREPARING AN INITIAL SCHEDULE FOR THE PROJECT, EXCLUDING THE  
4 PREPARATION OF UPDATES TO THE MASTER SCHEDULE AFTER CONSTRUCTION, ALTERATION  
5 OR REPAIR WORK HAS BEGUN.

6 (e) PREPARING PRELIMINARY ESTIMATES OF COSTS OF CONSTRUCTION,  
7 ALTERATION OR REPAIR WORK BEFORE COMPLETION OF THE FINAL DESIGN OF THE  
8 PROJECT, INCLUDING AN ESTIMATE OR SCHEDULE OF VALUES FOR ANY OF THE  
9 FOLLOWING:

10 (i) LABOR, MATERIALS, MACHINERY AND EQUIPMENT, TOOLS, WATER, HEAT,  
11 UTILITIES, TRANSPORTATION AND OTHER FACILITIES AND SERVICES USED IN THE  
12 EXECUTION AND COMPLETION OF CONSTRUCTION, ALTERATION OR REPAIR WORK,  
13 REGARDLESS OF WHETHER THEY ARE TEMPORARY OR PERMANENT OR WHETHER THEY ARE  
14 INCORPORATED IN THE CONSTRUCTION, ALTERATION OR REPAIR.

15 (ii) THE COST OF LABOR AND MATERIALS TO BE FURNISHED BY THE OWNER OF  
16 THE PROPERTY.

17 (iii) ANY FEE PAID BY THE OWNER OF THE REAL PROPERTY TO THE HIGHWAY,  
18 STREET OR BRIDGE CONSTRUCTION CONTRACTOR PURSUANT TO THE CONTRACT FOR  
19 CONSTRUCTION, ALTERATION OR REPAIR WORK.

20 (iv) ANY BOND AND INSURANCE PREMIUMS.

21 (v) ANY APPLICABLE TAXES.

22 (vi) ANY CONTINGENCY FEES FOR THE HIGHWAY, STREET OR BRIDGE  
23 CONSTRUCTION CONTRACTOR THAT MAY BE USED BEFORE FINAL COMPLETION OF THE  
24 PROJECT.

25 (f) REVIEWING AND EVALUATING COST ESTIMATES AND PROJECT DOCUMENTS TO  
26 PREPARE RECOMMENDATIONS ON SITE USE, SITE IMPROVEMENTS, SELECTION OF  
27 MATERIALS, BUILDING SYSTEMS AND EQUIPMENT, CONSTRUCTION, ALTERATION OR REPAIR  
28 FEASIBILITY, AVAILABILITY OF MATERIALS AND LABOR, LOCAL CONSTRUCTION,  
29 ALTERATION OR REPAIR ACTIVITY AS RELATED TO SCHEDULES AND TIME REQUIREMENTS  
30 FOR CONSTRUCTION, ALTERATION OR REPAIR WORK.

31 (g) PREPARING THE PLAN AND PROCEDURES FOR SELECTION OF SUBCONTRACTORS,  
32 INCLUDING ANY PREQUALIFICATIONS OF SUBCONTRACTOR CANDIDATES.

33 3. "HIGHWAY, STREET OR BRIDGE CONTRACTOR" MEANS A CONTRACTOR WHO HOLDS  
34 A CLASSIFICATION A LICENSE FROM THE REGISTRAR OF CONTRACTORS AND WHO  
35 SUPERVISES, PERFORMS OR COORDINATES THE CONSTRUCTION, ALTERATION OR REPAIR OF  
36 A HIGHWAY, STREET OR BRIDGE, INCLUDING THE CONTRACTING, IF ANY, WITH ANY  
37 SUBCONTRACTORS.



1 QUALIFICATION FROM THE DEPARTMENT OF REVENUE. THIS PARAGRAPH SHALL APPLY FOR  
2 TEN FULL CONSECUTIVE CALENDAR OR FISCAL YEARS AFTER THE START OF INITIAL  
3 CONSTRUCTION.

4 5. THE GROSS PROCEEDS OF SALES OR GROSS INCOME FROM A CONTRACT TO  
5 PROVIDE FOR ONE OR MORE OF THE FOLLOWING ACTIONS, OR A CONTRACT FOR SITE  
6 PREPARATION, CONSTRUCTING, FURNISHING OR INSTALLING MACHINERY, EQUIPMENT OR  
7 OTHER TANGIBLE PERSONAL PROPERTY, INCLUDING STRUCTURES NECESSARY TO PROTECT  
8 EXEMPT INCORPORATED MATERIALS OR INSTALLED MACHINERY OR EQUIPMENT, AND  
9 TANGIBLE PERSONAL PROPERTY INCORPORATED INTO THE PROJECT, TO PERFORM ONE OR  
10 MORE OF THE FOLLOWING ACTIONS IN RESPONSE TO A RELEASE OR SUSPECTED RELEASE  
11 OF A HAZARDOUS SUBSTANCE, POLLUTANT OR CONTAMINANT FROM A FACILITY TO THE  
12 ENVIRONMENT, UNLESS THE RELEASE WAS AUTHORIZED BY A PERMIT ISSUED BY A  
13 GOVERNMENTAL AUTHORITY:

14 (a) ACTIONS TO MONITOR, ASSESS AND EVALUATE SUCH A RELEASE OR A  
15 SUSPECTED RELEASE.

16 (b) EXCAVATION, REMOVAL AND TRANSPORTATION OF CONTAMINATED SOIL AND  
17 ITS TREATMENT OR DISPOSAL.

18 (c) TREATMENT OF CONTAMINATED SOIL BY VAPOR EXTRACTION, CHEMICAL OR  
19 PHYSICAL STABILIZATION, SOIL WASHING OR BIOLOGICAL TREATMENT TO REDUCE THE  
20 CONCENTRATION, TOXICITY OR MOBILITY OF A CONTAMINANT.

21 (d) PUMPING AND TREATMENT OR IN SITU TREATMENT OF CONTAMINATED  
22 GROUNDWATER OR SURFACE WATER TO REDUCE THE CONCENTRATION OR TOXICITY OF A  
23 CONTAMINANT.

24 (e) THE INSTALLATION OF STRUCTURES, SUCH AS CUTOFF WALLS OR CAPS, TO  
25 CONTAIN CONTAMINANTS PRESENT IN GROUNDWATER OR SOIL AND PREVENT THEM FROM  
26 REACHING A LOCATION WHERE THEY COULD THREATEN HUMAN HEALTH OR WELFARE OR THE  
27 ENVIRONMENT.

28 THIS PARAGRAPH DOES NOT INCLUDE ASBESTOS REMOVAL OR THE CONSTRUCTION OR USE OF  
29 ANCILLARY STRUCTURES SUCH AS MAINTENANCE SHEDS, OFFICES OR STORAGE FACILITIES  
30 FOR UNATTACHED EQUIPMENT, POLLUTION CONTROL EQUIPMENT, FACILITIES OR OTHER  
31 CONTROL ITEMS REQUIRED OR TO BE USED BY A PERSON TO PREVENT OR CONTROL  
32 CONTAMINATION BEFORE IT REACHES THE ENVIRONMENT.

33 6. THE GROSS PROCEEDS OF SALES OR GROSS INCOME THAT IS DERIVED FROM A  
34 CONTRACT ENTERED INTO FOR THE INSTALLATION, ASSEMBLY, REPAIR OR MAINTENANCE  
35 OF MACHINERY, EQUIPMENT OR OTHER TANGIBLE PERSONAL PROPERTY THAT IS DEDUCTED  
36 FROM THE TAX BASE OF THE RETAIL CLASSIFICATION PURSUANT TO SECTION 42-5061,  
37 SUBSECTION B, OR THAT IS EXEMPT FROM USE TAX PURSUANT TO SECTION 42-5159,

1 SUBSECTION B, AND THAT DOES NOT BECOME A PERMANENT ATTACHMENT TO A BUILDING,  
2 HIGHWAY, ROAD, RAILROAD, EXCAVATION OR MANUFACTURED BUILDING OR OTHER  
3 STRUCTURE, PROJECT, DEVELOPMENT OR IMPROVEMENT. IF THE OWNERSHIP OF THE  
4 REALTY IS SEPARATE FROM THE OWNERSHIP OF THE MACHINERY, EQUIPMENT OR TANGIBLE  
5 PERSONAL PROPERTY, THE DETERMINATION AS TO PERMANENT ATTACHMENT SHALL BE MADE  
6 AS IF THE OWNERSHIP WERE THE SAME. THE DEDUCTION PROVIDED IN THIS PARAGRAPH  
7 DOES NOT INCLUDE GROSS PROCEEDS OF SALES OR GROSS INCOME FROM THAT PORTION OF  
8 ANY CONTRACTING ACTIVITY THAT CONSISTS OF THE DEVELOPMENT OF, OR MODIFICATION  
9 TO, REAL PROPERTY IN ORDER TO FACILITATE THE INSTALLATION, ASSEMBLY, REPAIR,  
10 MAINTENANCE OR REMOVAL OF MACHINERY, EQUIPMENT OR OTHER TANGIBLE PERSONAL  
11 PROPERTY THAT IS DEDUCTED FROM THE TAX BASE OF THE RETAIL CLASSIFICATION  
12 PURSUANT TO SECTION 42-5061, SUBSECTION B OR THAT IS EXEMPT FROM USE TAX  
13 PURSUANT TO SECTION 42-5159, SUBSECTION B. FOR THE PURPOSES OF THIS  
14 PARAGRAPH, "PERMANENT ATTACHMENT" MEANS AT LEAST ONE OF THE FOLLOWING:

15 (a) TO BE INCORPORATED INTO REAL PROPERTY.

16 (b) TO BECOME SO AFFIXED TO REAL PROPERTY THAT IT BECOMES A PART OF  
17 THE REAL PROPERTY.

18 (c) TO BE SO ATTACHED TO REAL PROPERTY THAT REMOVAL WOULD CAUSE  
19 SUBSTANTIAL DAMAGE TO THE REAL PROPERTY FROM WHICH IT IS REMOVED.

20 7. THE GROSS PROCEEDS OF SALES OR GROSS INCOME ATTRIBUTABLE TO THE  
21 PURCHASE OF MACHINERY, EQUIPMENT OR OTHER TANGIBLE PERSONAL PROPERTY THAT IS  
22 EXEMPT FROM OR DEDUCTIBLE FROM TRANSACTION PRIVILEGE AND USE TAX UNDER:

23 (a) SECTION 42-5061, SUBSECTION A, PARAGRAPH 25 OR 29.

24 (b) SECTION 42-5061, SUBSECTION B.

25 (c) SECTION 42-5159, SUBSECTION A, PARAGRAPH 13, SUBDIVISION (a), (b),  
26 (c), (d), (e), (f), (i), (j) OR (l).

27 (d) SECTION 42-5159, SUBSECTION B.

28 8. THE GROSS PROCEEDS OF SALES OR GROSS INCOME RECEIVED FROM A  
29 CONTRACT FOR THE CONSTRUCTION OF AN ENVIRONMENTALLY CONTROLLED FACILITY FOR  
30 THE RAISING OF POULTRY FOR THE PRODUCTION OF EGGS AND THE SORTING, COOLING  
31 AND PACKAGING OF EGGS.

32 9. THE GROSS PROCEEDS OF SALES OR GROSS INCOME THAT IS DERIVED FROM A  
33 CONTRACT ENTERED INTO WITH A PERSON WHO IS ENGAGED IN THE COMMERCIAL  
34 PRODUCTION OF LIVESTOCK, LIVESTOCK PRODUCTS OR AGRICULTURAL, HORTICULTURAL,  
35 VITICULTURAL OR FLORICULTURAL CROPS OR PRODUCTS IN THIS STATE FOR THE  
36 CONSTRUCTION, ALTERATION, REPAIR, IMPROVEMENT, MOVEMENT, WRECKING OR  
37 DEMOLITION OR ADDITION TO OR SUBTRACTION FROM ANY BUILDING, HIGHWAY, ROAD,

1 EXCAVATION, MANUFACTURED BUILDING OR OTHER STRUCTURE, PROJECT, DEVELOPMENT OR  
2 IMPROVEMENT USED DIRECTLY AND PRIMARILY TO PREVENT, MONITOR, CONTROL OR  
3 REDUCE AIR, WATER OR LAND POLLUTION.

4 10. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM THE  
5 INSTALLATION, ASSEMBLY, REPAIR OR MAINTENANCE OF CLEAN ROOMS THAT ARE  
6 DEDUCTED FROM THE TAX BASE OF THE RETAIL CLASSIFICATION PURSUANT TO SECTION  
7 42-5061, SUBSECTION B, PARAGRAPH 16.

8 11. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A CONTRACT  
9 ENTERED INTO FOR THE CONSTRUCTION OF A RESIDENTIAL APARTMENT HOUSING FACILITY  
10 THAT QUALIFIES FOR A FEDERAL HOUSING SUBSIDY FOR LOW INCOME PERSONS OVER  
11 SIXTY-TWO YEARS OF AGE AND THAT IS OWNED BY A NONPROFIT CHARITABLE  
12 ORGANIZATION THAT HAS QUALIFIED UNDER SECTION 501(c)(3) OF THE INTERNAL  
13 REVENUE CODE.

14 12. FOR TAXABLE PERIODS BEGINNING FROM AND AFTER DECEMBER 31, 1996 AND  
15 ENDING BEFORE JANUARY 1, 2017, THE GROSS PROCEEDS OF SALES OR GROSS INCOME  
16 DERIVED FROM A CONTRACT TO PROVIDE AND INSTALL A SOLAR ENERGY DEVICE. THE  
17 CONTRACTOR SHALL REGISTER WITH THE DEPARTMENT AS A SOLAR ENERGY CONTRACTOR.  
18 BY REGISTERING, THE CONTRACTOR ACKNOWLEDGES THAT IT WILL MAKE ITS BOOKS AND  
19 RECORDS RELATING TO SALES OF SOLAR ENERGY DEVICES AVAILABLE TO THE DEPARTMENT  
20 FOR EXAMINATION.

21 13. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A CONTRACT  
22 ENTERED INTO FOR THE CONSTRUCTION OF A LAUNCH SITE, AS DEFINED IN 14 CODE OF  
23 FEDERAL REGULATIONS SECTION 401.5.

24 14. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A CONTRACT  
25 ENTERED INTO FOR THE CONSTRUCTION OF A DOMESTIC VIOLENCE SHELTER THAT IS  
26 OWNED AND OPERATED BY A NONPROFIT CHARITABLE ORGANIZATION THAT HAS QUALIFIED  
27 UNDER SECTION 501(c)(3) OF THE INTERNAL REVENUE CODE.

28 15. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM CONTRACTS  
29 TO PERFORM POSTCONSTRUCTION TREATMENT OF REAL PROPERTY FOR TERMITE AND  
30 GENERAL PEST CONTROL, INCLUDING WOOD-DESTROYING ORGANISMS.

31 16. THE GROSS PROCEEDS OF SALES OR GROSS INCOME RECEIVED FROM CONTRACTS  
32 ENTERED INTO BEFORE JULY 1, 2006 FOR CONSTRUCTING A STATE UNIVERSITY RESEARCH  
33 INFRASTRUCTURE PROJECT IF THE PROJECT HAS BEEN REVIEWED BY THE JOINT  
34 COMMITTEE ON CAPITAL REVIEW BEFORE THE UNIVERSITY ENTERS INTO THE  
35 CONSTRUCTION CONTRACT FOR THE PROJECT. FOR THE PURPOSES OF THIS PARAGRAPH,  
36 "RESEARCH INFRASTRUCTURE" HAS THE SAME MEANING PRESCRIBED IN SECTION 15-1670.

1           17. THE GROSS PROCEEDS OF SALES OR GROSS INCOME RECEIVED FROM A  
2 CONTRACT FOR THE CONSTRUCTION OF ANY BUILDING, RAILROAD OR OTHER STRUCTURE,  
3 PROJECT, DEVELOPMENT OR IMPROVEMENT OWNED BY A QUALIFIED BUSINESS UNDER  
4 SECTION 41-1516 FOR HARVESTING OR PROCESSING QUALIFYING FOREST PRODUCTS  
5 REMOVED FROM QUALIFYING PROJECTS AS DEFINED IN SECTION 41-1516 IF ACTUAL  
6 CONSTRUCTION BEGINS BEFORE JANUARY 1, 2024. TO QUALIFY FOR THIS DEDUCTION,  
7 THE RESIDENTIAL OR COMMERCIAL CONTRACTOR MUST OBTAIN A LETTER OF  
8 QUALIFICATION FROM THE ARIZONA COMMERCE AUTHORITY BEFORE BEGINNING WORK UNDER  
9 THE CONTRACT.

10           18. ANY AMOUNT OF THE GROSS PROCEEDS OF SALES OR GROSS INCOME  
11 ATTRIBUTABLE TO DEVELOPMENT FEES THAT ARE INCURRED IN RELATION TO A CONTRACT  
12 FOR CONSTRUCTION, DEVELOPMENT OR IMPROVEMENT OF REAL PROPERTY AND THAT ARE  
13 PAID BY A RESIDENTIAL OR COMMERCIAL CONTRACTOR OR SUBCONTRACTOR. FOR THE  
14 PURPOSES OF THIS PARAGRAPH:

15           (a) THE ATTRIBUTABLE AMOUNT SHALL NOT EXCEED THE VALUE OF THE  
16 DEVELOPMENT FEES ACTUALLY IMPOSED.

17           (b) THE ATTRIBUTABLE AMOUNT IS EQUAL TO THE TOTAL AMOUNT OF  
18 DEVELOPMENT FEES PAID BY THE RESIDENTIAL OR COMMERCIAL CONTRACTOR OR  
19 SUBCONTRACTOR, AND THE TOTAL DEVELOPMENT FEES CREDITED IN EXCHANGE FOR THE  
20 CONSTRUCTION OF, CONTRIBUTION TO OR DEDICATION OF REAL PROPERTY FOR PROVIDING  
21 PUBLIC INFRASTRUCTURE, PUBLIC SAFETY OR OTHER PUBLIC SERVICES NECESSARY TO  
22 THE DEVELOPMENT. THE REAL PROPERTY MUST BE THE SUBJECT OF THE DEVELOPMENT  
23 FEES.

24           (c) "DEVELOPMENT FEES" MEANS FEES IMPOSED TO OFFSET CAPITAL COSTS OF  
25 PROVIDING PUBLIC INFRASTRUCTURE, PUBLIC SAFETY OR OTHER PUBLIC SERVICES TO A  
26 DEVELOPMENT AND AUTHORIZED PURSUANT TO SECTION 9-463.05, SECTION 11-1102 OR  
27 TITLE 48 REGARDLESS OF THE JURISDICTION TO WHICH THE FEES ARE PAID.

28           C. ENTITLEMENT TO THE DEDUCTION PURSUANT TO SUBSECTION B, PARAGRAPH 6  
29 OF THIS SECTION IS SUBJECT TO THE FOLLOWING PROVISIONS:

30           1. A RESIDENTIAL OR COMMERCIAL CONTRACTOR MAY ESTABLISH ENTITLEMENT TO  
31 THE DEDUCTION BY BOTH:

32           (a) MARKING THE INVOICE FOR THE TRANSACTION TO INDICATE THAT THE GROSS  
33 PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM THE TRANSACTION WAS DEDUCTED  
34 FROM THE BASE.

35           (b) OBTAINING A CERTIFICATE EXECUTED BY THE CUSTOMER INDICATING THE  
36 NAME AND ADDRESS OF THE CUSTOMER, THE PRECISE NATURE OF THE BUSINESS OF THE  
37 CUSTOMER, THE PURPOSE FOR WHICH THE PURCHASE WAS MADE, THE NECESSARY FACTS TO

1 ESTABLISH THE DEDUCTIBILITY OF THE PROPERTY UNDER SECTION 42-5061, SUBSECTION  
2 B, AND A CERTIFICATION THAT THE PERSON EXECUTING THE CERTIFICATE IS  
3 AUTHORIZED TO DO SO ON BEHALF OF THE PURCHASER. THE CERTIFICATE MAY BE  
4 DISREGARDED IF THE RESIDENTIAL OR COMMERCIAL CONTRACTOR HAS REASON TO BELIEVE  
5 THAT THE INFORMATION CONTAINED IN THE CERTIFICATE IS NOT ACCURATE OR  
6 COMPLETE.

7 2. A PERSON WHO DOES NOT COMPLY WITH PARAGRAPH 1 OF THIS SUBSECTION  
8 MAY ESTABLISH ENTITLEMENT TO THE DEDUCTION BY PRESENTING FACTS NECESSARY TO  
9 SUPPORT THE ENTITLEMENT, BUT THE BURDEN OF PROOF IS ON THAT PERSON.

10 3. THE DEPARTMENT MAY PRESCRIBE A FORM FOR THE CERTIFICATE DESCRIBED  
11 IN PARAGRAPH 1, SUBDIVISION (b) OF THIS SUBSECTION. THE DEPARTMENT MAY ALSO  
12 ADOPT RULES THAT DESCRIBE THE TRANSACTIONS WITH RESPECT TO WHICH A PERSON IS  
13 NOT ENTITLED TO RELY SOLELY ON THE INFORMATION CONTAINED IN THE CERTIFICATE  
14 PROVIDED IN PARAGRAPH 1, SUBDIVISION (b) OF THIS SUBSECTION BUT MUST INSTEAD  
15 OBTAIN SUCH ADDITIONAL INFORMATION AS REQUIRED IN ORDER TO BE ENTITLED TO THE  
16 DEDUCTION.

17 4. IF A RESIDENTIAL OR COMMERCIAL CONTRACTOR IS ENTITLED TO A  
18 DEDUCTION BY COMPLYING WITH PARAGRAPH 1 OF THIS SUBSECTION, THE DEPARTMENT  
19 MAY REQUIRE THE CUSTOMER WHO CAUSED THE EXECUTION OF THE CERTIFICATE TO  
20 ESTABLISH THE ACCURACY AND COMPLETENESS OF THE INFORMATION REQUIRED TO BE  
21 CONTAINED IN THE CERTIFICATE THAT WOULD ENTITLE THE RESIDENTIAL OR COMMERCIAL  
22 CONTRACTOR TO THE DEDUCTION. IF THE CUSTOMER CANNOT ESTABLISH THE ACCURACY  
23 AND COMPLETENESS OF THE INFORMATION, THE CUSTOMER IS LIABLE IN AN AMOUNT  
24 EQUAL TO ANY TAX, PENALTY AND INTEREST THAT THE RESIDENTIAL OR COMMERCIAL  
25 CONTRACTOR WOULD HAVE BEEN REQUIRED TO PAY UNDER ARTICLE 1 OF THIS CHAPTER IF  
26 THE RESIDENTIAL OR COMMERCIAL CONTRACTOR HAD NOT COMPLIED WITH PARAGRAPH 1 OF  
27 THIS SUBSECTION.

28 D. SUBCONTRACTORS OR OTHERS WHO PERFORM SERVICES IN RESPECT TO ANY  
29 IMPROVEMENT, BUILDING, RAILROAD, EXCAVATION OR OTHER STRUCTURE, PROJECT,  
30 DEVELOPMENT OR IMPROVEMENT ARE NOT SUBJECT TO TAX IF THEY CAN DEMONSTRATE  
31 THAT THE JOB WAS WITHIN THE CONTROL OF A RESIDENTIAL OR COMMERCIAL CONTRACTOR  
32 OR CONTRACTORS AND THAT THE RESIDENTIAL OR COMMERCIAL CONTRACTOR IS LIABLE  
33 FOR THE TAX ON THE GROSS INCOME, GROSS PROCEEDS OF SALES OR GROSS RECEIPTS  
34 ATTRIBUTABLE TO THE JOB AND FROM WHICH THE SUBCONTRACTORS OR OTHERS WERE  
35 PAID.

36 E. AMOUNTS RECEIVED BY A CONTRACTOR FOR A PROJECT ARE EXCLUDED FROM  
37 THE CONTRACTOR'S GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM THE

1 BUSINESS IF THE PERSON WHO HIRED THE CONTRACTOR EXECUTES AND PROVIDES A  
2 CERTIFICATE TO THE CONTRACTOR STATING THAT THE PERSON PROVIDING THE  
3 CERTIFICATE IS A RESIDENTIAL OR COMMERCIAL CONTRACTOR AND IS LIABLE FOR THE  
4 TAX UNDER THIS ARTICLE. THE DEPARTMENT SHALL PRESCRIBE THE FORM OF THE  
5 CERTIFICATE. IF THE CONTRACTOR HAS REASON TO BELIEVE THAT THE INFORMATION  
6 CONTAINED ON THE CERTIFICATE IS ERRONEOUS OR INCOMPLETE, THE DEPARTMENT MAY  
7 DISREGARD THE CERTIFICATE. IF THE PERSON WHO PROVIDES THE CERTIFICATE IS NOT  
8 LIABLE FOR THE TAX AS A RESIDENTIAL OR COMMERCIAL CONTRACTOR, THAT PERSON IS  
9 NEVERTHELESS DEEMED TO BE THE RESIDENTIAL OR COMMERCIAL CONTRACTOR IN LIEU OF  
10 THE CONTRACTOR AND IS SUBJECT TO THE TAX UNDER THIS SECTION ON THE GROSS  
11 RECEIPTS OR GROSS PROCEEDS RECEIVED BY THE CONTRACTOR.

12 F. EVERY PERSON ENGAGING OR CONTINUING IN THIS STATE IN THE BUSINESS  
13 OF RESIDENTIAL OR COMMERCIAL CONTRACTING SHALL PRESENT TO THE CUSTOMER OF  
14 SUCH RESIDENTIAL OR COMMERCIAL CONTRACTING A WRITTEN RECEIPT OF THE GROSS  
15 INCOME OR GROSS PROCEEDS OF SALES FROM SUCH ACTIVITY AND SHALL SEPARATELY  
16 STATE THE TAXES TO BE PAID PURSUANT TO THIS SECTION.

17 G. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A CONTRACT  
18 FOR LAWN MAINTENANCE SERVICES ARE NOT SUBJECT TO TAX UNDER THIS SECTION IF  
19 THE CONTRACT DOES NOT INCLUDE LANDSCAPING ACTIVITIES. LAWN MAINTENANCE  
20 SERVICE IS A SERVICE PURSUANT TO SECTION 42-5061, SUBSECTION A, PARAGRAPH 1,  
21 AND INCLUDES LAWN MOWING AND EDGING, WEEDING, REPAIRING SPRINKLER HEADS OR  
22 DRIP IRRIGATION HEADS, SEASONAL REPLACEMENT OF FLOWERS, REFRESHING GRAVEL,  
23 LAWN DETHATCHING, SEEDING WINTER LAWNS, LEAF AND DEBRIS COLLECTION AND  
24 REMOVAL, TREE OR SHRUB PRUNING OR CLIPPING, GARDEN AND GRAVEL RAKING AND  
25 APPLYING PESTICIDES, AS DEFINED IN SECTION 3-361, AND FERTILIZER MATERIALS,  
26 AS DEFINED IN SECTION 3-262.

27 H. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM  
28 LANDSCAPING ACTIVITIES ARE SUBJECT TO TAX UNDER THIS SECTION. LANDSCAPING  
29 INCLUDES INSTALLING LAWNS, GRADING OR LEVELING GROUND, INSTALLING GRAVEL OR  
30 BOULDERS, PLANTING TREES AND OTHER PLANTS, FELLING TREES, REMOVING OR  
31 MULCHING TREE STUMPS, REMOVING OTHER IMBEDDED PLANTS, BUILDING OR MODIFYING  
32 IRRIGATION BERMS, REPAIRING SPRINKLER OR WATERING SYSTEMS, INSTALLING  
33 RAILROAD TIES AND INSTALLING UNDERGROUND SPRINKLER OR WATERING SYSTEMS.

34 I. THE PORTION OF GROSS PROCEEDS OF SALES OR GROSS INCOME ATTRIBUTABLE  
35 TO THE ACTUAL DIRECT COSTS OF PROVIDING ARCHITECTURAL OR ENGINEERING SERVICES  
36 THAT ARE INCORPORATED IN A CONTRACT IS NOT SUBJECT TO TAX UNDER THIS SECTION.  
37 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 J. 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 K. THE GROSS PROCEEDS OF SALES OR GROSS INCOME ATTRIBUTABLE TO A  
10 SEPARATE, WRITTEN DESIGN PHASE SERVICES CONTRACT OR PROFESSIONAL SERVICES  
11 CONTRACT, EXECUTED BEFORE MODIFICATION BEGINS, IS NOT SUBJECT TO TAX UNDER  
12 THIS SECTION, REGARDLESS OF WHETHER THE SERVICES ARE PROVIDED SEQUENTIAL TO  
13 OR CONCURRENT WITH RESIDENTIAL OR COMMERCIAL CONTRACTING ACTIVITIES THAT ARE  
14 SUBJECT TO TAX UNDER THIS SECTION. THIS SUBSECTION DOES NOT INCLUDE THE  
15 GROSS PROCEEDS OF SALES OR GROSS INCOME ATTRIBUTABLE TO CONSTRUCTION PHASE  
16 SERVICES. FOR THE PURPOSES OF THIS SUBSECTION:

17 1. "CONSTRUCTION PHASE SERVICES" MEANS SERVICES FOR THE EXECUTION AND  
18 COMPLETION OF ANY MODIFICATION, INCLUDING THE FOLLOWING:

19 (a) ADMINISTRATION OR SUPERVISION OF ANY MODIFICATION PERFORMED ON THE  
20 PROJECT, INCLUDING TEAM MANAGEMENT AND COORDINATION, SCHEDULING, COST  
21 CONTROLS, SUBMITTAL PROCESS MANAGEMENT, FIELD MANAGEMENT, SAFETY PROGRAM,  
22 CLOSE-OUT PROCESS AND WARRANTY PERIOD SERVICES.

23 (b) ADMINISTRATION OR SUPERVISION OF ANY MODIFICATION PERFORMED  
24 PURSUANT TO A PUNCH LIST. FOR THE PURPOSES OF THIS SUBDIVISION, "PUNCH LIST"  
25 MEANS MINOR ITEMS OF MODIFICATION WORK PERFORMED AFTER SUBSTANTIAL COMPLETION  
26 AND BEFORE FINAL COMPLETION OF THE PROJECT.

27 (c) ADMINISTRATION OR SUPERVISION OF ANY MODIFICATION PERFORMED  
28 PURSUANT TO CHANGE ORDERS. FOR THE PURPOSES OF THIS SUBDIVISION, "CHANGE  
29 ORDER" MEANS A WRITTEN INSTRUMENT ISSUED AFTER EXECUTION OF A CONTRACT FOR  
30 MODIFICATION WORK, PROVIDING FOR ALL OF THE FOLLOWING:

31 (i) THE SCOPE OF A CHANGE IN THE MODIFICATION WORK, CONTRACT FOR  
32 MODIFICATION WORK OR OTHER CONTRACT DOCUMENTS.

33 (ii) THE AMOUNT OF AN ADJUSTMENT, IF ANY, TO THE GUARANTEED MAXIMUM  
34 PRICE AS SET IN THE CONTRACT FOR MODIFICATION WORK. FOR THE PURPOSES OF THIS  
35 ITEM, "GUARANTEED MAXIMUM PRICE" MEANS THE AMOUNT GUARANTEED TO BE THE  
36 MAXIMUM AMOUNT DUE TO A RESIDENTIAL OR COMMERCIAL CONTRACTOR FOR THE  
37 PERFORMANCE OF ALL MODIFICATION WORK FOR THE PROJECT.

1 (iii) THE EXTENT OF AN ADJUSTMENT, IF ANY, TO THE CONTRACT TIME OF  
2 PERFORMANCE SET FORTH IN THE CONTRACT.

3 (d) ADMINISTRATION OR SUPERVISION OF ANY MODIFICATION PERFORMED  
4 PURSUANT TO CHANGE DIRECTIVES. FOR THE PURPOSES OF THIS SUBDIVISION, "CHANGE  
5 DIRECTIVE" MEANS A WRITTEN ORDER DIRECTING A CHANGE IN MODIFICATION WORK  
6 BEFORE AGREEMENT ON AN ADJUSTMENT OF THE GUARANTEED MAXIMUM PRICE OR CONTRACT  
7 TIME.

8 (e) INSPECTION TO DETERMINE THE DATES OF SUBSTANTIAL COMPLETION OR  
9 FINAL COMPLETION.

10 (f) PREPARATION OF ANY MANUALS, WARRANTIES, AS-BUILT DRAWINGS, SPARES  
11 OR OTHER ITEMS THE RESIDENTIAL OR COMMERCIAL CONTRACTOR MUST FURNISH PURSUANT  
12 TO THE CONTRACT FOR MODIFICATION WORK. FOR THE PURPOSES OF THIS SUBDIVISION,  
13 "AS-BUILT DRAWING" MEANS A DRAWING THAT INDICATES FIELD CHANGES MADE TO ADAPT  
14 TO FIELD CONDITIONS, FIELD CHANGES RESULTING FROM CHANGE ORDERS OR BURIED AND  
15 CONCEALED INSTALLATION OF PIPING, CONDUIT AND UTILITY SERVICES.

16 (g) PREPARATION OF STATUS REPORTS AFTER MODIFICATION WORK HAS BEGUN  
17 DETAILING THE PROGRESS OF WORK PERFORMED, INCLUDING PREPARATION OF ANY OF THE  
18 FOLLOWING:

19 (i) ASTER SCHEDULE UPDATES.

20 (ii) MODIFICATION WORK CASH FLOW PROJECTION UPDATES.

21 (iii) SITE REPORTS MADE ON A PERIODIC BASIS.

22 (iv) IDENTIFICATION OF DISCREPANCIES, CONFLICTS OR AMBIGUITIES IN  
23 MODIFICATION WORK DOCUMENTS THAT REQUIRE RESOLUTION.

24 (v) IDENTIFICATION OF ANY HEALTH AND SAFETY ISSUES THAT HAVE ARISEN IN  
25 CONNECTION WITH THE MODIFICATION WORK.

26 (h) PREPARATION OF DAILY LOGS OF MODIFICATION WORK, INCLUDING  
27 DOCUMENTATION OF PERSONNEL, WEATHER CONDITIONS AND ON-SITE OCCURRENCES.

28 (i) PREPARATION OF ANY SUBMITTALS OR SHOP DRAWINGS USED BY THE  
29 RESIDENTIAL OR COMMERCIAL CONTRACTOR TO ILLUSTRATE DETAILS OF THE  
30 MODIFICATION WORK PERFORMED.

31 (j) ADMINISTRATION OR SUPERVISION OF ANY OTHER ACTIVITIES FOR WHICH A  
32 RESIDENTIAL OR COMMERCIAL CONTRACTOR RECEIVES A CERTIFICATE FOR PAYMENT OR  
33 CERTIFICATE FOR FINAL PAYMENT BASED ON THE PROGRESS OF MODIFICATION WORK  
34 PERFORMED ON THE PROJECT.

35 2. "DESIGN PHASE SERVICES" MEANS SERVICES FOR DEVELOPING AND  
36 COMPLETING A DESIGN FOR A PROJECT THAT ARE NOT CONSTRUCTION PHASE SERVICES,  
37 INCLUDING THE FOLLOWING:

1 (a) EVALUATING SURVEYS, REPORTS, TEST RESULTS OR ANY OTHER INFORMATION  
2 ON-SITE CONDITIONS FOR THE PROJECT, INCLUDING PHYSICAL CHARACTERISTICS, LEGAL  
3 LIMITATIONS AND UTILITY LOCATIONS FOR THE SITE.

4 (b) EVALUATING ANY CRITERIA OR PROGRAMMING OBJECTIVES FOR THE PROJECT  
5 TO ASCERTAIN REQUIREMENTS FOR THE PROJECT, SUCH AS PHYSICAL REQUIREMENTS  
6 AFFECTING COST OR PROJECTED UTILIZATION OF THE PROJECT.

7 (c) PREPARING DRAWINGS AND SPECIFICATIONS FOR ARCHITECTURAL PROGRAM  
8 DOCUMENTS, SCHEMATIC DESIGN DOCUMENTS, DESIGN DEVELOPMENT DOCUMENTS,  
9 MODIFICATION WORK DOCUMENTS OR DOCUMENTS THAT IDENTIFY THE SCOPE OF OR  
10 MATERIALS FOR THE PROJECT.

11 (d) PREPARING AN INITIAL SCHEDULE FOR THE PROJECT, EXCLUDING THE  
12 PREPARATION OF UPDATES TO THE MASTER SCHEDULE AFTER MODIFICATION WORK HAS  
13 BEGUN.

14 (e) PREPARING PRELIMINARY ESTIMATES OF COSTS OF MODIFICATION WORK  
15 BEFORE COMPLETION OF THE FINAL DESIGN OF THE PROJECT, INCLUDING AN ESTIMATE  
16 OR SCHEDULE OF VALUES FOR ANY OF THE FOLLOWING:

17 (i) LABOR, MATERIALS, MACHINERY AND EQUIPMENT, TOOLS, WATER, HEAT,  
18 UTILITIES, TRANSPORTATION AND OTHER FACILITIES AND SERVICES USED IN THE  
19 EXECUTION AND COMPLETION OF MODIFICATION WORK, REGARDLESS OF WHETHER THEY ARE  
20 TEMPORARY OR PERMANENT OR WHETHER THEY ARE INCORPORATED IN THE MODIFICATIONS.

21 (ii) THE COST OF LABOR AND MATERIALS TO BE FURNISHED BY THE OWNER OF  
22 THE REAL PROPERTY.

23 (iii) THE COST OF ANY EQUIPMENT OF THE OWNER OF THE REAL PROPERTY TO  
24 BE ASSIGNED BY THE OWNER TO THE RESIDENTIAL OR COMMERCIAL CONTRACTOR.

25 (iv) THE COST OF ANY LABOR FOR INSTALLATION OF EQUIPMENT SEPARATELY  
26 PROVIDED BY THE OWNER OF THE REAL PROPERTY THAT HAS BEEN DESIGNED, SPECIFIED,  
27 SELECTED OR SPECIFICALLY PROVIDED FOR IN ANY DESIGN DOCUMENT FOR THE PROJECT.

28 (v) ANY FEE PAID BY THE OWNER OF THE REAL PROPERTY TO THE RESIDENTIAL  
29 OR COMMERCIAL CONTRACTOR PURSUANT TO THE CONTRACT FOR MODIFICATION WORK.

30 (vi) ANY BOND AND INSURANCE PREMIUMS.

31 (vii) ANY APPLICABLE TAXES.

32 (viii) ANY CONTINGENCY FEES FOR THE RESIDENTIAL OR COMMERCIAL  
33 CONTRACTOR THAT MAY BE USED BEFORE FINAL COMPLETION OF THE PROJECT.

34 (f) REVIEWING AND EVALUATING COST ESTIMATES AND PROJECT DOCUMENTS TO  
35 PREPARE RECOMMENDATIONS ON SITE USE, SITE IMPROVEMENTS, SELECTION OF  
36 MATERIALS, BUILDING SYSTEMS AND EQUIPMENT, MODIFICATION FEASIBILITY,

1 AVAILABILITY OF MATERIALS AND LABOR, LOCAL MODIFICATION ACTIVITY AS RELATED  
2 TO SCHEDULES AND TIME REQUIREMENTS FOR MODIFICATION WORK.

3 (g) PREPARING THE PLAN AND PROCEDURES FOR SELECTION OF SUBCONTRACTORS,  
4 INCLUDING ANY PREQUALIFICATION OF SUBCONTRACTOR CANDIDATES.

5 3. "PROFESSIONAL SERVICES" MEANS ARCHITECT SERVICES, ASSAYER SERVICES,  
6 ENGINEER SERVICES, GEOLOGIST SERVICES, LAND SURVEYING SERVICES OR LANDSCAPE  
7 ARCHITECT SERVICES THAT ARE WITHIN THE SCOPE OF THOSE SERVICES AS PROVIDED IN  
8 TITLE 32, CHAPTER 1 AND FOR WHICH GROSS PROCEEDS OF SALES OR GROSS INCOME HAS  
9 NOT OTHERWISE BEEN DEDUCTED UNDER SUBSECTION K OF THIS SECTION.

10 L. NOTWITHSTANDING SUBSECTION M, PARAGRAPH 6 OF THIS SECTION, A PERSON  
11 OWNING REAL PROPERTY WHO ENTERS INTO A CONTRACT FOR SALE OF THE REAL  
12 PROPERTY, WHO IS RESPONSIBLE TO THE NEW OWNER OF THE PROPERTY FOR  
13 MODIFICATIONS MADE TO THE PROPERTY IN THE PERIOD SUBSEQUENT TO THE TRANSFER  
14 OF TITLE AND WHO RECEIVES A CONSIDERATION FOR THE MODIFICATIONS IS CONSIDERED  
15 A RESIDENTIAL OR COMMERCIAL CONTRACTOR SOLELY FOR PURPOSES OF TAXING THE  
16 GROSS PROCEEDS OF SALE OR GROSS INCOME RECEIVED FOR THE MODIFICATIONS MADE  
17 SUBSEQUENT TO THE TRANSFER OF TITLE. THE ORIGINAL OWNER'S GROSS PROCEEDS OF  
18 SALE OR GROSS INCOME RECEIVED FOR THE MODIFICATIONS SHALL BE DETERMINED  
19 ACCORDING TO THE FOLLOWING METHODOLOGY:

20 1. IF ANY PART OF THE CONTRACT FOR SALE OF THE PROPERTY SPECIFIES  
21 AMOUNTS TO BE PAID TO THE ORIGINAL OWNER FOR THE MODIFICATIONS TO BE MADE IN  
22 THE PERIOD SUBSEQUENT TO THE TRANSFER OF TITLE, THE AMOUNTS ARE INCLUDED IN  
23 THE ORIGINAL OWNER'S GROSS PROCEEDS OF SALE OR GROSS INCOME UNDER THIS  
24 SECTION. PROCEEDS FROM THE SALE OF THE PROPERTY THAT ARE RECEIVED AFTER  
25 TRANSFER OF TITLE AND THAT ARE UNRELATED TO THE MODIFICATIONS MADE SUBSEQUENT  
26 TO THE TRANSFER OF TITLE ARE NOT CONSIDERED GROSS PROCEEDS OF SALE OR GROSS  
27 INCOME FROM THE MODIFICATIONS.

28 2. IF THE ORIGINAL OWNER ENTERS INTO AN AGREEMENT SEPARATE FROM THE  
29 CONTRACT FOR SALE OF THE REAL PROPERTY PROVIDING FOR AMOUNTS TO BE PAID TO  
30 THE ORIGINAL OWNER FOR THE MODIFICATIONS TO BE MADE IN THE PERIOD SUBSEQUENT  
31 TO THE TRANSFER OF TITLE TO THE PROPERTY, THE AMOUNTS ARE INCLUDED IN THE  
32 ORIGINAL OWNER'S GROSS PROCEEDS OF SALE OR GROSS INCOME RECEIVED FOR THE  
33 MODIFICATIONS MADE SUBSEQUENT TO THE TRANSFER OF TITLE.

34 3. IF THE ORIGINAL OWNER IS RESPONSIBLE TO THE NEW OWNER FOR  
35 MODIFICATIONS MADE TO THE PROPERTY IN THE PERIOD SUBSEQUENT TO THE TRANSFER  
36 OF TITLE AND DERIVES ANY GROSS PROCEEDS OF SALE OR GROSS INCOME FROM THE  
37 PROJECT SUBSEQUENT TO THE TRANSFER OF TITLE OTHER THAN A DELAYED DISBURSEMENT

1 FROM ESCROW UNRELATED TO THE MODIFICATIONS, IT IS PRESUMED THAT THE AMOUNTS  
2 ARE RECEIVED FOR THE MODIFICATIONS MADE SUBSEQUENT TO THE TRANSFER OF TITLE  
3 UNLESS THE CONTRARY IS ESTABLISHED BY THE OWNER THROUGH ITS BOOKS, RECORDS  
4 AND PAPERS KEPT IN THE REGULAR COURSE OF BUSINESS.

5 4. THE TAX BASE OF THE ORIGINAL OWNER IS COMPUTED IN THE SAME MANNER  
6 AS A RESIDENTIAL OR COMMERCIAL CONTRACTOR UNDER THIS SECTION.

7 M. FOR THE PURPOSES OF THIS SECTION:

8 1. "CONTRACTING" MEANS ENGAGING IN BUSINESS AS A CONTRACTOR.

9 2. "CONTRACTOR" IS SYNONYMOUS WITH THE TERM "BUILDER" AND MEANS ANY  
10 PERSON OR ORGANIZATION THAT UNDERTAKES TO OR OFFERS TO UNDERTAKE TO, OR  
11 PURPORTS TO HAVE THE CAPACITY TO UNDERTAKE TO, OR SUBMITS A BID TO, OR DOES  
12 PERSONALLY OR BY OR THROUGH OTHERS, MODIFY ANY BUILDING, HIGHWAY, ROAD,  
13 RAILROAD, EXCAVATION, MANUFACTURED BUILDING OR OTHER STRUCTURE, PROJECT,  
14 DEVELOPMENT OR IMPROVEMENT, OR TO DO ANY PART OF SUCH A PROJECT, INCLUDING  
15 THE ERECTION OF SCAFFOLDING OR OTHER STRUCTURE OR WORKS IN CONNECTION WITH  
16 SUCH A PROJECT, AND INCLUDES SUBCONTRACTORS AND SPECIALTY CONTRACTORS. FOR  
17 ALL PURPOSES OF TAXATION OR DEDUCTION, THIS DEFINITION SHALL GOVERN WITHOUT  
18 REGARD TO WHETHER OR NOT SUCH CONTRACTOR IS ACTING IN FULFILLMENT OF A  
19 CONTRACT.

20 3. "MODIFICATION" MEANS CONSTRUCTION, ALTERATION, REPAIR, ADDITION,  
21 SUBTRACTION, IMPROVEMENT, MOVEMENT, WRECKAGE OR DEMOLITION.

22 4. "MODIFY" MEANS TO CONSTRUCT, ALTER, REPAIR, ADD TO, SUBTRACT FROM,  
23 IMPROVE, MOVE, WRECK OR DEMOLISH.

24 5. "RESIDENTIAL OR COMMERCIAL CONTRACTING" MEANS ENGAGING IN BUSINESS  
25 AS A RESIDENTIAL OR COMMERCIAL CONTRACTOR.

26 6. "RESIDENTIAL OR COMMERCIAL CONTRACTOR" MEANS A CONTRACTOR WHO HOLDS  
27 A RESIDENTIAL OR COMMERCIAL CONTRACTING CLASSIFICATION LICENSE FROM THE  
28 ARIZONA REGISTRAR AND WHO SUPERVISES, PERFORMS OR COORDINATES THE  
29 MODIFICATION OF ANY BUILDING, RAILROAD, EXCAVATION, OR OTHER STRUCTURE,  
30 PROJECT, DEVELOPMENT OR IMPROVEMENT INCLUDING THE CONTRACTING, IF ANY, WITH  
31 ANY SUBCONTRACTORS OR SPECIALTY CONTRACTORS AND WHO IS RESPONSIBLE FOR THE  
32 COMPLETION OF THE CONTRACT. EXCEPT AS PROVIDED IN SUBSECTIONS E AND L OF  
33 THIS SECTION, A PERSON WHO OWNS REAL PROPERTY, WHO ENGAGES ONE OR MORE  
34 CONTRACTORS TO MODIFY THAT REAL PROPERTY AND WHO DOES NOT ITSELF MODIFY THAT  
35 REAL PROPERTY IS NOT A RESIDENTIAL OR COMMERCIAL CONTRACTOR WITHIN THE

1 MEANING OF THIS PARAGRAPH REGARDLESS OF THE EXISTENCE OF A CONTRACT FOR SALE  
2 OR THE SUBSEQUENT SALE OF THAT REAL PROPERTY.

3 Sec. 29. Section 42-6102, Arizona Revised Statutes, is amended to  
4 read:

5 42-6102. Administration

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

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

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

14 3. The taxes imposed by this article may be included without  
15 segregation in any notice and lien filed for unpaid transaction privilege  
16 taxes.

17 B. The taxes imposed pursuant to this article do not apply to the  
18 gross proceeds of sales or gross income derived pursuant to contracts entered  
19 into before the date of the election to authorize the tax by ~~prime~~  
20 ~~contractors and owner-builders~~ HIGHWAY, STREET AND BRIDGE CONSTRUCTION  
21 CONTRACTORS who are classified under ~~sections 42-5075 and 42-5076~~ SECTION  
22 42-5078 unless the contract contains a provision which entitles the  
23 contractor to recover the amount of the tax from a purchaser. In order to  
24 qualify for this exemption the contractor shall provide sufficient  
25 documentation, in a manner and form prescribed by the department, to verify  
26 that a contract was entered into before the date of the election to authorize  
27 the tax.

1           Sec. 30. Section 42-6105, Arizona Revised Statutes, is amended to  
2 read:

3           42-6105. County transportation excise tax; counties with  
4                                   population of one million two hundred thousand or  
5                                   more persons

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

10          B. The tax shall be levied and collected:

11           1. At a rate of not more than ten per cent of the transaction  
12 privilege tax rate prescribed by section 42-5010, subsection A applying, as  
13 of January 1, 1990, to each person engaging or continuing in the county in a  
14 business taxed under chapter 5, article 1 of this title.

15           2. ~~In the case of persons subject to the tax imposed under section~~  
16 ~~42-5352, subsection A,~~ At a rate of not more than ~~.305 cents per gallon of~~  
17 ~~jet fuel sold~~ TEN PER CENT OF THE RATE PRESCRIBED BY SECTION 42-5352,  
18 SUBSECTION A.

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

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

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

30           1. 56.2 per cent to the regional area road fund pursuant to section  
31 28-6303 for freeways and other routes in the state highway system, including  
32 capital expense and maintenance.

33           2. 10.5 per cent to the regional area road fund pursuant to section  
34 28-6303 for major arterial streets and intersection improvements, including  
35 capital expense and implementation studies.

36           3. 33.3 per cent to the public transportation fund pursuant to section  
37 48-5103 for:

1 (a) Capital costs, maintenance and operation of public transportation  
2 classifications.

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

5 Sec. 31. Section 42-6106, Arizona Revised Statutes, is amended to  
6 read:

7 42-6106. County transportation excise tax

8 A. If approved by the qualified electors voting at a countywide  
9 election, the regional transportation authority in any county shall levy and  
10 the department shall collect a transportation excise tax up to the rate  
11 authorized by this section in addition to all other taxes.

12 B. The tax shall be levied and collected:

13 1. At a rate of not more than ten per cent of the transaction  
14 privilege tax rate prescribed by section 42-5010, subsection A in effect on  
15 January 1, 1990 to each person engaging or continuing in the county in a  
16 business taxed under chapter 5, article 1 of this title.

17 2. ~~In the case of persons subject to the tax imposed under section~~  
18 ~~42-5352, subsection A,~~ At a rate of not more than ~~.305 cents per gallon of~~  
19 ~~jet fuel sold~~ TEN PER CENT OF THE RATE PRESCRIBED BY SECTION 42-5352,  
20 SUBSECTION A.

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

26 C. Any subsequent reduction in the transaction privilege tax rate  
27 prescribed by chapter 5, article 1 of this title shall not reduce the tax  
28 that is approved and collected as prescribed in this section. The department  
29 shall collect the tax at a variable rate if the variable rate is specified in  
30 the ballot proposition. The department shall collect the tax at a modified  
31 rate if approved by a majority of the qualified electors voting.

32 D. The net revenues collected under this section:

33 1. In counties with a population exceeding four hundred thousand  
34 persons, shall be deposited in the regional transportation fund pursuant to  
35 section 48-5307.

36 2. In counties with a population of four hundred thousand or fewer  
37 persons, shall be deposited in the public transportation authority fund

1 pursuant to section 28-9142 or the regional transportation fund pursuant to  
2 section 48-5307 or shall be allocated between both funds.

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

6 Sec. 32. Section 42-6107, Arizona Revised Statutes, is amended to  
7 read:

8 42-6107. County transportation excise tax for roads

9 A. If a majority of the qualified electors voting at a countywide  
10 special election, or a majority of the qualified electors voting on the  
11 ballot proposition at a general election, approves the transportation excise  
12 tax, the county shall levy and the department shall collect a tax:

13 1. At a rate of not more than ten per cent of the transaction  
14 privilege tax rate as prescribed by section 42-5010, subsection A applying,  
15 as of January 1, 1990, to each person engaging or continuing in the county in  
16 a business taxed under chapter 5, article 1 of this title.

17 2. ~~In the case of persons subject to the tax imposed under section~~  
18 ~~42-5352, subsection A, At a rate of not more than .305 cents per gallon of~~  
19 ~~jet fuel sold~~ TEN PER CENT OF THE RATE PRESCRIBED BY SECTION 42-5352,  
20 SUBSECTION A.

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

29 B. The net revenues collected under this section within a county shall  
30 be deposited in the county's regional area road fund pursuant to title 28,  
31 chapter 17, article 3.

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

35 Sec. 33. Title 42, chapter 6, article 3, Arizona Revised Statutes, is  
36 amended by adding section 42-6113, to read:

37 42-6113. County use tax

1           A. IF A COUNTY LEVIES ONE OR MORE EXCISE TAXES PURSUANT TO THIS  
2 ARTICLE ON THE EFFECTIVE DATE OF THIS SECTION AND IF APPROVED BY THE  
3 QUALIFIED ELECTORS VOTING AT A COUNTY-WIDE ELECTION, A COUNTY MAY LEVY AND,  
4 IF LEVIED, THE DEPARTMENT SHALL COLLECT AN EXCISE TAX ON THE STORAGE, USE OR  
5 CONSUMPTION IN THE COUNTY OF TANGIBLE PERSONAL PROPERTY PURCHASED FROM A  
6 RETAILER, AS A PERCENTAGE OF THE SALES PRICE. THE TAX LEVIED PURSUANT TO  
7 THIS SUBSECTION SHALL BE AT A RATE EQUAL TO THE SUM OF THE RATES OF ALL THE  
8 EXCISE TAXES LEVIED BY THE COUNTY ON THE EFFECTIVE DATE OF THIS SECTION.

9           B. IF, AFTER THE EFFECTIVE DATE OF THIS SECTION, A COUNTY SEEKS TO  
10 LEVY AN EXCISE TAX PURSUANT TO THIS ARTICLE, THE COUNTY SHALL INCLUDE IN THE  
11 LEVY AN EXCISE TAX AT THE SAME RATE ON THE STORAGE, USE OR CONSUMPTION IN THE  
12 COUNTY OF TANGIBLE PERSONAL PROPERTY PURCHASED FROM A RETAILER.

13           Sec. 34. Section 43-1072.01, Arizona Revised Statutes, is amended to  
14 read:

15           43-1072.01. Credit for increased excise taxes paid

16           A. Subject to the conditions prescribed by this section and if  
17 approved by the qualified electors voting at a statewide general election,  
18 for ~~tax~~ TAXABLE years beginning from and after December 31, 2000 a credit is  
19 allowed against the taxes imposed by this chapter for a taxable year for a  
20 taxpayer who is not claimed as a dependent by any other taxpayer and whose  
21 federal adjusted gross income is:

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

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

26           B. The credit is considered to be in mitigation of increased tax rates  
27 pursuant to section 42-5010, subsection G and section 42-5155, subsection  
28 ~~D~~ E.

29           C. The amount of the credit shall not exceed twenty-five dollars for  
30 each person who is a resident of this state and for whom a personal or  
31 dependent exemption is allowed with respect to the taxpayer pursuant to  
32 section 43-1023, subsection B, paragraph 1 and section 43-1043, but not more

1 than one hundred dollars for all persons in the taxpayer's household, as  
2 defined in section 43-1072.

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

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

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

17 Sec. 35. Section 44-1263, Arizona Revised Statutes, is amended to  
18 read:

19 44-1263. Inability to conform motor vehicle to express  
20 warranty; replacement of vehicle or refund of  
21 monies; affirmative defenses; tax refund

22 A. If the manufacturer, its agents or its authorized dealers are  
23 unable to conform the motor vehicle to any applicable express warranty by  
24 repairing or correcting any defect or condition ~~which~~ THAT substantially  
25 impairs the use and value of the motor vehicle to the consumer after a  
26 reasonable number of attempts, the manufacturer shall replace the motor  
27 vehicle with a new motor vehicle or accept return of the motor vehicle from  
28 the consumer and refund to the consumer the full purchase price, including  
29 all collateral charges, less a reasonable allowance for the consumer's use of  
30 the vehicle. The manufacturer shall make refunds to the consumer and  
31 lienholder, if any, as their interests appear. A reasonable allowance for  
32 use is that amount directly attributable to use by the consumer before his

1 first written report of the nonconformity to the manufacturer, agent or  
2 dealer and during any subsequent period when the vehicle is not out of  
3 service by reason of repair.

4 B. It is an affirmative defense to any claim under this article that  
5 either:

6 1. An alleged nonconformity does not substantially impair the use and  
7 market value of the motor vehicle.

8 2. A nonconformity is the result of abuse, neglect or unauthorized  
9 modifications or alterations of the motor vehicle.

10 C. In the case of taxes paid pursuant to title 42, chapter 5, if the  
11 manufacturer:

12 1. Accepts return of a motor vehicle from a consumer without replacing  
13 the motor vehicle, the manufacturer shall refund the amount of tax attributed  
14 to the sale of the vehicle to that consumer.

15 2. Replaces a motor vehicle with a new motor vehicle of lesser value,  
16 the manufacturer shall refund the difference between the original amount of  
17 tax attributed to the sale of that vehicle and the amount of tax attributed  
18 to the sale of the replacement vehicle, excluding the value of the motor  
19 vehicle being replaced.

20 3. Replaces a motor vehicle with a new motor vehicle of greater value,  
21 the manufacturer shall calculate the gross proceeds of sales pursuant to  
22 section 42-5001, paragraph ~~6~~ 8.

23 D. Pursuant to section 42-1118, subsection F, the manufacturer may  
24 apply to the department of revenue for a refund for the amount of tax that  
25 the manufacturer properly refunds to the consumer.

1           Sec. 36. Section 48-4022, Arizona Revised Statutes, is amended to  
2 read:

3           48-4022. Excise tax

4           A. The board of directors of a district in a county having a  
5 population of less than one million five hundred thousand persons according  
6 to the most recent United States decennial or special census may by  
7 resolution order the approval of a district excise tax to be placed on the  
8 ballot of an election pursuant to section 48-4021. If a majority of the  
9 qualified electors voting at the election approves the county jail district  
10 excise tax, the board of directors may by resolution levy, and if levied, the  
11 department of revenue shall collect, a tax beginning January 1 or July 1,  
12 whichever date first occurs at least three months after the district  
13 resolution approving the tax levy. The tax rate shall be a percentage of the  
14 excise tax rate prescribed by section 42-5010, subsection A applying to each  
15 person engaging or continuing in the district in a business taxed under title  
16 42, chapter 5, article 1 and section 42-5352, subsection A, not to exceed:

17           1. Ten per cent of each rate prescribed by section 42-5010, subsection  
18 A and section 42-5352, subsection A, in counties having a population of five  
19 hundred thousand persons or less.

20           2. Five per cent of each rate prescribed by section 42-5010,  
21 subsection A and section 42-5352, subsection A, in counties having a  
22 population of more than five hundred thousand persons but less than one  
23 million five hundred thousand persons.

24           B. If a district levies an excise tax under subsection A of this  
25 section, the board of directors, by resolution, ~~may~~ SHALL also levy, and if  
26 levied, the department of revenue shall collect, a use tax on ~~each retail~~  
27 ~~electric or natural gas customer using or consuming electricity or natural~~  
28 ~~gas in the district and subject to use tax pursuant to section 42-5155. The~~  
29 ~~use tax levied pursuant to this subsection shall be applied as a percentage~~  
30 ~~of the use tax rate imposed by title 42, chapter 5, article 4 equal to the~~  
31 ~~percentage determined under subsection A, paragraph 1 or 2 of this section,~~  
32 ~~as applicable.~~ THE STORAGE, USE OR CONSUMPTION IN THE COUNTY OF TANGIBLE

1 PERSONAL PROPERTY PURCHASED FROM A RETAILER OR UTILITY BUSINESS, AS A  
2 PERCENTAGE OF THE SALES PRICE. THE TAX LEVIED PURSUANT TO THIS PARAGRAPH  
3 SHALL BE AT A RATE EQUAL TO THE EXCISE TAX RATE UNDER SUBSECTION A OF THIS  
4 SECTION APPLYING TO RETAILERS AND UTILITY BUSINESSES ACCORDING TO THE  
5 RESPECTIVE CLASSIFICATION UNDER TITLE 42, CHAPTER 5, ARTICLES 1 AND 2 FOR THE  
6 SAME TYPE OF TRANSACTION OR BUSINESS ACTIVITY.

7 C. The tax applies in both incorporated and unincorporated areas of  
8 the county.

9 D. At the end of each month the state treasurer shall transmit the net  
10 revenues collected pursuant to this section to the district treasurer who  
11 shall deposit the revenues in the county jail district general fund.

12 E. Unless the context otherwise requires:

13 1. Section 42-6102 governs the administration of the tax imposed  
14 pursuant to subsection A of this section.

15 2. Title 42, chapter 5, article 4 governs the administration of the  
16 use tax imposed pursuant to subsection B OR F of this section.

17 F. IF A DISTRICT LEVIES AN EXCISE TAX PURSUANT TO SUBSECTION A OF THIS  
18 SECTION ON THE EFFECTIVE DATE OF THE AMENDMENT OF THIS SECTION AND IF  
19 APPROVED BY THE QUALIFIED ELECTORS VOTING AT A DISTRICT-WIDE ELECTION, A  
20 DISTRICT MAY LEVY AND, IF LEVIED, THE DEPARTMENT SHALL COLLECT AN EXCISE TAX  
21 ON THE STORAGE, USE OR CONSUMPTION IN THE COUNTY OF TANGIBLE PERSONAL  
22 PROPERTY PURCHASED FROM A RETAILER OR UTILITY BUSINESS, AS A PERCENTAGE OF  
23 THE SALES PRICE. THE TAX LEVIED PURSUANT TO THIS SUBSECTION SHALL BE AT A  
24 RATE EQUAL TO THE RATE OF THE EXCISE TAX LEVIED PURSUANT TO SUBSECTION A OF  
25 THIS SECTION.

26 Sec. 37. Section 48-5805, Arizona Revised Statutes, is amended to  
27 read:

28 48-5805. Transaction privilege tax; property tax

29 A. The board of directors of the district by resolution may levy, and  
30 if levied, the department of revenue shall collect, a transaction privilege  
31 tax pursuant to this section to be used and spent for the purposes described  
32 in section 48-5804. The board shall set the rate of the tax at not more than

1 two per cent of the tax rate that applies to each business in the district  
2 that is subject to taxation under title 42, chapter 5, article 1. The board  
3 shall levy the tax on each person engaging in the district in a business  
4 taxed under title 42, chapter 5, article 1.

5 B. Each month the state treasurer shall remit to the district  
6 treasurer the net revenues collected under ~~subsection~~ SUBSECTIONS A, D AND E  
7 of this section during the second preceding month. The district treasurer  
8 shall deposit the monies in the public health services district's accounts  
9 and shall account for all expenditures.

10 C. In lieu of a transaction privilege tax pursuant to subsection A of  
11 this section, the board by resolution may levy in the same manner and at the  
12 same time as other county secondary property taxes are levied a public health  
13 services district tax. The tax shall not exceed twenty-five cents per one  
14 hundred dollars of assessed valuation and shall be levied on all property in  
15 the county and on all property within incorporated cities and towns in the  
16 county. The district shall deposit all monies collected pursuant to this  
17 subsection in a separate account and shall account for all expenditures.

18 D. IF A DISTRICT LEVIES AN EXCISE TAX UNDER SUBSECTION A OF THIS  
19 SECTION, THE BOARD OF DIRECTORS, BY RESOLUTION, SHALL ALSO LEVY, AND IF  
20 LEVIED, THE DEPARTMENT OF REVENUE SHALL COLLECT, A USE TAX ON THE STORAGE,  
21 USE OR CONSUMPTION IN THE COUNTY OF TANGIBLE PERSONAL PROPERTY PURCHASED FROM  
22 A RETAILER, AS A PERCENTAGE OF THE SALES PRICE. THE TAX LEVIED PURSUANT TO  
23 THIS SUBSECTION SHALL BE AT A RATE EQUAL TO THE EXCISE TAX RATE UNDER  
24 SUBSECTION A OF THIS SECTION APPLYING TO RETAILERS ACCORDING TO THE  
25 RESPECTIVE CLASSIFICATION UNDER TITLE 42, CHAPTER 5, ARTICLES 1 AND 2 FOR THE  
26 SAME TYPE OF TRANSACTION OR BUSINESS ACTIVITY.

27 E. IF A DISTRICT LEVIES AN EXCISE TAX PURSUANT TO SUBSECTION A OF THIS  
28 SECTION ON THE EFFECTIVE DATE OF THE AMENDMENT OF THIS SECTION AND IF  
29 APPROVED BY THE QUALIFIED ELECTORS VOTING AT A DISTRICT-WIDE ELECTION, A  
30 DISTRICT MAY LEVY AND, IF LEVIED, THE DEPARTMENT SHALL COLLECT AN EXCISE TAX  
31 ON THE STORAGE, USE OR CONSUMPTION IN THE COUNTY OF TANGIBLE PERSONAL  
32 PROPERTY PURCHASED FROM A RETAILER, AS A PERCENTAGE OF THE SALES PRICE. THE

1 TAX LEVIED PURSUANT TO THIS SUBSECTION SHALL BE AT A RATE EQUAL TO THE RATE  
2 OF THE EXCISE TAX LEVIED PURSUANT TO SUBSECTION A OF THIS SECTION.

3 Sec. 38. Section 49-290, Arizona Revised Statutes, is amended to read:

4 49-290. Exemption from permit requirements; definition

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

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

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

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

22 C. The director may waive any regulatory requirement adopted pursuant  
23 to this title with respect to a site or portion of a site as part of a record  
24 of decision adopted pursuant to section 49-287.04 for that site or portion of  
25 a site if the regulatory requirement conflicts with the implementation of the  
26 selected remedy, provided that the waiver does not result in adverse impacts  
27 to public health or the environment. No waiver may be granted under this  
28 subsection if it is prohibited by federal law or if the waiver would  
29 jeopardize the continued delegation to the state of authority to implement a  
30 federal environmental program.

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

4           E. The director shall give written notice of any request for exemption  
5 made pursuant to subsection B of this section to the remedial action  
6 coordinator designated pursuant to subsection G of this section by the  
7 governmental entity whose permit requirements are the subject of the  
8 request. Before making any finding pursuant to subsection B of this section,  
9 the director or the director's designee shall meet and confer with the  
10 remedial action coordinator and the person conducting the remedial action to  
11 identify alternatives to exemption.

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

21           G. Each city, town and county shall designate a remedial action  
22 coordinator who shall have responsibility for monitoring and facilitating any  
23 remedial actions conducted within its jurisdiction. The designated remedial  
24 action coordinator shall:

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

27           2. Expedite the processing and issuance of permits, approvals or other  
28 authorizations required by the governmental entity represented by the  
29 remedial action coordinator, to facilitate the prompt conduct of a remedial  
30 action.

31           3. Provide information to the department and the person conducting the  
32 remedial action regarding applicable requirements of the governmental entity

1 represented by the remedial action coordinator and the potential for waiver  
2 of such requirements.

3 ~~H. In order to encourage remediation activities under this article and  
4 to conserve the fund, neither this state nor any county that imposes an  
5 excise or similar tax that is levied at a rate applied as a percentage of the  
6 rates on each business class subject to the tax imposed by title 42, chapter  
7 5, article 1 may impose a tax on the sale or purchase of tangible personal  
8 property incorporated or fabricated into any real property, structure,  
9 project, development or improvement under a contract specified in section  
10 42-5075, subsection B, paragraph 6.~~

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

15 Sec. 39. Preexisting contracts; tax

16 A. This act does not apply to or affect the tax liability with respect  
17 to contracts that were entered into before January 1, 2015 by a person who  
18 engaged in business under the prime contracting classification pursuant to  
19 section 42-5075, Arizona Revised Statutes, or the construction contracting,  
20 owner builder or speculative builder classification pursuant to section 415,  
21 416 or 417 of the model city tax code.

22 B. Notwithstanding section 42-5075, Arizona Revised Statutes, as  
23 amended by this act, the tax imposed by title 42, chapter 5, article 1,  
24 Arizona Revised Statutes, is levied and shall be collected at a rate of five  
25 and six-tenths per cent of the tax base, as determined pursuant to section 42-  
26 5075, Arizona Revised Statutes, as in effect on December 31, 2014, derived  
27 pursuant to contracts entered into before January 1, 2015 by prime contractors  
28 who were subject to tax under section 42-5075, Arizona Revised Statutes,  
29 before January 1, 2015.

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

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

4           E. Notwithstanding section 42-6004, Arizona Revised Statutes, as  
5 amended by this act, the municipal privilege tax imposed by an incorporated  
6 city or town is levied and shall be collected at the rate in effect on  
7 December 31, 2014, as determined pursuant to the model city tax code, derived  
8 pursuant to contracts entered into before January 1, 2015 by construction  
9 contractors, owner builders and speculative builders that were subject to tax  
10 under section 415, 416 or 417 of the model city tax code, before January 1,  
11 2015, unless the contract does not contain a provision that entitles the  
12 taxpayer to recover the amount of the tax. The taxpayer is required to  
13 provide sufficient documentation to the department of revenue.

14           F. The taxes imposed pursuant to title 42, chapter 6, article 3,  
15 Arizona Revised Statutes, apply to the tax base, as determined pursuant to  
16 sections 42-5075 and 42-5076, Arizona Revised Statutes, as in effect on  
17 December 31, 2014, derived pursuant to contracts entered into after the date  
18 of the election to authorize the tax and before January 1, 2015 by prime  
19 contractors and owner builders who engaged in business pursuant to sections  
20 42-5075 and 42-5076, Arizona Revised Statutes. Contracts entered into before  
21 the date of the election to authorize the tax by prime contractors and owner  
22 builders who engaged in business pursuant to sections 42-5075 and 42-5076,  
23 Arizona Revised Statutes, are taxable pursuant to title 42, chapter 6, article  
24 3, Arizona Revised Statutes, on the tax base, as determined pursuant to  
25 sections 42-5075 and 42-5076, Arizona Revised Statutes, as in effect on  
26 December 31, 2014, unless the contract does not contain a provision that  
27 entitles the taxpayer to recover the amount of the tax from a purchaser. The  
28 taxpayer is required to provide sufficient documentation to the department of  
29 revenue.

30           G. Unless the context otherwise requires, title 42, chapter 5, article  
31 1, Arizona Revised Statutes, governs the administration of the tax imposed by  
32 this section.

1           Sec. 40 Preexisting tax exempt contracts

2           A. From and after December 31, 2014, the sale of tangible personal  
3 property to a contractor for incorporation or fabrication, pursuant to a  
4 contract entered into before January 1, 2015, into any project that was  
5 subject to a deduction under section 42-5075, subsection B, Arizona Revised  
6 Statutes, as in effect on December 31, 2014, is not subject to tax under  
7 section 42-5061, Arizona Revised Statutes.

8           B. From and after December 31, 2014, the sale of tangible personal  
9 property to a construction contractor, owner builder or speculative builder  
10 for incorporation or fabrication pursuant to a contract entered into before  
11 January 1, 2015, into any project that was subject to a deduction under  
12 section 415.b, 416.c.1 or 2, or 417.c.1 or 2 of the model city tax code, as  
13 in effect on December 31, 2014, is not subject to tax under section 460 of  
14 the model city tax code.

15           Sec. 41. Use tax

16           A. Tangible personal property that was purchased before January 1,  
17 2015 by a person who engaged in business under the prime contracting  
18 classification or who performed contracting services within the control of a  
19 prime contractor pursuant to section 42-5075, Arizona Revised Statutes, and  
20 that was not incorporated into a project for which the contract was entered  
21 into before January 1, 2015 is subject to use taxation pursuant to section  
22 42-5155, Arizona Revised Statutes.

23           B. Tangible personal property that was purchased before January 1,  
24 2015 by a person who engaged in business under the construction contracting,  
25 owner builder or speculative builder classification or who performed  
26 contracting services within the control of a construction contractor, owner  
27 builder or speculative builder pursuant to section 415, 416 or 417 of the  
28 model city tax code and that was not incorporated into a project for which the  
29 contract was entered into before January 1, 2015 is subject to use taxation  
30 under the model city tax code.

1           Sec. 42. City and town auditors

2           Notwithstanding section 42-6001, Arizona Revised Statutes, as amended  
3 by this act, for the period beginning January 1, 2015 and ending December 31,  
4 2015, the department shall enter into an agreement with the governing body of  
5 an incorporated city or town to furnish part-time or full-time personnel to  
6 perform audit services within the boundaries of the city or town. The  
7 incorporated city or town shall pay to the department the amount agreed to be  
8 paid.

9           Sec. 43. Rate limitation

10          An incorporated city or town shall not impose a municipal  
11 contracting excise tax rate higher than the rate imposed on  
12 construction contracting, speculative builder or owner-builder, as in  
13 effect on December 31, 2012.

14          Sec. 44. Department of revenue; emergency rule making

15          The department of revenue may adopt emergency rules pursuant to section  
16 41-1026, Arizona Revised Statutes, as necessary to administer this act.

17          Sec. 45. Effective dates

18          A. Sections 42-5039 and 42-6113, Arizona Revised Statutes, as added by  
19 this act, and sections 42-6105, 42-6106, 42-6107, 48-4022 and 48-5805,  
20 Arizona Revised Statutes, as amended by this act, are effective from and  
21 after December 31, 2013.

22          B. Sections 42-5078, 42-6020 and 42-6021, Arizona Revised Statutes, as  
23 added by this act and sections 41-1516, 41-1532, 42-1004, 42-1103, 42-5001,  
24 42-5006, 42-5009, 42-5010, 42-5029, 42-5032.01, 42-5032.02, 42-5061, 42-5071,  
25 42-5072, 42-5075, 42-5151, 42-5155, 42-5159, 42-5160, 42-6001, 42-6002,  
26 42-6004, 42-6005, 42-6102, 43-1072.01, 44-1263 and 49-290, Arizona Revised  
27 Statutes, as amended by this act, are effective from and after December  
28 31, 2014."

29 Amend title to conform

~~3/22/13~~  
~~11:10 AM~~  
~~S: slp~~

3/22/13  
3:31 PM  
S: sa