

REFERENCE TITLE: gang; immigration intelligence; mission; funding

State of Arizona
House of Representatives
Fifty-first Legislature
First Regular Session
2013

HB 2085

Introduced by
Representative Campbell

AN ACT

AMENDING SECTIONS 12-116.04, 28-2154.01 AND 41-1724, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 12, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1726; AMENDING SECTIONS 42-5029, 42-5061, 42-5064, 42-5071, 42-5075, 42-5155, 42-5159 AND 43-1082, ARIZONA REVISED STATUTES; MAKING APPROPRIATIONS; RELATING TO THE DEPARTMENT OF PUBLIC SAFETY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 12-116.04, Arizona Revised Statutes, is amended to
3 read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 A. The gang and immigration intelligence team enforcement mission fund
33 is established consisting of monies deposited pursuant to section 11-1051,
34 SECTION 12-116.04, SECTION 42-5029, SUBSECTION D, PARAGRAPH 4, SUBDIVISION
35 (b) and monies appropriated by the legislature. The department shall
36 administer the fund. ~~Any monies distributed from the fund to a county~~
37 ~~sheriff shall go directly to the county sheriff and are not subject to any~~
38 ~~form of approval by the board of supervisors.~~ Monies in the fund are subject
39 to legislative appropriation.

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

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

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

18 ~~E. The gang and immigration intelligence team enforcement mission~~
19 ~~border security and law enforcement subaccount is established consisting of~~
20 ~~monies deposited pursuant to section 12-116.04 and monies appropriated by the~~
21 ~~legislature. The department shall administer the subaccount. Any monies~~
22 ~~distributed from the subaccount to a county sheriff shall go directly to the~~
23 ~~county sheriff and are not subject to any form of approval by the board of~~
24 ~~supervisors. Monies in the subaccount are subject to legislative~~
25 ~~appropriation. All appropriated monies in the subaccount shall be~~
26 ~~distributed each fiscal year to local entities and no monies may be retained~~
27 ~~by the department for its own use. The monies in the subaccount shall be~~
28 ~~used for law enforcement purposes related to border security, including~~
29 ~~border personnel.~~

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

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

- 42 B. THE GANG AND IMMIGRATION INTELLIGENCE TEAM ENFORCEMENT MISSION FUND
43 IS DIVIDED INTO THE FOLLOWING ACCOUNTS:
44 1. THE MISSION ACCOUNT.
45 2. THE BORDER SECURITY EQUIPMENT AND TECHNOLOGY ACCOUNT.

1 5. COLLECT, ANALYZE AND DISSEMINATE GANG AND ILLEGAL IMMIGRATION
2 INTELLIGENCE.

3 6. PROVIDE ANTI-GANG AND ILLEGAL IMMIGRATION AWARENESS TRAINING TO
4 COMMUNITIES AND SCHOOLS.

5 C. IF THE DEPARTMENT SPENDS MONIES FROM THE MISSION ACCOUNT
6 ESTABLISHED BY SECTION 41-1724 THAT ARE APPROPRIATED FOR THE GANG AND
7 IMMIGRATION INTELLIGENCE TEAM ENFORCEMENT MISSION FOR AN AGREEMENT OR
8 CONTRACT WITH A CITY, TOWN, COUNTY OR OTHER ENTITY TO PROVIDE SERVICES FOR
9 THE GANG AND IMMIGRATION INTELLIGENCE TEAM ENFORCEMENT MISSION, THE CITY,
10 TOWN, COUNTY OR OTHER ENTITY SHALL PROVIDE NOT LESS THAN TWENTY-FIVE PER CENT
11 OF THE COST OF THE SERVICES AND THE DEPARTMENT SHALL PROVIDE NOT MORE THAN
12 SEVENTY-FIVE PER CENT OF THE PERSONAL SERVICES AND EMPLOYEE RELATED
13 EXPENDITURES FOR EACH AGREEMENT OR CONTRACT BUT MAY FUND ALL CAPITAL RELATED
14 EQUIPMENT.

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

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

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

26 Sec. 5. Section 42-5029, Arizona Revised Statutes, is amended to 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.
- 33 3. Revenues collected under this article and article 5 of this chapter
34 from and after June 30, 2000 from sources located on Indian reservations in
35 this state.
- 36 4. Revenues collected pursuant to section 42-5010, subsection G and
37 section 42-5155, subsection D.

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

44 B. The department shall credit payments of estimated tax to an
45 estimated tax clearing account and each month shall transfer all monies in

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

8 C. On notification by the department, the state treasurer shall
9 distribute the monies deposited in the transaction privilege and severance
10 tax clearing account in the manner prescribed by this section and by sections
11 42-5164, 42-5205 and 42-5353, after deducting warrants drawn against the
12 account pursuant to sections 42-1118 and 42-1254.

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

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

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

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

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

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

29 (a) Average the following proportions:

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

42 (ii) The proportion that the distribution base monies collected during
43 the calendar month in each county under this article, section 42-5164,
44 subsection B, section 42-5205, subsection B and section 42-5353 bear to the
45 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 (b) If the proportion computed under subdivision (a) of this paragraph
4 for any county is greater than the proportion computed under paragraph 2 of
5 this subsection, the department shall compute the difference between the
6 amount distributed to that county under paragraph 2 of this subsection and
7 the amount that would have been distributed under paragraph 2 of this
8 subsection using the proportion computed under subdivision (a) of this
9 paragraph and shall pay that difference to the county from the amount
10 available for distribution under this paragraph. Any monies remaining after
11 all payments under this subdivision shall be distributed among the counties
12 according to the proportions computed under paragraph 2 of this subsection.

13 4. After any distributions required by sections 42-5030, 42-5030.01,
14 42-5031, 42-5032, 42-5032.01 and 42-5032.02, and after making any transfer to
15 the water quality assurance revolving fund as required by section 49-282,
16 subsection B, credit the remainder of the monies designated as distribution
17 base to the state general fund. From this amount:

18 (a) The legislature shall annually appropriate to:

19 ~~(a)~~ (i) The department of revenue sufficient monies to administer and
20 enforce this article and articles 5 and 8 of this chapter.

21 ~~(b)~~ (ii) The department of economic security monies to be used for
22 the purposes stated in title 46, chapter 1.

23 ~~(c)~~ (iii) The firearms safety and ranges fund established by section
24 17-273, fifty thousand dollars derived from the taxes collected from the
25 retail classification pursuant to section 42-5061 for the current fiscal
26 year.

27 (b) EACH YEAR THE STATE TREASURER SHALL TRANSFER TO THE GANG AND
28 IMMIGRATION INTELLIGENCE TEAM ENFORCEMENT MISSION FUND ESTABLISHED BY SECTION
29 41-1724 THE FULL AMOUNT OF REVENUES IDENTIFIED AND REPORTED PURSUANT TO
30 SUBSECTION A, PARAGRAPH 5 OF THIS SECTION.

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

40 1. If there are outstanding state school facilities revenue bonds
41 pursuant to title 15, chapter 16, article 7, each month one-twelfth of the
42 amount that is necessary to pay the fiscal year's debt service on outstanding
43 state school improvement revenue bonds for the current fiscal year shall be
44 transferred each month to the school improvement revenue bond debt service
45 fund established by section 15-2084. The total amount of bonds for which

1 these monies may be allocated for the payment of debt service shall not
2 exceed a principal amount of eight hundred million dollars exclusive of
3 refunding bonds and other refinancing obligations.

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

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

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

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

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

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

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

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

36 (e) In fiscal year 2005-2006 and each fiscal year thereafter,
37 \$86,280,500.

38 6. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
39 subsection, seven million eight hundred thousand dollars is appropriated each
40 fiscal year, to be paid in monthly installments, to the department of
41 education to be used for school safety as provided in section 15-154 and two
42 hundred thousand dollars is appropriated each fiscal year, to be paid in
43 monthly installments to the department of education to be used for the
44 character education matching grant program as provided in section 15-154.01.

1 7. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
2 subsection, no more than seven million dollars may be appropriated by the
3 legislature each fiscal year to the department of education to be used for
4 accountability purposes as described in section 15-241 and title 15, chapter
5 9, article 8.

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

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

14 10. After the payment of monies pursuant to paragraphs 1 through 9 of
15 this subsection, the remaining monies collected during the preceding month
16 shall be transferred to the classroom site fund established by section
17 15-977. The monies shall be allocated as follows in the manner prescribed by
18 section 15-977:

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

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

23 (c) Forty per cent shall be allocated for maintenance and operation
24 purposes.

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

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

1 H. On receiving a certificate of default from the greater Arizona
 2 development authority pursuant to section 41-2257 or 41-2258 and to the
 3 extent not otherwise expressly prohibited by law, the state treasurer shall
 4 withhold from the next succeeding distribution of monies pursuant to this
 5 section due to the defaulting political subdivision the amount specified in
 6 the certificate of default and immediately deposit the amount withheld in the
 7 greater Arizona development authority revolving fund. The state treasurer
 8 shall continue to withhold and deposit the monies until the greater Arizona
 9 development authority certifies to the state treasurer that the default has
 10 been cured. In no event may the state treasurer withhold any amount that the
 11 defaulting political subdivision certifies to the state treasurer and the
 12 authority as being necessary to make any required deposits then due for the
 13 payment of principal and interest on bonds of the political subdivision that
 14 were issued before the date of the loan repayment agreement or bonds and that
 15 have been secured by a pledge of distributions made pursuant to this section.

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

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

36 K. On notice from the auditor general pursuant to section 9-626,
 37 subsection D, the state treasurer shall withhold from the distribution of
 38 monies pursuant to this section to the affected city the amount computed
 39 pursuant to section 9-626, subsection D. The state treasurer shall continue
 40 to withhold monies pursuant to this subsection until the entire amount
 41 specified in the notice has been withheld. The state treasurer shall credit
 42 any monies withheld pursuant to this subsection to the state general fund as
 43 provided by subsection D, paragraph 4 of this section.

44 L. For the purposes of this section, "community college district"
 45 means a community college district that is established pursuant to sections

1 15-1402 and 15-1403 and that is a political subdivision of this state and,
2 unless otherwise specified, includes a community college district established
3 pursuant to section 15-1402.01 and a provisional community college district
4 established pursuant to section 15-1409.

5 Sec. 6. Section 42-5061, Arizona Revised Statutes, is amended to read:
6 42-5061. Retail classification; definitions

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

12 1. Professional or personal service occupations or businesses that
13 involve sales or transfers of tangible personal property only as
14 inconsequential elements.

15 2. Services rendered in addition to selling tangible personal property
16 at retail.

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

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

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

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

29 7. The sale of stocks and bonds.

30 8. 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.

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

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

37 11. Prescription eyeglasses or contact lenses.

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

39 13. Durable medical equipment which has a centers for medicare and
40 medicaid services common procedure code, is designated reimbursable by
41 medicare, is prescribed by a person who is licensed under title 32, chapter
42 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and
43 customarily used to serve a medical purpose, is generally not useful to a
44 person in the absence of illness or injury and is appropriate for use in the
45 home.

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

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

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

11 17. Textbooks by any bookstore that are required by any state
12 university or community college.

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

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

22 20. Lottery tickets or shares pursuant to title 5, chapter 5.1,
23 article 1.

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

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

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

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

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

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

4 25. Tangible personal property sold to:

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

6 (b) A qualifying health care organization as defined in section
7 42-5001 if the tangible personal property is used by the organization solely
8 to provide health and medical related educational and charitable services.

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

14 (d) A qualifying community health center as defined in section
15 42-5001.

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

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

27 26. Magazines or other periodicals or other publications by this state
28 to encourage tourist travel.

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

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

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

39 28. The sale of a motor vehicle to:

40 (a) A nonresident of this state if the purchaser's state of residence
41 does not allow a corresponding use tax exemption to the tax imposed by
42 article 1 of this chapter and if the nonresident has secured a special ninety
43 day nonresident registration permit for the vehicle as prescribed by sections
44 28-2154 and 28-2154.01.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 56. Sales of motor vehicle fuel and use fuel to a qualified business
21 under section 41-1516 for off-road use in harvesting, processing or
22 transporting qualifying forest products removed from qualifying projects as
23 defined in section 41-1516.

24 57. Sales of repair parts installed in equipment used directly by a
25 qualified business under section 41-1516 in harvesting, processing or
26 transporting qualifying forest products removed from qualifying projects as
27 defined in section 41-1516.

28 58. Sales or other transfers of renewable energy credits or any other
29 unit created to track energy derived from renewable energy resources. For
30 the purposes of this paragraph, "renewable energy credit" means a unit
31 created administratively by the corporation commission or governing body of a
32 public power utility to track kilowatt hours of electricity derived from a
33 renewable energy resource or the kilowatt hour equivalent of conventional
34 energy resources displaced by distributed renewable energy resources.

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

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

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

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

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

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

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

24 ~~7.~~ 6. Aircraft, navigational and communication instruments and other
25 accessories and related equipment sold to:

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

32 (b) Any foreign government.

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

40 ~~8.~~ 7. Machinery, tools, equipment and related supplies used or
41 consumed directly in repairing, remodeling or maintaining aircraft, aircraft
42 engines or aircraft component parts by or on behalf of a certificated or
43 licensed carrier of persons or property.

44 ~~9.~~ 8. Railroad rolling stock, rails, ties and signal control
45 equipment used directly to transport persons or property.

1 ~~10-~~ 9. Machinery or equipment used directly to drill for oil or gas or
2 used directly in the process of extracting oil or gas from the earth for
3 commercial purposes.

4 ~~11-~~ 10. Buses or other urban mass transit vehicles which are used
5 directly to transport persons or property for hire or pursuant to a
6 governmentally adopted and controlled urban mass transportation program and
7 which are sold to bus companies holding a federal certificate of convenience
8 and necessity or operated by any city, town or other governmental entity or
9 by any person contracting with such governmental entity as part of a
10 governmentally adopted and controlled program to provide urban mass
11 transportation.

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

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

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

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

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

37 ~~15-~~ 14. Tangible personal property that is used by either of the
38 following to receive, store, convert, produce, generate, decode, encode,
39 control or transmit telecommunications information:

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

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

44 (i) Over two-thirds of the transmissions, measured in megabytes,
45 transmitted by the facility during the test period were transmitted to or on

1 behalf of one or more direct broadcast satellite television or data
2 transmission services that operate pursuant to 47 Code of Federal Regulations
3 part 25.

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

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

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

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

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

30 ~~17.~~ 16. Machinery and equipment used directly in the feeding of
31 poultry, the environmental control of housing for poultry, the movement of
32 eggs within a production and packaging facility or the sorting or cooling of
33 eggs. This exemption does not apply to vehicles used for transporting eggs.

34 ~~18.~~ 17. Machinery or equipment, including related structural
35 components, that is employed in connection with manufacturing, processing,
36 fabricating, job printing, refining, mining, natural gas pipelines,
37 metallurgical operations, telecommunications, producing or transmitting
38 electricity or research and development and that is used directly to meet or
39 exceed rules or regulations adopted by the federal energy regulatory
40 commission, the United States environmental protection agency, the United
41 States nuclear regulatory commission, the Arizona department of environmental
42 quality or a political subdivision of this state to prevent, monitor, control
43 or reduce land, water or air pollution.

44 ~~19.~~ 18. Machinery and equipment that are sold to a person engaged in
45 the commercial production of livestock, livestock products or agricultural,

1 horticultural, viticultural or floricultural crops or products in this state
2 and that are used directly and primarily to prevent, monitor, control or
3 reduce air, water or land pollution.

4 ~~20-~~ 19. Machinery or equipment that enables a television station to
5 originate and broadcast or to receive and broadcast digital television
6 signals and that was purchased to facilitate compliance with the
7 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States
8 Code section 336) and the federal communications commission order issued
9 April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does
10 not exempt any of the following:

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

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

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

18 ~~21-~~ 20. Qualifying equipment that is purchased from and after June 30,
19 2004 through June 30, 2024 by a qualified business under section 41-1516 for
20 harvesting or processing qualifying forest products removed from qualifying
21 projects as defined in section 41-1516. To qualify for this deduction, the
22 qualified business at the time of purchase must present its certification
23 approved by the department.

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

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

30 2. Janitorial equipment and hand tools.

31 3. Office equipment, furniture and supplies.

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

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

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

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

42 D. In addition to the deductions from the tax base prescribed by
43 subsection A of this section, there shall be deducted from the tax base the
44 gross proceeds of sales or gross income derived from sales of machinery,
45 equipment, materials and other tangible personal property used directly and

1 predominantly to construct a qualified environmental technology
2 manufacturing, producing or processing facility as described in section
3 41-1514.02. This subsection applies for ten full consecutive calendar or
4 fiscal years after the start of initial construction.

5 E. In computing the tax base, gross proceeds of sales or gross income
6 from retail sales of heavy trucks and trailers does not include any amount
7 attributable to federal excise taxes imposed by 26 United States Code section
8 4051.

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

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

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

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

- 33 1. Transporting classification.
- 34 2. Utilities classification.
- 35 3. Telecommunications classification.
- 36 4. Pipeline classification.
- 37 5. Private car line classification.
- 38 6. Publication classification.
- 39 7. Job printing classification.
- 40 8. Prime contracting classification.
- 41 9. Owner builder sales classification.
- 42 10. Restaurant classification.

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

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

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

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

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

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

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

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

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

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

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

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

44 P. For the purposes of this section, a sale of wireless
45 telecommunications equipment to a person who holds the equipment for sale or

1 transfer to a customer as an inducement to enter into or continue a contract
2 for telecommunications services that are taxable under section 42-5064 is
3 considered to be a sale for resale in the regular course of business.

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

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

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

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

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

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

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

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

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

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

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

14 1. "Aircraft" includes:

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

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

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

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

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

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

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

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

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

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

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

12 Sec. 7. Section 42-5064, Arizona Revised Statutes, is amended to read:
13 42-5064. Telecommunications classification; definitions

14 A. The telecommunications classification is comprised of the business
15 of providing intrastate telecommunications services. The telecommunications
16 classification does not include:

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

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

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

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

32 B. The tax base for the telecommunications classification is the gross
33 proceeds of sales or gross income derived from the business, including the
34 gross income derived from tolls, subscriptions and services on behalf of
35 subscribers or from the publication of a directory of the names of
36 subscribers. However, the gross proceeds of sales or gross income derived
37 from the following shall be deducted from the tax base:

38 1. Sales of intrastate telecommunications services to:

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

41 (b) A direct broadcast satellite television or data transmission
42 service that operates pursuant to 47 Code of Federal Regulations part 25 for
43 use in its direct broadcast satellite television or data transmission
44 operation by a facility described in section 42-5061, subsection B, paragraph
45 ~~15~~ 14, subdivision (b).

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

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

6 4. Sales of direct broadcast satellite television services pursuant to
7 47 Code of Federal Regulations part 25 by a direct broadcast satellite
8 television service that operates pursuant to 47 Code of Federal Regulations
9 part 25.

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

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

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

22 1. A telecommunications service provider who can reasonably identify
23 the portion of the sales price of the bundled transaction derived from
24 charges for nontaxable services is subject to tax only on the gross proceeds
25 of sales or gross income derived from the taxable services. For the purposes
26 of this section, the telecommunications service provider may elect to
27 reasonably identify the portion of the sales price of the bundled transaction
28 derived from charges for nontaxable services by using allocation percentages
29 derived from the telecommunications service provider's entire service area,
30 including territories outside of this state. On request, the department may
31 require the telecommunications service provider to provide this allocation
32 information. The reasonableness of the allocation is subject to audit by the
33 department.

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

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

42 E. For the purposes of this section:

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

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

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

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

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

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

16 Sec. 8. Section 42-5071, Arizona Revised Statutes, is amended to read:
17 42-5071. Personal property rental classification

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (ii) Section 42-5061, subsection B, paragraph ~~21~~ 20.

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

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

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

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

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

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

38 D. In computing the tax base, the gross proceeds of sales or gross
39 income from the lease or rental of a motor vehicle does not include any
40 amount attributable to the car rental surcharge under section 28-5810 or
41 48-4234.

42 E. Until December 31, 1988, leasing or renting animals for
43 recreational purposes is exempt from the tax imposed by this section.
44 Beginning January 1, 1989, the gross proceeds or gross income from leasing or
45 renting animals for recreational purposes is subject to taxation under this

1 section. Tax liabilities, penalties and interest paid for taxable periods
2 before January 1, 1989 shall not be refunded unless the taxpayer requesting
3 the refund provides proof satisfactory to the department that the monies paid
4 as taxes will be returned to the customer.

5 Sec. 9. Section 42-5075, Arizona Revised Statutes, is amended to read:
6 42-5075. Prime contracting classification; exemptions;
7 definitions

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

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

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

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

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

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

41 5. The gross proceeds of sales or gross income derived from a contract
42 to construct a qualified environmental technology manufacturing, producing or
43 processing facility, as described in section 41-1514.02, and from subsequent
44 construction and installation contracts that begin within ten years after the
45 start of initial construction. To qualify for this deduction, before

1 beginning work under the contract, the prime contractor must obtain a letter
2 of qualification from the department of revenue. This paragraph shall apply
3 for ten full consecutive calendar or fiscal years after the start of initial
4 construction.

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

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

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

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

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

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

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

34 7. The gross proceeds of sales or gross income that is derived from a
35 contract entered into for the installation, assembly, repair or maintenance
36 of machinery, equipment or other tangible personal property that is deducted
37 from the tax base of the retail classification pursuant to section 42-5061,
38 subsection B, or that is exempt from use tax pursuant to section 42-5159,
39 subsection B, and that does not become a permanent attachment to a building,
40 highway, road, railroad, excavation or manufactured building or other
41 structure, project, development or improvement. If the ownership of the
42 realty is separate from the ownership of the machinery, equipment or tangible
43 personal property, the determination as to permanent attachment shall be made
44 as if the ownership were the same. The deduction provided in this paragraph
45 does not include gross proceeds of sales or gross income from that portion of

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

8 (a) To be incorporated into real property.

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

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

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

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

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

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

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

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

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

34 11. The gross proceeds of sales or gross income that is derived from
35 the installation, assembly, repair or maintenance of clean rooms that are
36 deducted from the tax base of the retail classification pursuant to section
37 42-5061, subsection B, paragraph ~~16~~ 15.

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

44 13. For taxable periods beginning from and after December 31, 1996 and
45 ending before January 1, 2017, the gross proceeds of sales or gross income

1 derived from a contract to provide and install a solar energy device. The
2 contractor shall register with the department as a solar energy contractor.
3 By registering, the contractor acknowledges that it will make its books and
4 records relating to sales of solar energy devices available to the department
5 for examination.

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

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

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

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

22 18. The gross proceeds of sales or gross income received from a
23 contract for the construction of any building, or other structure, project,
24 development or improvement owned by a qualified business under section
25 41-1516 for harvesting or processing qualifying forest products removed from
26 qualifying projects as defined in section 41-1516 if actual construction
27 begins before January 1, 2024. To qualify for this deduction, the prime
28 contractor must obtain a letter of qualification from the Arizona commerce
29 authority before beginning work under the contract.

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

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

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

43 (c) "Development fees" means fees imposed to offset capital costs of
44 providing public infrastructure, public safety or other public services to a

1 development and authorized pursuant to section 9-463.05, section 11-1102 or
2 title 48 regardless of the jurisdiction to which the fees are paid.

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

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

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

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

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

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

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

42 D. Subcontractors or others who perform services in respect to any
43 improvement, building, highway, road, railroad, excavation, manufactured
44 building or other structure, project, development or improvement are not
45 subject to tax if they can demonstrate that the job was within the control of

1 a prime contractor or contractors or a dealership of manufactured buildings
2 and that the prime contractor or dealership is liable for the tax on the
3 gross income, gross proceeds of sales or gross receipts attributable to the
4 job and from which the subcontractors or others were paid.

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

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

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

29 H. For the purposes of section 42-5032.02, from and after September
30 30, 2013, the department shall separately account for revenues reported and
31 collected under the prime contracting classification from any prime
32 contractor engaged in the construction of any buildings and associated
33 improvements that are for the benefit of a manufacturing facility. For the
34 purposes of this subsection, "associated improvements" and "manufacturing
35 facility" have the same meanings prescribed in section 42-5032.02.

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

1 J. The gross proceeds of sales or gross income derived from
2 landscaping activities are subject to tax under this section. Landscaping
3 includes installing lawns, grading or leveling ground, installing gravel or
4 boulders, planting trees and other plants, felling trees, removing or
5 mulching tree stumps, removing other imbedded plants, building or modifying
6 irrigation berms, repairing sprinkler or watering systems, installing
7 railroad ties and installing underground sprinkler or watering systems.

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

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

20 M. The following apply to manufactured buildings:

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

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

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

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

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

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

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

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

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

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

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

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

23 (e) Inspection to determine the dates of substantial completion or
24 final completion.

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

31 (g) Preparation of status reports after modification work has begun
32 detailing the progress of work performed, including preparation of any of the
33 following:

34 (i) Master schedule updates.

35 (ii) Modification work cash flow projection updates.

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

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

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

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

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

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

4 2. "Design phase services" means services for developing and
5 completing a design for a project that are not construction phase services,
6 including the following:

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

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

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

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

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

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

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

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

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

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

37 (vi) Any bond and insurance premiums.

38 (vii) Any applicable taxes.

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

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

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

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

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

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

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

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

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

42 P. For the purposes of this section:

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

44 2. "Contractor" is synonymous with the term "builder" and means any
45 person or organization that undertakes to or offers to undertake to, or

1 purports to have the capacity to undertake to, or submits a bid to, or does
2 personally or by or through others, modify any building, highway, road,
3 railroad, excavation, manufactured building or other structure, project,
4 development or improvement, or to do any part of such a project, including
5 the erection of scaffolding or other structure or works in connection with
6 such a project, and includes subcontractors and specialty contractors. For
7 all purposes of taxation or deduction, this definition shall govern without
8 regard to whether or not such contractor is acting in fulfillment of a
9 contract.

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

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

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

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

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

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

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

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

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

38 Sec. 10. Section 42-5155, Arizona Revised Statutes, is amended to
39 read:

40 42-5155. Levy of tax; tax rate; purchaser's liability

41 A. There is levied and imposed an excise tax on the storage, use or
42 consumption in this state of tangible personal property purchased from a
43 retailer or utility business, as a percentage of the sales price. A
44 manufactured building purchased outside this state and set up in this state

1 is subject to tax under this section and in this case the RATE IS A
2 percentage ~~is~~ OF sixty-five per cent of the sales price.

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

6 C. The tax rate shall equal the rate of tax prescribed by section
7 42-5010, subsection A as applied to retailers and utility businesses
8 according to the respective classification under articles 1 and 2 of this
9 chapter for the same type of transaction or business activity.

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

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

23 F. A receipt from a retailer or utility business that maintains a
24 place of business in this state or from a retailer or utility business that
25 is authorized by the department to collect the tax, under such rules as it
26 may prescribe, and that is for the purposes of this article regarded as a
27 retailer or utility business maintaining a place of business in this state,
28 given to the purchaser as provided in section 42-5161 is sufficient to
29 relieve the purchaser from further liability for the tax to which the receipt
30 refers.

31 G. FOR THE PURPOSES OF SECTION 42-5029, SUBSECTION D, PARAGRAPH 4,
32 SUBDIVISION (b), THE DEPARTMENT SHALL SEPARATELY ACCOUNT FOR REVENUES
33 COLLECTED UNDER THIS ARTICLE DERIVED FROM SALES OF PIPES AND VALVES FOUR
34 INCHES IN DIAMETER OR LARGER AND USED TO TRANSPORT OIL, NATURAL GAS,
35 ARTIFICIAL GAS, WATER OR COAL SLURRY, INCLUDING COMPRESSOR UNITS, REGULATORS,
36 MACHINERY AND EQUIPMENT, FITTINGS, SEALS AND ANY OTHER PART THAT IS USED IN
37 OPERATING THE PIPES OR VALVES.

38 Sec. 11. Section 42-5159, Arizona Revised Statutes, is amended to
39 read:

40 42-5159. Exemptions

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

- 1 1. Tangible personal property sold in this state, the gross receipts
2 from the sale of which are included in the measure of the tax imposed by
3 articles 1 and 2 of this chapter.
- 4 2. Tangible personal property the sale or use of which has already
5 been subjected to an excise tax at a rate equal to or exceeding the tax
6 imposed by this article under the laws of another state of the United States.
7 If the excise tax imposed by the other state is at a rate less than the tax
8 imposed by this article, the tax imposed by this article is reduced by the
9 amount of the tax already imposed by the other state.
- 10 3. Tangible personal property, the storage, use or consumption of
11 which the constitution or laws of the United States prohibit this state from
12 taxing or to the extent that the rate or imposition of tax is
13 unconstitutional under the laws of the United States.
- 14 4. Tangible personal property which directly enters into and becomes
15 an ingredient or component part of any manufactured, fabricated or processed
16 article, substance or commodity for sale in the regular course of business.
- 17 5. Motor vehicle fuel and use fuel, the sales, distribution or use of
18 which in this state is subject to the tax imposed under title 28, chapter 16,
19 article 1, use fuel which is sold to or used by a person holding a valid
20 single trip use fuel tax permit issued under section 28-5739, aviation fuel,
21 the sales, distribution or use of which in this state is subject to the tax
22 imposed under section 28-8344, and jet fuel, the sales, distribution or use
23 of which in this state is subject to the tax imposed under article 8 of this
24 chapter.
- 25 6. Tangible personal property brought into this state by an individual
26 who was a nonresident at the time the property was purchased for storage, use
27 or consumption by the individual if the first actual use or consumption of
28 the property was outside this state, unless the property is used in
29 conducting a business in this state.
- 30 7. Purchases of implants used as growth promotants and injectable
31 medicines, not already exempt under paragraph 16 of this subsection, for
32 livestock and poultry owned by, or in possession of, persons who are engaged
33 in producing livestock, poultry, or livestock or poultry products, or who are
34 engaged in feeding livestock or poultry commercially. For the purposes of
35 this paragraph, "poultry" includes ratites.
- 36 8. Livestock, poultry, supplies, feed, salts, vitamins and other
37 additives for use or consumption in the businesses of farming, ranching and
38 feeding livestock or poultry, not including fertilizers, herbicides and
39 insecticides. For the purposes of this paragraph, "poultry" includes
40 ratites.
- 41 9. Seeds, seedlings, roots, bulbs, cuttings and other propagative
42 material for use in commercially producing agricultural, horticultural,
43 viticultural or floricultural crops in this state.

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

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

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

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

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

14 13. Tangible personal property purchased by:

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

18 (b) A hospital operated by this state or a political subdivision of
19 this state.

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

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

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

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

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

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

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

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

7 (i) A qualifying community health center as defined in section
8 42-5001.

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

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

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

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

30 15. Tangible personal property sold by:

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

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

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

- 1 16. Drugs and medical oxygen, including delivery hose, mask or tent,
2 regulator and tank, on the prescription of a member of the medical, dental or
3 veterinarian profession who is licensed by law to administer such substances.
- 4 17. Prosthetic appliances, as defined in section 23-501, prescribed or
5 recommended by a person who is licensed, registered or otherwise
6 professionally credentialed as a physician, dentist, podiatrist,
7 chiropractor, naturopath, homeopath, nurse or optometrist.
- 8 18. Prescription eyeglasses and contact lenses.
- 9 19. Insulin, insulin syringes and glucose test strips.
- 10 20. Hearing aids as defined in section 36-1901.
- 11 21. Durable medical equipment which has a centers for medicare and
12 medicaid services common procedure code, is designated reimbursable by
13 medicare, is prescribed by a person who is licensed under title 32, chapter
14 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily
15 used to serve a medical purpose, is generally not useful to a person in the
16 absence of illness or injury and is appropriate for use in the home.
- 17 22. Food, as provided in and subject to the conditions of article 3 of
18 this chapter and section 42-5074.
- 19 23. Items purchased with United States department of agriculture food
20 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.
21 958) or food instruments issued under section 17 of the child nutrition act
22 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code
23 section 1786).
- 24 24. Food and drink provided without monetary charge by a taxpayer which
25 is subject to section 42-5074 to its employees for their own consumption on
26 the premises during the employees' hours of employment.
- 27 25. Tangible personal property that is used or consumed in a business
28 subject to section 42-5074 for human food, drink or condiment, whether
29 simple, mixed or compounded.
- 30 26. Food, drink or condiment and accessory tangible personal property
31 that are acquired for use by or provided to a school district or charter
32 school if they are to be either served or prepared and served to persons for
33 consumption on the premises of a public school in the school district or on
34 the premises of the charter school during school hours.
- 35 27. Lottery tickets or shares purchased pursuant to title 5, chapter
36 5.1, article 1.
- 37 28. Textbooks, sold by a bookstore, that are required by any state
38 university or community college.
- 39 29. Magazines, other periodicals or other publications produced by this
40 state to encourage tourist travel.
- 41 30. Paper machine clothing, such as forming fabrics and dryer felts,
42 purchased by a paper manufacturer and directly used or consumed in paper
43 manufacturing.
- 44 31. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity
45 purchased by a qualified environmental technology manufacturer, producer or

1 processor as defined in section 41-1514.02 and directly used or consumed in
2 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 32. Motor vehicles that are removed from inventory by a motor vehicle
11 dealer as defined in section 28-4301 and that are provided to:

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

14 (b) Public educational institutions.

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

18 33. Natural gas or liquefied petroleum gas used to propel a motor
19 vehicle.

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

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

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

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

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

4 39. Overhead materials or other tangible personal property that is used
5 in performing a contract between the United States government and a
6 manufacturer, modifier, assembler or repairer, including property used in
7 performing a subcontract with a government contractor who is a manufacturer,
8 modifier, assembler or repairer, to which title passes to the government
9 under the terms of the contract or subcontract. For the purposes of this
10 paragraph:

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

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

27 40. Through December 31, 1994, tangible personal property sold pursuant
28 to a personal property liquidation transaction, as defined in section
29 42-5061. From and after December 31, 1994, tangible personal property sold
30 pursuant to a personal property liquidation transaction, as defined in
31 section 42-5061, if the gross proceeds of the sales were included in the
32 measure of the tax imposed by article 1 of this chapter or if the personal
33 property liquidation was a casual activity or transaction.

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

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

40 43. Tangible personal property purchased by a commercial airline and
41 consisting of food, beverages and condiments and accessories used for serving
42 the food and beverages, if those items are to be provided without additional
43 charge to passengers for consumption in flight. For the purposes of this
44 paragraph, "commercial airline" means a person holding a federal certificate
45 of public convenience and necessity or foreign air carrier permit for air

1 transportation to transport persons, property or United States mail in
2 intrastate, interstate or foreign commerce.

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

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

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

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

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

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

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

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

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

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

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

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

44 52. Repair parts installed in equipment used directly by a qualified
45 business under section 41-1516 in harvesting, processing or transporting

1 qualifying forest products removed from qualifying projects as defined in
2 section 41-1516.

3 53. Renewable energy credits or any other unit created to track energy
4 derived from renewable energy resources. For the purposes of this paragraph,
5 "renewable energy credit" means a unit created administratively by the
6 corporation commission or governing body of a public power entity to track
7 kilowatt hours of electricity derived from a renewable energy resource or the
8 kilowatt hour equivalent of conventional energy resources displaced by
9 distributed renewable energy resources.

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

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

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

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

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

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

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

43 ~~7.~~ 6. Aircraft, navigational and communication instruments and other
44 accessories and related equipment sold to:

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

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

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

14 ~~9.~~ 8. Rolling stock, rails, ties and signal control equipment used
15 directly to transport persons or property.

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

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

27 ~~12.~~ 11. Groundwater measuring devices required under section 45-604.

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

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

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

40 ~~14.~~ 13. Machinery or equipment used in research and development. For
41 the purposes of this paragraph, "research and development" means basic and
42 applied research in the sciences and engineering, and designing, developing
43 or testing prototypes, processes or new products, including research and
44 development of computer software that is embedded in or an integral part of
45 the prototype or new product or that is required for machinery or equipment

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

7 ~~15.~~ 14. Tangible personal property that is used by either of the
8 following to receive, store, convert, produce, generate, decode, encode,
9 control or transmit telecommunications information:

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

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

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

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

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

28 ~~16.~~ 15. Clean rooms that are used for manufacturing, processing,
29 fabrication or research and development, as defined in paragraph ~~14~~ 13 of
30 this subsection, of semiconductor products. For the purposes of this
31 paragraph, "clean room" means all property that comprises or creates an
32 environment where humidity, temperature, particulate matter and contamination
33 are precisely controlled within specified parameters, without regard to
34 whether the property is actually contained within that environment or whether
35 any of the property is affixed to or incorporated into real property. Clean
36 room:

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

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

1 ~~17.~~ 16. Machinery and equipment that are used directly in the feeding
2 of poultry, the environmental control of housing for poultry, the movement of
3 eggs within a production and packaging facility or the sorting or cooling of
4 eggs. This exemption does not apply to vehicles used for transporting eggs.

5 ~~18.~~ 17. Machinery or equipment, including related structural
6 components, that is employed in connection with manufacturing, processing,
7 fabricating, job printing, refining, mining, natural gas pipelines,
8 metallurgical operations, telecommunications, producing or transmitting
9 electricity or research and development and that is used directly to meet or
10 exceed rules or regulations adopted by the federal energy regulatory
11 commission, the United States environmental protection agency, the United
12 States nuclear regulatory commission, the Arizona department of environmental
13 quality or a political subdivision of this state to prevent, monitor, control
14 or reduce land, water or air pollution.

15 ~~19.~~ 18. Machinery and equipment that are used in the commercial
16 production of livestock, livestock products or agricultural, horticultural,
17 viticultural or floricultural crops or products in this state and that are
18 used directly and primarily to prevent, monitor, control or reduce air, water
19 or land pollution.

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

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

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

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

34 ~~21.~~ 20. Qualifying equipment that is purchased from and after June 30,
35 2004 through June 30, 2024 by a qualified business under section 41-1516 for
36 harvesting or processing qualifying forest products removed from qualifying
37 projects as defined in section 41-1516. To qualify for this exemption, the
38 qualified business must obtain and present its certification from the Arizona
39 commerce authority at the time of purchase.

40 C. The exemptions provided by subsection B of this section do not
41 include:

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

- 1 2. Janitorial equipment and hand tools.
- 2 3. Office equipment, furniture and supplies.
- 3 4. Tangible personal property used in selling or distributing
- 4 activities, other than the telecommunications transmissions described in
- 5 subsection B, paragraph ~~16~~ 14 of this section.
- 6 5. Motor vehicles required to be licensed by this state, except buses
- 7 or other urban mass transit vehicles specifically exempted pursuant to
- 8 subsection B, paragraph ~~11~~ 10 of this section, without regard to the use of
- 9 such motor vehicles.
- 10 6. Shops, buildings, docks, depots and all other materials of whatever
- 11 kind or character not specifically included as exempt.
- 12 7. Motors and pumps used in drip irrigation systems.
- 13 D. The following shall be deducted in computing the purchase price of
- 14 electricity by a retail electric customer from a utility business:
- 15 1. Revenues received from sales of ancillary services, electric
- 16 distribution services, electric generation services, electric transmission
- 17 services and other services related to providing electricity to a retail
- 18 electric customer who is located outside this state for use outside this
- 19 state if the electricity is delivered to a point of sale outside this state.
- 20 2. Revenues received from providing electricity, including ancillary
- 21 services, electric distribution services, electric generation services,
- 22 electric transmission services and other services related to providing
- 23 electricity with respect to which the transaction privilege tax imposed under
- 24 section 42-5063 has been paid.
- 25 E. The tax levied by this article does not apply to the purchase of
- 26 solar energy devices from a retailer that is registered with the department
- 27 as a solar energy retailer or a solar energy contractor.
- 28 F. The following shall be deducted in computing the purchase price of
- 29 electricity by a retail electric customer from a utility business:
- 30 1. Fees charged by a municipally owned utility to persons constructing
- 31 residential, commercial or industrial developments or connecting residential,
- 32 commercial or industrial developments to a municipal utility system or
- 33 systems if the fees are segregated and used only for capital expansion,
- 34 system enlargement or debt service of the utility system or systems.
- 35 2. Reimbursement or contribution compensation to any person or persons
- 36 owning a utility system for property and equipment installed to provide
- 37 utility access to, on or across the land of an actual utility consumer if the
- 38 property and equipment become the property of the utility. This deduction
- 39 shall not exceed the value of such property and equipment.
- 40 G. For the purposes of subsection B of this section:
- 41 1. "Aircraft" includes:
- 42 (a) An airplane flight simulator that is approved by the federal
- 43 aviation administration for use as a phase II or higher flight simulator
- 44 under appendix H, 14 Code of Federal Regulations part 121.

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

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

7 H. For the purposes of subsection D of this section, "ancillary
8 services", "electric distribution service", "electric generation service",
9 "electric transmission service" and "other services" have the same meanings
10 prescribed in section 42-5063.

11 Sec. 12. Section 43-1082, Arizona Revised Statutes, is amended to
12 read:

13 43-1082. Credit for construction materials incorporated into
14 qualifying facility; definitions

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

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

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

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

42 E. For THE purposes of this section:

43 1. "Construction materials" means tangible personal property
44 incorporated into and permanently affixed to the taxpayer's qualifying

1 facility other than materials exempt from taxation pursuant to section
2 42-5061 or 42-5159, subsection B.

3 2. "Direct broadcast satellite television or data transmission
4 services" means either:

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

8 (b) Transmitting telecommunications information to a business that
9 operates pursuant to 47 Code of Federal Regulations parts 25 and 100 if the
10 transmitting meets the requirements of section 42-5061, subsection B,
11 paragraph ~~15~~ 14, subdivision (b).

12 3. "Purchase price" means either the direct cost of materials
13 purchased by the taxpayer from a supplier for incorporation into the
14 qualifying facility, or the direct cost of materials paid by a contractor for
15 incorporation into the taxpayer's qualifying facility.

16 4. "Qualifying facility" means a new building or structure, or
17 expansion of an existing building or structure, located entirely within this
18 state, predominantly used for manufacturing, fabricating, mining, refining,
19 metallurgical operations, direct broadcast satellite television or data
20 transmission services or research and development as described in section
21 43-1168, and which has a total cost of construction in excess of five million
22 dollars.

23 Sec. 13. Appropriations; border security prosecutors; human
24 smuggling; terrorism; border inspections

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

27 1. The sum of \$1,320,200 and 18 FTE positions are appropriated from
28 the gang and immigration intelligence team enforcement mission fund
29 established by section 41-1724, Arizona Revised Statutes, in fiscal year
30 2013-2014 to the department of law for the purpose of hiring border security
31 prosecutors to handle increased caseloads related to prosecution of cases
32 involving methamphetamine, human trafficking, human smuggling and identity
33 theft.

34 2. The sum of \$1,773,100 and 16 FTE positions are appropriated from
35 the gang and immigration intelligence team enforcement mission fund
36 established by section 41-1724, Arizona Revised Statutes, in fiscal year
37 2013-2014 to the department of public safety for two human trafficking and
38 human smuggling squads to be established in the gang and immigration
39 intelligence team enforcement mission and that are dedicated to combating
40 human trafficking and human smuggling.

41 3. The sum of \$1,984,000 and 12 FTE positions are appropriated from
42 the gang and immigration intelligence team enforcement mission fund
43 established by section 41-1724, Arizona Revised Statutes, in fiscal year
44 2013-2014 to the department of public safety for a domestic terrorism squad
45 to be established in the gang and immigration intelligence team enforcement

1 mission to follow up on leads produced by the Arizona counterterrorism
2 information center.

3 4. The sum of \$163,800 and 2 FTE positions are appropriated from the
4 gang and immigration intelligence team enforcement mission fund established
5 by section 41-1724, Arizona Revised Statutes, in fiscal year 2013-2014 to the
6 department of transportation to increase safety and security inspections at
7 the Nogales port of entry.

8 Sec. 14. Requirements for enactment; two-thirds vote

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