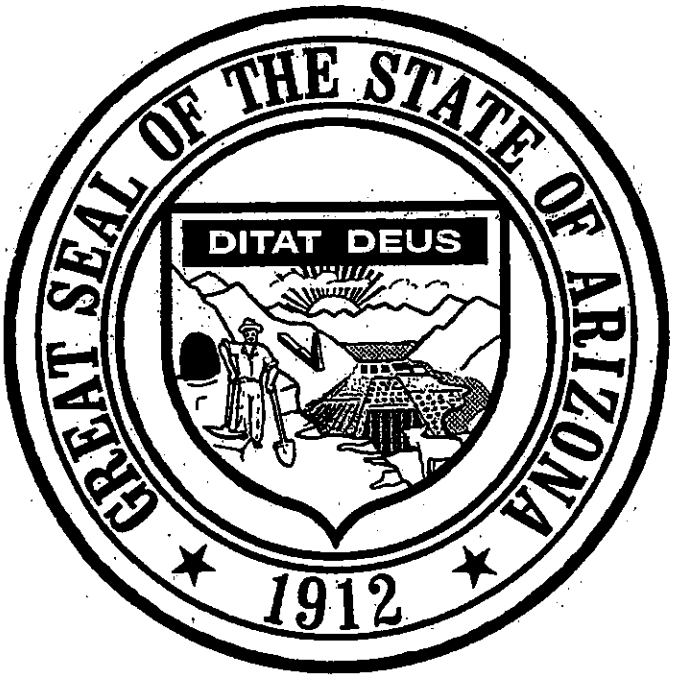
2019 BLENDS



Arizona Legislative Council

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July 24, 2019

Pursuant to authority of section 41-1304.03, Arizona Revised Statutes, the attached sections are presented as blends. The blends are based on multiple amendment activity that occurred in the Fifty-fourth Legislature, First Regular Session.

For each blend the publisher will be instructed to indicate in the source note each of the Laws 2019 chapter versions and to include a reviser's note to explain the blend.

Unless otherwise noted, the effective date of each of the following blends is August 27, 2019.

The following blend sections are included:

1.	8-202	Chs. 125 and 262
2.	8-804	Chs. 133, 134 and 135 *(Effective 4/24/19)*
3.	9-1415	Chs. 76 and 319
4.	9-1445	Chs. 76 and 319
5.	11-483	Chs. 256 and 321
6.	11-484	Chs. 256 and 321
7.	13-904	Chs. 149 and 166
8.	13-905	Chs. 149 and 244
9.	13-1210	Chs. 21 and 97
10.	13-2910	Chs. 32 and 188
11.	13-3101	Chs. 149 and 207
12.	14-3971	Chs. 46 and 193
13.	15-249.06	Chs. 98 and 265
14.	15-341 (L18, ch 285, sec 8 & ch 292, sec 2)	Chs. 191 and 247
15.	15-512	Chs. 58 and 177
16.	15-901	Chs. 40 and 265
17.	15-1655 (L17, ch 310, sec 5)	Chs. 266 and 279

18.	15-1821.01	Chs. 86 and 148
19.	16-153	Chs. 256 and 321
20.	16-311	Chs. 246 and 315
21.	16-341	Chs. 246 and 315
22.	16-411	Chs. 15, 107 and 246
23.	16-542	Chs. 15 and 107
24.	17-101	Chs. 77 and 210
25.	20-103	Chs. 108 and 113
26.	28-101 (L18, ch 9, sec 1, ch 163, sec 1, ch 166, sec 1, ch 306, sec 1 & ch 324, sec 1)	Chs. 89 and 120
27.	28-101 (L18, ch 306, sec 2)	Chs. 89 and 120 *(Effective 9/1/20)*
28.	28-101 (L18, ch 9, sec 1, ch 163, sec 1, ch 166, sec 1, ch 298, sec 3, ch 306, sec 1 & ch 324, sec 1)	Chs. 89 and 120 *(Conditionally Effective)*
29.	28-454	Chs. 256 and 321
30.	28-672	Chs. 112 and 153
31.	28-2351	Chs. 157, 161, 162, 178, 211, 234 and 261 *(Effective 10/1/19)*
32.	28-2403	Chs. 157, 161, 162, 178, 211, 234 and 261 *(Effective 10/1/19)*
33.	28-6501	Chs. 157, 161, 162, 178, 211, 234 and 261 *(Effective 10/1/19)*
34.	28-6991 (L18, ch 248, sec 1, ch 307, sec 7 & ch 308, sec 3)	Chs. 157, 161, 162, 211, 234 and 261 *(Effective 10/1/19)*
35.	28-6991 (L18, ch 248, sec 1, ch 298, sec 7, ch 307, sec 7 & ch 308, sec 3)	Chs. 157, 161, 162, 211, 234 and 261 *(Conditionally Effective)*
36.	28-6993	Chs. 157, 161, 162, 211, 234 and 261 *(Effective 10/1/19)*
37.	32-506	Chs. 96 and 109
38.	32-1301	Chs. 90 and 172
39.	32-1322	Chs. 90 and 172
40.	33-422	Chs. 103 and 131
41.	35-113	Chs. 267 and 272
42.	36-401	Chs. 121 and 133
43.	36-402	Chs. 184 and 190
44.	36-421	Chs. 121 and 190
45.	36-424	Chs. 133 and 134 *(Effective 4/24/19)*
46.	36-509	Chs. 239 and 311

47.	36-664	Chs. 239 and 311
48.	38-820	Chs. 36 and 38
49.	38-849	Chs. 36 and 302
50.	38-858	Chs. 36 and 38
51.	38-907	Chs. 36 and 38
52.	41-608	Chs. 178 and 229 *(Effective 10/1/19)*
53.	41-619.57	Chs. 133 and 134 *(Effective 4/24/19)*
54.	41-1604.07	Chs. 228 and 310
55.	42-1108	Chs. 169, 203 and 273
56.	42-2003	Chs. 142 and 240
57.	42-3401	Chs. 65 and 203
58.	42-5061 (L18, ch 104, sec 15 & ch 249, sec 1)	Chs. 273 and 288 *(Effective 12/1/19)*
59.	42-5061 (L18, ch 104, sec 15, ch 249, sec 1 & ch 263, sec 1)	Chs. 273 and 288 *(Conditionally Effective)*
60.	42-5064	Chs. 163 and 189
61.	42-5159	Chs. 273 and 288 *(Effective 12/1/19)*
62.	42-6004 (L18, ch 17, sec 1, ch 249, sec 6 & ch 341, sec 2)	Chs. 163 and 189
63.	42-6004 (L18, ch 17, sec 1, ch 249, sec 6, ch 263, sec 3 & ch 341, sec 2)	Chs. 163 and 189 *(Conditionally Effective)*
64.	43-222	Chs. 203 and 273
65.	43-1022	Chs. 203 and 273
66.	43-1147 (L18, ch 106, sec 1)	Chs. 203 and 272 *(Effective 1/1/20)*
67.	48-805.01	Chs. 117 and 130

EXPLANATION OF BLEND
SECTION 8-202

Laws 2019, Chapters 125 and 262

Laws 2019, Ch. 125, section 1	Effective August 27, 2019
Laws 2019, Ch. 262, section 3	Effective August 27, 2019

Explanation

Since these two enactments are compatible, the Laws 2019, Ch. 125 and Ch. 262 text changes to section 8-202 are blended in the form shown on the following pages.

BLEND OF SECTION 8-202
Laws 2019, Chapters 125 and 262

8-202. Jurisdiction of juvenile court

A. The juvenile court has original jurisdiction over all delinquency proceedings brought under the authority of this title.

B. The juvenile court has exclusive original jurisdiction over all proceedings brought under the authority of this title except for delinquency proceedings.

C. The juvenile court may consolidate any matter, except that the juvenile court shall not consolidate any of the following:

1. A criminal proceeding that is filed in another division of superior court and that involves a child who is subject to the jurisdiction of the juvenile court.

2. A delinquency proceeding with any other proceeding that does not involve delinquency, unless the juvenile delinquency adjudication proceeding is not heard at the same time or in the same hearing as a nondelinquency proceeding.

D. The juvenile court has jurisdiction of proceedings to:

1. Obtain judicial consent to the marriage, employment or enlistment in the armed services of a child, if consent is required by law.

2. In an action in which parental rights are terminated pursuant to chapter 4, article 5 or 11 of this title, change the name of a minor child who is the subject of the action. If the minor child who is the subject of the action is twelve years of age or older, the court shall consider the wishes of the child with respect to the name change.

E. The juvenile court has jurisdiction over both civil traffic violations and offenses listed in section 8-323, subsection B that are committed within the county by persons who are under eighteen years of age unless the presiding judge of the county declines jurisdiction of these cases. The presiding judge of the county may decline jurisdiction of civil traffic violations committed within the county by juveniles if the presiding judge finds that the declination would promote the more efficient use of limited judicial and law enforcement resources located within the county. If the presiding judge declines jurisdiction, juvenile civil traffic violations shall be processed, heard and disposed of in the same manner and with the same penalties as adult civil traffic violations.

F. The orders of the juvenile court under the authority of this chapter or chapter 3 or 4 of this title take precedence over any order of any other court of this state except the court of appeals and the supreme court to the extent that they are inconsistent with orders of other courts.

G. Except as provided in subsection H of this section, jurisdiction of a child that is obtained by the juvenile court in a proceeding under this chapter or chapter 3 or 4 of this title shall be retained by it, for the purposes of implementing the orders made and filed in that proceeding, until the child becomes eighteen years of age, unless terminated by order of the court before the child's eighteenth birthday.

H. If the state files a notice of intent to retain jurisdiction when proceedings are commenced pursuant to section 8-301, paragraph 1 or 2, the court shall retain jurisdiction over a juvenile who is at least seventeen years of age and who has been adjudicated a delinquent juvenile until the juvenile reaches nineteen years of age, unless before the juvenile's nineteenth birthday either:

1. Jurisdiction is terminated by order of the court.

2. The juvenile is discharged from the jurisdiction of the department of juvenile corrections pursuant to section 41-2820.

I. Persons who are under eighteen years of age shall be prosecuted in the same manner as adults if either:

1. The juvenile court transfers jurisdiction pursuant to section 8-327.

2. The juvenile is charged as an adult with an offense listed in section 13-501.

Ch. 125 J. THE JUVENILE COURT SHALL RETAIN JURISDICTION AFTER A JUVENILE'S EIGHTEENTH BIRTHDAY FOR THE PURPOSE OF DESIGNATING AN UNDESIGNATED FELONY OFFENSE AS A MISDEMEANOR OR FELONY, INCLUDING AFTER AN ADJUDICATION IS SET ASIDE PURSUANT TO SECTION 8-348.

Ch. 262 K. THE JUVENILE COURT HAS JURISDICTION TO MAKE THE INITIAL DETERMINATION PRESCRIBED IN SECTION 8-829 WHETHER THE VOLUNTARY PARTICIPATION OF A QUALIFIED YOUNG ADULT IN AN EXTENDED FOSTER CARE PROGRAM PURSUANT TO SECTION 8-521.02 IS IN THE YOUNG ADULT'S BEST INTERESTS.

EXPLANATION OF BLEND
SECTION 8-804

Laws 2019, Chapters 133, 134 and 135

Laws 2019, Ch. 133, section 1	Effective April 24, 2019
Laws 2019, Ch. 134, section 1	Effective April 24, 2019
Laws 2019, Ch. 135, section 1	Effective April 24, 2019

Explanation

Since these three enactments are compatible, the Laws 2019, Ch. 133, Ch. 134 and Ch. 135 text changes to section 8-804 are blended in the form shown on the following pages.

BLEND OF SECTION 8-804
Laws 2019, Chapters 133, 134 and 135

8-804. Central registry; notification; definition

A. The department shall maintain a central registry of reports of child abuse and neglect that are substantiated and the outcome of the investigation of these reports made under this article. A finding made by a court pursuant to section 8-844, subsection C that a child is dependent based on an allegation of abuse or neglect shall be recorded as a substantiated finding of abuse or neglect. The department shall incorporate duplicate reports on the same incident in the original report and shall not classify duplicate reports as new reports.

B. The department shall conduct central registry background checks and shall use the information contained in the central registry only for the following purposes:

1. As a factor to determine qualifications for ANY OF THE FOLLOWING:

(a) Foster home licensing. ~~,~~

(b) Adoptive parent certification. ~~,~~

(c) Individuals who apply for child welfare agency licensing. ~~,~~

(d) Child care home certification. ~~,~~

(e) Registration of unregulated child care homes with the child care resource and referral system. ~~, and~~

Ch. 135

(f) Home and community based services certification for services to children or vulnerable adults.

(g) AN ADULT WHO WORKS IN A GROUP HOME, RESIDENTIAL TREATMENT CENTER, SHELTER OR OTHER CONGREGATE CARE SETTING.

2. As a factor to determine qualifications for persons who are employed or who are applying for employment with this state in positions that provide direct service to children or vulnerable adults.

3. As a factor to determine qualifications for individuals who are employed or who are applying for employment with a child welfare agency in positions that provide direct service to children or vulnerable adults.

4. As a factor to determine qualifications for positions that provide direct service to children or vulnerable adults for:

(a) Any person who applies for a contract with this state and that person's employees.

(b) All employees of a contractor.

(c) A subcontractor of a contractor and the subcontractor's employees.

(d) Prospective employees of the contractor or subcontractor at the request of the prospective employer.

Chs. 133 and 134

5. ~~Beginning August 1, 2013,~~ To provide information to licensees that do not contract with this state regarding persons who are employed or seeking employment to provide direct services to children pursuant to title 36, chapter 7.1.

6. To identify and review reports concerning individual children and families, in order to facilitate the assessment of safety and risk.

7. To determine the nature and scope of child abuse and neglect in this state and to provide statewide statistical and demographic information concerning trends in child abuse and neglect.

8. To allow comparisons of this state's statistical data with national data.

9. To comply with section 8-804.01, subsection B.

Ch. 134 — 10. TO PROVIDE INFORMATION TO LICENSEES DESCRIBED IN SUBSECTION D OF THIS SECTION REGARDING PERSONS WHO ARE EMPLOYED OR SEEKING EMPLOYMENT TO PROVIDE DIRECT SERVICES TO CHILDREN IN A LICENSED BEHAVIORAL HEALTH RESIDENTIAL FACILITY.

Ch. 133 — 11. TO PROVIDE INFORMATION TO LICENSEES REGARDING PERSONS WHO ARE EMPLOYED OR SEEKING EMPLOYMENT IN AN INTERMEDIATE CARE FACILITY FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES.

Chs. 133, 134 and 135 — C. ~~Beginning August 1, 2013,~~ Licensees that do not contract with the state and that employ persons who provide direct services to children pursuant to title 36, chapter 7.1 must submit to the department of child safety in a manner prescribed by the department of child safety information necessary to conduct central registry background checks. The department of health services shall verify whether licensees, pursuant to title 36, chapter 7.1, have complied with the requirements of this subsection and any rules adopted by the department of health services to implement this subsection.

Ch. 134 — D. BEGINNING SEPTEMBER 1, 2019, LICENSEES THAT DO NOT CONTRACT WITH THIS STATE, THAT CONTRACT WITH THE FEDERAL GOVERNMENT, THAT RECEIVE ONLY FEDERAL MONIES AND THAT EMPLOY PERSONS WHO PROVIDE DIRECT SERVICES TO CHILDREN IN A LICENSED BEHAVIORAL HEALTH RESIDENTIAL FACILITY PURSUANT TO TITLE 36, CHAPTER 4 MUST SUBMIT TO THE DEPARTMENT OF CHILD SAFETY IN A MANNER PRESCRIBED BY THE DEPARTMENT OF CHILD SAFETY INFORMATION NECESSARY TO CONDUCT CENTRAL REGISTRY BACKGROUND CHECKS. THE DEPARTMENT OF HEALTH SERVICES SHALL VERIFY WHETHER THE LICENSEES, PURSUANT TO TITLE 36, CHAPTER 4, HAVE COMPLIED WITH THE REQUIREMENTS OF THIS SUBSECTION.

Ch. 133 — E. BEGINNING ON APRIL 24, 2019, LICENSEES THAT EMPLOY PERSONS TO PROVIDE DIRECT CARE IN AN INTERMEDIATE CARE FACILITY FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES MUST SUBMIT TO THE DEPARTMENT OF CHILD SAFETY IN A MANNER PRESCRIBED BY THE DEPARTMENT OF CHILD SAFETY INFORMATION NECESSARY TO CONDUCT CENTRAL REGISTRY BACKGROUND CHECKS. THE DEPARTMENT OF HEALTH SERVICES SHALL VERIFY WHETHER THE LICENSEES, PURSUANT TO TITLE 36, CHAPTER 4, COMPLY WITH THE REQUIREMENT OF THIS SUBSECTION.

~~D.~~ F. If the department of economic security received a report before September 1, 1999 and determined that the report was substantiated, the department of child safety shall maintain the report in the central registry until eighteen years from the child victim's date of birth.

~~E.~~ G. If the department of economic security or the department of child safety received a report on or after September 1, 1999 and determined that the report was substantiated, the department of child safety shall maintain the report in the central registry for a maximum of twenty-five years after the date of the report. If the department of child safety maintains reports in the central registry for less than twenty-five years, the department shall adopt rules to designate the length of time it must maintain those reports in the central registry.

Chs. 133 and 134 — ~~F.~~ H. The department shall annually purge reports and investigative outcomes received pursuant to the time frames prescribed in subsections ~~D~~ F and ~~E~~ G of this section.

~~G.~~ I. Any person who was the subject of a department investigation may request confirmation that the department has purged information about the person pursuant to subsection ~~F~~ H of this section. On receipt of this request, the department shall provide the person with written confirmation that the department has no record containing identifying information about that person.

Chs. 133 and 134

~~H.~~ J. The department shall notify a person, contractor or licensee identified in subsection B, paragraph 4, subdivisions (a), (b) and (c) and subsection B, ~~paragraph~~ PARAGRAPHS 5 AND 10 AND 11 of this section who is disqualified because of a central registry check conducted pursuant to subsection B of this section that the person may apply to the board of fingerprinting for a central registry exception pursuant to section 41-619.57.

Chs. 133 and 134

~~I.~~ K. Before being employed in a position that provides direct services to children or vulnerable adults pursuant to subsection B, paragraphs 4, ~~and~~ 5 AND 10 AND 11 or ~~subsection~~ SUBSECTIONS C AND D AND E of this section, employees shall certify, under penalty of perjury, on forms that are provided by the department whether an allegation of abuse or neglect was made against them and was substantiated. The forms are confidential. If this certification does not indicate a current investigation or a substantiated report of abuse or neglect, the employee may provide direct services pending the findings of the central registry check.

Chs. 133 and 134

~~J.~~ L. A person who is granted a central registry exception pursuant to section 41-619.57 is not entitled to a contract, employment, licensure, certification or other benefit because the person has been granted a central registry exception.

~~K.~~ M. An agency of this state that conducts central registry background checks as a factor to determine qualifications for positions that provide direct services to children or vulnerable adults shall publish a list of disqualifying acts of substantiated abuse or neglect.

~~L.~~ N. An agency of this state that conducts central registry background checks may provide information contained in the central registry on all reports of child abuse and neglect that are substantiated and the outcomes of the investigations of the reports to carry out ~~the provisions of~~ this section. Identifying information regarding any person other than the perpetrator may not be released. Information received pursuant to this section may not be further disseminated unless authorized by law or court order.

Chs. 133 and 134

O. THE DEPARTMENT MAY ENTER INTO AGREEMENTS WITH OTHER STATE AGENCIES TO CONDUCT THE CENTRAL REGISTRY BACKGROUND CHECKS REQUIRED BY THIS SECTION.

P. FOR THE PURPOSES OF THIS SECTION, "INTERMEDIATE CARE FACILITY FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES" HAS THE SAME MEANING PRESCRIBED IN SECTION 36-551.

Ch. 133

EXPLANATION OF BLEND
SECTION 9-1415

Laws 2019, Chapters 76 and 319

Laws 2019, Ch. 76, section 2	Effective August 27, 2019
Laws 2019, Ch. 319, section 3	Effective August 27, 2019

Explanation

Since these two enactments are compatible, the Laws 2019, Ch. 76 and Ch. 319 text changes to section 9-1415 are blended in the form shown on the following page.

BLEND OF SECTION 9-1415
Laws 2019, Chapters 76 and 319

9-1415. Authority granted by uniform video service license; conditions and limitations prohibited; providing video service

Ch. 319 A. WITHIN THE TIME FRAME THAT THE LOCAL GOVERNMENT HAS IN PLACE PURSUANT TO SECTION 9-835, BUT not later than ~~thirty~~ FORTY-FIVE days after the date an applicant files a completed application and affidavit pursuant to section 9-1414, the local government shall issue a uniform video service license to the applicant in the form prescribed by section 9-1411. If the local government does not notify the applicant about the completeness of the uniform video service license agreement within the time period prescribed by section 9-1414, subsection D or issue the agreement within the time period required under this subsection, the agreement shall be considered complete and issued to the applicant in the form submitted.

B. The uniform video service license issued to an applicant, including an incumbent cable operator, by a local government is a nonexclusive license granting to the holder of the uniform video service license the authority for the term requested in the application to do all of the following:

1. Provide video service in all service areas designated in the application and affidavit filed with the local government.

2. Construct and operate a video service network in the highways in each service area in compliance with this chapter and all local laws that ~~are not in conflict or otherwise do not~~ conform to this chapter ~~or~~ AND the purposes and objectives of this chapter.

Ch. 76 ~~3. Operate and maintain facilities installed in the highways in the service area under a local license pursuant to all of the following:~~

~~(a) Section 9-506, subsections I and J.~~

~~(b) Section 9-584.~~

~~(c) Chapter 5, article 8 of this title and title 11, chapter 13, article 1.~~

C. A local government may not condition or limit a uniform video service license by imposing any obligation or requirement that is not authorized by this chapter, including any of the following:

1. Any office location, institutional network or other build-out, line extension, investment or other requirements relating to the overall scope, extent and timing of infrastructure, facilities or deployment of equipment.

2. Any requirements to pay to any person any application, document, license, service or other fee, tax, charge or assessment that is not authorized by this chapter.

D. A holder of a uniform video service license shall provide video service in accordance with the certifications made by the holder in each application and affidavit that the holder files with a local government pursuant to this article.

EXPLANATION OF BLEND
SECTION 9-1445

Laws 2019, Chapters 76 and 319

Laws 2019, Ch. 76, section 6	Effective August 27, 2019
Laws 2019, Ch. 319, section 4	Effective August 27, 2019

Explanation

Since these two enactments are compatible, the Laws 2019, Ch. 76 and Ch. 319 text changes to section 9-1445 are blended in the form shown on the following pages.

BLEND OF SECTION 9-1445
Laws 2019, Chapters 76 and 319

9-1445. Review and audit; bundling discounts; action to recover underpayment or overpayment

Ch. 76 A. Not more than once every three years, a local government, ~~may~~ on reasonable written notice, MAY audit the business books and records of a video service provider to the extent necessary to ensure payment of license fees pursuant to this chapter. ~~The local government may not audit any period that ends more than three years before the date that the notice of audit is received.~~ A LOCAL GOVERNMENT MAY ASSESS ADDITIONAL LICENSE FEES DUE AT ANY TIME WITHIN FOUR YEARS AFTER THE DATE ON WHICH THE FEES WERE REQUIRED TO BE PAID. Any [~~audits~~ AUDIT] of a period of time before issuance of a uniform video service license shall be conducted pursuant to the local laws in effect during the period of time. Ch. 319 Ch. 76

B. Except as otherwise provided by federal law, if a video service provider offers video service bundled with other services that are not video service for a single discounted price, all of the following apply:

1. The method that the video service provider uses to determine gross revenue subject to license fees by allocating the single discounted price among the bundle of video service and nonvideo services shall be reasonable and supported by the video service provider's books and records.

2. The local government shall accept as reasonable, for purposes of meeting the video service provider's burden of proof, an allocation based on an objective and verifiable method using the books and records that the video service provider kept in the regular course of business for other purposes, including nontax purposes.

3. A video service provider may not use bundled offerings as a means to evade paying license fees.

C. The local government and the video service provider shall each pay its own costs and fees relating to each audit performed pursuant to subsection A of this section. If the sum determined to be underpaid exceeds five percent of the total fees that the audit determines should have been paid for the period, the video service provider shall pay the local government's reasonable costs of the audit.

D. The rate of interest for both underpayments and overpayments is the federal short-term rate determined pursuant to 26 United States Code section 6621(b), plus three percentage points.

E. A person that performs a review and audit under subsection A of this section may not receive compensation that is based, in whole or in part, on either of the following:

1. Finding a particular result.

2. The amount of any underpayment or overpayment of the license fee that is identified because of the review and audit.

F. A complaint by a local government for underpayment of a license fee from a video service provider or by a video service provider for overpayment of a license fee to a local government shall be made pursuant to article 5 of this chapter.

G. A complaint for a violation of the license fee obligations under this chapter may not be made unless a written demand by a local government for payment of the license fees or a written demand by a video service provider for refund of license fees is made within four months after the local government or video service provider realizes it has been damaged or knows or reasonably should know of the damage caused by the alleged violation.

H. A complaint must be filed pursuant to article 5 of this chapter within ~~two~~ THREE years after the written demand is made pursuant to [~~this~~] subsection [G OF THIS SECTION] but not sooner than ~~four~~ SIX months after the written demand.

Ch. 319 Ch. 76

EXPLANATION OF BLEND
SECTION 11-483

Laws 2019, Chapters 256 and 321

Laws 2019, Ch. 256, section 1	Effective August 27, 2019
Laws 2019, Ch. 321, section 1	Effective August 27, 2019

Explanation

Since these two enactments are compatible, the Laws 2019, Ch. 256 and Ch. 321 text changes to section 11-483 are blended in the form shown on the following pages.

Section 11-483 was amended an additional time by Laws 2019, Ch. 252 with a delayed effective date, which will require separate publication in addition to this blend.

BLEND OF SECTION 11-483
Laws 2019, Chapters 256 and 321

11-483. Records maintained by county recorder; confidentiality; definitions

A. Notwithstanding any other provision of this article, in any county an eligible person may request that the general public be prohibited from accessing the unique identifier and the recording date contained in indexes of recorded instruments maintained by the county recorder and may request the county recorder to prohibit access to that person's ~~residential address and telephone number contained in~~ IDENTIFYING INFORMATION, INCLUDING ANY OF THAT PERSON'S DOCUMENTS, instruments or writings recorded by the county recorder.

Ch. 256

B. An eligible person may request this action by filing an affidavit that states all of the following on an application form developed by the administrative office of the courts in agreement with an association of counties, an organization of peace officers and the motor vehicle division of the department of transportation:

1. The person's full legal name and residential address.

2. The full legal description and parcel number of the person's property.

3. Unless the person is the spouse of a peace officer or the spouse or minor child of a deceased peace officer or the person is a former public official or former judge, the position the person currently holds and a description of the person's duties, except that an eligible person who is protected under an order of protection or injunction against harassment shall instead attach a copy of the order of protection or injunction against harassment or an eligible person who is a participant in the address confidentiality program shall instead attach a copy of the participant's current and valid address confidentiality program authorization card issued pursuant to section 41-163 and a statement of certification provided by the secretary of state's office.

4. The reasons the person reasonably believes that the person's life or safety or that of another person is in danger and that restricting access pursuant to this section will serve to reduce the danger.

5. The document locator number and recording date of each instrument for which the person requests access restriction pursuant to this section.

6. A copy of pages from each instrument that includes the document locator number and the person's IDENTIFYING INFORMATION, INCLUDING THE PERSON'S full legal name and residential address or full legal name and telephone number.

Ch. 256

C. If an eligible person is also requesting pursuant to section 11-484 that the general public be prohibited from accessing records maintained by the county assessor and county treasurer, the eligible person may combine the request pursuant to subsection B of this section with the request pursuant to section 11-484 by filing one affidavit. The affidavit and subsequent action by the appropriate authorities shall meet all of the requirements of this section and section 11-484.

D. The affidavit shall be filed with the presiding judge of the superior court in the county in which the affiant resides. To prevent multiple filings, an eligible person who is a peace officer, spouse of a peace officer, spouse or minor child of a deceased peace officer, public defender, prosecutor, code enforcement officer, corrections or detention officer, corrections support staff member or law enforcement support staff member shall deliver the affidavit to the peace officer's commanding officer, or to the head of the prosecuting, public defender, code enforcement, law enforcement, corrections or detention agency, as applicable, or that person's designee, who shall file the affidavits at one time. In the absence of an affidavit that contains a request for immediate action and that is supported by facts justifying an earlier presentation, the commanding officer, or the head of the prosecuting, public defender, code enforcement, law enforcement, corrections or detention agency, as applicable, or that person's designee, shall not file affidavits more often than quarterly.

E. On receipt of an affidavit or affidavits, the presiding judge of the superior court shall file with the clerk of the superior court a petition on behalf of all requesting affiants. Each affidavit presented shall be attached to the petition. In the absence of an affidavit that contains a request for immediate action and that is supported by facts justifying an earlier consideration, the presiding judge may accumulate affidavits and file a petition at the end of each quarter.

F. The presiding judge of the superior court shall review the petition and each attached affidavit to determine whether the action requested by each affiant should be granted. If the presiding judge of the superior court concludes that the action requested by the affiant will reduce a danger to the life or safety of the affiant or another person, the presiding judge of the superior court shall order that the county recorder prohibit access for five years to the affiant's ~~residential address and telephone number contained in~~ IDENTIFYING INFORMATION, INCLUDING ANY OF THAT PERSON'S DOCUMENTS, instruments or writings recorded by the county recorder and made available on the internet. If the presiding judge of the superior court concludes that the affiant or another person is in actual danger of physical harm from a person or persons with whom the affiant has had official dealings and that action pursuant to this section will reduce a danger to the life or safety of the affiant or another person, the presiding judge of the superior court shall order that the general public be prohibited for five years from accessing the unique identifier and the recording date contained in indexes of recorded instruments maintained by the county recorder and identified pursuant to subsection B of this section.

Ch. 256

G. On motion to the court, if the presiding judge of the superior court concludes that an instrument or writing recorded by the county recorder has been redacted or sealed in error, that the original affiant no longer lives at the address listed in the original affidavit, that the cause for the original affidavit no longer exists or that temporary access to the instrument or writing is needed, the presiding judge may temporarily stay or permanently vacate all or part of the court order prohibiting public access to the recorded instrument or writing.

H. On entry of the court order, the clerk of the superior court shall file the court order and a copy of the affidavit required by subsection B of this section with the county recorder. ~~No~~ NOT more than ten days after the date on which the county recorder receives the court order, the county recorder shall restrict access to the information as required by subsection F of this section.

Ch. 256

I. If the court denies an affiant's request pursuant to this section, the affiant may request a court hearing. The hearing shall be conducted by the court in the county where the petition was filed.

J. The county recorder shall remove the restrictions on all records restricted pursuant to this section by January 5 in the year after the court order expires. The county recorder shall send by mail one notice to either the former public official, peace officer, spouse of a peace officer, spouse or minor child of a deceased peace officer, public defender, prosecutor, code enforcement officer, corrections or detention officer, corrections support staff member, law enforcement support staff member, ~~or~~ employee of the department of child safety OR EMPLOYEE OF ADULT PROTECTIVE SERVICES who has direct contact with families in the course of employment or the employing agency of a peace officer, public defender, prosecutor, code enforcement officer, corrections or detention officer, corrections support staff member, ~~or~~ law enforcement support staff member OR EMPLOYEE OF ADULT PROTECTIVE SERVICES who was granted an order pursuant to this section of the order's expiration date at least six months before the expiration date. If the notice is sent to the employing agency, the employing agency shall immediately notify the person who was granted the order of the upcoming expiration date. The county recorder may coordinate with the county assessor and county treasurer to prevent multiple notices from being sent to the same person.

Ch. 321

K. To include subsequent recordings in the court order, the eligible person shall present to the county recorder at the time of recordation a certified copy of the court order or shall provide to the county recorder the recording number of the court order. The county recorder shall ensure that public access ~~shall be~~ IS restricted pursuant to subsection A of this section.

Ch. 256

L. This section ~~shall not be interpreted to~~ DOES NOT restrict access to public records for the purposes of perfecting a lien pursuant to title 12, chapter 9, article 2.

M. This section does not prohibit access to the records of the county recorder by parties to the instrument, a law enforcement officer performing the officer's official duties pursuant to subsection N of this section, a title insurer, a title insurance agent or an escrow agent licensed by the department of insurance or the department of financial institutions.

N. A law enforcement officer is deemed to be performing the officer's official duties if the officer provides a subpoena, court order or search warrant for the records.

O. For the purposes of this section:

1. "Code enforcement officer" means a person who is employed by a state or local government and whose duties include performing field inspections of buildings, structures or property to ensure compliance with and enforce national, state and local laws, ordinances and codes.

2. "Commissioner" means a commissioner of the superior court.

3. "Corrections support staff member" means an adult or juvenile corrections employee who has direct contact with inmates.

4. "Eligible person" means a former public official, peace officer, spouse of a peace officer, spouse or minor child of a deceased peace officer, justice, judge, commissioner, public defender, prosecutor, code enforcement officer, adult or juvenile corrections officer, corrections support staff member, probation officer, member of the board of executive clemency, law enforcement support staff member, employee of the department of child safety
Ch. 321 — OR EMPLOYEE OF ADULT PROTECTIVE SERVICES who has direct contact with families in the course of employment, national guard member who is acting in support of a law enforcement agency, person who is protected under an order of protection or injunction against harassment, person who is a participant in the address confidentiality program pursuant to title 41, chapter 1, article
Chs. 256 and 321 — 3 or firefighter who is assigned to the Arizona ~~counterterrorism~~ COUNTER TERRORISM INFORMATION center in the department of public safety.

5. "Former public official" means a person who was duly elected or appointed to Congress, the legislature or a statewide office, who ceased serving in that capacity and who was the victim of a dangerous offense as defined in section 13-105 while in office.

6. "Indexes" means only those indexes that are maintained by and located in the office of the county recorder, that are accessed electronically and that contain information beginning from and after January 1, 1987.

7. "Judge" means a judge or former judge of the United States district court, the United States court of appeals, the United States magistrate court, the United States bankruptcy court, the United States immigration court, the Arizona court of appeals, the superior court or a municipal court.

8. "Justice" means a justice of the United States or Arizona supreme court or a justice of the peace.

9. "Law enforcement support staff member" means a person who serves in the role of an investigator or prosecutorial assistant in an agency that investigates or prosecutes crimes, who is integral to the investigation or prosecution of crimes and whose name or identity will be revealed in the course of public proceedings.

10. "Peace officer":

(a) Means any person vested by law, or formerly vested by law, with a duty to maintain public order and make arrests.

(b) Includes a federal law enforcement officer or agent who resides in this state and who has the power to make arrests pursuant to federal law.

11. "Prosecutor" means a county attorney, a municipal prosecutor, the attorney general or a United States attorney and includes an assistant or deputy United States attorney, county attorney, municipal prosecutor or attorney general.

12. "Public defender" means a federal public defender, county public defender, county legal defender or county contract indigent defense counsel and includes an assistant or deputy federal public defender, county public defender or county legal defender.

EXPLANATION OF BLEND
SECTION 11-484

Laws 2019, Chapters 256 and 321

Laws 2019, Ch. 256, section 2	Effective August 27, 2019
Laws 2019, Ch. 321, section 2	Effective August 27, 2019

Explanation

Since these two enactments are compatible, the Laws 2019, Ch. 256 and Ch. 321 text changes to section 11-484 are blended in the form shown on the following pages.

BLEND OF SECTION 11-484
Laws 2019, Chapters 256 and 321

11-484. Records maintained by county assessor and county treasurer; redaction; definitions

A. Notwithstanding any other provision of this article, in any county an eligible person may request that the general public be prohibited from accessing that person's ~~residential address and telephone number that are contained in~~ IDENTIFYING INFORMATION, INCLUDING ANY OF THAT PERSON'S DOCUMENTS, instruments, writings and information maintained by the county assessor and the county treasurer.

Ch. 256

B. An eligible person may request this action by filing an affidavit that states all of the following on an application form developed by the administrative office of the courts in agreement with an association of counties, an organization of peace officers and the motor vehicle division of the department of transportation:

1. The person's full legal name and residential address.

2. The full legal description and parcel number of the person's property.

3. Unless the person is the spouse of a peace officer or the spouse or minor child of a deceased peace officer or the person is a former public official or former judge, the position the person currently holds and a description of the person's duties, except that an eligible person who is protected under an order of protection or injunction against harassment shall attach a copy of the order of protection or injunction against harassment or an eligible person who is a participant in the address confidentiality program shall instead attach a copy of the participant's current and valid address confidentiality program authorization card issued pursuant to section 41-163 and a statement of certification provided by the secretary of state's office.

4. The reasons the person reasonably believes that the person's life or safety or that of another person is in danger and that redacting the PERSON'S IDENTIFYING INFORMATION, INCLUDING THE residential address and telephone number will serve to reduce the danger.

Ch. 256

C. If an eligible person is also requesting pursuant to section 11-483 that the general public be prohibited from accessing records maintained by the county recorder, the eligible person may combine the request pursuant to subsection B of this section with the request pursuant to section 11-483 by filing one affidavit. The affidavit and subsequent action by the appropriate authorities shall meet all of the requirements of this section and section 11-483.

D. The affidavit shall be filed with the presiding judge of the superior court in the county in which the affiant resides. To prevent multiple filings, an eligible person who is a peace officer, spouse of a peace officer, spouse or minor child of a deceased peace officer, public defender, prosecutor, code enforcement officer, corrections or detention officer, corrections support staff member or law enforcement support staff

member shall deliver the affidavit to the peace officer's commanding officer, or to the head of the prosecuting, public defender, code enforcement, law enforcement, corrections or detention agency, as applicable, or that person's designee, who shall file the affidavits at one time. In the absence of an affidavit that contains a request for immediate action and that is supported by facts justifying an earlier presentation, the commanding officer, or the head of the prosecuting, public defender, code enforcement, law enforcement, corrections or detention agency, as applicable, or that person's designee, shall not file affidavits more often than quarterly.

E. On receipt of an affidavit or affidavits, the presiding judge of the superior court shall file with the clerk of the superior court a petition on behalf of all requesting affiants. Each affidavit presented shall be attached to the petition. In the absence of an affidavit that contains a request for immediate action and that is supported by facts justifying an earlier consideration, the presiding judge may accumulate affidavits and file a petition at the end of each quarter.

F. The presiding judge of the superior court shall review the petition and each attached affidavit to determine whether the action requested by each affiant should be granted. If the presiding judge of the superior court concludes that the action requested by the affiant will reduce a danger to the life or safety of the affiant or another person, the presiding judge of the superior court shall order the redaction of the affiant's ~~residential address and telephone number that are contained in~~ IDENTIFYING INFORMATION, INCLUDING ANY OF THAT PERSON'S DOCUMENTS, instruments, writings and information maintained by the county assessor and the county treasurer. The redaction shall be in effect for five years.

Ch. 256

G. On motion to the court, if the presiding judge of the superior court concludes that an instrument or writing maintained by the county assessor or the county treasurer has been redacted or sealed in error, that the original affiant no longer lives at the address listed in the original affidavit, that the cause for the original affidavit no longer exists or that temporary access to the instrument or writing is needed, the presiding judge may temporarily stay or permanently vacate all or part of the court order prohibiting public access to the instrument or writing.

H. On entry of the court order, the clerk of the superior court shall file the court order and a copy of the affidavit required by subsection B of this section with the county assessor and the county treasurer. No more than ten days after the date on which the county assessor and the county treasurer receive the court order, the county assessor and the county treasurer shall restrict access to the information as required by subsection F of this section.

I. If the court denies an affiant's request pursuant to this section, the affiant may request a court hearing. The hearing shall be conducted by the court in the county where the petition was filed.

J. The county assessor and the county treasurer shall remove the restrictions on all records that are redacted pursuant to this section by January 5 in the year after the court order expires. The county assessor or the county treasurer shall send by mail one notice to either the former

public official, peace officer, spouse of a peace officer, spouse or minor child of a deceased peace officer, public defender, prosecutor, code enforcement officer, corrections or detention officer, corrections support staff member, law enforcement support staff member, ~~or~~ employee of the department of child safety OR EMPLOYEE OF ADULT PROTECTIVE SERVICES who has direct contact with families in the course of employment or the employing agency of a peace officer, public defender, prosecutor, code enforcement officer, corrections or detention officer, corrections support staff member[,] ~~or~~ law enforcement support staff member OR EMPLOYEE OF ADULT PROTECTIVE SERVICES who was granted an order pursuant to this section of the order's expiration date at least six months before the expiration date. If the notice is sent to the employing agency, the employing agency shall immediately notify the person who was granted the order of the upcoming expiration date. The county assessor or county treasurer may coordinate with the county recorder to prevent multiple notices from being sent to the same person.

Ch. 321

K. For the purposes of this section:

1. "Code enforcement officer" means a person who is employed by a state or local government and whose duties include performing field inspections of buildings, structures or property to ensure compliance with and enforce national, state and local laws, ordinances and codes.

2. "Commissioner" means a commissioner of the superior court.

3. "Corrections support staff member" means an adult or juvenile corrections employee who has direct contact with inmates.

4. "Eligible person" means a former public official, peace officer, spouse of a peace officer, spouse or minor child of a deceased peace officer, justice, judge, commissioner, public defender, prosecutor, code enforcement officer, adult or juvenile corrections officer, corrections support staff member, probation officer, member of the board of executive clemency, law enforcement support staff member, employee of the department of child safety OR EMPLOYEE OF ADULT PROTECTIVE SERVICES who has direct contact with families in the course of employment, national guard member who is acting in support of a law enforcement agency, person who is protected under an order of protection or injunction against harassment, person who is a participant in the address confidentiality program pursuant to title 41, chapter 1, article 3, or firefighter who is assigned to the Arizona ~~counterterrorism~~ COUNTER TERRORISM INFORMATION center in the department of public safety.

Ch. 321

Chs. 256 and 321

5. "Former public official" means a person who was duly elected or appointed to Congress, the legislature or a statewide office, who ceased serving in that capacity and who was the victim of a dangerous offense as defined in section 13-105 while in office.

6. "Judge" means a judge or former judge of the United States district court, the United States court of appeals, the United States magistrate court, the United States bankruptcy court, the United States immigration court, the Arizona court of appeals, the superior court or a municipal court.

7. "Justice" means a justice of the United States or Arizona supreme court or a justice of the peace.

8. "Law enforcement support staff member" means a person who serves in the role of an investigator or prosecutorial assistant in an agency that investigates or prosecutes crimes, who is integral to the investigation or prosecution of crimes and whose name or identity will be revealed in the course of public proceedings.

9. "Peace officer":

(a) Means any person vested by law, or formerly vested by law, with a duty to maintain public order and make arrests.

(b) Includes a federal law enforcement officer or agent who resides in this state and who has the power to make arrests pursuant to federal law.

10. "Prosecutor" means a county attorney, a municipal prosecutor, the attorney general or a United States attorney and includes an assistant or deputy United States attorney, county attorney, municipal prosecutor or attorney general.

11. "Public defender" means a federal public defender, county public defender, county legal defender or county contract indigent defense counsel and includes an assistant or deputy federal public defender, county public defender or county legal defender.

EXPLANATION OF BLEND
SECTION 13-904

Laws 2019, Chapters 149 and 166

Laws 2019, Ch. 149, section 2	Effective August 27, 2019
Laws 2019, Ch. 166, section 1	Effective August 27, 2019

Explanation

Since these two enactments are compatible, the Laws 2019, Ch. 149 and Ch. 166 text changes to section 13-904 are blended in the form shown on the following page.

BLEND OF SECTION 13-904
Laws 2019, Chapters 149 and 166

13-904. Suspension of civil rights and occupational disabilities

A. A conviction for a felony suspends the following civil rights of the person sentenced:

1. The right to vote.

2. The right to hold public office of trust or profit.

3. The right to serve as a juror.

4. During any period of imprisonment any other civil rights the suspension of which is reasonably necessary for the security of the institution in which the person sentenced is confined or for the reasonable protection of the public.

Ch. 149 5. The right to possess a ~~gun or~~ firearm.

B. Persons sentenced to imprisonment shall not thereby be rendered incompetent as witnesses on the trial of a criminal action or proceeding, or incapable of making and acknowledging a sale or conveyance of property.

C. A person sentenced to imprisonment is under the protection of the law, and any injury to his person, not authorized by law, is punishable in the same manner as if the person was not convicted and sentenced.

D. The conviction of a person for any offense shall not work forfeiture of any property, except if a forfeiture is expressly imposed by law. All forfeitures to the state, unless expressly imposed by law, are abolished.

E. A person shall not be disqualified from employment by this state or any of its agencies or political subdivisions solely because of a prior conviction for a felony or misdemeanor within or without this state. A person may be denied employment by this state or any of its agencies or political subdivisions by reason of the prior conviction ~~of~~ FOR a felony or misdemeanor if the offense has a reasonable relationship to the functions of the employment sought.

Ch. 166

F. Subsection E of this section is not applicable to any law enforcement OR PROBATION agency.

G. Any complaints concerning a violation of subsection E of this section shall be adjudicated in accordance with the procedures set forth in title 41, chapter 6 and title 12, chapter 7, article 6.

H. A person who is adjudicated delinquent under section 8-341 for a felony does not have the right to carry or possess a ~~gun or~~ firearm.

Ch. 149

EXPLANATION OF BLEND
SECTION 13-905

Laws 2019, Chapters 149 and 244

Laws 2019, Ch. 149, section 4	Effective August 27, 2019
Laws 2019, Ch. 244, section 1	Effective August 27, 2019

Explanation

Since these two enactments are compatible, the Laws 2019, Ch. 149 and Ch. 244 text changes to section 13-905 are blended in the form shown on the following pages.

BLEND OF SECTION 13-905
Laws 2019, Chapters 149 and 244

13-905. Setting aside judgment of convicted person on discharge; application; release from disabilities; firearm possession; exceptions

A. Except as provided in subsection K of this section, every person convicted of a criminal offense, on fulfillment of the conditions of probation or sentence and discharge by the court, may apply to the court to have the judgment of guilt set aside. The convicted person shall be informed of this right at the time of sentencing.

B. The person or the person's attorney or probation officer may apply to set aside the judgment. The clerk of the court may not charge a filing fee for an application to have a judgment of guilt set aside.

C. The court shall consider the following factors when determining whether to set aside the conviction:

1. The nature and circumstances of the offense that the conviction is based on.

2. The applicant's compliance with the conditions of probation, the sentence imposed and any state department of corrections' rules or regulations, if applicable.

3. Any prior or subsequent convictions.

4. The victim's input and the status of victim restitution, if any.

5. The length of time that has elapsed since the completion of the applicant's sentence.

Chs. 149 and 244 — 6. The applicant's age at THE time of the conviction.

7. Any other factor that is relevant to the application.

D. If the application is granted, the court shall set aside the judgment of guilt, dismiss the complaint, information or indictment and order that the person be released from all penalties and disabilities resulting from the conviction except those imposed by:

1. The department of transportation pursuant to section 28-3304, 28-3305, 28-3306, 28-3307, 28-3308, 28-3312 or 28-3319.

2. The game and fish commission pursuant to section 17-314 or 17-340.

E. A conviction that is set aside may be:

1. Used as a conviction if the conviction would be admissible had it not been set aside.

2. Alleged as an element of an offense.

3. Used as a prior conviction.

4. Pleaded and proved in any subsequent prosecution of the person by

Chs. 149 and 244 — this state or any POLITICAL subdivision of this state for any offense.

5. Used by the department of transportation in enforcing section 28-3304, 28-3305, 28-3306, 28-3307, 28-3308, 28-3312 or 28-3319 as if the judgment of guilt had not been set aside.

F. The clerk of the court must notify the department of public safety if a conviction is set aside. The department of public safety must update the person's criminal history with an annotation that the conviction has been set aside but may not redact or remove any part of the person's record.

G. This section does not:

1. Require a law enforcement agency to redact or remove a record or information from the record of a person whose conviction is set aside.

2. Preclude the department of public safety or the board of fingerprinting from considering a conviction that has been set aside when evaluating an application for a fingerprint clearance card pursuant to section 41-1758.03 or 41-1758.07.

H. If the court denies an application to have a judgment of guilt set aside, the court shall state its reasons for the denial in writing and on the record.

I. A victim has the right to be present and be heard at any proceeding in which the defendant has filed an application to have a judgment of guilt set aside pursuant to this section. If the victim has made a request for postconviction notice, the attorney for the state shall provide the victim with notice of the defendant's application and of the rights provided to the victim in this section.

Ch. 149 J. Notwithstanding section ~~13-905 or 13-906~~ 13-910, if a conviction is set aside, the person's right to possess a ~~gun or~~ firearm is restored. This subsection does not apply to a person who was convicted of a serious offense as defined in section 13-706.

K. This section does not apply to a person who was convicted of any of the following:

1. A dangerous offense.

2. An offense for which the person is required or ordered by the court to register pursuant to section 13-3821.

3. An offense for which there has been a finding of sexual motivation pursuant to section 13-118.

Ch. 244 4. ~~An~~ A FELONY offense in which the victim is a minor under fifteen years of age.

5. An offense in violation of section 28-3473, any local ordinance relating to stopping, standing or operation of a vehicle or title 28, chapter 3, except a violation of section 28-693 or any local ordinance relating to the same subject matter as section 28-693.

EXPLANATION OF BLEND
SECTION 13-1210

Laws 2019, Chapters 21 and 97

Laws 2019, Ch. 21, section 1	Effective August 27, 2019
Laws 2019, Ch. 97, section 1	Effective August 27, 2019

Explanation

Since these two enactments are compatible, the Laws 2019, Ch. 21 and Ch. 97 text changes to section 13-1210 are blended in the form shown on the following pages.

BLEND OF SECTION 13-1210
Laws 2019, Chapters 21 and 97

13-1210. Assaults on hospital employees, public safety employees or volunteers and state hospital employees; disease testing; petition; hearing; notice; definitions

Ch. 97 A. A HOSPITAL EMPLOYEE, A public safety employee or volunteer or the employing agency, officer or entity may petition the court for an order authorizing testing of another person for the human immunodeficiency virus, common blood borne diseases or other diseases specified in the petition if there are reasonable grounds to believe an exposure occurred and one of the following applies:

1. The person is charged in any criminal complaint and the complaint alleges that the person interfered with the official duties of the HOSPITAL EMPLOYEE OR THE public safety employee or volunteer by biting, scratching, spitting or transferring blood or other bodily fluids on or through the skin or membranes of the HOSPITAL EMPLOYEE OR THE public safety employee or volunteer.

2. There is probable cause to believe that the person interfered with the official duties of the HOSPITAL EMPLOYEE OR THE public safety employee or volunteer by biting, scratching, spitting or transferring blood or other bodily fluids on or through the skin or membranes of the HOSPITAL EMPLOYEE OR public safety employee or volunteer and that the person is deceased.

Ch. 97 3. There is probable cause to believe that the person bit, scratched, spat or transferred blood or other bodily fluid on or through the skin or membranes of a HOSPITAL EMPLOYEE OR A public safety employee or volunteer who was performing an official duty.

4. The person is arrested, charged or in custody and the HOSPITAL EMPLOYEE OR THE public safety employee or volunteer alleges, by affidavit, that the person interfered with the official duties of the HOSPITAL EMPLOYEE OR THE public safety employee or volunteer by biting, scratching, spitting or transferring blood or other bodily fluids on or through the skin or membranes of the HOSPITAL EMPLOYEE OR THE public safety employee or volunteer.

5. THE PUBLIC SAFETY EMPLOYEE OR VOLUNTEER, AS PART OF THE EMPLOYEE'S OR VOLUNTEER'S OFFICIAL DUTIES, WAS RENDERING AID TO THE PERSON AS A RESULT OF A MEDICAL EMERGENCY AND WAS EXPOSED TO BLOOD OR OTHER BODILY FLUIDS ON OR THROUGH THE SKIN OR MEMBRANES.

Ch. 21 6. THE PUBLIC SAFETY EMPLOYEE OR VOLUNTEER, AS PART OF THE EMPLOYEE'S OR VOLUNTEER'S OFFICIAL DUTIES, WAS RENDERING AID TO THE PERSON AS A RESULT OF A MEDICAL EMERGENCY AND WAS EXPOSED TO BLOOD OR OTHER BODILY FLUIDS ON OR THROUGH THE SKIN OR MEMBRANES, AND THE PERSON IS DECEASED.

B. An employee of the Arizona state hospital or the employing agency may petition the court for an order authorizing testing of another person for the human immunodeficiency virus, common blood borne diseases or other diseases specified in the petition if there are reasonable grounds to believe an exposure occurred and the person is a patient who is confined to the Arizona state hospital and who is alleged to have interfered with the

official duties of the Arizona state hospital employee by biting, scratching, spitting or transferring blood or other bodily fluids on or through the skin or membranes of the Arizona state hospital employee.

C. The court shall hear the petition promptly. If the court finds that probable cause exists to believe that a possible transfer of blood or other bodily fluids occurred between the person and the HOSPITAL EMPLOYEE, THE public safety employee or volunteer or the Arizona state hospital employee, the court shall order that either:

Ch. 97

1. The person provide two specimens of blood for testing.

2. If the person is deceased, the medical examiner draw two specimens of blood for testing.

D. Notwithstanding subsection C, paragraph 2 of this section, on written notice from the agency, officer or entity employing the HOSPITAL EMPLOYEE OR THE public safety employee or volunteer, the medical examiner is authorized to draw two specimens of blood for testing during the autopsy or other examination of the deceased person's body. The medical examiner shall release the specimen to the employing agency, officer or entity for testing only after the court issues its order pursuant to subsection C, paragraph 2 of this section. If the court does not issue an order within thirty days after the medical examiner collects the specimen, the medical examiner shall destroy the specimen.

E. Notice of the test results shall be provided as prescribed by the department of health services to the person tested, to the HOSPITAL EMPLOYEE, THE public safety employee or volunteer or the Arizona state hospital employee named in the petition and to the employee's or volunteer's employing agency, officer or entity and, if the person tested is incarcerated or detained, to the officer in charge and the chief medical officer of the facility in which the person is incarcerated or detained.

Ch. 97

F. Section 36-665 does not apply to this section.

G. For the purposes of this section:

1. "Arizona state hospital" includes the Arizona community protection and treatment center.

2. "Arizona state hospital employee" means an employee of the Arizona state hospital who has direct patient contact.

3. "HOSPITAL EMPLOYEE" MEANS A PRIVATE HOSPITAL EMPLOYEE OR VOLUNTEER OR A PERSON WHO IS AUTHORIZED TO PERFORM OFFICIAL DUTIES AT A PRIVATE HOSPITAL WHILE PERFORMING THOSE AUTHORIZED DUTIES.

Ch. 97

4. "PRIVATE HOSPITAL" MEANS A HOSPITAL THAT IS NOT MAINTAINED AND OPERATED BY THIS STATE OR ANY POLITICAL SUBDIVISION OF THIS STATE.

~~3.~~ 5. "Private prison security officer" means a security officer who is employed by a private contractor that contracts with a governmental entity to provide detention or incarceration facility services for offenders.

~~4.~~ 6. "Public safety employee or volunteer" means a law enforcement officer, any employee, contractor or volunteer of a state or local law enforcement agency or correctional facility, a probation officer, a surveillance officer, an adult or juvenile correctional service officer, a detention officer, a private prison security officer, a firefighter, an emergency medical technician or any other person who is authorized to perform official duties or be present within a correctional facility.

EXPLANATION OF BLEND
SECTION 13-2910

Laws 2019, Chapters 32 and 188

Laws 2019, Ch. 32, section 1	Effective August 27, 2019
Laws 2019, Ch. 188, section 1	Effective August 27, 2019

Explanation

Since these two enactments are compatible, the Laws 2019, Ch. 32 and Ch. 188 text changes to section 13-2910 are blended in the form shown on the following pages.

BLEND OF SECTION 13-2910
Laws 2019, Chapters 32 and 188

13-2910. Cruelty to animals; interference with working or service animal; classification; definitions

A. A person commits cruelty to animals if the person does any of the following:

1. Intentionally, knowingly or recklessly subjects any animal under the person's custody or control to cruel neglect or abandonment.

2. Intentionally, knowingly or recklessly fails to provide medical attention necessary to prevent protracted suffering to any animal under the person's custody or control.

3. Intentionally, knowingly or recklessly inflicts unnecessary physical injury to any animal.

4. Recklessly subjects any animal to cruel mistreatment.

5. Intentionally, knowingly or recklessly kills any animal under the custody or control of another person without either legal privilege or consent of the owner.

6. Recklessly interferes with, kills or harms a working or service animal without either legal privilege or consent of the owner.

7. Intentionally, knowingly or recklessly leaves an animal unattended and confined in a motor vehicle and physical injury to or death of the animal is likely to result.

8. Intentionally or knowingly subjects any animal under the person's custody or control to cruel neglect or abandonment that results in serious physical injury to the animal.

9. Intentionally or knowingly subjects any animal to cruel mistreatment.

10. Intentionally or knowingly interferes with, kills or harms a working or service animal without either legal privilege or consent of the owner.

11. Intentionally or knowingly allows any dog that is under the person's custody or control to interfere with, kill or cause physical injury to a service animal.

12. Recklessly allows any dog that is under the person's custody or control to interfere with, kill or cause physical injury to a service animal.

13. Intentionally or knowingly obtains or exerts unauthorized control over a service animal with the intent to deprive the service animal handler of the service animal.

Ch. 188

14. INTENTIONALLY OR KNOWINGLY SUBJECTS A DOMESTIC ANIMAL TO CRUEL MISTREATMENT.

15. INTENTIONALLY OR KNOWINGLY KILLS A DOMESTIC ANIMAL WITHOUT EITHER LEGAL PRIVILEGE OR CONSENT OF THE DOMESTIC ANIMAL'S OWNER OR HANDLER.

Ch. 32

16. INTENTIONALLY OR KNOWINGLY HARASSES A WORKING ANIMAL THAT IS IN A LAW ENFORCEMENT VEHICLE OR TRAILER WITHOUT EITHER LEGAL PRIVILEGE OR CONSENT OF THE OWNER.

B. It is a defense to subsection A of this section if:

1. Any person exposes poison to be taken by a dog that has killed or wounded livestock or poison to be taken by predatory animals on premises owned, leased or controlled by the person for the purpose of protecting the person or the person's livestock or poultry, the treated property is kept posted by the person who authorized or performed the treatment until the poison has been removed and the poison is removed by the person exposing the poison after the threat to the person or the person's livestock or poultry has ceased to exist. The posting required shall provide adequate warning to persons who enter the property by the point or points of normal entry. The warning notice that is posted shall be readable at a distance of fifty feet, shall contain a poison statement and symbol and shall state the word "danger" or "warning".

2. Any person uses poisons in and immediately around buildings owned, leased or controlled by the person for the purpose of controlling wild and domestic rodents as otherwise allowed by the laws of the state, excluding any fur-bearing animals as defined in section 17-101.

C. This section does not prohibit or restrict:

1. The taking of wildlife or other activities permitted by or pursuant to title 17.

2. Activities permitted by or pursuant to title 3.

3. Activities regulated by the Arizona game and fish department or the Arizona department of agriculture.

D. A peace officer, animal control enforcement agent or animal control enforcement deputy may use reasonable force to open a vehicle to rescue an animal if the animal is left in the vehicle as prescribed in subsection A, paragraph 7 of this section.

E. A person who is convicted of a violation of subsection A, paragraph 6 or 10 of this section is liable as follows:

1. If the working or service animal was killed or disabled, to the owner or agency that owns the working or service animal and that employs the handler or to the owner or handler for the replacement and training costs of the working or service animal and for any veterinary bills.

2. To the owner or agency that owns a working or service animal for the salary of the handler for the period of time that the handler's services are lost to the owner or agency.

3. To the owner for the owner's contractual losses with the agency.

F. An incorporated city or town or a county may adopt an ordinance with misdemeanor provisions at least as stringent as the misdemeanor provisions of this section, except that any ordinance adopted shall not prohibit or restrict any activity involving a dog, whether the dog is restrained or not, if the activity is directly related to the business of shepherding or herding livestock and the activity is necessary for the safety of a human, the dog or livestock or is permitted by or pursuant to title 3.

G. A person who violates subsection A, paragraph 1, 2, 3, 4, 5, 6,
Ch. 32 — 7, ~~or~~ 12 OR 16 of this section is guilty of a class 1 misdemeanor. A person who violates subsection A, paragraph 8, 9, 10, 11 or 13 of this section is
Ch. 188 — guilty of a class 6 felony. A PERSON WHO VIOLATES SUBSECTION A, PARAGRAPH 14 OR 15 OF THIS SECTION IS GUILTY OF A CLASS 5 FELONY.

H. For the purposes of this section:

1. "Animal" means a mammal, bird, reptile or amphibian.

2. "Cruel mistreatment" means to torture or otherwise inflict unnecessary serious physical injury on an animal or to kill an animal in a manner that causes protracted suffering to the animal.

3. "Cruel neglect" means to fail to provide an animal with necessary food, water or shelter.

Ch. 188 — 4. "DOMESTIC ANIMAL" MEANS A MAMMAL, NOT REGULATED BY TITLE 3, THAT IS KEPT PRIMARILY AS A PET OR COMPANION OR THAT IS BRED TO BE A PET OR COMPANION.

~~4.~~ 5. "Handler" means a law enforcement officer or any other person who has successfully completed a course of training prescribed by the person's agency or the service animal owner and who used a specially trained animal under the direction of the person's agency or the service animal owner.

Ch. 32 — 6. "HARASS" MEANS TO ENGAGE IN CONDUCT THAT A REASONABLE PERSON WOULD EXPECT TO IMPEDE OR INTERFERE WITH A WORKING ANIMAL'S PERFORMANCE OF ITS DUTIES.

~~5.~~ 7. "Service animal" means an animal that has completed a formal training program, that assists its owner in one or more daily living tasks that are associated with a productive lifestyle and that is trained to not pose a danger to the health and safety of the general public.

~~6.~~ 8. "Working animal" means a horse or dog that is used by a law enforcement agency, that is specially trained for law enforcement work and that is under the control of a handler.

EXPLANATION OF BLEND
SECTION 13-3101

Laws 2019, Chapters 149 and 207

Laws 2019, Ch. 149, section 16	Effective August 27, 2019
Laws 2019, Ch. 207, section 1	Effective August 27, 2019

Explanation

Since these two enactments are compatible, the Laws 2019, Ch. 149 and Ch. 207 text changes to section 13-3101 are blended in the form shown on the following pages.

BLEND OF SECTION 13-3101
Laws 2019, Chapters 149 and 207

13-3101. Definitions

A. In this chapter, unless the context otherwise requires:

1. "Deadly weapon" means anything that is designed for lethal use. The term includes a firearm.

2. "Deface" means to remove, alter or destroy the manufacturer's serial number.

3. "Explosive" means any dynamite, nitroglycerine, black powder, or other similar explosive material, including plastic explosives. Explosive does not include ammunition or ammunition components such as primers, percussion caps, smokeless powder, black powder and black powder substitutes used for hand loading purposes.

4. "Firearm" means any loaded or unloaded handgun, pistol, revolver, rifle, shotgun or other weapon that will expel, is designed to expel or may readily be converted to expel a projectile by the action of an explosive. Firearm does not include a firearm in permanently inoperable condition.

5. "Improvised explosive device" means a device that incorporates explosives or destructive, lethal, noxious, pyrotechnic or incendiary chemicals and that is designed to destroy, disfigure, terrify or harass.

6. "Occupied structure" means any building, object, vehicle, watercraft, aircraft or place with sides and a floor that is separately securable from any other structure attached to it, that is used for lodging, business, transportation, recreation or storage and in which one or more human beings either are or are likely to be present or so near as to be in equivalent danger at the time the discharge of a firearm occurs. Occupied structure includes any dwelling house, whether occupied, unoccupied or vacant.

7. "Prohibited possessor" means any person:

(a) Who has been found to constitute a danger to self or to others or to have a persistent or acute disability or grave disability pursuant to court order pursuant to section 36-540, and whose right to possess a firearm has not been restored pursuant to section 13-925.

(b) Who has been convicted within or without this state of a felony or who has been adjudicated delinquent for a felony and whose civil right
Ch. 149— to possess or carry a ~~gun or~~ firearm has not been restored.

(c) Who is at the time of possession serving a term of imprisonment in any correctional or detention facility.

(d) Who is at the time of possession serving a term of probation pursuant to a conviction for a domestic violence offense as defined in section 13-3601 or a felony offense, parole, community supervision, work furlough, home arrest or release on any other basis or who is serving a term of probation or parole pursuant to the interstate compact under title 31, chapter 3, article 4.1.

(e) Who is an undocumented alien or a nonimmigrant alien traveling with or without documentation in this state for business or pleasure or who is studying in this state and who maintains a foreign residence abroad. This subdivision does not apply to:

(i) Nonimmigrant aliens who possess a valid hunting license or permit that is lawfully issued by a state in the United States.

(ii) Nonimmigrant aliens who enter the United States to participate in a competitive target shooting event or to display firearms at a sports or hunting trade show that is sponsored by a national, state or local firearms trade organization devoted to the competitive use or other sporting use of firearms.

(iii) Certain diplomats.

(iv) Officials of foreign governments or distinguished foreign visitors who are designated by the United States department of state.

(v) Persons who have received a waiver from the United States attorney general.

(f) Who has been found incompetent pursuant to rule 11, Arizona rules of criminal procedure, and who subsequently has not been found competent.

(g) Who is found guilty except insane.

8. "Prohibited weapon":

(a) Includes the following:

(i) An item that is a bomb, grenade, rocket having a propellant charge of more than four ounces or mine and that is explosive, incendiary or poison gas.

(ii) A device that is designed, made or adapted to muffle the report of a firearm.

(iii) A firearm that is capable of shooting more than one shot automatically, without manual reloading, by a single function of the trigger.

(iv) A rifle with a barrel length of less than sixteen inches, or shotgun with a barrel length of less than eighteen inches, or any firearm that is made from a rifle or shotgun and that, as modified, has an overall length of less than twenty-six inches.

Ch. 207— ~~(v) An instrument, including a nunchaku, that consists of two or more sticks, clubs, bars or rods to be used as handles, connected by a rope, cord, wire or chain, in the design of a weapon used in connection with the practice of a system of self-defense.~~

~~(vi)~~ (v) A breakable container that contains a flammable liquid with a flash point of one hundred fifty degrees Fahrenheit or less and that has a wick or similar device capable of being ignited.

~~(vii)~~ (vi) A chemical or combination of chemicals, compounds or materials, including dry ice, that is possessed or manufactured for the purpose of generating a gas to cause a mechanical failure, rupture or bursting or an explosion or detonation of the chemical or combination of chemicals, compounds or materials.

~~(viii)~~ (vii) An improvised explosive device.

~~(ix)~~ (viii) Any combination of parts or materials that is designed and intended for use in making or converting a device into an item set forth
Ch. 207—in item (i), ~~(vi)~~ (v) or ~~(viii)~~ (vii) of this subdivision.

(b) Does not include:

(i) Any fireworks that are imported, distributed or used in compliance with state laws or local ordinances.

(ii) Any propellant, propellant actuated devices or propellant actuated industrial tools that are manufactured, imported or distributed for their intended purposes.

(iii) A device that is commercially manufactured primarily for the purpose of illumination.

9. "Trafficking" means to sell, transfer, distribute, dispense or otherwise dispose of a weapon or explosive to another person, or to buy, receive, possess or obtain control of a weapon or explosive, with the intent to sell, transfer, distribute, dispense or otherwise dispose of the weapon or explosive to another person.

B. The items set forth in subsection A, paragraph 8, subdivision (a), items (i), (ii), (iii) and (iv) of this section do not include any firearms or devices that are possessed, manufactured or transferred in compliance with federal law.

EXPLANATION OF BLEND
SECTION 14-3971

Laws 2019, Chapters 46 and 193

Laws 2019, Ch. 46, section 10	Effective August 27, 2019 (Retroactive to July 1, 2019)
Laws 2019, Ch. 193, section 1	Effective August 27, 2019

Explanation

Since these two enactments are compatible, the Laws 2019, Ch. 46 and Ch. 193 text changes to section 14-3971 are blended in the form shown on the following pages.

BLEND OF SECTION 14-3971
Laws 2019, Chapters 46 and 193

14-3971. Collection of personal property by affidavit; ownership of vehicles; affidavit of succession to real property

A. At any time after the death of a decedent, any employer owing wages, salary or other compensation for personal services of the decedent shall pay to the surviving spouse of the decedent the amount owing, not in excess of ~~five thousand dollars~~ $5,000, on being presented an affidavit made by or on behalf of the spouse stating that the affiant is the surviving spouse of the decedent, or is authorized to act on behalf of the spouse, and that no application or petition for the appointment of a personal representative is pending or has been granted in this state or, if granted, the personal representative has been discharged or more than one year has elapsed since a closing statement has been filed.

Chs. 46 and 193

B. Thirty days after the death of a decedent, any person indebted to the decedent or having possession of tangible personal property or an instrument evidencing a debt, obligation, stock or chose in action belonging to the decedent shall make payment of the indebtedness or deliver the tangible personal property or an instrument evidencing a debt, obligation, stock or chose in action to a person claiming to be the successor of the decedent upon being presented an affidavit made by or on behalf of the successor and stating that all of the following are true:

1. Thirty days have elapsed since the death of the decedent.

2. Either:

(a) An application or petition for the appointment of a personal representative is not pending and a personal representative has not been appointed in any jurisdiction and the value of all personal property in the decedent's estate, wherever located, less liens and encumbrances, does not exceed ~~seventy-five thousand dollars~~ $75,000 as valued as of the date of death.

Chs. 46 and 193

(b) The personal representative has been discharged or more than one year has elapsed since a closing statement has been filed and the value of all personal property in the decedent's estate, wherever located, less liens and encumbrances, does not exceed ~~seventy-five thousand dollars~~ $75,000 as valued as of the date of the affidavit.

3. The claiming successor is entitled to payment or delivery of the property.

Ch. 193

4. THE FUNERAL EXPENSES AND EXPENSES OF THE LAST ILLNESS OF THE DECEDENT HAVE BEEN PAID.

C. A transfer agent of any security shall change the registered ownership on the books of a corporation from the decedent to the successor or successors on presentation of an affidavit pursuant to subsection B of this section.

D. The motor vehicle division shall transfer title of a motor vehicle from the decedent to the successor or successors on presentation of an affidavit as provided in subsection B of this section and on payment of the necessary fees.

E. No sooner than six months after the death of a decedent, a person or persons claiming as successor or successors to the decedent's interest in real property, including any debt secured by a lien on real property, may file in the court in the county in which the decedent was domiciled at the time of death, or if the decedent was not domiciled in this state then in any county in which real property of the decedent is located, an affidavit describing the real property and the interest of the decedent in that property and stating that all of the following are true and material and acknowledging that any false statement in the affidavit may subject the person or persons to penalties relating to perjury and subornation of perjury:

1. Either:

(a) An application or petition for the appointment of a personal representative is not pending and a personal representative has not been appointed in any jurisdiction and the value of all real property in the decedent's estate located in this state, less liens and encumbrances against the real property, does not exceed ~~one hundred thousand dollars~~ $100,000 as valued at the date of death. The value of the decedent's interest in that real property shall be determined from the full cash value of the property as shown on the assessment rolls for the year in which the decedent died, except that in the case of a debt secured by a lien on real property the value shall be determined by the unpaid principal balance due on the debt as of the date of death.

Chs. 46 and 193

(b) The personal representative has been discharged or more than one year has elapsed since a closing statement has been filed and the value of all real property in the decedent's estate, wherever located, less liens and encumbrances, does not exceed ~~one hundred thousand dollars~~ $100,000 as valued as of the date of the affidavit. The value of the decedent's interest in that real property is determined from the full cash value of the property as shown on the assessment rolls for the year in which the affidavit is given, except that if a debt is secured by a lien on real property, the value is determined by the unpaid principal balance due on the debt as of the date of the affidavit.

Chs. 46 and 193

2. Six months have elapsed since the death of the decedent as shown in a certified copy of the decedent's death certificate attached to the affidavit.

Ch. 193 3. Funeral expenses, expenses of THE last illness and all unsecured debts of the decedent have been paid.

4. The person or persons signing the affidavit are entitled to the real property by reason of the allowance in lieu of homestead, exempt property or family allowance, by intestate succession as the sole heir or heirs, or by devise under a valid last will of the decedent, the original of which ~~or, in the case of an electronic will, a certified paper original of which,~~ is attached to the affidavit or has been probated.

Ch. 46

5. No other person has a right to the interest of the decedent in the described property.

6. No federal estate tax is due on the decedent's estate.

F. The normal filing fee shall be charged for the filing of an affidavit under subsection E of this section unless waived by the court as provided by section 12-301 or 12-302. On receipt of the affidavit and after determining that the affidavit is complete, the registrar shall issue a certified copy of the affidavit without attachments, and the copy shall be recorded in the office of the recorder in the county where the real property is located.

G. This section does not limit the rights of heirs and devisees under section 14-3901.

EXPLANATION OF BLEND
SECTION 15-249.06

Laws 2019, Chapters 98 and 265

Laws 2019, Ch. 98, section 1	Effective August 27, 2019
Laws 2019, Ch. 265, section 4	Effective August 27, 2019 (Retroactive to July 1, 2018)

Explanation

Since these two enactments are compatible, the Laws 2019, Ch. 98 and Ch. 265 text changes to section 15-249.06 are blended in the form shown on the following pages.

BLEND OF SECTION 15-249.06
Laws 2019, Chapters 98 and 265

15-249.06. College credit by examination incentive program; incentive bonuses; report; college credit by examination development fund; program termination

A. The college credit by examination incentive program is established within the department of education to provide an incentive bonus to teachers, school districts and charter schools for students who obtain a passing score on a qualifying examination for college credit while in high school.

B. The Arizona board of regents shall maintain a list of qualifying examinations that a high school student may take in order to receive college credit in mathematics, English language arts, social studies or science from any university under the jurisdiction of the Arizona board of regents and the passing scores required on those examinations in order to receive college credit. On or before September 1 of each year, the Arizona board of regents shall provide the list of qualifying examinations and passing scores to the department of education and shall submit this list to the joint legislative budget committee ~~for review~~. Ch. 265

C. Beginning in fiscal year 2017-2018, the department of education shall pay an incentive bonus to school districts and charter schools for each student in grades nine through twelve who receives a passing score during the previous fiscal year on a qualifying examination identified by the Arizona board of regents pursuant to subsection B of this section. A student who receives a passing score on a qualifying examination and who is enrolled in a school where fifty percent or more of the students are eligible for free or ~~reduced price~~ REDUCED-PRICE lunches shall generate for the school [~~district~~] or charter school a bonus of ~~four hundred fifty dollars~~ $450 per passing score on a qualifying examination. A student who receives a passing score on a qualifying examination and who is enrolled in a school where less than fifty percent of the students are eligible for free or ~~reduced price~~ REDUCED-PRICE lunches shall generate for the school [~~district~~] or charter school a bonus of ~~three hundred dollars~~ $300 per passing score on a qualifying examination. If the statewide sum of per student bonuses awarded pursuant to this subsection exceeds the amount of available monies appropriated for incentive bonuses, the bonus monies shall be reduced proportionally to cover all eligible bonus awards. Ch. 98 Chs. 98 and 265

D. A school district or charter school that receives an incentive bonus pursuant to this section shall distribute at least fifty percent of the bonus monies to the associated classroom teacher for each student who passes a qualifying examination AND TO OTHER TEACHERS OF RELEVANT SUBJECTS WHO INSTRUCTED THAT STUDENT, INCLUDING BUT NOT LIMITED TO TEACHERS IN THE SAME DEPARTMENT OR SUBJECT MATTER THAT CONTRIBUTED TO THE STUDENT PASSING THE EXAMINATION, AS IDENTIFIED BY THE SCHOOL DISTRICT GOVERNING BOARD, THE CHARTER SCHOOL GOVERNING BODY OR THE SCHOOL PRINCIPAL. Bonus monies awarded to a teacher pursuant to this subsection ~~shall be~~ ARE in addition to any regular wage, compensation or other bonus the teacher receives or is Ch. 98 Chs. 98 and 265

scheduled to receive AND SHALL BE PROVIDED TO THE TEACHER BY THE END OF THE SCHOOL YEAR OR NOT LATER THAN THIRTY DAYS AFTER THE END OF THE SCHOOL YEAR. The remainder of any bonus monies received by a school district or charter school shall be ALLOCATED BY THE SCHOOL PRINCIPAL ON BEHALF OF STUDENTS WHO RECEIVE A PASSING SCORE AND MAY BE used for teacher professional development or student instructional support, REIMBURSEMENT OF EXAMINATION FEES or INSTRUCTIONAL materials. Any bonus monies received by a school district or charter school pursuant to this subsection shall be separately accounted for in the school district's or charter school's annual financial report. Ch. 98

E. Incentive bonuses distributed to and any bonus monies received by a school district or charter school pursuant to this section are not subject to collective bargaining.

F. PAYMENTS MADE BY THE DEPARTMENT OF EDUCATION PURSUANT TO THIS SECTION SHALL BE DISTRIBUTED TO SCHOOLS NOT LATER THAN MARCH 1 OF EACH YEAR. Ch. 98 and 265

SCHOOL DISTRICTS AND CHARTER SCHOOLS MAY APPEAL THE ALLOCATION OF BONUS MONIES NOT LATER THAN AUGUST 1 OF EACH YEAR. THE DEPARTMENT MAY WITHHOLD UP TO $10,000 OF THE MONIES APPROPRIATED FOR THE PURPOSES OF THIS SECTION TO ADDRESS ALLOCATION APPEALS BY SCHOOL DISTRICTS AND CHARTER SCHOOLS. Ch. 265

~~F.~~ G. On or before December 15, 2018 and on or before December 15 of each year thereafter, the department of education shall submit to the president of the senate, the speaker of the house of representatives, the governor, ~~and~~ the secretary of state[,] and ~~to~~ the joint legislative budget committee[,] ~~for review~~ a report on all of the following: Ch. 265 Ch. 98

1. The number of students who took a qualifying examination at each school.

2. The number of students who received a passing score on a qualifying examination and the number of incentive bonus awards distributed.

3. The number and types of qualifying examinations taken by students.

4. The amount of bonus monies received by each school.

~~G.~~ H. Incentive bonuses distributed to and any bonus monies received by a teacher are not compensation as defined in section 38-711.

I. THE COLLEGE CREDIT BY EXAMINATION DEVELOPMENT FUND IS ESTABLISHED CONSISTING OF MONIES THAT ARE APPROPRIATED TO THE DEPARTMENT OF EDUCATION FOR THE PURPOSES OF THIS SECTION BUT THAT ARE NOT DISTRIBUTED BY THE END OF THE FISCAL YEAR IN WHICH THE MONIES ARE APPROPRIATED. THE DEPARTMENT SHALL ADMINISTER THE FUND. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED AND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF APPROPRIATIONS. THE DEPARTMENT SHALL DISTRIBUTE MONIES IN THE FUND TO SCHOOLS IN WHICH FIFTY PERCENT OR MORE OF THE STUDENTS ARE ELIGIBLE FOR FREE OR REDUCED-PRICE LUNCHES TO ASSIST THOSE SCHOOLS IN DEVELOPING AND OPERATING CLASSES THAT OFFER QUALIFYING EXAMINATIONS PURSUANT TO THIS SECTION. THE DEPARTMENT SHALL PRIORITIZE DISTRIBUTIONS FROM THE FUND BASED ON NEED. Ch. 98

~~H.~~ J. The program established by this section ends on July 1, 2026 pursuant to section 41-3102.

EXPLANATION OF BLEND
SECTION 15-341 (as amended by Laws 2018, Ch. 285, section 8 and Ch. 292, section 2)

Laws 2019, Chapters 191 and 247

Laws 2019, Ch. 191, section 4	Effective August 27, 2019
Laws 2019, Ch. 247, section 3	Effective August 27, 2019

Explanation

Since these two enactments are compatible, the Laws 2019, Ch. 191 and Ch. 247 text changes to section 15-341 are blended in the form shown on the following pages.

BLEND OF SECTION 15-341 (as amended by Laws 2018, Ch. 285, section 8 and Ch. 292, section 2)
Laws 2019, Chapters 191 and 247

15-341. General powers and duties; immunity; delegation

A. The governing board shall:

1. Prescribe and enforce policies and procedures for the governance of the schools that are not inconsistent with law or rules prescribed by the state board of education.

2. Exclude from schools all books, publications, papers or audiovisual materials of a sectarian, partisan or denominational character. This paragraph does not prohibit the elective course permitted by section 15-717.01.

Ch. 247

3. Manage and control the school property within its district, EXCEPT THAT A DISTRICT MAY ENTER INTO A PARTNERSHIP WITH AN ENTITY, INCLUDING A CHARTER SCHOOL, ANOTHER SCHOOL DISTRICT OR A MILITARY BASE, TO OPERATE A SCHOOL OR OFFER EDUCATIONAL SERVICES IN A DISTRICT BUILDING, INCLUDING AT A VACANT OR PARTIALLY USED BUILDING, OR IN ANY BUILDING ON THE ENTITY'S PROPERTY PURSUANT TO A WRITTEN AGREEMENT BETWEEN THE PARTIES.

4. Acquire school furniture, apparatus, equipment, library books and supplies for the use of the schools.

5. Prescribe the curricula and criteria for the promotion and graduation of pupils as provided in sections 15-701 and 15-701.01.

6. Furnish, repair and insure, at full insurable value, the school property of the district.

7. Construct school buildings on approval by a vote of the district electors.

8. Make in the name of the district conveyances of property belonging to the district and sold by the board.

9. Purchase school sites when authorized by a vote of the district at an election conducted as nearly as practicable in the same manner as the election provided in section 15-481 and held on a date prescribed in section 15-491, subsection E, but such authorization shall not necessarily specify the site to be purchased and such authorization shall not be necessary to exchange unimproved property as provided in section 15-342, paragraph 23.

10. Construct, improve and furnish buildings used for school purposes when such buildings or premises are leased from the national park service.

11. Purchase school sites or construct, improve and furnish school buildings from the proceeds of the sale of school property only on approval by a vote of the district electors.

12. Hold pupils to strict account for disorderly conduct on school property.

13. Discipline students for disorderly conduct on the way to and from school.

14. Except as provided in section 15-1224, deposit all monies received by the district as gifts, grants and devises with the county treasurer who shall credit the deposits as designated in the uniform system of financial records. If not inconsistent with the terms of the gifts, grants and devises given, any balance remaining after expenditures for the intended purpose of the monies have been made shall be used for reduction

of school district taxes for the budget year, except that in the case of accommodation schools the county treasurer shall carry the balance forward for use by the county school superintendent for accommodation schools for the budget year.

15. Provide that, if a parent or legal guardian chooses not to accept a decision of the teacher as provided in paragraph 42 of this subsection, the parent or legal guardian may request in writing that the governing board review the teacher's decision. This paragraph does not release school districts from any liability relating to a child's promotion or retention.

16. Provide for adequate supervision over pupils in instructional and noninstructional activities by certificated or noncertificated personnel.

17. Use school monies received from the state and county school apportionment exclusively for payment of salaries of teachers and other employees and contingent expenses of the district.

18. Make an annual report to the county school superintendent on or before October 1 in the manner and form and on the blanks prescribed by the superintendent of public instruction or county school superintendent. The board shall also make reports directly to the county school superintendent or the superintendent of public instruction whenever required.

19. Deposit all monies received by school districts other than student activities monies or monies from auxiliary operations as provided in sections 15-1125 and 15-1126 with the county treasurer to the credit of the school district except as provided in paragraph 20 of this subsection and sections 15-1223 and 15-1224, and the board shall expend the monies as provided by law for other school funds.

20. Establish bank accounts in which the board during a month may deposit miscellaneous monies received directly by the district. The board shall remit monies deposited in the bank accounts at least monthly to the county treasurer for deposit as provided in paragraph 19 of this subsection and in accordance with the uniform system of financial records.

21. Prescribe and enforce policies and procedures for disciplinary action against a teacher who engages in conduct that is a violation of the policies of the governing board but that is not cause for dismissal of the teacher or for revocation of the certificate of the teacher. Disciplinary action may include suspension without pay for a period of time not to exceed ten school days. Disciplinary action shall not include suspension with pay or suspension without pay for a period of time longer than ten school days. The procedures shall include notice, hearing and appeal provisions for violations that are cause for disciplinary action. The governing board may designate a person or persons to act on behalf of the board on these matters.

22. Prescribe and enforce policies and procedures for disciplinary action against an administrator who engages in conduct that is a violation of the policies of the governing board regarding duties of administrators but that is not cause for dismissal of the administrator or for revocation of the certificate of the administrator. Disciplinary action may include suspension without pay for a period of time not to exceed ten school days. Disciplinary action shall not include suspension with pay or suspension without pay for a period of time longer than ten school days. The procedures

shall include notice, hearing and appeal provisions for violations that are cause for disciplinary action. The governing board may designate a person or persons to act on behalf of the board on these matters. For violations that are cause for dismissal, the provisions of notice, hearing and appeal in chapter 5, article 3 of this title shall apply. The filing of a timely request for a hearing suspends the imposition of a suspension without pay or a dismissal pending completion of the hearing.

23. Notwithstanding sections 13-3108 and 13-3120, prescribe and enforce policies and procedures that prohibit a person from carrying or possessing a weapon on school grounds unless the person is a peace officer or has obtained specific authorization from the school administrator.

24. Prescribe and enforce policies and procedures relating to the health and safety of all pupils participating in district-sponsored practice sessions or games or other interscholastic athletic activities, including:

(a) The provision of water.

(b) Guidelines, information and forms, developed in consultation with a statewide private entity that supervises interscholastic activities, to inform and educate coaches, pupils and parents of the dangers of concussions and head injuries and the risks of continued participation in athletic activity after a concussion. The policies and procedures shall require that, before a pupil participates in an athletic activity, the pupil and the pupil's parent must sign an information form at least once each school year that states that the parent is aware of the nature and risk of concussion. The policies and procedures shall require that a pupil who is suspected of sustaining a concussion in a practice session, game or other interscholastic athletic activity be immediately removed from the athletic activity and that the pupil's parent or guardian be notified. A coach from the pupil's team or an official or a licensed health care provider may remove a pupil from play. A team parent may also remove the parent's own child from play. A pupil may return to play on the same day if a health care provider rules out a suspected concussion at the time the pupil is removed from play. On a subsequent day, the pupil may return to play if the pupil has been evaluated by and received written clearance to resume participation in athletic activity from a health care provider who has been trained in the evaluation and management of concussions and head injuries. A health care provider who is a volunteer and who provides clearance to participate in athletic activity on the day of the suspected injury or on a subsequent day is immune from civil liability with respect to all decisions made and actions taken that are based on good faith implementation of the requirements of this subdivision, except in cases of gross negligence or wanton or wilful neglect. A school district, school district employee, team coach, official or team volunteer or a parent or guardian of a team member is not subject to civil liability for any act, omission or policy undertaken in good faith to comply with the requirements of this subdivision or for a decision made or an action taken by a health care provider. A group or organization that uses property or facilities owned or operated by a school district for athletic activities shall comply with the requirements of this subdivision. A school district and its employees and volunteers are not subject to civil liability for any other person or organization's failure or alleged failure to comply with the requirements of this subdivision.

This subdivision does not apply to teams that are based in another state and that participate in an athletic activity in this state. For the purposes of this subdivision, athletic activity does not include dance, rhythmic gymnastics, competitions or exhibitions of academic skills or knowledge or other similar forms of physical noncontact activities, civic activities or academic activities, whether engaged in for the purposes of competition or recreation. For the purposes of this subdivision, "health care provider" means a physician who is licensed pursuant to title 32, chapter 13 or 17, an athletic trainer who is licensed pursuant to title 32, chapter 41, a nurse practitioner who is licensed pursuant to title 32, chapter 15, and a physician assistant who is licensed pursuant to title 32, chapter 25.

(c) Guidelines, information and forms that are developed in consultation with a statewide private entity that supervises interscholastic activities to inform and educate coaches, pupils and parents of the dangers of heat-related illnesses, sudden cardiac death and prescription opioid use. Before a pupil participates in any district-sponsored practice session~~,~~ OR game or other interscholastic athletic activity, the pupil and the pupil's parent must be provided with information at least once each school year on the risks of heat-related illnesses, sudden cardiac death and prescription opioid addiction.

Chs. 191 and 247

25. Establish an assessment, data gathering and reporting system as prescribed in chapter 7, article 3 of this title.

26. Provide special education programs and related services pursuant to section 15-764, subsection A to all children with disabilities as defined in section 15-761.

27. Administer competency tests prescribed by the state board of education for the graduation of pupils from high school.

28. Ensure that insurance coverage is secured for all construction projects for purposes of general liability, property damage and workers' compensation and secure performance and payment bonds for all construction projects.

29. Keep in the personnel file of all current and former employees who provide instruction to pupils at a school information about the employee's educational and teaching background and experience in a particular academic content subject area. A school district shall inform parents and guardians of the availability of the information and shall make the information available for inspection on request of parents and guardians of pupils enrolled at a school. This paragraph does not require any school to release personally identifiable information in relation to any teacher or employee, including the teacher's or employee's address, salary, social security number or telephone number.

30. Report to local law enforcement agencies any suspected crime against a person or property that is a serious offense as defined in section 13-706 or that involves a deadly weapon or dangerous instrument or serious physical injury and any conduct that poses a threat of death or serious physical injury to employees, students or anyone on the property of the school. This paragraph does not limit or preclude the reporting by a school district or an employee of a school district of suspected crimes other than those required to be reported by this paragraph. For the purposes of this

paragraph, "dangerous instrument", "deadly weapon" and "serious physical injury" have the same meanings prescribed in section 13-105.

31. In conjunction with local law enforcement agencies and emergency response agencies, develop an emergency response plan for each school in the school district in accordance with minimum standards developed jointly by the department of education and the division of emergency management within the department of emergency and military affairs.

32. Provide written notice to the parents or guardians of all students enrolled in the school district at least ten days before a public meeting to discuss closing a school within the school district. The notice shall include the reasons for the proposed closure and the time and place of the meeting. The governing board shall fix a time for a public meeting on the proposed closure not less than ten days before voting in a public meeting to close the school. The school district governing board shall give notice of the time and place of the meeting. At the time and place designated in the notice, the school district governing board shall hear reasons for or against closing the school. The school district governing board is exempt from this paragraph if the governing board determines that the school shall be closed because it poses a danger to the health or safety of the pupils or employees of the school. A governing board may consult with the school facilities board for technical assistance and for information on the impact of closing a school. The information provided from the school facilities board shall not require the governing board to take or not take any action.

33. Incorporate instruction on Native American history into appropriate existing curricula.

34. Prescribe and enforce policies and procedures:

(a) Allowing pupils who have been diagnosed with anaphylaxis by a health care provider licensed pursuant to title 32, chapter 13, 14, 17 or 25 or by a registered nurse practitioner licensed and certified pursuant to title 32, chapter 15 to carry and self-administer emergency medications, including epinephrine auto-injectors, while at school and at school-sponsored activities. The pupil's name on the prescription label on the medication container or on the medication device and annual written documentation from the pupil's parent or guardian to the school that authorizes possession and self-administration is sufficient proof that the pupil is entitled to the possession and self-administration of the medication. The policies shall require a pupil who uses an epinephrine auto-injector while at school and at school-sponsored activities to notify the nurse or the designated school staff person of the use of the medication as soon as practicable. A school district and its employees are immune from civil liability with respect to all decisions made and actions taken that are based on good faith implementation of the requirements of this subdivision, except in cases of wanton or wilful neglect.

(b) For the emergency administration of epinephrine auto-injectors by a trained employee of a school district pursuant to section 15-157.

35. Allow the possession and self-administration of prescription medication for breathing disorders in handheld inhaler devices by pupils who have been prescribed that medication by a health care professional licensed pursuant to title 32. The pupil's name on the prescription label

on the medication container or on the handheld inhaler device and annual written documentation from the pupil's parent or guardian to the school that authorizes possession and self-administration shall be sufficient proof that the pupil is entitled to the possession and self-administration of the medication. A school district and its employees are immune from civil liability with respect to all decisions made and actions taken that are based on a good faith implementation of the requirements of this paragraph.

36. Prescribe and enforce policies and procedures to prohibit pupils from harassing, intimidating and bullying other pupils on school grounds, on school property, on school buses, at school bus stops, at school-sponsored events and activities and through the use of electronic technology or electronic communication on school computers, networks, forums and mailing lists that include the following components:

(a) A procedure for pupils, parents and school district employees to confidentially report to school officials incidents of harassment, intimidation or bullying. The school shall make available written forms designed to provide a full and detailed description of the incident and any other relevant information about the incident.

(b) A requirement that school district employees report in writing suspected incidents of harassment, intimidation or bullying to the appropriate school official and a description of appropriate disciplinary procedures for employees who fail to report suspected incidents that are known to the employee.

(c) A requirement that, at the beginning of each school year, school officials provide all pupils with a written copy of the rights, protections and support services available to a pupil who is an alleged victim of an incident reported pursuant to this paragraph.

(d) If an incident is reported pursuant to this paragraph, a requirement that school officials provide a pupil who is an alleged victim of the incident with a written copy of the rights, protections and support services available to that pupil.

(e) A formal process for the documentation of reported incidents of harassment, intimidation or bullying and for the confidentiality, maintenance and disposition of this documentation. School districts shall maintain documentation of all incidents reported pursuant to this paragraph for at least six years. The school shall not use that documentation to impose disciplinary action unless the appropriate school official has investigated and determined that the reported incidents of harassment, intimidation or bullying occurred. If a school provides documentation of reported incidents to persons other than school officials or law enforcement, all individually identifiable information shall be redacted.

(f) A formal process for the investigation by the appropriate school officials of suspected incidents of harassment, intimidation or bullying, including procedures for notifying the alleged victim and the alleged victim's parent or guardian when a school official or employee becomes aware of the suspected incident of harassment, intimidation or bullying.

(g) Disciplinary procedures for pupils who have admitted or been found to have committed incidents of harassment, intimidation or bullying.

(h) A procedure that sets forth consequences for submitting false reports of incidents of harassment, intimidation or bullying.

(i) Procedures designed to protect the health and safety of pupils who are physically harmed as the result of incidents of harassment, intimidation and bullying, including, if appropriate, procedures to contact emergency medical services or law enforcement agencies, or both.

(j) Definitions of harassment, intimidation and bullying.

37. Prescribe and enforce policies and procedures regarding changing or adopting attendance boundaries that include the following components:

(a) A procedure for holding public meetings to discuss attendance boundary changes or adoptions that allows public comments.

(b) A procedure to notify the parents or guardians of the students affected.

(c) A procedure to notify the residents of the households affected by the attendance boundary changes.

(d) A process for placing public meeting notices and proposed maps on the school district's website for public review, if the school district maintains a website.

(e) A formal process for presenting the attendance boundaries of the affected area in public meetings that allows public comments.

(f) A formal process for notifying the residents and parents or guardians of the affected area as to the decision of the governing board on the school district's website, if the school district maintains a website.

(g) A formal process for updating attendance boundaries on the school district's website within ninety days of an adopted boundary change. The school district shall send a direct link to the school district's attendance boundaries website to the department of real estate.

38. If the state board of education determines that the school district has committed an overexpenditure as defined in section 15-107, provide a copy of the fiscal management report submitted pursuant to section 15-107, subsection H on its website and make copies available to the public on request. The school district shall comply with a request within five business days after receipt.

39. Ensure that the contract for the superintendent is structured in a manner in which up to twenty percent of the total annual salary included for the superintendent in the contract is classified as performance pay. This paragraph does not require school districts to increase total compensation for superintendents. Unless the school district governing board votes to implement an alternative procedure at a public meeting called for this purpose, the performance pay portion of the superintendent's total annual compensation shall be determined as follows:

(a) Twenty-five percent of the performance pay shall be determined based on the percentage of academic gain determined by the department of education of pupils who are enrolled in the school district compared to the academic gain achieved by the highest ranking of the fifty largest school districts in this state. For the purposes of this subdivision, the department of education shall determine academic gain by the academic growth achieved by each pupil who has been enrolled at the same school in a school district for at least five consecutive months measured against that pupil's academic results in the 2008-2009 school year. For the purposes of this subdivision, of the fifty largest school districts in this state, the school district with pupils who demonstrate the highest statewide percentage of

overall academic gain measured against academic results for the 2008-2009 school year shall be assigned a score of 100 and the school district with pupils who demonstrate the lowest statewide percentage of overall academic gain measured against academic results for the 2008-2009 school year shall be assigned a score of 0.

(b) Twenty-five percent of the performance pay shall be determined by the percentage of parents of pupils who are enrolled at the school district who assign a letter grade of "A" to the school on a survey of parental satisfaction with the school district. The parental satisfaction survey shall be administered and scored by an independent entity that is selected by the governing board and that demonstrates sufficient expertise and experience to accurately measure the results of the survey. The parental satisfaction survey shall use standard random sampling procedures and provide anonymity and confidentiality to each parent who participates in the survey. The letter grade scale used on the parental satisfaction survey shall direct parents to assign one of the following letter grades:

(i) A letter grade of "A" if the school district is excellent.

(ii) A letter grade of "B" if the school district is above average.

(iii) A letter grade of "C" if the school district is average.

(iv) A letter grade of "D" if the school district is below average.

(v) A letter grade of "F" if the school district is a failure.

(c) Twenty-five percent of the performance pay shall be determined by the percentage of teachers who are employed at the school district and who assign a letter grade of "A" to the school on a survey of teacher satisfaction with the school. The teacher satisfaction survey shall be administered and scored by an independent entity that is selected by the governing board and that demonstrates sufficient expertise and experience to accurately measure the results of the survey. The teacher satisfaction survey shall use standard random sampling procedures and provide anonymity and confidentiality to each teacher who participates in the survey. The letter grade scale used on the teacher satisfaction survey shall direct teachers to assign one of the following letter grades:

(i) A letter grade of "A" if the school district is excellent.

(ii) A letter grade of "B" if the school district is above average.

(iii) A letter grade of "C" if the school district is average.

(iv) A letter grade of "D" if the school district is below average.

(v) A letter grade of "F" if the school district is a failure.

(d) Twenty-five percent of the performance pay shall be determined by other criteria selected by the governing board.

40. Maintain and store permanent public records of the school district as required by law. Notwithstanding section 39-101, the standards adopted by the Arizona state library, archives and public records for the maintenance and storage of school district public records shall allow school districts to elect to satisfy the requirements of this paragraph by maintaining and storing these records either on paper or in an electronic format, or a combination of a paper and electronic format.

41. Adopt in a public meeting and implement policies for principal evaluations. Before ~~the adoption of~~ ADOPTING principal evaluation policies, the school district governing board shall provide opportunities for public

Chs. 191 and 247

discussion on the proposed policies. THE GOVERNING BOARD SHALL ADOPT POLICIES THAT:

(a) ARE DESIGNED TO IMPROVE PRINCIPAL PERFORMANCE AND IMPROVE STUDENT ACHIEVEMENT.

(b) INCLUDE THE USE OF QUANTITATIVE DATA ON THE ACADEMIC PROGRESS FOR ALL STUDENTS, WHICH SHALL ACCOUNT FOR BETWEEN TWENTY PERCENT AND THIRTY-THREE PERCENT OF THE EVALUATION OUTCOMES.

(c) INCLUDE FOUR PERFORMANCE CLASSIFICATIONS, DESIGNATED AS HIGHLY EFFECTIVE, EFFECTIVE, DEVELOPING AND INEFFECTIVE. ~~The policies shall~~

~~(c)~~ (d) Describe BOTH OF THE FOLLOWING:

~~(a) The principal evaluation instrument, including the four performance classifications adopted by the governing board pursuant to section 15-203, subsection A, paragraph 38.~~

~~(b) Alignment of professional development opportunities to the principal evaluations.~~

Ch. 191

~~(c) Incentives for principals in one of the two highest performance classifications pursuant to section 15-203, subsection A, paragraph 38, which may include:~~

~~(i) Multiyear contracts pursuant to section 15-503.~~

~~(ii) Incentives to work at schools that are assigned a letter grade of D or F pursuant to section 15-241.~~

~~(d) Transfer and contract processes for principals designated in the lowest performance classification pursuant to section 15-203, subsection A, paragraph 38.~~

(i) THE METHODS USED TO EVALUATE THE PERFORMANCE OF PRINCIPALS, INCLUDING THE DATA USED TO MEASURE STUDENT PERFORMANCE AND JOB EFFECTIVENESS.

(ii) THE FORMULA USED TO DETERMINE EVALUATION OUTCOMES.

42. Prescribe and enforce policies and procedures that define the duties of principals and teachers. These policies and procedures shall authorize teachers to take and maintain daily classroom attendance, make the decision to promote or retain a pupil in a grade in common school or to pass or fail a pupil in a course in high school, subject to review by the governing board in the manner provided in section 15-342, paragraph 11.

43. Prescribe and enforce policies and procedures for the emergency administration by an employee of a school district pursuant to section 36-2267 of naloxone hydrochloride or any other opioid antagonist approved by the United States food and drug administration.

44. In addition to the notification requirements prescribed in paragraph 36 of this subsection, prescribe and enforce reasonable and appropriate policies to notify a pupil's parent or guardian if any person engages in harassing, threatening or intimidating conduct against that pupil. A school district and its officials and employees are immune from civil liability with respect to all decisions made and actions taken that are based on good faith implementation of the requirements of this paragraph, except in cases of gross negligence or wanton or wilful neglect. A person ~~commits~~ ENGAGES IN threatening or intimidating if the person threatens or intimidates by word or conduct to cause physical injury to another person or serious damage to the property of another on school grounds. A person ~~commits~~ ENGAGES IN harassment if, with intent to harass or with knowledge

Chs. 191 and 247

that the person is harassing another person, the person anonymously or otherwise contacts, communicates or causes a communication with another person by verbal, electronic, mechanical, telephonic or written means in a manner that harasses on school grounds or substantially disrupts the school environment.

B. Notwithstanding subsection A, paragraphs 7, 9 and 11 of this section, the county school superintendent may construct, improve and furnish school buildings or purchase or sell school sites in the conduct of an accommodation school.

C. If any school district acquires real or personal property, whether by purchase, exchange, condemnation, gift or otherwise, the governing board shall pay to the county treasurer any taxes on the property that were unpaid as of the date of acquisition, including penalties and interest. The lien for unpaid delinquent taxes, penalties and interest on property acquired by a school district:

1. Is not abated, extinguished, discharged or merged in the title to the property.

2. Is enforceable in the same manner as other delinquent tax liens.

D. The governing board may not locate a school on property that is less than one-fourth mile from agricultural land regulated pursuant to section 3-365, except that the owner of the agricultural land may agree to comply with the buffer zone requirements of section 3-365. If the owner agrees in writing to comply with the buffer zone requirements and records the agreement in the office of the county recorder as a restrictive covenant running with the title to the land, the school district may locate a school within the affected buffer zone. The agreement may include any stipulations regarding the school, including conditions for future expansion of the school and changes in the operational status of the school that will result in a breach of the agreement.

E. A school district, its governing board members, its school council members and its employees are immune from civil liability for the consequences of adoption and implementation of policies and procedures pursuant to subsection A of this section and section 15-342. This waiver does not apply if the school district, its governing board members, its school council members or its employees are guilty of gross negligence or intentional misconduct.

F. A governing board may delegate in writing to a superintendent, principal or head teacher the authority to prescribe procedures that are consistent with the governing board's policies.

G. Notwithstanding any other provision of this title, a school district governing board shall not take any action that would result in a reduction of pupil square footage unless the governing board notifies the school facilities board established by section 15-2001 of the proposed action and receives written approval from the school facilities board to take the action. A reduction includes an increase in administrative space that results in a reduction of pupil square footage or sale of school sites or buildings, or both. A reduction includes a reconfiguration of grades that results in a reduction of pupil square footage of any grade level. This subsection does not apply to temporary reconfiguration of grades to accommodate new school construction if the temporary reconfiguration does

not exceed one year. The sale of equipment that results in a reduction that falls below the equipment requirements prescribed in section 15-2011, subsection B is subject to commensurate withholding of school district district additional assistance monies pursuant to the direction of the school facilities board. Except as provided in section 15-342, paragraph 10, proceeds from the sale of school sites, buildings or other equipment shall be deposited in the school plant fund as provided in section 15-1102.

H. Subsections C through G of this section apply to a county board of supervisors and a county school superintendent when operating and administering an accommodation school.

I. A school district governing board may delegate authority in writing to the superintendent of the school district to submit plans for new school facilities to the school facilities board for the purpose of certifying that the plans meet the minimum school facility adequacy guidelines prescribed in section 15-2011.

EXPLANATION OF BLEND
SECTION 15-512

Laws 2019, Chapters 58 and 177

Laws 2019, Ch. 58, section 1	Effective August 27, 2019
Laws 2019, Ch. 177, section 2	Effective August 27, 2019

Explanation

Since these two enactments are compatible, the Laws 2019, Ch. 58 and Ch. 177 text changes to section 15-512 are blended in the form shown on the following pages.

BLEND OF SECTION 15-512
Laws 2019, Chapters 58 and 177

15-512. Noncertificated personnel; fingerprinting personnel; background investigations; affidavit; civil immunity; violation; classification; definition

A. Noncertificated personnel and personnel who are not paid employees of the school district and who are not either the parent or the guardian of a pupil who attends school in the school district but who are required or allowed to provide services directly to pupils without the supervision of a certificated employee and who are initially hired by a school district after January 1, 1990 shall be fingerprinted as a condition of employment except for personnel who are required as a condition of licensing to be fingerprinted if the license is required for employment or for personnel who were previously employed by a school district and who reestablished employment with that district within one year after the date that the employee terminated employment with the district. A school district may require noncertificated personnel and personnel who are not paid employees of the school district and who are not either the parent or the guardian of a pupil who attends school in the school district but who are required or allowed to provide services directly to pupils without the supervision of a certificated employee to obtain a fingerprint clearance card as a condition of employment. Even if the school district does not require a fingerprint clearance card as a condition of employment, noncertificated personnel and personnel who are not paid employees of the school district and who are not either the parent or the guardian of a pupil who attends school in the school district but who are required or allowed to provide services directly to pupils without the supervision of a certificated employee may apply for a fingerprint clearance card. A school district may release the results of a background check or communicate whether the person has been issued or denied a fingerprint clearance card to another school district for employment purposes. The employee's fingerprints and the form prescribed in subsection D of this section shall be submitted to the school district within twenty days after the date an employee begins work. A school district may terminate an employee if the information on the form provided under subsection D of this section is inconsistent with the information received from the fingerprint check or the information received in connection with a fingerprint clearance card application. The school district shall develop procedures for fingerprinting employees. For the purposes of this subsection, "supervision" means under the direction of and, except for brief periods of time during a school day or a school activity, within sight of a certificated employee when providing direct services to pupils.

B. Fingerprints submitted pursuant to this section shall be used to conduct a state and federal criminal records check pursuant to section 41-1750 and Public Law 92-544. The department of public safety may exchange this fingerprint data with the federal bureau of investigation.

C. The school district shall assume the costs of fingerprint checks and fingerprint clearance cards and may charge these costs to its fingerprinted employee, except that the school district may not charge the costs of the fingerprint check or the fingerprint clearance card to personnel

of the school district who are not paid employees. The fees charged for fingerprinting shall be deposited with the county treasurer who shall credit the deposit to the fingerprint fund of the school district. The costs charged to a fingerprinted employee are limited to and the proceeds in the fund may only be applied to the actual costs, including personnel costs, incurred as a result of the fingerprint checks or the fingerprint clearance cards. The fingerprint fund is a continuing fund that is not subject to reversion.

D. Personnel required to be fingerprinted or obtain a fingerprint clearance card as prescribed in subsection A of this section shall certify on forms that are provided by the school and notarized whether they are awaiting trial on or have ever been convicted of or admitted in open court or pursuant to a plea agreement committing any of the following criminal offenses in this state or similar offenses in another jurisdiction[,] INCLUDING A CHARGE OR CONVICTION THAT HAS BEEN VACATED, SET ASIDE OR EXPUNGED:

Ch. 58

1. Sexual abuse of a minor.
2. Incest.
3. First or second degree murder.
4. Kidnapping.
5. Arson.
6. Sexual assault.
7. Sexual exploitation of a minor.
8. Felony offenses involving contributing to the delinquency of a minor.
9. Commercial sexual exploitation of a minor.
10. Felony offenses involving sale, distribution or transportation of, offer to sell, transport, or distribute or conspiracy to sell, transport or distribute marijuana or dangerous or narcotic drugs.
11. Felony offenses involving the possession or use of marijuana, dangerous drugs or narcotic drugs.
12. Misdemeanor offenses involving the possession or use of marijuana or dangerous drugs.
13. Burglary in the first degree.
14. Burglary in the second or third degree.
15. Aggravated or armed robbery.
16. Robbery.
17. A dangerous crime against children as defined in section 13-705.
18. Child abuse.
19. Sexual conduct with a minor.
20. Molestation of a child.
21. Manslaughter.
22. Aggravated assault.
23. Assault.
24. Exploitation of minors involving drug offenses.

E. A school district may refuse to hire or may review or terminate personnel who have been convicted of or admitted committing any of the criminal offenses prescribed in subsection D of this section or of a similar offense in another jurisdiction. A school district that is considering terminating an employee pursuant to this subsection shall hold a hearing to

determine whether a person already employed shall be terminated. In conducting a review, the governing board shall utilize the guidelines, including the list of offenses that are not subject to review, as prescribed by the state board of education pursuant to section 15-534, subsection C.

Ch. 177— In considering whether to hire or terminate the employment of a person[,] the governing board shall take into account the following factors:

1. The nature of the crime and the potential for crimes against children.

2. Offenses committed as a minor for which proceedings were held under the jurisdiction of a juvenile or an adult court.

3. Offenses that have been expunged by a court of competent jurisdiction, if the person has been pardoned or if the person's sentence has been commuted.

4. The employment record of the person since the commission of the crime if the crime was committed more than ten years before the governing board's consideration of whether to hire or terminate the person.

5. The reliability of the evidence of an admission of a crime unless made under oath in a court of competent jurisdiction.

F. Before employment with the school district, the district shall make documented, good faith efforts to contact previous employers of a person to obtain information and recommendations that may be relevant to a person's fitness for employment. A governing board shall adopt procedures for conducting background investigations required by this subsection, including one or more standard forms for use by school district officials to document their efforts to obtain information from previous employers. A school district may provide information received as a result of a background investigation required by this section to any other school district, to any other public school and to any public entity that agrees pursuant to a contract or intergovernmental agreement to perform background investigations for school districts or other public schools. School districts and other public schools may enter into intergovernmental agreements pursuant to section 11-952 and cooperative purchasing agreements pursuant to rules adopted in accordance with section 15-213 for the purposes of performing or contracting for the performance of background investigations and for sharing the results of background investigations required by this subsection. Information obtained about an employee or applicant for employment by any school district or other public school in the performance of a background investigation, INCLUDING ANY RECORDS INDICATING THAT A CURRENT OR FORMER EMPLOYEE OF A SCHOOL OR SCHOOL DISTRICT WAS DISCIPLINED FOR VIOLATING POLICIES OF THE SCHOOL DISTRICT GOVERNING BOARD PURSUANT TO SECTION 15-153, may be retained by that school district or the other public school or by any public entity that agrees pursuant to contract to perform background investigations for school districts or other public schools and may be provided to any school district or other public school that is performing a background investigation required by this subsection.

Ch. 177—

G. A school district may fingerprint or require any other employee of the district to obtain a fingerprint clearance card, whether paid or not, or any other applicant for employment with the school district not otherwise required by this section to be fingerprinted or obtain a fingerprint clearance card on the condition that the school district may not charge the

costs of the fingerprint check or fingerprint clearance card to the fingerprinted applicant or nonpaid employee.

H. A contractor, subcontractor or vendor or any employee of a contractor, subcontractor or vendor who is contracted to provide services on a regular basis at an individual school shall obtain a valid fingerprint clearance card pursuant to title 41, chapter 12, article 3.1. A school district governing board shall adopt policies to exempt a person from the requirements of this subsection if the person's normal job duties are not likely to result in independent access to or unsupervised contact with pupils. A school district, its governing board members, its school council members and its employees are exempt from civil liability for the consequences of adoption and implementation of policies and procedures pursuant to this subsection unless the school district, its governing board members, its school council members or its employees are guilty of gross negligence or intentional misconduct.

I. Subsection A of this section does not apply to a person who provides instruction or other education services to a pupil, with the written consent of the parent or guardian of the pupil, under a work release program, advance placement course or other education program that occurs off school property.

J. Public entities that agree pursuant to contract to perform background investigations, public schools, the department of education and previous employers who provide information pursuant to this section are immune from civil liability unless the information provided is false and is acted on by the school district to the harm of the employee and the public entity, the public school, the previous employer or the department of education knows the information is false or acts with reckless disregard of the information's truth or falsity. A school district that relies on information obtained pursuant to this section in making employment decisions is immune from civil liability for use of the information unless the information obtained is false and the school district knows the information is false or acts with reckless disregard of the information's truth or falsity.

K. The superintendent of a school district or chief administrator of a charter school or the person's designee who is responsible for implementing the governing board's policy regarding background investigations required by subsection F of this section and who fails to carry out that
Ch. 177— responsibility is guilty of unprofessional conduct and ~~shall be~~ IS subject to disciplinary action by the state board.

L. A school district may hire noncertificated personnel before receiving the results of the fingerprint check or a fingerprint clearance card but may terminate employment if the information on the form provided in subsection D of this section is inconsistent with the information received from the fingerprint check or the fingerprint clearance card. In addition to any other conditions or requirements deemed necessary by the superintendent of public instruction to protect the health and safety of
Ch. 177— pupils, A SCHOOL DISTRICT MAY HIRE noncertificated personnel who are required or allowed unsupervised contact with pupils ~~may be hired by school districts~~ before the results of a fingerprint check are received or a

fingerprint clearance card is issued if THE SCHOOL DISTRICT DOES all of the following ~~conditions are met~~:

1. ~~The school district that is seeking to hire the applicant shall document~~ DOCUMENTS in the applicant's file the necessity for hiring and ~~placement of~~ PLACING the applicant before a fingerprint check could be completed or a fingerprint clearance card could be issued.

2. ~~The school district that is seeking to hire the applicant shall do all of the following:~~

~~(a) Ensure~~ ENSURES that the department of public safety completes a statewide criminal history information check on the applicant~~. A statewide criminal history information check shall be completed by the department of public safety~~ every one hundred twenty days until the date that the fingerprint check is completed or the fingerprint clearance card is issued or denied.

Ch. 177

~~(b) Obtain~~ 3. OBTAINS references from the applicant's current employer and two most recent previous employers except for applicants who have been employed for at least five years by the applicant's most recent employer.

~~(c) Provide~~ 4. PROVIDES general supervision of the applicant until the date that the fingerprint check is completed or the fingerprint clearance card is issued or denied.

~~(d) Report~~ 5. REPORTS to the superintendent of public instruction on June 30 and December 31 each year the number of applicants hired before the completion of a fingerprint check or the issuance of a fingerprint clearance card. In addition, the school district shall report the number of applicants for whom fingerprint checks were not received or fingerprint clearance cards were not issued after one hundred twenty days and after one hundred seventy-five days of hire.

M. Notwithstanding any other law, this section does not apply to pupils who attend school in a school district and who are also employed by a school district.

N. A person who makes a false statement, representation or certification in any application for employment with the school district is guilty of a class 3 misdemeanor.

O. For the purposes of this section, "background investigation" means any communication with an employee's or applicant's former employer that concerns the education, training, experience, qualifications and job performance of the employee or applicant and that is used for the purpose of evaluating the employee or applicant for employment. Background investigation does not include the results of any state or federal criminal history records check.

EXPLANATION OF BLEND
SECTION 15-901

Laws 2019, Chapters 40 and 265

Laws 2019, Ch. 40, section 1	Effective August 27, 2019
Laws 2019, Ch. 265, section 7	Effective August 27, 2019

Explanation

Since these two enactments are compatible, the Laws 2019, Ch. 40 and Ch. 265 text changes to section 15-901 are blended in the form shown on the following pages.

The Laws 2019, Ch. 40 version of section 15-901 made technical changes in subsection B, paragraph 2, subdivisions (e), (f) and (g). The Ch. 265 version struck these subdivisions. Since this would not produce a substantive change, the blend version reflects the Ch. 265 version.

BLEND OF SECTION 15-901
Laws 2019, Chapters 40 and 265

15-901. Definitions

A. In this title, unless the context otherwise requires:

1. "Average daily membership" means the total enrollment of fractional students and full-time students, minus withdrawals, of each school day through the first one hundred days or two hundred days in session, as applicable, for the current year. Withdrawals include students who are formally withdrawn from schools and students who are absent for ten consecutive school days, except for excused absences identified by the department of education. For the purposes of this section, school districts and charter schools shall report student absence data to the department of education at least once every sixty days in session. For computation purposes, the effective date of withdrawal shall be retroactive to the last day of actual attendance of the student or excused absence.

(a) "Fractional student" means:

(i) For common schools, a preschool child who is enrolled in a program for preschool children with disabilities of at least three hundred sixty minutes each week that meets at least two hundred sixteen hours over the minimum number of days or a kindergarten student who is at least five years of age before January 1 of the school year and enrolled in a school kindergarten program that meets at least three hundred fifty-six hours for a one hundred eighty-day school year, or the instructional hours prescribed in this section. In computing the average daily membership, preschool children with disabilities and kindergarten students shall be counted as one-half of a full-time student. For common schools, a part-time student is a student enrolled for less than the total time for a full-time student as defined in this section. A part-time common school student shall be counted as one-fourth, one-half or three-fourths of a full-time student if the student is enrolled in an instructional program that is at least one-fourth, one-half or three-fourths of the time a full-time student is enrolled as defined in subdivision (b) of this paragraph. The hours in which a student is scheduled to attend a common school during the regular school day shall be included in the calculation of the average daily membership for that student.

(ii) For high schools, a part-time student who is enrolled in less than four subjects that count toward graduation as defined by the state board of education, each of which, if taught each school day for the minimum number of days required in a school year, would meet a minimum of one hundred twenty-three hours a year, or the equivalent, in a recognized high school. The average daily membership of a part-time high school student shall be 0.75 if the student is enrolled in an instructional program of three subjects that meet at least five hundred forty hours for a one hundred eighty-day school year, or the instructional hours prescribed in this section. The average daily membership of a part-time high school student shall be 0.5 if the student is enrolled in an instructional program of two subjects that meet at least three hundred sixty hours for a one hundred eighty-day school year, or the instructional hours prescribed in this section. The average daily membership of a part-time high school student

shall be 0.25 if the student is enrolled in an instructional program of one subject that meets at least one hundred eighty hours for a one hundred eighty-day school year, or the instructional hours prescribed in this section. The hours in which a student is scheduled to attend a high school during the regular school day shall be included in the calculation of the average daily membership for that student.

(b) "Full-time student" means:

(i) For common schools, a student who is at least six years of age before January 1 of a school year, who has not graduated from the highest grade taught in the school district and who is regularly enrolled in a course of study required by the state board of education. First, second and third grade students or ungraded group B children with disabilities who are at least five, but under six, years of age by September 1 must be enrolled in an instructional program that meets for a total of at least seven hundred twelve hours for a one hundred eighty-day school year, or the instructional hours prescribed in this section. Fourth, fifth, ~~and~~ sixth, SEVENTH AND EIGHTH grade students must be enrolled in an instructional program that meets for a total of at least eight hundred ninety hours for a one hundred eighty-day school year, or the instructional hours prescribed in this section, INCLUDING THE EQUIVALENT NUMBER OF INSTRUCTIONAL HOURS FOR SCHOOLS THAT OPERATE ON A ONE HUNDRED FORTY-FOUR-DAY SCHOOL YEAR. ~~Seventh and eighth grade students must be enrolled in an instructional program that meets for at least one thousand hours.~~ The hours in which a student is scheduled to attend a common school during the regular school day shall be included in the calculation of the average daily membership for that student.

Ch. 40

(ii) For high schools, a student who has not graduated from the highest grade taught in the school district and who is enrolled in at least an instructional program of four or more subjects that count toward graduation as defined by the state board of education, each of which, if taught each school day for the minimum number of days required in a school year, would meet a minimum of one hundred twenty-three hours a year, or the equivalent, that meets for a total of at least seven hundred twenty hours for a one hundred eighty-day school year, or the instructional hours prescribed in this section in a recognized high school. A full-time student shall not be counted more than once for computation of average daily membership. The average daily membership of a full-time high school student shall be 1.0 if the student is enrolled in at least four subjects that meet at least seven hundred twenty hours for a one hundred eighty-day school year, or the equivalent instructional hours prescribed in this section. The hours in which a student is scheduled to attend a high school during the regular school day shall be included in the calculation of the average daily membership for that student.

(iii) If a child who has not reached five years of age before September 1 of the current school year is admitted to kindergarten and repeats kindergarten in the following school year, a school district or charter school is not eligible to receive basic state aid on behalf of that child during the child's second year of kindergarten. If a child who has not reached five years of age before September 1 of the current school year is admitted to kindergarten but does not remain enrolled, a school district or charter school may receive a portion of basic state aid on behalf of that

child in the subsequent year. A school district or charter school may charge tuition for any child who is ineligible for basic state aid pursuant to this item.

(iv) Except as otherwise provided by law, for a full-time high school student who is concurrently enrolled in two school districts or two charter schools, the average daily membership shall not exceed 1.0.

(v) Except as otherwise provided by law, for any student who is concurrently enrolled in a school district and a charter school, the average daily membership shall be apportioned between the school district and the charter school and shall not exceed 1.0. The apportionment shall be based on the percentage of total time that the student is enrolled in or in attendance at the school district and the charter school.

(vi) Except as otherwise provided by law, for any student who is concurrently enrolled, pursuant to section 15-808, in a school district and Arizona online instruction or a charter school and Arizona online instruction, the average daily membership shall be apportioned between the school district and Arizona online instruction or the charter school and Arizona online instruction and shall not exceed 1.0. The apportionment shall be based on the percentage of total time that the student is enrolled in or in attendance at the school district and Arizona online instruction or the charter school and Arizona online instruction.

(vii) For homebound or hospitalized, a student receiving at least four hours of instruction per week.

(c) "Regular school day" means the regularly scheduled class periods intended for instructional purposes. Instructional purposes may include core subjects, elective subjects, lunch, study halls, music instruction, and other classes that advance the academic instruction of pupils, except that instructional purposes shall not include athletic practices or extracurricular clubs and activities.

2. "Budget year" means the fiscal year for which the school district is budgeting and that immediately follows the current year.

3. "Common school district" means a political subdivision of this state offering instruction to students in programs for preschool children with disabilities and kindergarten programs and either:

(a) Grades one through eight.

(b) Grades one through nine pursuant to section 15-447.01.

4. "Current year" means the fiscal year in which a school district is operating.

5. "Daily attendance" means:

(a) For common schools, days in which a pupil:

(i) Of a kindergarten program or ungraded, but not group B children with disabilities, who is at least five, but under six, years of age by September 1 attends at least three-quarters of the instructional time scheduled for the day. If the total instruction time scheduled for the year is at least three hundred fifty-six hours but is less than seven hundred twelve hours, such attendance shall be counted as one-half day of attendance. If the instructional time scheduled for the year is at least six hundred ninety-two hours, "daily attendance" means days in which a pupil attends at least one-half of the instructional time scheduled for the day. Such attendance shall be counted as one-half day of attendance.

(ii) Of the first, second or third grades attends more than three-quarters of the instructional time scheduled for the day.

(iii) Of the fourth, fifth or sixth grades attends more than three-quarters of the instructional time scheduled for the day, except as provided in section 15-797.

(iv) Of the seventh or eighth grades attends more than three-quarters of the instructional time scheduled for the day, except as provided in section 15-797.

(b) For common schools, the attendance of a pupil at three-quarters or less of the instructional time scheduled for the day shall be counted as follows, except as provided in section 15-797 and except that attendance for a fractional student shall not exceed the pupil's fractional membership:

(i) If attendance for all pupils in the school is based on quarter days, the attendance of a pupil shall be counted as one-fourth of a day's attendance for each one-fourth of full-time instructional time attended.

(ii) If attendance for all pupils in the school is based on half days, the attendance of at least three-quarters of the instructional time scheduled for the day shall be counted as a full day's attendance and attendance at a minimum of one-half but less than three-quarters of the instructional time scheduled for the day equals one-half day of attendance.

(c) For common schools, the attendance of a preschool child with disabilities shall be counted as one-fourth day's attendance for each thirty-six minutes of attendance, except as provided in paragraph 1, subdivision (a), item (i) of this subsection for children with disabilities up to a maximum of three hundred sixty minutes each week.

(d) For high schools, the attendance of a pupil shall not be counted as a full day unless the pupil is actually and physically in attendance and enrolled in and carrying four subjects, each of which, if taught each school day for the minimum number of days required in a school year, would meet a minimum of one hundred twenty-three hours a year, or the equivalent, that count toward graduation in a recognized high school except as provided in section 15-797 and subdivision (e) of this paragraph. Attendance of a pupil carrying less than the load prescribed shall be prorated.

(e) For high schools, the attendance of a pupil may be counted as one-fourth of a day's attendance for each sixty minutes of instructional time in a subject that counts toward graduation, except that attendance for a pupil shall not exceed the pupil's full or fractional membership.

(f) For homebound or hospitalized, a full day of attendance may be counted for each day during a week in which the student receives at least four hours of instruction.

(g) For school districts that maintain school for an approved year-round school year operation, attendance shall be based on a computation, as prescribed by the superintendent of public instruction, of the one hundred eighty days' equivalency or two hundred days' equivalency, as applicable, of instructional time as approved by the superintendent of public instruction during which each pupil is enrolled.

6. "Daily route mileage" means the sum of:

(a) The total number of miles driven daily by all buses of a school district while transporting eligible students from their residence to the

school of attendance and from the school of attendance to their residence on scheduled routes approved by the superintendent of public instruction.

(b) The total number of miles driven daily on routes approved by the superintendent of public instruction for which a private party, a political subdivision or a common or a contract carrier is reimbursed for bringing an eligible student from the place of the student's residence to a school transportation pickup point or to the school of attendance and from the school transportation scheduled return point or from the school of attendance to the student's residence. Daily route mileage includes the total number of miles necessary to drive to transport eligible students from and to their residence as provided in this paragraph.

7. "District support level" means the base support level plus the transportation support level.

8. "Eligible students" means:

(a) Students who are transported by or for a school district and who qualify as full-time students or fractional students, except students for whom transportation is paid by another school district or a county school superintendent, and:

(i) For common school students, whose place of actual residence within the school district is more than one mile from the school facility of attendance or students who are admitted pursuant to section 15-816.01 and who meet the economic eligibility requirements established under the national school lunch and child nutrition acts (42 United States Code sections 1751 through 1785) for free or ~~reduced price~~ REDUCED-PRICE lunches and whose actual place of residence outside the school district boundaries is more than one mile from the school facility of attendance.

Chs. 40 and 265

(ii) For high school students, whose place of actual residence within the school district is more than one and one-half miles from the school facility of attendance or students who are admitted pursuant to section 15-816.01 and who meet the economic eligibility requirements established under the national school lunch and child nutrition acts (42 United States Code sections 1751 through 1785) for free or ~~reduced price~~ REDUCED-PRICE lunches and whose actual place of residence outside the school district boundaries is more than one and one-half miles from the school facility of attendance.

Chs. 40 and 265

(b) Kindergarten students, for purposes of computing the number of eligible students under subdivision (a), item (i) of this paragraph, shall be counted as full-time students, notwithstanding any other provision of law.

(c) Children with disabilities, as defined by section 15-761, who are transported by or for the school district or who are admitted pursuant to chapter 8, article 1.1 of this title and who qualify as full-time students or fractional students regardless of location or residence within the school district or children with disabilities whose transportation is required by the pupil's individualized education program.

(d) Students whose residence is outside the school district and who are transported within the school district on the same basis as students who reside in the school district.

9. "Enrolled" or "enrollment" means that a pupil is currently registered in the school district.

10. "GDP price deflator" means the average of the four implicit price deflators for the gross domestic product reported by the United States department of commerce for the four quarters of the calendar year.

11. "High school district" means a political subdivision of this state offering instruction to students for grades nine through twelve or that portion of the budget of a common school district that is allocated to teaching high school subjects with permission of the state board of education.

12. "Revenue control limit" means the base revenue control limit plus the transportation revenue control limit.

13. "Student count" means average daily membership as prescribed in this subsection for the fiscal year before the current year, except that for the purpose of budget preparation student count means average daily membership as prescribed in this subsection for the current year.

14. "Submit electronically" means submitted in a format and in a manner prescribed by the department of education.

15. "Total bus mileage" means the total number of miles driven by all buses of a school district during the school year.

16. "Total students transported" means all eligible students transported from their place of residence to a school transportation pickup point or to the school of attendance and from the school of attendance or from the school transportation scheduled return point to their place of residence.

17. "Unified school district" means a political subdivision of this state offering instruction to students in programs for preschool children with disabilities and kindergarten programs and grades one through twelve.

B. In this title, unless the context otherwise requires:

1. "Base" means the revenue level per student count specified by the legislature.

2. "Base level" means the following amounts plus the percentage increases to the base level as provided in sections 15-902.04 and 15-952, except that if a school district or charter school is eligible for an increase in the base level as provided in two or more of these sections, the base level amount shall be calculated by compounding rather than adding the sum of one plus the percentage of the increase from those different sections:

Chs. 40 and 265

~~(a) For fiscal year 2007-2008, three thousand two hundred twenty-six dollars eighty-eight cents.~~

~~(b) For fiscal year 2008-2009, three thousand two hundred ninety-one dollars forty-two cents.~~

~~(c) For fiscal years 2009-2010, 2010-2011, 2011-2012 and 2012-2013, three thousand two hundred sixty-seven dollars seventy-two cents.~~

~~(d) For fiscal year 2013-2014, three thousand three hundred twenty-six dollars fifty-four cents.~~

Ch. 265

~~(e) For fiscal year 2014-2015, [three thousand three hundred seventy-three dollars eleven cents].~~

Chs. 40 and 265

~~(f) For fiscal year 2015-2016, [three thousand six hundred dollars zero cents].~~

~~(g) For fiscal year 2016-2017, [three thousand six hundred thirty-five dollars sixty-four cents].~~

Chs. 40 and 265

~~(h)~~ (a) For fiscal year 2017-2018, ~~three thousand six hundred eighty-three dollars twenty-seven cents~~ $3,683.27.

~~(i)~~ (b) For fiscal year 2018-2019, ~~three thousand nine hundred sixty dollars seven cents~~ $3,960.07.

Ch. 265

(c) FOR FISCAL YEAR 2019-2020, $4,150.43.

3. "Base revenue control limit" means the base revenue control limit computed as provided in section 15-944.

4. "Base support level" means the base support level as provided in section 15-943.

5. "Certified teacher" means a person who is certified as a teacher pursuant to the rules adopted by the state board of education, who renders direct and personal services to schoolchildren in the form of instruction related to the school district's educational course of study and who is paid from the maintenance and operation section of the budget.

6. "DD" means programs for children with developmental delays who are at least three years of age but under ten years of age. A preschool child who is categorized under this paragraph is not eligible to receive funding pursuant to section 15-943, paragraph 2, subdivision (b).

7. "ED, MIID, SLD, SLI and OHI" means programs for children with emotional disabilities, mild intellectual disabilities, a specific learning disability, a speech/language impairment and other health impairments. A preschool child who is categorized as SLI under this paragraph is not eligible to receive funding pursuant to section 15-943, paragraph 2, subdivision (b).

8. "ED-P" means programs for children with emotional disabilities who are enrolled in private special education programs as prescribed in section 15-765, subsection D, paragraph 1 or in an intensive school district program as provided in section 15-765, subsection D, paragraph 2.

9. "ELL" means English learners who do not speak English or whose native language is not English, who are not currently able to perform ordinary classroom work in English and who are enrolled in an English language education program pursuant to sections 15-751, 15-752 and 15-753.

10. "Full-time equivalent certified teacher" or "FTE certified teacher" means for a certified teacher the following:

(a) If employed full time as defined in section 15-501, 1.00.

(b) If employed less than full time, multiply 1.00 by the percentage of a full school day, or its equivalent, or a full class load, or its equivalent, for which the teacher is employed as determined by the governing board.

11. "Group A" means educational programs for career exploration, a specific learning disability, an emotional disability, a mild intellectual disability, remedial education, a speech/language impairment, developmental delay, homebound, bilingual, other health impairments and gifted pupils.

12. "Group B" means educational improvements for pupils in kindergarten programs and grades one through three, educational programs for autism, a hearing impairment, a moderate intellectual disability, multiple disabilities, multiple disabilities with severe sensory impairment, orthopedic impairments, preschool severe delay, a severe intellectual disability and emotional disabilities for school age pupils enrolled in private special education programs or in school district programs for

children with severe disabilities or visual impairment and English learners enrolled in a program to promote English language proficiency pursuant to section 15-752.

13. "HI" means programs for pupils with hearing impairment.

14. "Homebound" or "hospitalized" means a pupil who is capable of profiting from academic instruction but is unable to attend school due to illness, disease, accident or other health conditions, who has been examined by a competent medical doctor and who is certified by that doctor as being unable to attend regular classes for a period of not less than three school months or a pupil who is capable of profiting from academic instruction but is unable to attend school regularly due to chronic or acute health problems, who has been examined by a competent medical doctor and who is certified by that doctor as being unable to attend regular classes for intermittent periods of time totaling three school months during a school year. The medical certification shall state the general medical condition, such as illness, disease or chronic health condition, that is the reason that the pupil is unable to attend school. Homebound or hospitalized includes a student who is unable to attend school for a period of less than three months due to a pregnancy if a competent medical doctor, after an examination, certifies that the student is unable to attend regular classes due to risk to the pregnancy or to the student's health.

15. "K-3" means kindergarten programs and grades one through three.

16. "K-3 reading" means reading programs for pupils in kindergarten programs and grades one, two and three.

17. "MD-R, A-R and SID-R" means resource programs for pupils with multiple disabilities, autism and severe intellectual disability.

18. "MD-SC, A-SC and SID-SC" means self-contained programs for pupils with multiple disabilities, autism and severe intellectual disability.

19. "MD-SSI" means a program for pupils with multiple disabilities with severe sensory impairment.

20. "MOID" means programs for pupils with moderate intellectual disability.

21. "OI-R" means a resource program for pupils with orthopedic impairments.

22. "OI-SC" means a self-contained program for pupils with orthopedic impairments.

23. "PSD" means preschool programs for children with disabilities as provided in section 15-771.

24. "P-SD" means programs for children who meet the definition of preschool severe delay as provided in section 15-771.

25. "Qualifying tax rate" means the qualifying tax rate specified in section 15-971 applied to the assessed valuation used for primary property taxes.

26. "Small isolated school district" means a school district that meets all of the following:

(a) Has a student count of fewer than six hundred in kindergarten programs and grades one through eight or grades nine through twelve.

(b) Contains no school that is fewer than thirty miles by the most reasonable route from another school, or, if road conditions and terrain make the driving slow or hazardous, fifteen miles from another school that

teaches one or more of the same grades and is operated by another school district in this state.

(c) Is designated as a small isolated school district by the superintendent of public instruction.

27. "Small school district" means a school district that meets all of the following:

(a) Has a student count of fewer than six hundred in kindergarten programs and grades one through eight or grades nine through twelve.

(b) Contains at least one school that is fewer than thirty miles by the most reasonable route from another school that teaches one or more of the same grades and is operated by another school district in this state.

(c) Is designated as a small school district by the superintendent of public instruction.

28. "Transportation revenue control limit" means the transportation revenue control limit computed as prescribed in section 15-946.

29. "Transportation support level" means the support level for pupil transportation operating expenses as provided in section 15-945.

30. "VI" means programs for pupils with visual impairments.

EXPLANATION OF BLEND
SECTION 15-1655 (as added by Laws 2017, Ch. 310, section 5)

Laws 2019, Chapters 266 and 279

Laws 2019, Ch. 266, section 4	Effective August 27, 2019
Laws 2019, Ch. 279, section 9	Effective August 27, 2019 (Retroactive to August 3, 2018)

Explanation

Since the Ch. 266 version contains all of the changes made by the Ch. 279 version, the Laws 2019, Ch. 266 amendment of section 15-1655 is the blend of both the Laws 2019, Ch. 266 and Ch. 279 versions.

BLEND OF SECTION 15-1655 (as added by Laws 2017, Ch. 310, section 5)
Laws 2019, Chapters 266 and 279

15-1655. Arizona teachers academy; tuition and fees scholarships; fund; annual report; definitions

Chs. 266 and 279

A. ~~[For the 2017-2018 academic year,] universities under the jurisdiction of the Arizona board of regents~~ ELIGIBLE POSTSECONDARY INSTITUTIONS shall implement an Arizona ~~teacher~~ TEACHERS academy to incentivize ~~Arizona resident~~ students to enter the teaching profession and to commit to teach in Arizona public schools. The Arizona board of regents, in consultation with ~~universities under the jurisdiction of the board~~ ELIGIBLE POSTSECONDARY INSTITUTIONS, shall develop AND IMPLEMENT CENTRALIZED ADMINISTRATIVE PROCESSES FOR THE ACADEMY, INCLUDING:

~~1. Metrics to assess the efficacy of the academy.~~

~~2.~~ 1. A marketing and promotion plan to recruit students for the academy.

2. DATA COLLECTION AND REPORTING.

3. TRACKING POSTGRADUATION SERVICE REQUIREMENTS.

4. COORDINATING INDUCTION SERVICES.

5. DISTRIBUTING MONIES IN THE ARIZONA TEACHERS ACADEMY FUND BETWEEN ELIGIBLE POSTSECONDARY INSTITUTIONS.

6. COLLECTING REIMBURSEMENT FROM INDIVIDUALS WHO FAIL TO MEET SERVICE OBLIGATIONS.

Ch. 266

B. The Arizona ~~teacher~~ TEACHERS academy may include new or existing teacher preparation program pathways that are student-focused and that employ proven, research-based models of best practices already being implemented. Each ~~university~~ ELIGIBLE POSTSECONDARY INSTITUTION may develop a portfolio of teacher preparation programs to offer as part of the academy. Programs offered as part of the academy shall include accelerated models for:

1. High-demand teacher specializations, including SPECIAL EDUCATION, science, technology, engineering and mathematics.

2. CRITICAL NEED AREAS, INCLUDING LOW-INCOME PUBLIC SCHOOLS, PUBLIC SCHOOLS LOCATED ON INDIAN RESERVATIONS AND RURAL PUBLIC SCHOOLS.

~~2.~~ 3. Individuals seeking postbaccalaureate coursework that results in professional certification.

C. Each ~~university~~ ELIGIBLE POSTSECONDARY INSTITUTION shall develop formalized partnerships with public schools in this state to build commitments for teacher employment on completion of the Arizona ~~teacher~~ TEACHERS academy. The targeted deployment of teachers who have completed the academy shall be based on the needs of each school system and the community that is being served as well as the individual skills of each teacher.

D. Each ~~university~~ ELIGIBLE POSTSECONDARY INSTITUTION shall provide

Chs. 266 and 279

TO each full-time student WHO IS enrolled in the

Arizona ~~teacher~~ TEACHERS academy an annual ~~waiver~~ SCHOLARSHIP OF $10,000 PER YEAR FOR A MAXIMUM OF TWO ACADEMIC YEARS OR FOUR SEMESTERS FOR GRADUATE UNIVERSITY STUDENTS, $5,000 PER YEAR FOR A MAXIMUM OF FOUR ACADEMIC YEARS OR EIGHT SEMESTERS FOR UNDERGRADUATE UNIVERSITY STUDENTS, $3,000 PER YEAR FOR A MAXIMUM OF TWO ACADEMIC YEARS OR FOUR SEMESTERS FOR COMMUNITY COLLEGE STUDENTS for ~~all~~ tuition and fees associated with the student's program of study AND $2,500 ONETIME FOR TEACHERS SEEKING NATIONAL BOARD CERTIFICATION, AFTER ALL OTHER FINANCIAL GIFTS, AID OR GRANTS RECEIVED BY THAT STUDENT OR TEACHER. SCHOLARSHIPS UNDER THIS SUBSECTION ARE subject to ALL OF the following:

1. If the student does not successfully complete the academic year in good academic standing, the student shall reimburse the ~~university~~ ARIZONA BOARD OF REGENTS for the total amount of the ~~waiver~~ SCHOLARSHIP for tuition and fees the student received for that year.

2. For each academic year that the student successfully completes and for which the student receives a ~~waiver~~ SCHOLARSHIP for all tuition and fees, the student must agree to teach for one full school year in a public school in this state. FOR STUDENTS TEACHING AND RECEIVING THE SCHOLARSHIP CONCURRENTLY, THE COMMITMENT PERIOD BEGINS AFTER GRADUATION FROM THE ARIZONA TEACHERS ACADEMY. FOR TEACHERS SEEKING A NATIONAL BOARD CERTIFICATION, THE TEACHING COMMITMENT IS ONE ADDITIONAL YEAR AFTER COMPLETING THE REQUIREMENTS OF THE NATIONAL BOARD CERTIFICATION PROGRAM.

3. IF THE SCHOLARSHIP DOES NOT COVER REMAINING TUITION AND FEE COSTS AFTER OTHER AID RECEIVED, THE ELIGIBLE POSTSECONDARY INSTITUTION MAY NOT CHARGE STUDENTS THE REMAINING DIFFERENCE. IF THE SCHOLARSHIP AMOUNT EXCEEDS TUITION AND FEE COSTS AT AN ELIGIBLE POSTSECONDARY INSTITUTION, THE INSTITUTION MAY USE THE REMAINING AMOUNT TO SUPPORT ARIZONA TEACHERS ACADEMY COSTS.

Ch. 266

~~3.~~ 4. If the student does not fulfill the student's ~~agreement~~ OBLIGATION to teach in a public school, the student must reimburse the ~~university~~ ARIZONA BOARD OF REGENTS for the proportional amount of the ~~waiver~~ SCHOLARSHIP for tuition and fees that the student received that corresponds to the number of school years the student agreed to teach but did not teach in a public school in this state.

~~4.~~ 5. If the student is physically or mentally unable to fulfill the requirements of the ARIZONA TEACHERS academy, the ~~university~~ ARIZONA BOARD OF REGENTS shall ~~assess~~ ESTABLISH A PROCESS FOR ASSESSING the student's ability to repay the financial assistance received and shall make a determination on any terms of repayment.

6. THE ARIZONA BOARD OF REGENTS SHALL ESTABLISH A PROCESS FOR DEFERRING SERVICE OR REPAYMENT BASED ON FACTORS ADOPTED BY THE BOARD.

E. STUDENTS ENROLLED IN A NONEDUCATION PROGRAM IN THE ARIZONA TEACHERS ACADEMY MUST COMPLETE ONE OR MORE TEACHER PREPARATION COURSES TO ENSURE THE LIKELIHOOD THAT THE STUDENT WILL TRANSITION INTO A POSTBACCALAUREATE PROGRAM TO RECEIVE A TEACHING CERTIFICATION FOLLOWING GRADUATION.

F. THE ARIZONA TEACHERS ACADEMY FUND IS ESTABLISHED CONSISTING OF LEGISLATIVE APPROPRIATIONS MADE FOR THE PURPOSE OF ADMINISTERING THE ARIZONA TEACHERS ACADEMY. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED AND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO THE LAPSING OF

APPROPRIATIONS. THE ARIZONA BOARD OF REGENTS SHALL ADMINISTER THE FUND AND SHALL ESTABLISH CRITERIA FOR DISTRIBUTING MONIES IN THE FUND TO ELIGIBLE POSTSECONDARY INSTITUTIONS EACH FISCAL YEAR TO FUND THE COSTS OF THE ACADEMY. MONIES IN THE FUND MAY BE USED ONLY FOR:

1. REIMBURSING ARIZONA TEACHERS ACADEMY SCHOLARSHIPS THAT COVER THE BALANCE OF TUITION AND FEES FOR UNDERGRADUATE, GRADUATE AND POSTBACCALAUREATE STUDENTS ENROLLED IN THE ARIZONA TEACHERS ACADEMY AFTER ALL OTHER GIFTS AND AID RECEIVED.

2. SUPPORT FOR TEACHERS WHO ARE CURRENTLY EMPLOYED IN A PUBLIC SCHOOL IN THIS STATE AND WHO ARE SEEKING A NATIONAL BOARD CERTIFICATION.

3. INDUCTION SERVICES FOR ARIZONA TEACHERS ACADEMY GRADUATES.

4. IMPLEMENTING A MARKETING AND PROMOTION PLAN TO RECRUIT AND RETAIN STUDENTS IN THE ARIZONA TEACHERS ACADEMY AND ADMINISTERING THE ARIZONA TEACHERS ACADEMY. ANNUAL EXPENDITURES FOR MARKETING, PROMOTING AND ADMINISTRATING THE ARIZONA TEACHERS ACADEMY MAY NOT EXCEED THREE PERCENT OF THE MONIES IN THE FUND EACH FISCAL YEAR.

G. MONIES REMAINING IN THE ARIZONA TEACHERS ACADEMY FUND AT THE END OF EACH FISCAL YEAR MAY BE USED BY ELIGIBLE POSTSECONDARY INSTITUTIONS FOR ARIZONA TEACHERS ACADEMY COSTS IN THE NEXT FISCAL YEAR.

H. ON OR BEFORE AUGUST 1 OF EACH FISCAL YEAR, THE STATE GENERAL FUND APPROPRIATION FOR THE ARIZONA TEACHERS ACADEMY FOR THE CURRENT FISCAL YEAR SHALL BE REDUCED BY THE AMOUNT OF MONIES REMAINING IN THE ARIZONA TEACHERS ACADEMY FUND AT THE END OF THE PRIOR FISCAL YEAR.

Ch. 266

I. ON OR BEFORE MARCH 1, 2020 AND EACH YEAR THEREAFTER, THE ARIZONA BOARD OF REGENTS SHALL REPORT TO THE JOINT LEGISLATIVE BUDGET COMMITTEE AND THE GOVERNOR'S OFFICE OF STRATEGIC PLANNING AND BUDGETING ON ALL OF THE FOLLOWING:

1. THE TOTAL NUMBER OF STUDENTS ENROLLED IN THE ARIZONA TEACHERS ACADEMY BY ELIGIBLE POSTSECONDARY INSTITUTION IN THE CURRENT ACADEMIC YEAR.

2. THE NUMBER OF ARIZONA TEACHERS ACADEMY GRADUATES RECEIVING INDUCTION SERVICES IN THE CURRENT ACADEMIC YEAR.

3. THE ESTIMATED AMOUNT OF MONIES COMMITTED FROM THE ARIZONA TEACHERS ACADEMY FUND IN THE CURRENT FISCAL YEAR.

~~E.~~ J. On or before ~~July 1, 2018~~ SEPTEMBER 1, 2019 and each year thereafter, the Arizona board of regents shall report to the governor, the president of the senate and the speaker of the house of representatives, and SHALL submit a copy to the secretary of state, on all of the following:

1. The total number of students enrolled in the Arizona ~~teacher~~ TEACHERS academy ~~of~~ AT each ~~university~~ ELIGIBLE POSTSECONDARY INSTITUTION BY YEAR OF COLLEGE ENROLLMENT AND THE NUMBER OF TEACHERS RECEIVING A SCHOLARSHIP THROUGH THE ARIZONA TEACHERS ACADEMY FOR NATIONAL BOARD CERTIFICATION.

2. The percentage of students who completed each year of the academy and who plan to continue to the subsequent year, delineated by each teacher preparation program offered by each ~~university~~ ELIGIBLE POSTSECONDARY INSTITUTION as part of the Arizona ~~teacher~~ TEACHERS academy.

3. The number of teachers who completed a program of study through the Arizona ~~teacher~~ TEACHERS academy BY EACH ELIGIBLE POSTSECONDARY INSTITUTION.

4. The number of teachers currently teaching in a public school in this state as part of an agreement for receiving ~~a full tuition and fee waiver~~ AN ARIZONA TEACHERS ACADEMY SCHOLARSHIP.

5. THE NUMBER OF GRADUATES RECEIVING INDUCTION SERVICES.

~~5.~~ 6. The number of students who have defaulted on their ~~agreement~~ OBLIGATION and who are in repayment agreements.

7. THE NUMBER OF STUDENTS WHO HAVE DEFERRED REPAYMENT AGREEMENTS.

8. THE NUMBER OF STUDENTS WHO HAVE COMPLETED REPAYMENT AGREEMENTS.

9. THE METHODOLOGY FOR DISTRIBUTING ANY MONIES APPROPRIATED FOR THE ARIZONA TEACHERS ACADEMY TO EACH ELIGIBLE POSTSECONDARY INSTITUTION AND THE AMOUNTS DISTRIBUTED TO EACH.

Ch. 266

10. THE AMOUNT OF UNUSED MONIES IN THE ARIZONA TEACHERS ACADEMY FUND FROM THE PRIOR FISCAL YEAR.

K. FOR THE PURPOSES OF THIS SECTION:

1. "ELIGIBLE POSTSECONDARY INSTITUTIONS" MEANS UNIVERSITIES UNDER THE JURISDICTION OF THE ARIZONA BOARD OF REGENTS AND COMMUNITY COLLEGES IN THIS STATE THAT OFFER POSTBACCALAUREATE PROGRAMS THAT LEAD TO TEACHER CERTIFICATION AND THAT HAVE ENTERED INTO AN AGREEMENT WITH THE ARIZONA BOARD OF REGENTS RELATIVE TO THESE POSTBACCALAUREATE PROGRAMS.

2. "TUITION AND FEES" MEANS TUITION, MANDATORY FEES AND PROGRAM FEES THAT ARE ASSOCIATED WITH A PROGRAM IN THE ARIZONA TEACHERS ACADEMY LEADING TO TEACHER CERTIFICATION AND THAT ARE CHARGED BY AN ELIGIBLE POSTSECONDARY INSTITUTION.

EXPLANATION OF BLEND
SECTION 15-1821.01

Laws 2019, Chapters 86 and 148

Laws 2019, Ch. 86, section 3	Effective August 27, 2019
Laws 2019, Ch. 148, section 1	Effective August 27, 2019

Explanation

Since these two enactments are identical, the Laws 2019, Ch. 86 and Ch. 148 text changes to section 15-1821.01 are blended in the form shown on the following pages.

BLEND OF SECTION 15-1821.01
Laws 2019, Chapters 86 and 148

15-1821.01. Dual enrollment information

On a determination by a community college district governing board that it is in the best interest of the citizens of a district, the district governing board may authorize district community colleges to offer college courses that may be counted toward both high school and college graduation requirements at the high school during the school day, subject to the following:

1. The community college district governing board and the governing board of the school district or organization of which the high school is a part shall enter into an agreement or contract. These intergovernmental agreements or contracts shall be based on a uniform format that has been cooperatively developed by the community college districts in this state. Each of these agreements or contracts shall clearly specify the following:

(a) The financial provisions of the agreement or contract and the format for the billing of all services under the agreement or contract, including the amount that the community college received in full-time student equivalent funding pursuant to section 15-1466.01, the portion of the funding that is distributed to the school district governing board or charter school and any amount that is subsequently returned to the community college district by the school district governing board or charter school.

(b) Student tuition and financial aid policies, including whether scholarships or grants are awarded to students in dual enrollment courses from the community college.

(c) The accountability provisions for each party to the agreement or contract.

(d) The responsibilities and services required of each party to the agreement or contract.

(e) The type of instruction that will be provided under the agreement or contract, including the titles of the courses to be offered.

(f) The quality of the instruction that will be provided under the agreement or contract.

2. Students shall be admitted to the community college under the policies adopted by each district, subject to the following:

(a) All students WHO ARE enrolled for college credit shall be high school juniors or seniors. All students WHO ARE in the course, including those not electing to enroll for college credit, shall satisfy the prerequisites for the course as published in the college catalog and shall comply with college policies regarding student placement in courses.

Chs. 86 and 148

(b) A community college may waive the class status requirements specified in subdivision (a) of this paragraph for up to twenty-five percent of the students enrolled by a college in courses~~, provided that~~ IF the community college has established written criteria for waiving the requirements for each course. These criteria shall include a demonstration, by an examination of the specific purposes and requirements of the course, that freshman and sophomore students who meet course prerequisites are prepared to benefit from the college-level course. All exceptions and the justification for the exceptions shall be reported annually to the joint legislative budget committee on or before ~~October~~ DECEMBER 1.

3. The courses shall be previously evaluated and approved through the curriculum approval process of the district, shall be at a higher level than taught by the high school and shall be transferable to a university under the jurisdiction of the Arizona board of regents or be applicable to an established community college occupational degree or certificate program. Physical education courses are not available for dual enrollment purposes.

4. College-approved textbooks, syllabuses, course outlines and grading standards that are applicable to the courses if taught at the community college shall apply to these courses and to all students in the courses offered pursuant to this section. The chief executive officer of each community college shall establish an advisory committee of full-time faculty who teach in the disciplines offered at the community college to assist in course selection and implementation in the high schools and to review and report at least annually to the chief executive officer whether the course goals and standards are understood, the course guidelines are followed and the same standards of expectation and assessment are applied to these courses as though they were being offered at the community college. The advisory committee of full-time faculty shall meet at least three times each academic year.

5. Each faculty member shall meet the requirements established by the governing board pursuant to section 15-1444. The chief executive officer of each community college district shall establish an advisory committee of full-time faculty who teach in the disciplines offered at the community college district to assist in the selection, orientation, ongoing professional development and evaluation of faculty WHO ARE teaching college courses in conjunction with the high schools. The advisory committee of full-time faculty shall meet at least two times each academic year.

Chs. 86 and 148

6. A school district shall ensure that a pupil is a full-time student as defined in section 15-901 and is enrolled in and attending a full-time instructional program at a school in the school district before that pupil is allowed to enroll in a college course pursuant to this section, except that high school seniors who satisfy high school graduation requirements with less than a full-time instructional program are exempt from this paragraph.

7. Notwithstanding paragraph 6 of this section, homeschooled students may fully participate in dual enrollment, including receipt of college credit pursuant to this section.

EXPLANATION OF BLEND
SECTION 16-153

Laws 2019, Chapters 256 and 321

Laws 2019, Ch. 256, section 3	Effective August 27, 2019
Laws 2019, Ch. 321, section 4	Effective August 27, 2019

Explanation

Since these two enactments are compatible, the Laws 2019, Ch. 256 and Ch. 321 text changes to section 16-153 are blended in the form shown on the following pages.

BLEND OF SECTION 16-153
Laws 2019, Chapters 256 and 321

16-153. Voter registration; confidentiality; definitions

A. Eligible persons, and any other registered voter who resides at the same residence address as the eligible person, may request that the general public be prohibited from accessing the ~~residential address, telephone number~~ ELIGIBLE PERSON'S IDENTIFYING INFORMATION, INCLUDING ANY OF THAT PERSON'S DOCUMENTS and voting precinct number contained in their voter registration record. Ch. 256

B. Eligible persons may request this action by filing an affidavit that states all of the following on an application form developed by the administrative office of the courts in agreement with an association of counties and an organization of peace officers:

1. The person's full legal name, residential address and date of birth.

2. Unless the person is the spouse of a peace officer or the spouse or minor child of a deceased peace officer or the person is a former public official or former judge, the position the person currently holds and a description of the person's duties, except that an eligible person who is protected under an order of protection or injunction against harassment shall instead attach a copy of the order of protection or injunction against harassment.

3. The reasons for reasonably believing that the person's life or safety or that of another person is in danger and that sealing the ~~residential address, telephone number~~ IDENTIFYING INFORMATION and voting precinct number of the person's voting record will serve to reduce the danger. Ch. 256

C. The affidavit shall be filed with the presiding judge of the superior court in the county in which the affiant resides. To prevent multiple filings, an eligible person who is a peace officer, prosecutor, public defender, code enforcement officer, corrections or detention officer, corrections support staff member or law enforcement support staff member shall deliver the affidavit to the peace officer's commanding officer, or to the head of the prosecuting, public defender, code enforcement, law enforcement, corrections or detention agency, as applicable, or that person's designee, who shall file the affidavits at one time. In the absence of an affidavit that contains a request for immediate action and is supported by facts justifying an earlier presentation, the commanding officer, or the head of the prosecuting, public defender, code enforcement, law enforcement, corrections or detention agency, as applicable, or that person's designee, shall not file affidavits more often than quarterly.

D. On receipt of an affidavit or affidavits, the presiding judge of the superior court shall file with the clerk of the superior court a petition on behalf of all requesting affiants. The petition shall have attached each affidavit presented. In the absence of an affidavit that contains a request for immediate action and that is supported by facts justifying an earlier

consideration, the presiding judge may accumulate affidavits and file a petition at the end of each quarter.

E. The presiding judge of the superior court shall review the petition and each attached affidavit to determine whether the action requested by each affiant should be granted. The presiding judge of the superior court shall order the sealing for five years of the information contained in the voter record of the affiant and, on request, any other registered voter who resides at the same residence address if the presiding judge concludes that this action will reduce a danger to the life or safety of the affiant.

F. The recorder shall remove the restrictions on all voter records submitted pursuant to subsection E of this section by January 5 in the year after the court order expires. The county recorder shall send by mail one notice to either the former public official, peace officer, spouse of a peace officer, spouse or minor child of a deceased peace officer, public defender, prosecutor, code enforcement officer, corrections or detention officer, corrections support staff member, law enforcement support staff member, ~~or~~ employee of the department of child safety OR EMPLOYEE OF ADULT PROTECTIVE SERVICES who has direct contact with families in the course of employment or the employing agency of a peace officer, public defender, prosecutor, code enforcement officer, corrections or detention officer, corrections support staff member or law enforcement support staff member who was granted an order pursuant to this section of the order's expiration date at least six months before the expiration date. If the notice is sent to the employing agency, the employing agency shall immediately notify the person who was granted the order of the upcoming expiration date. The county recorder may coordinate with the county assessor and county treasurer to prevent multiple notices from being sent to the same person.

Ch. 321

G. On entry of the court order, the clerk of the superior court shall file the court order with the county recorder. On receipt of the court order the county recorder shall seal the voter registration of the persons listed in the court order no later than one hundred twenty days from the date of receipt of the court order. To include a subsequent voter registration in the court order, a person listed in the court order shall present to the county recorder at the time of registration a certified copy of the court order or shall provide the county recorder the recording number of the court order. The information in the registration shall not be disclosed and is not a public record.

H. If the court denies an affiant's requested sealing of the voter registration record, the affiant may request a court hearing. The hearing shall be conducted by the court where the petition was filed.

I. On motion to the court, if the presiding judge of the superior court concludes that a voter registration record has been sealed in error or that the cause for the original affidavit no longer exists, the presiding judge may vacate the court order prohibiting public access to the voter registration record.

J. On request by a person who is protected under an order of protection or injunction against harassment and presentation of an order of protection issued pursuant to section 13-3602, an injunction against harassment issued pursuant to section 12-1809 or an order of protection or

injunction against harassment issued by a court in another state or a program participant in the address confidentiality program pursuant to title 41, chapter 1, article 3, the county recorder shall seal the voter registration record of the person who is protected and, on request, any other registered voter who resides at the residence address of the protected person. The record shall be sealed no later than one hundred twenty days from the date of receipt of the court order. The information in the registration shall not be disclosed and is not a public record.

K. For the purposes of this section:

1. "Code enforcement officer" means a person who is employed by a state or local government and whose duties include performing field inspections of buildings, structures or property to ensure compliance with and enforce national, state and local laws, ordinances and codes.

2. "Commissioner" means a commissioner of the superior court.

3. "Corrections support staff member" means an adult or juvenile corrections employee who has direct contact with inmates.

4. "Eligible person" means a former public official, peace officer, spouse of a peace officer, spouse or minor child of a deceased peace officer, justice, judge, commissioner, public defender, prosecutor, code enforcement officer, adult or juvenile corrections officer, corrections support staff member, probation officer, member of the board of executive clemency, law enforcement support staff member, employee of the department of child safety OR EMPLOYEE OF ADULT PROTECTIVE SERVICES who has direct contact with families in the course of employment, national guard member who is acting in support of a law enforcement agency, person who is protected under an order of protection or injunction against harassment or firefighter who is assigned to the Arizona ~~counterterrorism~~ COUNTER TERRORISM INFORMATION center in the department of public safety.

Ch. 321

Chs. 256 and 321

5. "Former public official" means a person who was duly elected or appointed to Congress, the legislature or a statewide office, who ceased serving in that capacity and who was the victim of a dangerous offense as defined in section 13-105 while in office.

6. "Judge" means a judge or former judge of the United States district court, the United States court of appeals, the United States magistrate court, the United States bankruptcy court, the United States immigration court, the Arizona court of appeals, the superior court or a municipal court.

7. "Justice" means a justice of the United States or Arizona supreme court or a justice of the peace.

8. "Law enforcement support staff member" means a person who serves in the role of an investigator or prosecutorial assistant in an agency that investigates or prosecutes crimes, who is integral to the investigation or prosecution of crimes and whose name or identity will be revealed in the course of public proceedings.

9. "Peace officer":

(a) Has the same meaning prescribed in section 1-215.

(b) Includes a federal law enforcement officer or agent who resides in this state and who has the power to make arrests pursuant to federal law.

10. "Prosecutor" means a United States attorney, a county attorney, a municipal prosecutor or the attorney general and includes an assistant or deputy United States attorney, county attorney, municipal prosecutor or attorney general.

11. "Public defender" means a federal public defender, county public defender, county legal defender or county contract indigent defense counsel and includes an assistant or deputy federal public defender, county public defender or county legal defender.

EXPLANATION OF BLEND
SECTION 16-311

Laws 2019, Chapters 246 and 315

Laws 2019, Ch. 246, section 6	Effective August 27, 2019
Laws 2019, Ch. 315, section 1	Effective August 27, 2019

Explanation

Since these two enactments are compatible, the Laws 2019, Ch. 246 and Ch. 315 text changes to section 16-311 are blended in the form shown on the following pages.

BLEND OF SECTION 16-311
Laws 2019, Chapters 246 and 315

16-311. Nomination papers; statement of interest; filing; definitions

A. Any person desiring to become a candidate at a primary election for a political party and to have the person's name printed on the official ballot shall be a qualified elector of ~~such~~ THE party and, not less than ~~ninety~~ ONE HUNDRED TWENTY nor more than one hundred ~~twenty~~ FIFTY days before the primary election, shall sign and cause to be filed a nomination paper giving the person's actual residence address or description of place of residence and post office address, naming the party of which the person desires to become a candidate, stating the office and district or precinct, if any, for which the person offers the person's candidacy, stating the exact manner in which the person desires to have the person's name printed on the official ballot pursuant to subsection G of this section, and giving the date of the primary election and, if nominated, the date of the general election at which the person desires to become a candidate. Except for a candidate for United States senator or representative in Congress, a candidate for public office shall be a qualified elector at the time of filing and shall reside in the county, district or precinct that the person proposes to represent. A candidate for partisan public office shall be continuously registered with the political party of which the person desires to be a candidate beginning no later than the date of the first petition signature on the candidate's petition through the date of the general election at which the person is a candidate.

Chs. 246 and 315 — ballot shall be a qualified elector of ~~such~~ THE party and, not less than
Ch. 246 — ~~ninety~~ ONE HUNDRED TWENTY nor more than one hundred ~~twenty~~ FIFTY days before

B. Any person desiring to become a candidate at any nonpartisan election and to have the person's name printed on the official ballot shall be at the time of filing a qualified elector of ~~such~~ THE county, city, town or district and, not less than ~~ninety~~ ONE HUNDRED TWENTY nor more than one hundred ~~twenty~~ FIFTY days before the election, shall sign and cause to be filed a nomination paper giving the person's actual residence address or description of place of residence and post office address, stating the office and county, city, town or district and ward or precinct, if any, for which the person offers the person's candidacy, stating the exact manner in which the person desires to have the person's name printed on the official ballot pursuant to subsection G of this section and giving the date of the election. A candidate for office shall reside at the time of filing in the county, city, town, district, ward or precinct that the person proposes to represent.

Chs. 246 and 315 — be at the time of filing a qualified elector of ~~such~~ THE county, city, town
Ch. 246 — or district and, not less than ~~ninety~~ ONE HUNDRED TWENTY nor more than one hundred ~~twenty~~ FIFTY days before the election,

C. Notwithstanding subsection B of this section, any city or town may adopt by ordinance for its elections the time frame provided in subsection A of this section for filing nomination petitions. ~~Such~~ THE ordinance shall be adopted not less than one hundred ~~twenty~~ FIFTY days before the first election to which it applies.

Chs. 246 and 315 — may adopt by ordinance for its elections the time frame provided in
Ch. 246 — subsection A of this section for filing nomination petitions. ~~Such~~ THE

D. All persons desiring to become a candidate shall file with the nomination paper provided for in subsection A of this section a declaration, which shall be printed in a form prescribed by the secretary of state. The declaration shall include facts sufficient to show that, other than the residency requirement provided in subsection A of this section and the

satisfaction of any monetary penalties, fines or judgments as prescribed in subsection ~~I~~ J of this section, the candidate will be qualified at the time of election to hold the office the person seeks, and that for any monetary penalties, fines or judgments as prescribed in subsection ~~I~~ J of this section, the candidate has made complete payment before the time of filing.

Ch. 315

E. The nomination paper of a candidate for the office of United States senator or representative in Congress, for the office of presidential elector or for a state office, including a member of the legislature, or for any other office for which the electors of the entire state or a subdivision of the state greater than a county are entitled to vote, shall be filed with the secretary of state no later than 5:00 p.m. on the last date for filing.

F. The nomination paper of a candidate for superior court judge or for a county, district and precinct office for which the electors of a county or a subdivision of a county other than an incorporated city or town are entitled to vote shall be filed with the county elections officer no later than 5:00 p.m. on the last date for filing as prescribed by subsection A of this section. The nomination paper of a candidate for a city or town office shall be filed with the city or town clerk no later than 5:00 p.m. on the last date for filing. The nomination paper of a candidate for school district office shall be filed with the county school superintendent no later than 5:00 p.m. on the last date for filing.

G. The nomination paper shall include the exact manner in which the candidate desires to have the person's name printed on the official ballot and shall be limited to the candidate's surname and given name or names, an abbreviated version of such names or appropriate initials such as "Bob" for "Robert", "Jim" for "James", "Wm." for "William" or "S." for "Samuel". Nicknames are permissible, but in no event shall nicknames, abbreviated versions or initials of given names suggest reference to professional, fraternal, religious or military titles. No other descriptive name or names shall be printed on the official ballot, except as provided in this section. Candidates' abbreviated names or nicknames may be printed within quotation marks. The candidate's surname shall be printed first, followed by the given name or names.

H. NOT LATER THAN THE DATE OF THE FIRST PETITION SIGNATURE ON A NOMINATION PETITION, A PERSON WHO MAY BE A CANDIDATE FOR OFFICE PURSUANT TO THIS SECTION SHALL FILE A STATEMENT OF INTEREST WITH THE APPROPRIATE FILING OFFICER FOR THAT OFFICE. THE STATEMENT OF INTEREST SHALL CONTAIN THE NAME OF THE PERSON, THE POLITICAL PARTY, IF ANY, AND THE NAME OF THE OFFICE THAT MAY BE SOUGHT. ANY NOMINATION PETITION SIGNATURES COLLECTED BEFORE THE DATE THE STATEMENT OF INTEREST IS FILED ARE INVALID AND SUBJECT TO CHALLENGE. THIS SUBSECTION DOES NOT APPLY TO:

Ch. 315

1. CANDIDATES FOR ELECTED OFFICE FOR SPECIAL TAXING DISTRICTS THAT ARE ESTABLISHED PURSUANT TO TITLE 48, CHAPTERS 2, 3, 11, 12, 15, 17, 18, 19, 20, 22, 27 AND 32.

2. CANDIDATES FOR PRECINCT COMMITTEEMAN.

3. CANDIDATES FOR PRESIDENT OR VICE PRESIDENT OF THE UNITED STATES.

~~H.~~ I. A person who does not file a timely nomination paper that complies with this section is not eligible to have the person's name printed on the official ballot for that office. The filing officer shall not accept

the nomination paper of a candidate for state or local office unless the person provides or has provided all of the following:

1. The financial disclosure statement as prescribed for candidates for that office.

2. The declaration of qualification and eligibility as prescribed in subsection D of this section.

~~I.~~ J. Except in cases where the liability is being appealed, the filing officer shall not accept the nomination paper of a candidate for state or local office if the person is liable for an aggregation of ~~one thousand dollars~~ $1,000 or more in fines, penalties, late fees or administrative or civil judgments, including any interest or costs, in any combination, that have not been fully satisfied at the time of the attempted filing of the nomination paper and the liability arose from failure to comply with or enforcement of chapter 6 of this title.

Chs. 246 and 315

~~J.~~ K. For the purposes of this title:

1. "Election district" means the state, any county, city, town, precinct or other political subdivision or a special district that is not a political subdivision, that is authorized by statute to conduct an election and that is authorized or required to conduct its election in accordance with this title.

2. "Nomination paper" means the form filed with the appropriate office by a person wishing to declare the person's intent to become a candidate for a particular political office.

EXPLANATION OF BLEND
SECTION 16-341

Laws 2019, Chapters 246 and 315

Laws 2019, Ch. 246, section 9	Effective August 27, 2019
Laws 2019, Ch. 315, section 2	Effective August 27, 2019

Explanation

Since these two enactments are compatible, the Laws 2019, Ch. 246 and Ch. 315 text changes to section 16-341 are blended in the form shown on the following pages.

BLEND OF SECTION 16-341
Laws 2019, Chapters 246 and 315

16-341. Nomination petition; method and time of filing; form; qualifications and number of petitioners required; statement of interest

A. Any qualified elector who is not a registered member of a political party that is recognized pursuant to this title may be nominated as a candidate for public office otherwise than by primary election or by party committee pursuant to this section.

B. This article shall not be used to place on the general election ballot the name of a political party that fails to meet the qualifications specified in section 16-802 or 16-804, or the name of any candidate representing such party or the name of a candidate who has filed a nomination petition in the immediately preceding primary election and has failed to qualify as the result of an insufficient number of valid signatures.

C. A nomination petition stating the name of the office to be filled, the name and residence of the candidate and other information required by this section shall be filed with the same officer with whom primary nomination papers and petitions are required to be filed as prescribed in section 16-311. Except for candidates for the office of presidential elector filed pursuant to this section, the petition shall be filed not less than ~~ninety~~ ONE HUNDRED TWENTY DAYS nor more than one hundred ~~twenty~~ FIFTY days before the primary election. The petition shall be signed only by voters who have not signed the nomination petitions of a candidate for the office to be voted for at that primary election.

Ch. 246

D. The nomination petition shall be in substantially the following form:

> The undersigned, qualified electors of _____ county, state of Arizona, do hereby nominate _____, who resides at _____ in the county of _____, as a candidate for the office of _____ at the general (or special, as the case may be) election to be held on the _____ day of _____, _____.
>
> I hereby declare that I have not signed the nomination petitions of any candidate for the office to be voted for at this primary election, and I do hereby select the following designation under which name the said candidate shall be placed on the official ballot (here insert such designation not exceeding three words in length as the signers may select).

E. The nomination petition shall conform as nearly as possible to the provisions relating to nomination petitions of candidates to be voted for at primary elections and shall be signed by at least the number of persons who are registered to vote determined by calculating three percent of the persons who are registered to vote of the state, county, subdivision or district for which the candidate is nominated who are not members of a political party that is qualified to be represented by an official party ballot at the next ensuing primary election and accorded representation on the general election ballot.

F. The percentage of persons who are registered to vote necessary to sign the nomination petition shall be determined by the total number of

registered voters from other than political parties that are qualified to be represented by an official party ballot at the next ensuing primary election and accorded representation on the general election ballot in the
Ch. 246 — state, county, subdivision or district on ~~March 1~~ JANUARY 2 of the year in which the general election is held. Notwithstanding the method prescribed by subsection E of this section and this subsection for calculating the minimum number of signatures necessary, any person who is registered to vote in the state, county, subdivision or district for which the candidate is nominated is eligible to sign the nomination petition without regard to the signer's party affiliation.

G. A nomination petition for any candidate may be circulated by a person who is not a resident of this state but who is otherwise eligible to register to vote in this state if that person registers as a circulator with the secretary of state before circulating petitions. The nomination petition for the office of presidential elector shall include a group of names of candidates equal to the number of United States senators and representatives in Congress from this state instead of separate nomination petitions for each candidate for the office of presidential elector. A valid signature on a petition containing a group of presidential electors candidates is counted as a signature for the nomination of each of the candidates. The presidential candidate whom the candidates for presidential elector will represent shall designate in writing to the secretary of state the names of the candidates who will represent the presidential candidate before any signatures for the candidate can be accepted for filing. A nomination petition for the office of presidential elector shall be filed not less than sixty nor more than ninety days before the general election. The petition shall be signed only by qualified electors who have not signed the nomination petitions of a candidate for the office of presidential elector to be voted for at that election.

H. The secretary of state shall require in the instructions and procedures manual issued pursuant to section 16-452 that persons who circulate nomination petitions pursuant to this section and who are not residents of this state but who are otherwise eligible to register to vote in this state shall register as circulators with the office of the secretary of state before circulating petitions. The secretary of state shall provide for a method of receiving service of process for those petition circulators who are registered.

I. NOT LATER THAN THE DATE OF THE FIRST PETITION SIGNATURE ON A NOMINATION PETITION, A PERSON WHO MAY BE A CANDIDATE FOR OFFICE PURSUANT TO THIS SECTION SHALL FILE A STATEMENT OF INTEREST WITH THE APPROPRIATE FILING OFFICER FOR THAT OFFICE. THE STATEMENT OF INTEREST SHALL CONTAIN THE NAME OF THE PERSON, THE POLITICAL PARTY, IF ANY, AND THE NAME OF THE OFFICE THAT
Ch. 315 — MAY BE SOUGHT. ANY NOMINATION PETITION SIGNATURES COLLECTED BEFORE THE DATE THE STATEMENT OF INTEREST IS FILED ARE INVALID AND SUBJECT TO CHALLENGE. THIS SUBSECTION DOES NOT APPLY TO:

1. CANDIDATES FOR ELECTED OFFICE FOR SPECIAL TAXING DISTRICTS THAT ARE ESTABLISHED PURSUANT TO TITLE 48, CHAPTERS 2, 3, 11, 12, 15, 17, 18, 19, 20, 22, 27 AND 32.

2. CANDIDATES FOR PRECINCT COMMITTEEMAN.

3. CANDIDATES FOR PRESIDENT OR VICE PRESIDENT OF THE UNITED STATES.

~~I.~~ J. A person who files a nomination paper pursuant to this section for the office of president of the United States shall designate in writing to the secretary of state at the time of filing the name of the candidate's vice-presidential running mate, the names of the presidential electors who will represent that candidate and a statement that is signed by the vice-presidential running mate and the designated presidential electors and that indicates their consent to be designated. A nomination paper for each presidential elector designated shall be filed with the candidate's nomination paper. The number of presidential electors shall equal the number of United States senators and representatives in Congress from this state.

~~J.~~ K. A candidate who does not file a timely nomination petition that complies with this section is not eligible to have the candidate's name printed on the official ballot for that office. The filing officer shall not accept the nomination paper of a candidate for state or local office unless the candidate provides or has provided all of the following:

1. The financial disclosure statement as prescribed for candidates for that office.

2. The declaration of qualification and eligibility as prescribed in section 16-311.

~~K.~~ L. Except in cases where the liability is being appealed, the filing officer shall not accept the nomination paper of a candidate for state or local office if the person is liable for an aggregation of ~~one thousand dollars~~ $1,000 or more in fines, penalties, late fees or administrative or civil judgments, including any interest or costs, in any combination, that have not been fully satisfied at the time of the attempted filing of the nomination paper and the liability arose from failure to comply with or enforcement of chapter 6 of this title.

Chs. 246 and 315

~~L.~~ M. The secretary of state may authorize for statewide and legislative offices the creation, use and submission of petitions prescribed by this section in electronic form if those petitions provide for an appropriate method to verify signatures of petition circulators and signers. The secretary of state may require use of a unique marking system for petition pages, including a bar code, a quick response code or another similar marking system.

EXPLANATION OF BLEND
SECTION 16-411

Laws 2019, Chapters 15, 107 and 246

Laws 2019, Ch. 15, section 1	Effective August 27, 2019
Laws 2019, Ch. 107, section 2	Effective August 27, 2019
Laws 2019, Ch. 246, section 10	Effective August 27, 2019

Explanation

Since these three enactments are compatible, the Laws 2019, Ch. 15, Ch. 107 and Ch. 246 text changes to section 16-411 are blended in the form shown on the following pages.

BLEND OF SECTION 16-411
Laws 2019, Chapters 15, 107 and 246

16-411. Designation of election precincts and polling places; voting centers; electioneering; wait times

Ch. 246 A. The board of supervisors of each county, on or before ~~December 1~~ OCTOBER 1 of each year preceding the year of a general election, by an order, shall establish a convenient number of election precincts in the county and define the boundaries of the precincts. The election precinct boundaries shall be so established as included within election districts prescribed by law for elected officers of the state and its political subdivisions including community college district precincts, except those elected officers provided for in titles 30 and 48.

B. Not less than twenty days before a general or primary election, and at least ten days before a special election, the board shall designate one polling place within each precinct where the election shall be held, except that:

1. On a specific finding of the board, included in the order or resolution designating polling places pursuant to this subsection, that no suitable polling place is available within a precinct, a polling place for that precinct may be designated within an adjacent precinct.

2. Adjacent precincts may be combined if boundaries so established are included in election districts prescribed by law for state elected officials and political subdivisions including community college districts but not including elected officials prescribed by titles 30 and 48. The officer in charge of elections may also split a precinct for administrative purposes. The polling places shall be listed in separate sections of the order or resolution.

3. On a specific finding of the board that the number of persons who are listed as permanent early voters pursuant to section 16-544 is likely to substantially reduce the number of voters appearing at one or more specific polling places at that election, adjacent precincts may be consolidated by combining polling places and precinct boards for that election. The board of supervisors shall ensure that a reasonable and adequate number of polling places will be designated for that election. Any consolidated polling places shall be listed in separate sections of the order or resolution of the board.

4. On a specific resolution of the board, the board may authorize the use of voting centers in place of or in addition to specifically designated polling places. A voting center shall allow any voter in that county to receive the appropriate ballot for that voter on election day Ch. 15 AFTER PRESENTING IDENTIFICATION AS PRESCRIBED IN SECTION 16-579 and TO lawfully cast the ballot. Voting centers may be established in coordination and consultation with the county recorder, at other county offices or at other locations in the county deemed appropriate.

Ch. 107 5. ON A SPECIFIC RESOLUTION OF THE BOARD OF SUPERVISORS THAT IS LIMITED TO A SPECIFIC ELECTION DATE AND THAT IS VOTED ON BY A RECORDED VOTE, THE BOARD MAY AUTHORIZE THE COUNTY RECORDER OR OTHER OFFICER IN CHARGE OF ELECTIONS TO USE EMERGENCY VOTING CENTERS AS FOLLOWS:

(a) THE BOARD SHALL SPECIFY IN THE RESOLUTION THE LOCATION AND THE HOURS OF OPERATION OF THE EMERGENCY VOTING CENTERS.

(b) A QUALIFIED ELECTOR VOTING AT AN EMERGENCY VOTING CENTER SHALL PROVIDE IDENTIFICATION AS PRESCRIBED IN SECTION 16-579, EXCEPT THAT NOTWITHSTANDING SECTION 16-579, SUBSECTION A, PARAGRAPH 2, FOR ANY VOTING AT AN EMERGENCY VOTING CENTER, THE COUNTY RECORDER OR OTHER OFFICER IN CHARGE OF ELECTIONS MAY ALLOW A QUALIFIED ELECTOR TO UPDATE THE ELECTOR'S VOTER REGISTRATION INFORMATION AS PROVIDED FOR IN THE SECRETARY OF STATE'S INSTRUCTIONS AND PROCEDURES MANUAL ADOPTED PURSUANT TO SECTION 16-452.

Ch. 107

(c) IF AN EMERGENCY VOTING CENTER ESTABLISHED PURSUANT TO THIS SECTION BECOMES UNAVAILABLE AND THERE IS NOT SUFFICIENT TIME FOR THE BOARD OF SUPERVISORS TO CONVENE TO APPROVE AN ALTERNATE LOCATION FOR THAT EMERGENCY VOTING CENTER, THE COUNTY RECORDER OR OTHER OFFICER IN CHARGE OF ELECTIONS MAY MAKE CHANGES TO THE APPROVED EMERGENCY VOTING CENTER LOCATION AND SHALL NOTIFY THE PUBLIC AND THE BOARD OF SUPERVISORS REGARDING THAT CHANGE AS SOON AS PRACTICABLE. THE ALTERNATE EMERGENCY VOTING CENTER SHALL BE AS CLOSE IN PROXIMITY TO THE APPROVED EMERGENCY VOTING CENTER LOCATION AS POSSIBLE.

C. If the board fails to designate the place for holding the election, or if it cannot be held at or about the place designated, the justice of the peace in the precinct, two days before the election, by an order, copies of which the justice of the peace shall immediately post in three public places in the precinct, shall designate the place within the precinct for holding the election. If there is no justice of the peace in the precinct, or if the justice of the peace fails to do so, the election board of the precinct shall designate and give notice of the place within the precinct of holding the election. For any election in which there are no candidates for elected office appearing on the ballot, the board may consolidate polling places and precinct boards and may consolidate the tabulation of results for that election if all of the following apply:

1. All affected voters are notified by mail of the change at least thirty-three days before the election.

2. Notice of the change in polling places includes notice of the new voting location, notice of the hours for voting on election day and notice of the telephone number to call for voter assistance.

3. All affected voters receive information on early voting that includes the application used to request an early voting ballot.

D. The board is not required to designate a polling place for special district mail ballot elections held pursuant to article 8.1 of this chapter, but the board may designate one or more sites for voters to deposit marked ballots until 7:00 p.m. on the day of the election.

E. Except as provided in subsection F of this section, a public school shall provide sufficient space for use as a polling place for any city, county or state election when requested by the officer in charge of elections.

F. The principal of the school may deny a request to provide space for use as a polling place for any city, county or state election if, within two weeks after a request has been made, the principal provides a written statement indicating a reason the election cannot be held in the school, including any of the following:

1. Space is not available at the school.

2. The safety or welfare of the children would be jeopardized.

G. The board shall make available to the public as a public record a list of the polling places for all precincts in which the election is to be held.

H. Except in the case of an emergency, any facility that is used as a polling place on election day or that is used as an early voting site during the period of early voting shall allow persons to electioneer and engage in other political activity outside of the seventy-five foot limit prescribed by section 16-515 in public areas and parking lots used by voters. This subsection shall not be construed to permit the temporary or permanent construction of structures in public areas and parking lots or the blocking or other impairment of access to parking spaces for voters. The county recorder or other officer in charge of elections shall post on its website at least two weeks before election day a list of those polling places in which emergency conditions prevent electioneering and shall specify the reason the emergency designation was granted and the number of attempts that were made to find a polling place before granting an emergency designation. If the polling place is not on the website list of polling places with emergency designations, electioneering and other political activity shall be permitted outside of the seventy-five foot limit. If an emergency arises after the county recorder or other officer in charge of elections' initial website posting, the county recorder or other officer in charge of elections shall update the website as soon as is practicable to include any new polling places, shall highlight the polling place location on the website and shall specify the reason the emergency designation was granted and the number of attempts that were made to find a polling place before granting an emergency designation.

I. For the purposes of this section, a county recorder or other officer in charge of elections shall designate a polling place as an emergency polling place and thus prohibit persons from electioneering and engaging in other political activity outside of the seventy-five foot limit prescribed by section 16-515 but inside the property of the facility that is hosting the polling place if any of the following occurs:

1. An act of God renders a previously set polling place as unusable.

2. A county recorder or other officer in charge of elections has exhausted all options and there are no suitable facilities in a precinct that are willing to be a polling place unless a facility can be given an emergency designation.

J. The secretary of state shall provide through the instructions and procedures manual adopted pursuant to section 16-452 the maximum allowable wait time for any election that is subject to section 16-204 and provide for a method to reduce voter wait time at the polls in the primary and general elections. The method shall consider at least all of the following for primary and general elections in each precinct:

1. The number of ballots voted in the prior primary and general elections.

2. The number of registered voters who voted early in the prior primary and general elections.

3. The number of registered voters and the number of registered voters who cast an early ballot for the current primary or general election.

4. The number of election board members and clerks and the number of rosters that will reduce voter wait time at the polls.

EXPLANATION OF BLEND
SECTION 16-542

Laws 2019, Chapters 15 and 107

Laws 2019, Ch. 15, section 2	Effective August 27, 2019
Laws 2019, Ch. 107, section 3	Effective August 27, 2019

Explanation

Since these two enactments are compatible, the Laws 2019, Ch. 15 and Ch. 107 text changes to section 16-542 are blended in the form shown on the following pages.

BLEND OF SECTION 16-542
Laws 2019, Chapters 15 and 107

16-542. Request for ballot; civil penalties; violation; classification

A. Within ninety-three days before any election called pursuant to the laws of this state, an elector may make a verbal or signed request to the county recorder, or other officer in charge of elections for the applicable political subdivision of this state in whose jurisdiction the elector is registered to vote, for an official early ballot. In addition to name and address, the requesting elector shall provide the date of birth and state or country of birth or other information that if compared to the voter registration information on file would confirm the identity of the elector. If the request indicates that the elector needs a primary election ballot and a general election ballot, the county recorder or other officer in charge of elections shall honor the request. For any partisan primary election, if the elector is not registered as a member of a political party that is entitled to continued representation on the ballot pursuant to section 16-804, the elector shall designate the ballot of only one of the political parties that is entitled to continued representation on the ballot and the elector may receive and vote the ballot of only that one political party, which also shall include any nonpartisan offices and ballot questions, or the elector shall designate the ballot for nonpartisan offices and ballot questions only and the elector may receive and vote the ballot that contains only nonpartisan offices and ballot questions. The county recorder or other officer in charge of elections shall process any request for an early ballot for a municipal election pursuant to this subsection. The county recorder may establish on-site early voting locations at the recorder's office, which shall be open and available for use beginning the same day that a county begins to send out the early ballots. The county recorder may also establish any other early voting locations in the county the recorder deems necessary. ANY ON-SITE EARLY VOTING LOCATION OR OTHER EARLY VOTING LOCATION SHALL REQUIRE EACH ELECTOR TO PRESENT IDENTIFICATION AS PRESCRIBED IN SECTION 16-579 BEFORE RECEIVING A BALLOT. NOTWITHSTANDING SECTION 16-579, SUBSECTION A, PARAGRAPH 2, AT ANY ON-SITE EARLY VOTING LOCATION OR OTHER EARLY VOTING LOCATION THE COUNTY RECORDER OR OTHER OFFICER IN CHARGE OF ELECTIONS MAY PROVIDE FOR A QUALIFIED ELECTOR TO UPDATE THE ELECTOR'S VOTER REGISTRATION INFORMATION AS PROVIDED FOR IN THE SECRETARY OF STATE'S INSTRUCTION AND PROCEDURES MANUAL ADOPTED PURSUANT TO SECTION 16-452.

Ch. 15

B. Notwithstanding subsection A of this section, a request for an official early ballot from an absent uniformed services voter or overseas voter as defined in the uniformed and overseas citizens absentee voting act of 1986 (P.L. 99-410; 52 United States Code section 20310) or a voter whose information is protected pursuant to section 16-153 that is received by the county recorder or other officer in charge of elections more than ninety-three days before the election is valid. If requested by the absent uniformed services or overseas voter, or a voter whose information is protected pursuant to section 16-153, the county recorder or other officer in charge of elections shall provide to the requesting voter early ballot

materials through the next regularly scheduled general election for federal office immediately following receipt of the request unless a different period of time, which does not exceed the next two regularly scheduled general elections for federal office, is designated by the voter.

C. The county recorder or other officer in charge of elections shall mail the early ballot and the envelope for its return postage prepaid to the address provided by the requesting elector within five days after receipt of the official early ballots from the officer charged by law with the duty of preparing ballots pursuant to section 16-545, except that early ballot distribution shall not begin more than twenty-seven days before the election. If an early ballot request is received on or before the thirty-first day before the election, the early ballot shall be distributed not earlier than the twenty-seventh day before the election and not later than the twenty-fourth day before the election.

D. Only the elector may be in possession of that elector's unvoted early ballot. If a complete and correct request is made by the elector within twenty-seven days before the election, the mailing must be made within forty-eight hours after receipt of the request. Saturdays, Sundays and other legal holidays are excluded from the computation of the forty-eight hour period prescribed by this subsection. If a complete and correct request is made by an absent uniformed services voter or an overseas voter before the election, the regular early ballot shall be transmitted by mail, by fax or by other electronic format approved by the secretary of state within twenty-four hours after the early ballots are delivered pursuant to section 16-545, subsection B, excluding Sundays.

E. In order to be complete and correct and to receive an early ballot by mail, an elector's request that an early ballot be mailed to the elector's residence or temporary address must include all of the information prescribed by subsection A of this section and must be received by the county recorder or other officer in charge of elections no later than 5:00 p.m. on the eleventh day preceding the election. An elector who appears personally no later than 5:00 p.m. on the Friday preceding the election at an on-site early voting location that is established by the county recorder or other officer in charge of elections shall be given a ballot AFTER PRESENTING IDENTIFICATION AS PRESCRIBED IN SECTION 16-579 and SHALL BE permitted to vote at the on-site location. NOTWITHSTANDING SECTION 16-579, SUBSECTION A, PARAGRAPH 2, AT ANY ON-SITE EARLY VOTING LOCATION THE COUNTY RECORDER OR OTHER OFFICER IN CHARGE OF ELECTIONS MAY PROVIDE FOR A QUALIFIED ELECTOR TO UPDATE THE ELECTOR'S VOTER REGISTRATION INFORMATION AS PROVIDED FOR IN THE SECRETARY OF STATE'S INSTRUCTION AND PROCEDURES MANUAL ADOPTED PURSUANT TO SECTION 16-452. If an elector's request to receive an early ballot is not complete and correct but complies with all other requirements of this section, the county recorder or other officer in charge of elections shall attempt to notify the elector of the deficiency of the request.

Ch. 15

F. Unless an elector specifies that the address to which an early ballot is to be sent is a temporary address, the recorder may use the information from an early ballot request form to update voter registration records.

G. The county recorder or other officer in charge of early balloting shall provide an alphabetized list of all voters in the precinct who have

requested and have been sent an early ballot to the election board of the precinct in which the voter is registered not later than the day before the election.

H. As a result of EXPERIENCING an emergency ~~occurring~~ between 5:00 p.m. on the ~~second~~ Friday preceding the election and 5:00 p.m. on the Monday preceding the election, qualified electors may request to vote ~~early~~ in the manner prescribed by the ~~county recorder~~ BOARD OF SUPERVISORS of their respective county. BEFORE VOTING PURSUANT TO THIS SUBSECTION, AN ELECTOR WHO EXPERIENCES AN EMERGENCY SHALL PROVIDE IDENTIFICATION AS PRESCRIBED IN SECTION 16-579 AND SHALL SIGN A STATEMENT UNDER PENALTY OF PERJURY THAT STATES THAT THE PERSON IS EXPERIENCING OR EXPERIENCED AN EMERGENCY AFTER 5:00 P.M. ON THE FRIDAY IMMEDIATELY PRECEDING THE ELECTION AND BEFORE 5:00 P.M. ON THE MONDAY IMMEDIATELY PRECEDING THE ELECTION THAT WOULD PREVENT THE PERSON FROM VOTING AT THE POLLS. SIGNED STATEMENTS RECEIVED PURSUANT TO THIS SUBSECTION ARE NOT SUBJECT TO INSPECTION PURSUANT TO TITLE 39, CHAPTER 1, ARTICLE 2. For the purposes of this subsection, "emergency" means any unforeseen circumstances that would prevent the elector from voting at the polls.

Ch. 107

I. NOTWITHSTANDING SECTION 16-579, SUBSECTION A, PARAGRAPH 2, FOR ANY VOTING PURSUANT TO SUBSECTION H OF THIS SECTION, THE COUNTY RECORDER OR OTHER OFFICER IN CHARGE OF ELECTIONS MAY ALLOW A QUALIFIED ELECTOR TO UPDATE THE ELECTOR'S VOTER REGISTRATION INFORMATION AS PROVIDED FOR IN THE SECRETARY OF STATE'S INSTRUCTIONS AND PROCEDURES MANUAL ADOPTED PURSUANT TO SECTION 16-452.

~~I.~~ J. A candidate, political committee or other organization may distribute early ballot request forms to voters. If the early ballot request forms include a printed address for return, the addressee shall be the political subdivision that will conduct the election. Failure to use the political subdivision as the return addressee is punishable by a civil penalty of up to three times the cost of the production and distribution of the request.

~~J.~~ K. All original and completed early ballot request forms that are received by a candidate, political committee or other organization shall be submitted within six business days after receipt by a candidate, political committee or other organization or eleven days before the election day, whichever is earlier, to the political subdivision that will conduct the election. Any person, political committee or other organization that fails to submit a completed early ballot request form within the prescribed time is subject to a civil penalty of up to ~~twenty-five dollars~~ $25 per day for each completed form withheld from submittal. Any person who knowingly fails to submit a completed early ballot request form before the submission deadline for the election immediately following the completion of the form is guilty of a class 6 felony.

Chs. 15 and 107

EXPLANATION OF BLEND
SECTION 17-101

Laws 2019, Chapters 77 and 210

Laws 2019, Ch. 77, section 1	Effective August 27, 2019
Laws 2019, Ch. 210, section 1	Effective August 27, 2019

Explanation

Since these two enactments are compatible, the Laws 2019, Ch. 77 and Ch. 210 text changes to section 17-101 are blended in the form shown on the following pages.

BLEND OF SECTION 17-101
Laws 2019, Chapters 77 and 210

17-101. Definitions

A. In this title, unless the context otherwise requires:

Chs. 77 and 210

1. "Angling" means ~~the~~ taking ~~of~~ fish by one line and not ~~to exceed~~ MORE THAN two hooks, by one line and one artificial lure, which may have attached more than one hook, or by one line and not ~~to exceed~~ MORE THAN two artificial flies or lures.

2. "Bag limit" means the maximum limit, in number or amount, of wildlife that ANY ONE PERSON may lawfully ~~be taken by any one person~~ TAKE during a specified period of time.

3. "Closed season" means the time during which wildlife may not be lawfully taken.

4. "Commission" means the Arizona game and fish commission.

5. "Department" means the Arizona game and fish department.

6. "Device" means any net, trap, snare, salt lick, scaffold, deadfall, pit, explosive, poison or stupefying substance, crossbow, firearm, bow and arrow, or other implement used for taking wildlife. Device does not include a raptor or any equipment used in the sport of falconry.

7. "Domicile" means a person's true, fixed and permanent home and principal residence. Proof of domicile in this state may be shown as prescribed by rule by the commission.

8. "Falconry" means the sport of hunting or taking quarry with a trained raptor.

9. "Fishing" means to lure, attract or pursue aquatic wildlife in such a manner that the wildlife may be captured or killed.

10. "Fur dealer" means any person engaged in the business of buying for resale the raw pelts or furs of wild mammals.

Chs. 77 and 210

11. "Guide" means a person who ~~does~~ MEETS any of the following:

(a) Advertises for guiding services.

(b) Holds himself out to the public for hire as a guide.

(c) Is employed by a commercial enterprise as a guide.

(d) Accepts compensation in any form commensurate with the market value in this state for guiding services in exchange for aiding, assisting, directing, leading or instructing a person in the field to locate and take wildlife.

(e) Is not a landowner or lessee who, without full fair market compensation, allows access to the landowner's or lessee's property and directs and advises a person in taking wildlife.

12. "License classification" means a type of license, permit, tag or stamp authorized under this title and prescribed by the commission by rule to take, handle or possess wildlife.

13. "License year" means the twelve-month period between January 1 and December 31, inclusive, or a different twelve-month period as prescribed by the commission by rule.

14. "Nonresident", for the purposes of applying for a license, permit, tag or stamp, means a citizen of the United States or an alien who is not a resident.

15. "Open season" means the time during which wildlife may be lawfully taken.

16. "Possession limit" means the maximum limit, in number or amount of wildlife, that ANY ONE PERSON may ~~be possessed~~ POSSESS at one time ~~by any one person~~.

Chs. 77 and 210

17. "Resident", for the purposes of applying for a license, permit, tag or stamp, means a person who is:

(a) A member of the armed forces of the United States on active duty and who is stationed in:

(i) This state for a period of thirty days immediately preceding the date of applying for a license, permit, tag or stamp.

(ii) Another state or country but who lists this state as the person's home of record at the time of applying for a license, permit, tag or stamp.

(b) Domiciled in this state for six months immediately preceding the date of applying for a license, permit, tag or stamp and who does not claim residency privileges for any purpose in any other state or jurisdiction.

(c) A YOUTH WHO RESIDES WITH AND IS UNDER THE GUARDIANSHIP OF A PERSON WHO IS A RESIDENT.

Ch. 77

18. "Road" means any maintained right-of-way for public conveyance.

19. "Statewide" means all lands except those areas lying within the boundaries of state and federal refuges, parks and monuments, unless specifically provided differently by commission order.

20. "Take" means pursuing, shooting, hunting, fishing, trapping, killing, capturing, snaring or netting wildlife or ~~the~~ placing or using ~~of~~ any net or other device or trap in a manner that may result in ~~the~~ capturing or killing ~~of~~ wildlife.

Chs. 77 and 210

21. "Taxidermist" means any person who engages for hire in ~~the~~ mounting, refurbishing, maintaining, restoring or preserving ~~of~~ any display specimen.

22. "Traps" or "trapping" means taking wildlife in any manner except with a gun or other implement in hand.

23. "Wild" means, in reference to mammals and birds, those species that are normally found in a state of nature.

24. "Wildlife" means all wild mammals, wild birds and the nests or eggs thereof, reptiles, amphibians, mollusks, crustaceans and fish, including their eggs or spawn.

25. "Youth" means a person who is under eighteen years of age.

26. "Zoo" means a commercial facility open to the public where the principal business is holding wildlife in captivity for exhibition purposes.

B. The following definitions of wildlife shall apply:

1. "Aquatic wildlife" ~~are all~~ MEANS fish, amphibians, mollusks, crustaceans and soft-shelled turtles.

~~3.~~ 2. "Big game" ~~are~~ MEANS wild turkey, deer, elk, pronghorn (antelope), bighorn sheep, bison (buffalo), peccary (javelina), bear and mountain lion.

Chs. 77 and 210

~~6.~~ 3. "Fur-bearing animals" ~~are~~ MEANS muskrats, raccoons, otters, weasels, bobcats, beavers, badgers and ringtail cats.

~~13.~~ 4. "Game fish" ~~are~~ MEANS trout of all species, bass of all species, catfish of all species, sunfish of all species, northern pike, walleye and yellow perch.

Chs. 77 and 210

~~2.~~ 5. "Game mammals" ~~are~~ MEANS deer, elk, bear, pronghorn (antelope), bighorn sheep, bison (buffalo), peccary (javelina), mountain lion, tree squirrel and cottontail rabbit.

~~10.~~ 6. "Migratory game birds" ~~are~~ MEANS wild waterfowl, including ducks, geese and swans, ~~;~~ sandhill cranes, ~~;~~ all coots, all gallinules, common snipe, wild doves and bandtail pigeons.

~~8.~~ 7. "Nongame animals" ~~are~~ MEANS all wildlife except game mammals, game birds, fur-bearing animals, predatory animals and aquatic wildlife.

~~11.~~ 8. "Nongame birds" ~~are~~ MEANS all birds except upland game birds and migratory game birds.

~~14.~~ 9. "Nongame fish" ~~are~~ MEANS all the species of fish except game fish.

~~7.~~ 10. "Predatory animals" ~~are~~ MEANS foxes, skunks, coyotes and bobcats.

~~12.~~ 11. "Raptors" ~~are~~ MEANS birds that are members of the order of falconiformes or strigiformes and ~~include~~ INCLUDES falcons, hawks, owls, eagles and other birds that the commission may classify as raptors.

~~5.~~ 12. "Small game" ~~are~~ MEANS cottontail rabbits, tree squirrels, upland game birds and migratory game birds.

Ch. 210

~~4. "Trophy" means:~~

~~(a) A mule deer buck with at least four points on one antler, not including the eye-guard point.~~

~~(b) A whitetail deer buck with at least three points on one antler, not including the eye-guard point.~~

~~(c) A bull elk with at least six points on one antler, including the eye-guard point and the brow tine point.~~

~~(d) A pronghorn (antelope) buck with at least one horn exceeding or equal to fourteen inches in total length.~~

~~(e) Any bighorn sheep.~~

~~(f) Any bison (buffalo).~~

Chs. 77 and 210

~~15.~~ 13. ["]Trout["] means all species of the family salmonidae, including grayling.

~~9.~~ 14. "Upland game birds" ~~are~~ MEANS quail, partridge, grouse and pheasants.

EXPLANATION OF BLEND
SECTION 20-103

Laws 2019, Chapters 108 and 113

Laws 2019, Ch. 108, section 1	Effective August 27, 2019
Laws 2019, Ch. 113, section 1	Effective August 27, 2019

Explanation

Since these two enactments are compatible, the Laws 2019, Ch. 108 and Ch. 113 text changes to section 20-103 are blended in the form shown on the following page.

BLEND OF SECTION 20-103
Laws 2019, Chapters 108 and 113

20-103. Definition of insurance; exceptions

A. For the purposes of this title, except as otherwise provided, "insurance" is a contract by which one undertakes to indemnify another or
Ch. 113— to pay a specified amount ~~upon~~ ON determinable contingencies.

B. Private ambulance service contracts or private fire protection service contracts are not insurance, and this title does not apply to those contracts.

C. Charitable gift annuities that are issued pursuant to section 20-119 are not insurance and, except as provided in section 20-119, this title does not apply to agreements for those annuities.

D. Collision damage waivers are not insurance, and this title does not apply to those waivers.

E. Direct primary care ~~provider plans that are issued pursuant to
Ch. 108 — title 44, chapter 11, article 25~~ AGREEMENTS AS DEFINED IN SECTION 44-1799.91 are not insurance, and this title does not apply to those ~~plans~~ AGREEMENTS.

F. GUARANTEED ASSET PROTECTION WAIVERS ARE NOT INSURANCE, AND THIS TITLE DOES NOT APPLY TO THOSE WAIVERS. FOR THE PURPOSES OF THIS SUBSECTION, "GUARANTEED ASSET PROTECTION WAIVER" MEANS A CONTRACTUAL AGREEMENT THAT IS
Ch. 113 — A PART OF OR AN ADDENDUM TO A BORROWER'S FINANCE AGREEMENT WHEREIN A CREDITOR AGREES FOR A SEPARATE CHARGE TO CANCEL OR WAIVE ALL OR PART OF THE AMOUNT DUE ON THE BORROWER'S FINANCE AGREEMENT IN THE EVENT OF A TOTAL PHYSICAL DAMAGE LOSS OR UNRECOVERED THEFT OF A MOTOR VEHICLE.

EXPLANATION OF BLEND
SECTION 28-101 (as amended by Laws 2018, Ch. 9, section 1, Ch. 163, section 1, Ch. 166, section 1, Ch. 306, section 1 and Ch. 324, section 1)

Laws 2019, Chapters 89 and 120

Laws 2019, Ch. 89, section 1	Effective August 27, 2019
Laws 2019, Ch. 120, section 1	Effective August 27, 2019

Explanation

Since these two enactments are compatible, the Laws 2019, Ch. 89 and Ch. 120 text changes to section 28-101, as amended by Laws 2018, Ch. 9, section 1, Ch. 163, section 1, Ch. 166, section 1, Ch. 306, section 1 and Ch. 324, section 1, are blended in the form shown on the following pages.

BLEND OF SECTION 28-101 (as amended by Laws 2018, Ch. 9, section 1, Ch. 163, section 1, Ch. 166, section 1, Ch. 306, section 1 and Ch. 324, section 1)
Laws 2019, Chapters 89 and 120

28-101. Definitions

In this title, unless the context otherwise requires:

1. "Alcohol" means any substance containing any form of alcohol, including ethanol, methanol, propynol and isopropynol.

2. "Alcohol concentration" if expressed as a percentage means either:

(a) The number of grams of alcohol per one hundred milliliters of blood.

(b) The number of grams of alcohol per two hundred ten liters of breath.

3. "All-terrain vehicle" means either of the following:

(a) A motor vehicle that satisfies all of the following:

(i) Is designed primarily for recreational nonhighway all-terrain travel.

(ii) Is fifty or fewer inches in width.

(iii) Has an unladen weight of one thousand two hundred pounds or less.

(iv) Travels on three or more nonhighway tires.

(v) Is operated on a public highway.

(b) A recreational off-highway vehicle that satisfies all of the following:

(i) Is designed primarily for recreational nonhighway all-terrain travel.

(ii) Is eighty or fewer inches in width.

(iii) Has an unladen weight of two thousand five hundred pounds or less.

(iv) Travels on four or more nonhighway tires.

(v) Has a steering wheel for steering control.

(vi) Has a rollover protective structure.

(vii) Has an occupant retention system.

4. "Authorized emergency vehicle" means any of the following:

(a) A fire department vehicle.

(b) A police vehicle.

(c) An ambulance or emergency vehicle of a municipal department or public service corporation that is designated or authorized by the department or a local authority.

(d) Any other ambulance, fire truck or rescue vehicle that is authorized by the department in its sole discretion and that meets liability insurance requirements prescribed by the department.

5. "Autocycle" means a three-wheeled motorcycle on which the driver and passengers ride in a fully or partially enclosed seating area that is equipped with a roll cage, safety belts for each occupant and antilock brakes and that is designed to be controlled with a steering wheel and pedals.

6. "Aviation fuel" means all flammable liquids composed of a mixture of selected hydrocarbons expressly manufactured and blended for the purpose of effectively and efficiently operating an internal combustion engine for use in an aircraft but does not include fuel for jet or turbine powered aircraft.

7. "Bicycle" means a device, including a racing wheelchair, that is propelled by human power and on which a person may ride and that has either:

(a) Two tandem wheels, either of which is more than sixteen inches in diameter.

(b) Three wheels in contact with the ground, any of which is more than sixteen inches in diameter.

8. "Board" means the transportation board.

9. "Bus" means a motor vehicle designed for carrying sixteen or more passengers, including the driver.

10. "Business district" means the territory contiguous to and including a highway if there are buildings in use for business or industrial purposes within any six hundred feet along the highway, including hotels, banks or office buildings, railroad stations and public buildings that occupy at least three hundred feet of frontage on one side or three hundred feet collectively on both sides of the highway.

11. "Certificate of ownership" means a paper or an electronic record that is issued in another state or a foreign jurisdiction and that indicates ownership of a vehicle.

12. "Certificate of title" means a paper document or an electronic record that is issued by the department and that indicates ownership of a vehicle.

13. "Combination of vehicles" means a truck or truck tractor and semitrailer and any trailer that it tows but does not include a forklift designed for the purpose of loading or unloading the truck, trailer or semitrailer.

14. "Controlled substance" means a substance so classified under section 102(6) of the controlled substances act (21 United States Code section 802(6)) and includes all substances listed in schedules I through V of 21 Code of Federal Regulations part 1308.

15. "Conviction" means:

(a) An unvacated adjudication of guilt or a determination that a person violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal.

(b) An unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court.

(c) A plea of guilty or no contest accepted by the court.

(d) The payment of a fine or court costs.

16. "County highway" means a public road that is constructed and maintained by a county.

17. "Dealer" means a person who is engaged in the business of buying, selling or exchanging motor vehicles, trailers or semitrailers and who has an established place of business and has paid fees pursuant to section 28-4302.

18. "Department" means the department of transportation acting directly or through its duly authorized officers and agents.

19. "Digital network or software application" has the same meaning prescribed in section 28-9551.

20. "Director" means the director of the department of transportation.

21. "Drive" means to operate or be in actual physical control of a motor vehicle.

22. "Driver" means a person who drives or is in actual physical control of a vehicle.

23. "Driver license" means a license that is issued by a state to an individual and that authorizes the individual to drive a motor vehicle.

24. "Electric bicycle" means a bicycle or tricycle that is equipped with fully operable pedals and an electric motor of less than seven hundred fifty watts and that meets the requirements of one of the following classes:

(a) "Class 1 electric bicycle" means a bicycle or tricycle that is equipped with an electric motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the bicycle or tricycle reaches the speed of twenty miles per hour.

(b) "Class 2 electric bicycle" means a bicycle or tricycle that is equipped with an electric motor that may be used exclusively to propel the bicycle or tricycle and that is not capable of providing assistance when the bicycle or tricycle reaches the speed of twenty miles per hour.

(c) "Class 3 electric bicycle" means a bicycle or tricycle that is equipped with an electric motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the bicycle or tricycle reaches the speed of twenty-eight miles per hour.

25. "ELECTRIC MINIATURE SCOOTER" MEANS A DEVICE THAT:

(a) WEIGHS LESS THAN THIRTY POUNDS.

(b) HAS TWO OR THREE WHEELS.

(c) HAS HANDLEBARS.

(d) HAS A FLOORBOARD ON WHICH A PERSON MAY STAND WHILE RIDING.

(e) IS POWERED BY AN ELECTRIC MOTOR OR HUMAN POWER, OR BOTH.

(f) HAS A MAXIMUM SPEED THAT DOES NOT EXCEED TEN MILES PER HOUR, WITH OR WITHOUT HUMAN PROPULSION, ON A PAVED LEVEL SURFACE.

Ch. 120 ~~25.~~ 26. "Electric personal assistive mobility device" means a self-balancing device with one wheel or two nontandem wheels and an electric propulsion system that limits the maximum speed of the device to fifteen miles per hour or less and that is designed to transport only one person.

27. "ELECTRIC STANDUP SCOOTER":

(a) MEANS A DEVICE THAT:

(i) WEIGHS LESS THAN SEVENTY-FIVE POUNDS.

(ii) HAS TWO OR THREE WHEELS.

(iii) HAS HANDLEBARS.

(iv) HAS A FLOORBOARD ON WHICH A PERSON MAY STAND WHILE RIDING.

(v) IS POWERED BY AN ELECTRIC MOTOR OR HUMAN POWER, OR BOTH.

(vi) HAS A MAXIMUM SPEED THAT DOES NOT EXCEED TWENTY MILES PER HOUR, WITH OR WITHOUT HUMAN PROPULSION, ON A PAVED LEVEL SURFACE.

(b) DOES NOT INCLUDE AN ELECTRIC MINIATURE SCOOTER.

~~26.~~ 28. "Evidence" includes both of the following:

(a) A display on a wireless communication device of a department-generated driver license, nonoperating identification license,

vehicle registration card or other official record of the department that is presented to a law enforcement officer or in a court or an administrative proceeding.

(b) An electronic or digital license plate authorized pursuant to section 28-364.

~~27.~~ 29. "Farm" means any lands primarily used for agriculture production.

~~28.~~ 30. "Farm tractor" means a motor vehicle designed and used primarily as a farm implement for drawing implements of husbandry.

~~29.~~ 31. "Foreign vehicle" means a motor vehicle, trailer or semitrailer that is brought into this state other than in the ordinary course of business by or through a manufacturer or dealer and that has not been registered in this state.

~~30.~~ 32. "Golf cart" means a motor vehicle that has not less than three wheels in contact with the ground, that has an unladen weight of less than one thousand eight hundred pounds, that is designed to be and is operated at not more than twenty-five miles per hour and that is designed to carry not more than four persons including the driver.

~~31.~~ 33. "Hazardous material" means a material, and its mixtures or solutions, that the United States department of transportation determines under 49 Code of Federal Regulations is, or any quantity of a material listed as a select agent or toxin under 42 Code of Federal Regulations part 73 that is, capable of posing an unreasonable risk to health, safety and property if transported in commerce and that is required to be placarded or marked as required by the department's safety rules prescribed pursuant to chapter 14 of this title.

~~32.~~ 34. "Implement of husbandry" means a vehicle that is designed primarily for agricultural purposes and that is used exclusively in the conduct of agricultural operations, including an implement or vehicle whether self-propelled or otherwise that meets both of the following conditions:

(a) Is used solely for agricultural purposes including the preparation or harvesting of cotton, alfalfa, grains and other farm crops.

(b) Is only incidentally operated or moved on a highway whether as a trailer or self-propelled unit. For the purposes of this subdivision, "incidentally operated or moved on a highway" means travel between a farm and another part of the same farm, from one farm to another farm or between a farm and a place of repair, supply or storage.

~~33.~~ 35. "Limousine" means a motor vehicle providing prearranged ground transportation service for an individual passenger, or a group of passengers, that is arranged in advance or is operated on a regular route or between specified points and includes ground transportation under a contract or agreement for services that includes a fixed rate or time and is provided in a motor vehicle with a seating capacity not exceeding fifteen passengers including the driver.

~~34.~~ 36. "Livery vehicle" means a motor vehicle that:

(a) Has a seating capacity not exceeding fifteen passengers including the driver.

(b) Provides passenger services for a fare determined by a flat rate or flat hourly rate between geographic zones or within a geographic area.

(c) Is available for hire on an exclusive or shared ride basis.

(d) May do any of the following:

(i) Operate on a regular route or between specified places.

(ii) Offer prearranged ground transportation service as defined in section 28-141.

(iii) Offer on demand ground transportation service pursuant to a contract with a public airport, licensed business entity or organization.

~~35.~~ 37. "Local authority" means any county, municipal or other local board or body exercising jurisdiction over highways under the constitution and laws of this state.

~~36.~~ 38. "Manufacturer" means a person engaged in the business of manufacturing motor vehicles, trailers or semitrailers.

~~37.~~ 39. "Moped" means a bicycle, not including an electric
Ch. 120 — bicycle[,] AN ELECTRIC MINIATURE SCOOTER OR AN ELECTRIC STANDUP SCOOTER, that is equipped with a helper motor if the vehicle has a maximum piston displacement of fifty cubic centimeters or less, a brake horsepower of one and one-half or less and a maximum speed of twenty-five miles per hour or less on a flat surface with less than a one percent grade.

~~38.~~ 40. "Motorcycle" means a motor vehicle that has a seat or saddle for the use of the rider and that is designed to travel on not more than three wheels in contact with the ground but excludes a tractor, an electric bicycle, AN ELECTRIC MINIATURE SCOOTER, AN ELECTRIC STANDUP SCOOTER and a moped.

Ch. 120 — ~~39.~~ 41. "Motor driven cycle" means a motorcycle, including every motor scooter, with a motor that produces not more than five horsepower but does not include an electric bicycle, AN ELECTRIC MINIATURE SCOOTER OR AN ELECTRIC STANDUP SCOOTER.

~~40.~~ 42. "Motorized quadricycle" means a self-propelled motor vehicle to which all of the following apply:

(a) The vehicle is self-propelled by an emission-free electric motor and may include pedals operated by the passengers.

(b) The vehicle has at least four wheels in contact with the ground.

(c) The vehicle seats at least eight passengers, including the driver.

(d) The vehicle is operable on a flat surface using solely the electric motor without assistance from the pedals or passengers.

(e) The vehicle is a commercial motor vehicle as defined in section 28-5201.

(f) The vehicle is a limousine operating under a vehicle for hire company permit issued pursuant to section 28-9503.

(g) The vehicle is manufactured by a motor vehicle manufacturer that is licensed pursuant to chapter 10 of this title.

(h) The vehicle complies with the definition and standards for low-speed vehicles set forth in federal motor vehicle safety standard 500 and 49 Code of Federal Regulations sections 571.3(b) and 571.500, respectively.

~~41.~~ 43. "Motor vehicle":

(a) Means either:

(i) A self-propelled vehicle.

(ii) For the purposes of the laws relating to the imposition of a tax on motor vehicle fuel, a vehicle that is operated on the highways of this state and that is propelled by the use of motor vehicle fuel.

Ch. 89 (b) Does not include a personal delivery device, A PERSONAL MOBILE CARGO CARRYING DEVICE, a motorized wheelchair, an electric personal assistive mobility device, an electric bicycle, AN ELECTRIC MINIATURE SCOOTER, AN ELECTRIC STANDUP SCOOTER or a motorized skateboard. For the purposes of this subdivision:

Ch. 120

(i) "Motorized skateboard" means a self-propelled device THAT DOES NOT HAVE HANDLEBARS AND that has a motor, a deck on which a person may ride and at least two tandem wheels in contact with the ground.

(ii) "Motorized wheelchair" means a self-propelled wheelchair that is used by a person for mobility.

~~42.~~ 44. "Motor vehicle fuel" includes all products that are commonly or commercially known or sold as gasoline, including casinghead gasoline, natural gasoline and all flammable liquids, and that are composed of a mixture of selected hydrocarbons expressly manufactured and blended for the purpose of effectively and efficiently operating internal combustion engines. Motor vehicle fuel does not include inflammable liquids that are specifically manufactured for racing motor vehicles and that are distributed for and used by racing motor vehicles at a racetrack, use fuel as defined in section 28-5601, aviation fuel, fuel for jet or turbine powered aircraft or the mixture created at the interface of two different substances being transported through a pipeline, commonly known as transmix.

~~43.~~ 45. "Neighborhood electric vehicle" means a self-propelled electrically powered motor vehicle to which all of the following apply:

(a) The vehicle is emission free.

(b) The vehicle has at least four wheels in contact with the ground.

(c) The vehicle complies with the definition and standards for low-speed vehicles set forth in federal motor vehicle safety standard 500 and 49 Code of Federal Regulations sections 571.3(b) and 571.500, respectively.

~~44.~~ 46. "Nonresident" means a person who is not a resident of this state as defined in section 28-2001.

~~45.~~ 47. "Off-road recreational motor vehicle" means a motor vehicle that is designed primarily for recreational nonhighway all-terrain travel and that is not operated on a public highway. Off-road recreational motor vehicle does not mean a motor vehicle used for construction, building trade, mining or agricultural purposes.

~~46.~~ 48. "Operator" means a person who drives a motor vehicle on a highway, who is in actual physical control of a motor vehicle on a highway or who is exercising control over or steering a vehicle being towed by a motor vehicle.

~~47.~~ 49. "Owner" means:

(a) A person who holds the legal title of a vehicle.

(b) If a vehicle is the subject of an agreement for the conditional sale or lease with the right of purchase on performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, the conditional vendee or lessee.

(c) If a mortgagor of a vehicle is entitled to possession of the vehicle, the mortgagor.

~~48.~~ 50. "Pedestrian" means any person afoot. A person who uses an electric personal assistive mobility device or a manual or motorized wheelchair is considered a pedestrian unless the manual wheelchair qualifies as a bicycle. For the purposes of this paragraph, "motorized wheelchair" means a self-propelled wheelchair that is used by a person for mobility.

Ch. 89

~~49.~~ 51. "Personal delivery device"[:]

[(a)] Means an electronically powered device that:

~~(a)~~ (i) Is operated primarily on sidewalks and within crosswalks and that is designed to transport property.

~~(b)~~ (ii) Weighs less than two hundred pounds, excluding cargo, unless otherwise authorized by a local authority pursuant to section 28-627.

~~(c)~~ (iii) Operates at a maximum speed of seven miles per hour, unless otherwise authorized by a local authority pursuant to section 28-627.

~~(d)~~ (iv) Is equipped with technology to allow for the operation of the device with or without the active control or monitoring of a natural person.

~~(e)~~ (v) Is equipped with a braking system that when active or engaged enables the personal delivery device to come to a controlled stop.

Ch. 89

(b) DOES NOT INCLUDE A PERSONAL MOBILE CARGO CARRYING DEVICE.

52. "PERSONAL MOBILE CARGO CARRYING DEVICE" MEANS AN ELECTRONICALLY POWERED DEVICE THAT:

(a) IS OPERATED PRIMARILY ON SIDEWALKS AND WITHIN CROSSWALKS AND THAT IS DESIGNED TO TRANSPORT PROPERTY.

(b) WEIGHS LESS THAN EIGHTY POUNDS, EXCLUDING CARGO.

(c) OPERATES AT A MAXIMUM SPEED OF TWELVE MILES PER HOUR.

(d) IS EQUIPPED WITH TECHNOLOGY TO TRANSPORT PERSONAL PROPERTY WITH THE ACTIVE MONITORING OF A PROPERTY OWNER AND THAT IS PRIMARILY DESIGNED TO REMAIN WITHIN TWENTY-FIVE FEET OF THE PROPERTY OWNER.

(e) IS EQUIPPED WITH A BRAKING SYSTEM THAT WHEN ACTIVE OR ENGAGED ENABLES THE PERSONAL MOBILE CARGO CARRYING DEVICE TO COME TO A CONTROLLED STOP.

~~50.~~ 53. "Power sweeper" means an implement, with or without motive power, that is only incidentally operated or moved on a street or highway and that is designed for the removal of debris, dirt, gravel, litter or sand whether by broom, vacuum or regenerative air system from asphaltic concrete or cement concrete surfaces, including parking lots, highways, streets and warehouses, and a vehicle on which the implement is permanently mounted.

~~51.~~ 54. "Public transit" means the transportation of passengers on scheduled routes by means of a conveyance on an individual passenger fare-paying basis excluding transportation by a sightseeing bus, school bus or taxi or a vehicle not operated on a scheduled route basis.

~~52.~~ 55. "Reconstructed vehicle" means a vehicle that has been assembled or constructed largely by means of essential parts, new or used, derived from vehicles or makes of vehicles of various names, models and types or that, if originally otherwise constructed, has been materially altered by the removal of essential parts or by the addition or substitution of essential parts, new or used, derived from other vehicles or makes of vehicles. For the purposes of this paragraph, "essential parts" means

integral and body parts, the removal, alteration or substitution of which will tend to conceal the identity or substantially alter the appearance of the vehicle.

~~53.~~ 56. "Residence district" means the territory contiguous to and including a highway not comprising a business district if the property on the highway for a distance of three hundred feet or more is in the main improved with residences or residences and buildings in use for business.

~~54.~~ 57. "Right-of-way" when used within the context of the regulation of the movement of traffic on a highway means the privilege of the immediate use of the highway. Right-of-way when used within the context of the real property on which transportation facilities and appurtenances to the facilities are constructed or maintained means the lands or interest in lands within the right-of-way boundaries.

~~55.~~ 58. "School bus" means a motor vehicle that is designed for carrying more than ten passengers and that is either:

(a) Owned by any public or governmental agency or other institution and operated for the transportation of children to or from home or school on a regularly scheduled basis.

(b) Privately owned and operated for compensation for the transportation of children to or from home or school on a regularly scheduled basis.

~~56.~~ 59. "Semitrailer" means a vehicle that is with or without motive power, other than a pole trailer or single-axle tow dolly, that is designed for carrying persons or property and for being drawn by a motor vehicle and that is constructed so that some part of its weight and that of its load rests on or is carried by another vehicle. For the purposes of this paragraph, "pole trailer" has the same meaning prescribed in section 28-601.

~~57.~~ 60. "Single-axle tow dolly" means a nonvehicle device that is drawn by a motor vehicle, that is designed and used exclusively to transport another motor vehicle and on which the front or rear wheels of the drawn motor vehicle are mounted on the tow dolly while the other wheels of the drawn motor vehicle remain in contact with the ground.

~~58.~~ 61. "State" means a state of the United States and the District of Columbia.

~~59.~~ 62. "State highway" means a state route or portion of a state route that is accepted and designated by the board as a state highway and that is maintained by the state.

~~60.~~ 63. "State route" means a right-of-way whether actually used as a highway or not that is designated by the board as a location for the construction of a state highway.

~~61.~~ 64. "Street" or "highway" means the entire width between the boundary lines of every way if a part of the way is open to the use of the public for purposes of vehicular travel.

~~62.~~ 65. "Taxi" means a motor vehicle that has a seating capacity not exceeding fifteen passengers, including the driver, that provides passenger services and that:

(a) Does not primarily operate on a regular route or between specified places.

(b) Offers local transportation for a fare determined on the basis of the distance traveled or prearranged ground transportation service as defined in section 28-141 for a predetermined fare.

~~63.~~ 66. "Title transfer form" means a paper or an electronic form that is prescribed by the department for the purpose of transferring a certificate of title from one owner to another owner.

~~64.~~ 67. "Traffic survival school" means a school that offers educational sessions to drivers who are required to attend and successfully complete educational sessions pursuant to this title that are designed to improve the safety and habits of drivers and that are approved by the department.

~~65.~~ 68. "Trailer" means a vehicle that is with or without motive power, other than a pole trailer or single-axle tow dolly, that is designed for carrying persons or property and for being drawn by a motor vehicle and that is constructed so that no part of its weight rests on the towing vehicle. A semitrailer equipped with an auxiliary front axle commonly known as a dolly is deemed to be a trailer. For the purposes of this paragraph, "pole trailer" has the same meaning prescribed in section 28-601.

~~66.~~ 69. "Transportation network company" has the same meaning prescribed in section 28-9551.

~~67.~~ 70. "Transportation network company vehicle" has the same meaning prescribed in section 28-9551.

~~68.~~ 71. "Transportation network service" has the same meaning prescribed in section 28-9551.

~~69.~~ 72. "Truck" means a motor vehicle designed or used primarily for the carrying of property other than the effects of the driver or passengers and includes a motor vehicle to which has been added a box, a platform or other equipment for such carrying.

~~70.~~ 73. "Truck tractor" means a motor vehicle that is designed and used primarily for drawing other vehicles and that is not constructed to carry a load other than a part of the weight of the vehicle and load drawn.

~~71.~~ 74. "Vehicle":

(a) Means a device in, on or by which a person or property is or may be transported or drawn on a public highway.

(b) Does not include:

Ch. 120 (i) Electric bicycles, ELECTRIC MINIATURE SCOOTERS, ELECTRIC STANDUP SCOOTERS and devices moved by human power.

(ii) Devices used exclusively on stationary rails or tracks.

(iii) Personal delivery devices.

Ch. 89 (iv) PERSONAL MOBILE CARGO CARRYING DEVICES.

~~72.~~ 75. "Vehicle transporter" means either:

(a) A truck tractor capable of carrying a load and drawing a semitrailer.

(b) A truck tractor with a stinger-steered fifth wheel capable of carrying a load and drawing a semitrailer or a truck tractor with a dolly mounted fifth wheel that is securely fastened to the truck tractor at two or more points and that is capable of carrying a load and drawing a semitrailer.

EXPLANATION OF BLEND
SECTION 28-101 (as amended by Laws 2018, Ch. 306, section 2)

Laws 2019, Chapters 89 and 120

Laws 2019, Ch. 89, section 2	Effective September 1, 2020
Laws 2019, Ch. 120, section 2	Effective September 1, 2020

Explanation

Since these two enactments are compatible, the Laws 2019, Ch. 89 and Ch. 120 text changes to section 28-101, as amended by Laws 2018, Ch. 306, section 2, are blended effective from and after August 31, 2020 in the form shown on the following pages.

BLEND OF SECTION 28-101 (as amended by Laws 2018, Ch. 306, section 2)
Laws 2019, Chapters 89 and 120

28-101. Definitions

In this title, unless the context otherwise requires:

1. "Alcohol" means any substance containing any form of alcohol, including ethanol, methanol, propynol and isopropynol.

2. "Alcohol concentration" if expressed as a percentage means either:

(a) The number of grams of alcohol per one hundred milliliters of blood.

(b) The number of grams of alcohol per two hundred ten liters of breath.

3. "All-terrain vehicle" means either of the following:

(a) A motor vehicle that satisfies all of the following:

(i) Is designed primarily for recreational nonhighway all-terrain travel.

(ii) Is fifty or fewer inches in width.

(iii) Has an unladen weight of one thousand two hundred pounds or less.

(iv) Travels on three or more nonhighway tires.

(v) Is operated on a public highway.

(b) A recreational off-highway vehicle that satisfies all of the following:

(i) Is designed primarily for recreational nonhighway all-terrain travel.

(ii) Is sixty-five or fewer inches in width.

(iii) Has an unladen weight of one thousand eight hundred pounds or less.

(iv) Travels on four or more nonhighway tires.

4. "Authorized emergency vehicle" means any of the following:

(a) A fire department vehicle.

(b) A police vehicle.

(c) An ambulance or emergency vehicle of a municipal department or public service corporation that is designated or authorized by the department or a local authority.

(d) Any other ambulance, fire truck or rescue vehicle that is authorized by the department in its sole discretion and that meets liability insurance requirements prescribed by the department.

5. "Autocycle" means a three-wheeled motorcycle on which the driver and passengers ride in a fully or partially enclosed seating area that is equipped with a roll cage, safety belts for each occupant and antilock brakes and that is designed to be controlled with a steering wheel and pedals.

6. "Aviation fuel" means all flammable liquids composed of a mixture of selected hydrocarbons expressly manufactured and blended for the purpose of effectively and efficiently operating an internal combustion engine for use in an aircraft but does not include fuel for jet or turbine powered aircraft.

7. "Bicycle" means a device, including a racing wheelchair, that is propelled by human power and on which a person may ride and that has either:

(a) Two tandem wheels, either of which is more than sixteen inches in diameter.

(b) Three wheels in contact with the ground, any of which is more than sixteen inches in diameter.

8. "Board" means the transportation board.

9. "Bus" means a motor vehicle designed for carrying sixteen or more passengers, including the driver.

10. "Business district" means the territory contiguous to and including a highway if there are buildings in use for business or industrial purposes within any six hundred feet along the highway, including hotels, banks or office buildings, railroad stations and public buildings that occupy at least three hundred feet of frontage on one side or three hundred feet collectively on both sides of the highway.

11. "Certificate of ownership" means a paper or an electronic record that is issued in another state or a foreign jurisdiction and that indicates ownership of a vehicle.

12. "Certificate of title" means a paper document or an electronic record that is issued by the department and that indicates ownership of a vehicle.

13. "Combination of vehicles" means a truck or truck tractor and semitrailer and any trailer that it tows but does not include a forklift designed for the purpose of loading or unloading the truck, trailer or semitrailer.

14. "Controlled substance" means a substance so classified under section 102(6) of the controlled substances act (21 United States Code section 802(6)) and includes all substances listed in schedules I through V of 21 Code of Federal Regulations part 1308.

15. "Conviction" means:

(a) An unvacated adjudication of guilt or a determination that a person violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal.

(b) An unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court.

(c) A plea of guilty or no contest accepted by the court.

(d) The payment of a fine or court costs.

16. "County highway" means a public road that is constructed and maintained by a county.

17. "Dealer" means a person who is engaged in the business of buying, selling or exchanging motor vehicles, trailers or semitrailers and who has an established place of business and has paid fees pursuant to section 28-4302.

18. "Department" means the department of transportation acting directly or through its duly authorized officers and agents.

19. "Digital network or software application" has the same meaning prescribed in section 28-9551.

20. "Director" means the director of the department of transportation.

21. "Drive" means to operate or be in actual physical control of a motor vehicle.

22. "Driver" means a person who drives or is in actual physical control of a vehicle.

23. "Driver license" means a license that is issued by a state to an individual and that authorizes the individual to drive a motor vehicle.

24. "ELECTRIC BICYCLE" MEANS A BICYCLE OR TRICYCLE THAT IS EQUIPPED WITH FULLY OPERABLE PEDALS AND AN ELECTRIC MOTOR OF LESS THAN SEVEN HUNDRED FIFTY WATTS AND THAT MEETS THE REQUIREMENTS OF ONE OF THE FOLLOWING CLASSES:

(a) "CLASS 1 ELECTRIC BICYCLE" MEANS A BICYCLE OR TRICYCLE THAT IS EQUIPPED WITH AN ELECTRIC MOTOR THAT PROVIDES ASSISTANCE ONLY WHEN THE RIDER IS PEDALING AND THAT CEASES TO PROVIDE ASSISTANCE WHEN THE BICYCLE OR TRICYCLE REACHES THE SPEED OF TWENTY MILES PER HOUR.

(b) "CLASS 2 ELECTRIC BICYCLE" MEANS A BICYCLE OR TRICYCLE THAT IS EQUIPPED WITH AN ELECTRIC MOTOR THAT MAY BE USED EXCLUSIVELY TO PROPEL THE BICYCLE OR TRICYCLE AND THAT IS NOT CAPABLE OF PROVIDING ASSISTANCE WHEN THE BICYCLE OR TRICYCLE REACHES THE SPEED OF TWENTY MILES PER HOUR.

(c) "CLASS 3 ELECTRIC BICYCLE" MEANS A BICYCLE OR TRICYCLE THAT IS EQUIPPED WITH AN ELECTRIC MOTOR THAT PROVIDES ASSISTANCE ONLY WHEN THE RIDER IS PEDALING AND THAT CEASES TO PROVIDE ASSISTANCE WHEN THE BICYCLE OR TRICYCLE REACHES THE SPEED OF TWENTY-EIGHT MILES PER HOUR.

Ch. 120

25. "ELECTRIC MINIATURE SCOOTER" MEANS A DEVICE THAT:

(a) WEIGHS LESS THAN THIRTY POUNDS.

(b) HAS TWO OR THREE WHEELS.

(c) HAS HANDLEBARS.

(d) HAS A FLOORBOARD ON WHICH A PERSON MAY STAND WHILE RIDING.

(e) IS POWERED BY AN ELECTRIC MOTOR OR HUMAN POWER, OR BOTH.

(f) HAS A MAXIMUM SPEED THAT DOES NOT EXCEED TEN MILES PER HOUR, WITH OR WITHOUT HUMAN PROPULSION, ON A PAVED LEVEL SURFACE.

~~24.~~ 26. "Electric personal assistive mobility device" means a self-balancing device with one wheel or two nontandem wheels and an electric propulsion system that limits the maximum speed of the device to fifteen miles per hour or less and that is designed to transport only one person.

27. "ELECTRIC STANDUP SCOOTER":

(a) MEANS A DEVICE THAT:

(i) WEIGHS LESS THAN SEVENTY-FIVE POUNDS.

(ii) HAS TWO OR THREE WHEELS.

(iii) HAS HANDLEBARS.

(iv) HAS A FLOORBOARD ON WHICH A PERSON MAY STAND WHILE RIDING.

(v) IS POWERED BY AN ELECTRIC MOTOR OR HUMAN POWER, OR BOTH.

(vi) HAS A MAXIMUM SPEED THAT DOES NOT EXCEED TWENTY MILES PER HOUR, WITH OR WITHOUT HUMAN PROPULSION, ON A PAVED LEVEL SURFACE.

(b) DOES NOT INCLUDE AN ELECTRIC MINIATURE SCOOTER.

~~25.~~ 28. "Farm" means any lands primarily used for agriculture production.

~~26.~~ 29. "Farm tractor" means a motor vehicle designed and used primarily as a farm implement for drawing implements of husbandry.

~~27.~~ 30. "Foreign vehicle" means a motor vehicle, trailer or semitrailer that is brought into this state other than in the ordinary course of business by or through a manufacturer or dealer and that has not been registered in this state.

~~28.~~ 31. "Golf cart" means a motor vehicle that has not less than three wheels in contact with the ground, that has an unladen weight of less than one thousand eight hundred pounds, that is designed to be and is operated at not more than twenty-five miles per hour and that is designed to carry not more than four persons including the driver.

~~29.~~ 32. "Hazardous material" means a material, and its mixtures or solutions, that the United States department of transportation determines under 49 Code of Federal Regulations is, or any quantity of a material listed as a select agent or toxin under 42 Code of Federal Regulations part 73 that is, capable of posing an unreasonable risk to health, safety and property if transported in commerce and that is required to be placarded or marked as required by the department's safety rules prescribed pursuant to chapter 14 of this title.

~~30.~~ 33. "Implement of husbandry" means a vehicle that is designed primarily for agricultural purposes and that is used exclusively in the conduct of agricultural operations, including an implement or vehicle whether self-propelled or otherwise that meets both of the following conditions:

(a) Is used solely for agricultural purposes including the preparation or harvesting of cotton, alfalfa, grains and other farm crops.

(b) Is only incidentally operated or moved on a highway whether as a trailer or self-propelled unit. For the purposes of this subdivision, "incidentally operated or moved on a highway" means travel between a farm and another part of the same farm, from one farm to another farm or between a farm and a place of repair, supply or storage.

~~31.~~ 34. "Limousine" means a motor vehicle providing prearranged ground transportation service for an individual passenger, or a group of passengers, that is arranged in advance or is operated on a regular route or between specified points and includes ground transportation under a contract or agreement for services that includes a fixed rate or time and is provided in a motor vehicle with a seating capacity not exceeding fifteen passengers including the driver.

~~32.~~ 35. "Livery vehicle" means a motor vehicle that:

(a) Has a seating capacity not exceeding fifteen passengers including the driver.

(b) Provides passenger services for a fare determined by a flat rate or flat hourly rate between geographic zones or within a geographic area.

(c) Is available for hire on an exclusive or shared ride basis.

(d) May do any of the following:

(i) Operate on a regular route or between specified places.

(ii) Offer prearranged ground transportation service as defined in section 28-141.

(iii) Offer on demand ground transportation service pursuant to a contract with a public airport, licensed business entity or organization.

~~33.~~ 36. "Local authority" means any county, municipal or other local board or body exercising jurisdiction over highways under the constitution and laws of this state.

~~34.~~ 37. "Manufacturer" means a person engaged in the business of manufacturing motor vehicles, trailers or semitrailers.

Ch. 120 ~~35.~~ 38. "Moped" means a bicycle, NOT INCLUDING AN ELECTRIC BICYCLE, AN ELECTRIC MINIATURE SCOOTER OR AN ELECTRIC STANDUP SCOOTER, that is equipped with a helper motor if the vehicle has a maximum piston displacement of fifty cubic centimeters or less, a brake horsepower of one and one-half or less and a maximum speed of twenty-five miles per hour or less on a flat surface with less than a one percent grade.

~~36.~~ 39. "Motorcycle" means a motor vehicle that has a seat or saddle for the use of the rider and that is designed to travel on not more than three wheels in contact with the ground but excludes a tractor, AN ELECTRIC BICYCLE, AN ELECTRIC MINIATURE SCOOTER, AN ELECTRIC STANDUP SCOOTER and a moped.

Ch. 120 ~~37.~~ 40. "Motor driven cycle" means a motorcycle, including every motor scooter, with a motor that produces not more than five horsepower BUT DOES NOT INCLUDE AN ELECTRIC BICYCLE, AN ELECTRIC MINIATURE SCOOTER OR AN ELECTRIC STANDUP SCOOTER.

~~38.~~ 41. "Motorized quadricycle" means a self-propelled motor vehicle to which all of the following apply:

(a) The vehicle is self-propelled by an emission-free electric motor and may include pedals operated by the passengers.

(b) The vehicle has at least four wheels in contact with the ground.

(c) The vehicle seats at least eight passengers, including the driver.

(d) The vehicle is operable on a flat surface using solely the electric motor without assistance from the pedals or passengers.

(e) The vehicle is a commercial motor vehicle as defined in section 28-5201.

(f) The vehicle is a limousine operating under a vehicle for hire company permit issued pursuant to section 28-9503.

(g) The vehicle is manufactured by a motor vehicle manufacturer that is licensed pursuant to chapter 10 of this title.

(h) The vehicle complies with the definition and standards for low-speed vehicles set forth in federal motor vehicle safety standard 500 and 49 Code of Federal Regulations sections 571.3(b) and 571.500, respectively.

~~39.~~ 42. "Motor vehicle":

(a) Means either:

(i) A self-propelled vehicle.

(ii) For the purposes of the laws relating to the imposition of a tax on motor vehicle fuel, a vehicle that is operated on the highways of this state and that is propelled by the use of motor vehicle fuel.

Ch. 89 (b) Does not include A PERSONAL MOBILE CARGO CARRYING DEVICE, a motorized wheelchair, an electric personal assistive mobility device, AN ELECTRIC BICYCLE, AN ELECTRIC MINIATURE SCOOTER, AN ELECTRIC STANDUP SCOOTER or a motorized skateboard. For the purposes of this subdivision:

Ch. 120

(i) "Motorized skateboard" means a self-propelled device THAT DOES NOT HAVE HANDLEBARS AND that has a motor, a deck on which a person may ride and at least two tandem wheels in contact with the ground.

(ii) "Motorized wheelchair" means a self-propelled wheelchair that is used by a person for mobility.

~~40.~~ 43. "Motor vehicle fuel" includes all products that are commonly or commercially known or sold as gasoline, including casinghead gasoline, natural gasoline and all flammable liquids, and that are composed of a mixture of selected hydrocarbons expressly manufactured and blended for the purpose of effectively and efficiently operating internal combustion engines. Motor vehicle fuel does not include inflammable liquids that are specifically manufactured for racing motor vehicles and that are distributed for and used by racing motor vehicles at a racetrack, use fuel as defined in section 28-5601, aviation fuel, fuel for jet or turbine powered aircraft or the mixture created at the interface of two different substances being transported through a pipeline, commonly known as transmix.

~~41.~~ 44. "Neighborhood electric vehicle" means a self-propelled electrically powered motor vehicle to which all of the following apply:

(a) The vehicle is emission free.

(b) The vehicle has at least four wheels in contact with the ground.

(c) The vehicle complies with the definition and standards for low-speed vehicles set forth in federal motor vehicle safety standard 500 and 49 Code of Federal Regulations sections 571.3(b) and 571.500, respectively.

~~42.~~ 45. "Nonresident" means a person who is not a resident of this state as defined in section 28-2001.

~~43.~~ 46. "Off-road recreational motor vehicle" means a motor vehicle that is designed primarily for recreational nonhighway all-terrain travel and that is not operated on a public highway. Off-road recreational motor vehicle does not mean a motor vehicle used for construction, building trade, mining or agricultural purposes.

~~44.~~ 47. "Operator" means a person who drives a motor vehicle on a highway, who is in actual physical control of a motor vehicle on a highway or who is exercising control over or steering a vehicle being towed by a motor vehicle.

~~45.~~ 48. "Owner" means:

(a) A person who holds the legal title of a vehicle.

(b) If a vehicle is the subject of an agreement for the conditional sale or lease with the right of purchase on performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, the conditional vendee or lessee.

(c) If a mortgagor of a vehicle is entitled to possession of the vehicle, the mortgagor.

~~46.~~ 49. "Pedestrian" means any person afoot. A person who uses an electric personal assistive mobility device or a manual or motorized wheelchair is considered a pedestrian unless the manual wheelchair qualifies

as a bicycle. For the purposes of this paragraph, "motorized wheelchair" means a self-propelled wheelchair that is used by a person for mobility.

50. "PERSONAL MOBILE CARGO CARRYING DEVICE" MEANS AN ELECTRONICALLY POWERED DEVICE THAT:

(a) IS OPERATED PRIMARILY ON SIDEWALKS AND WITHIN CROSSWALKS AND THAT IS DESIGNED TO TRANSPORT PROPERTY.

(b) WEIGHS LESS THAN EIGHTY POUNDS, EXCLUDING CARGO.

Ch. 89 (c) OPERATES AT A MAXIMUM SPEED OF TWELVE MILES PER HOUR.

(d) IS EQUIPPED WITH TECHNOLOGY TO TRANSPORT PERSONAL PROPERTY WITH THE ACTIVE MONITORING OF A PROPERTY OWNER AND THAT IS PRIMARILY DESIGNED TO REMAIN WITHIN TWENTY-FIVE FEET OF THE PROPERTY OWNER.

(e) IS EQUIPPED WITH A BRAKING SYSTEM THAT WHEN ACTIVE OR ENGAGED ENABLES THE PERSONAL MOBILE CARGO CARRYING DEVICE TO COME TO A CONTROLLED STOP.

~~47.~~ 51. "Power sweeper" means an implement, with or without motive power, that is only incidentally operated or moved on a street or highway and that is designed for the removal of debris, dirt, gravel, litter or sand whether by broom, vacuum or regenerative air system from asphaltic concrete or cement concrete surfaces, including parking lots, highways, streets and warehouses, and a vehicle on which the implement is permanently mounted.

~~48.~~ 52. "Public transit" means the transportation of passengers on scheduled routes by means of a conveyance on an individual passenger fare-paying basis excluding transportation by a sightseeing bus, school bus or taxi or a vehicle not operated on a scheduled route basis.

~~49.~~ 53. "Reconstructed vehicle" means a vehicle that has been assembled or constructed largely by means of essential parts, new or used, derived from vehicles or makes of vehicles of various names, models and types or that, if originally otherwise constructed, has been materially altered by the removal of essential parts or by the addition or substitution of essential parts, new or used, derived from other vehicles or makes of vehicles. For the purposes of this paragraph, "essential parts" means integral and body parts, the removal, alteration or substitution of which will tend to conceal the identity or substantially alter the appearance of the vehicle.

~~50.~~ 54. "Residence district" means the territory contiguous to and including a highway not comprising a business district if the property on the highway for a distance of three hundred feet or more is in the main improved with residences or residences and buildings in use for business.

~~51.~~ 55. "Right-of-way" when used within the context of the regulation of the movement of traffic on a highway means the privilege of the immediate use of the highway. Right-of-way when used within the context of the real property on which transportation facilities and appurtenances to the facilities are constructed or maintained means the lands or interest in lands within the right-of-way boundaries.

~~52.~~ 56. "School bus" means a motor vehicle that is designed for carrying more than ten passengers and that is either:

(a) Owned by any public or governmental agency or other institution and operated for the transportation of children to or from home or school on a regularly scheduled basis.

(b) Privately owned and operated for compensation for the transportation of children to or from home or school on a regularly scheduled basis.

~~53.~~ 57. "Semitrailer" means a vehicle that is with or without motive power, other than a pole trailer, that is designed for carrying persons or property and for being drawn by a motor vehicle and that is constructed so that some part of its weight and that of its load rests on or is carried by another vehicle. For the purposes of this paragraph, "pole trailer" has the same meaning prescribed in section 28-601.

~~54.~~ 58. "State" means a state of the United States and the District of Columbia.

~~55.~~ 59. "State highway" means a state route or portion of a state route that is accepted and designated by the board as a state highway and that is maintained by the state.

~~56.~~ 60. "State route" means a right-of-way whether actually used as a highway or not that is designated by the board as a location for the construction of a state highway.

~~57.~~ 61. "Street" or "highway" means the entire width between the boundary lines of every way if a part of the way is open to the use of the public for purposes of vehicular travel.

~~58.~~ 62. "Taxi" means a motor vehicle that has a seating capacity not exceeding fifteen passengers, including the driver, that provides passenger services and that:

(a) Does not primarily operate on a regular route or between specified places.

(b) Offers local transportation for a fare determined on the basis of the distance traveled or prearranged ground transportation service as defined in section 28-141 for a predetermined fare.

~~59.~~ 63. "Title transfer form" means a paper or an electronic form that is prescribed by the department for the purpose of transferring a certificate of title from one owner to another owner.

~~60.~~ 64. "Traffic survival school" means a school that offers educational sessions to drivers who are required to attend and successfully complete educational sessions pursuant to this title that are designed to improve the safety and habits of drivers and that are approved by the department.

~~61.~~ 65. "Trailer" means a vehicle that is with or without motive power, other than a pole trailer, that is designed for carrying persons or property and for being drawn by a motor vehicle and that is constructed so that no part of its weight rests on the towing vehicle. A semitrailer equipped with an auxiliary front axle commonly known as a dolly is deemed to be a trailer. For the purposes of this paragraph, "pole trailer" has the same meaning prescribed in section 28-601.

~~62.~~ 66. "Transportation network company" has the same meaning prescribed in section 28-9551.

~~63.~~ 67. "Transportation network company vehicle" has the same meaning prescribed in section 28-9551.

~~64.~~ 68. "Transportation network service" has the same meaning prescribed in section 28-9551.

~~65.~~ 69. "Truck" means a motor vehicle designed or used primarily for the carrying of property other than the effects of the driver or passengers and includes a motor vehicle to which has been added a box, a platform or other equipment for such carrying.

~~66.~~ 70. "Truck tractor" means a motor vehicle that is designed and used primarily for drawing other vehicles and that is not constructed to carry a load other than a part of the weight of the vehicle and load drawn.

~~67.~~ 71. "Vehicle":

(a) Means a device in, on or by which a person or property is or may be transported or drawn on a public highway.

(b) Does not include:

Ch. 120 (i) ELECTRIC BICYCLES, ELECTRIC MINIATURE SCOOTERS, ELECTRIC STANDUP SCOOTERS AND devices moved by human power.

(ii) Devices used exclusively on stationary rails or tracks.

Ch. 89 (iii) PERSONAL MOBILE CARGO CARRYING DEVICES.

~~68.~~ 72. "Vehicle transporter" means either:

(a) A truck tractor capable of carrying a load and drawing a semitrailer.

(b) A truck tractor with a stinger-steered fifth wheel capable of carrying a load and drawing a semitrailer or a truck tractor with a dolly mounted fifth wheel that is securely fastened to the truck tractor at two or more points and that is capable of carrying a load and drawing a semitrailer.

EXPLANATION OF BLEND
SECTION 28-101 (as amended by Laws 2018, Ch. 9, section 1, Ch. 163, section 1, Ch. 166, section 1, Ch. 298, section 3, Ch. 306, section 1 and Ch. 324, section 1)

Laws 2019, Chapters 89 and 120

Laws 2019, Ch. 89, section 3	Conditionally Effective
Laws 2019, Ch. 120, section 3	Conditionally Effective

Explanation

Since these two enactments are compatible, the Laws 2019, Ch. 89 and Ch. 120 text changes to section 28-101, as amended by Laws 2018, Ch. 9, section 1, Ch. 163, section 1, Ch. 166, section 1, Ch. 298, section 3, Ch. 306, section 1 and Ch. 324, section 1, are blended in the form shown on the following pages.

BLEND OF SECTION 28-101 (as amended by Laws 2018, Ch. 9, section 1, Ch. 163, section 1, Ch. 166, section 1, Ch. 298, section 3, Ch. 306, section 1 and Ch. 324, section 1) Laws 2019, Chapters 89 and 120

28-101. Definitions

In this title, unless the context otherwise requires:

1. "Alcohol" means any substance containing any form of alcohol, including ethanol, methanol, propynol and isopropynol.

2. "Alcohol concentration" if expressed as a percentage means either:

(a) The number of grams of alcohol per one hundred milliliters of blood.

(b) The number of grams of alcohol per two hundred ten liters of breath.

3. "All-terrain vehicle" means either of the following:

(a) A motor vehicle that satisfies all of the following:

(i) Is designed primarily for recreational nonhighway all-terrain travel.

(ii) Is fifty or fewer inches in width.

(iii) Has an unladen weight of one thousand two hundred pounds or less.

(iv) Travels on three or more nonhighway tires.

(v) Is operated on a public highway.

(b) A recreational off-highway vehicle that satisfies all of the following:

(i) Is designed primarily for recreational nonhighway all-terrain travel.

(ii) Is eighty or fewer inches in width.

(iii) Has an unladen weight of two thousand five hundred pounds or less.

(iv) Travels on four or more nonhighway tires.

(v) Has a steering wheel for steering control.

(vi) Has a rollover protective structure.

(vii) Has an occupant retention system.

4. "Authorized emergency vehicle" means any of the following:

(a) A fire department vehicle.

(b) A police vehicle.

(c) An ambulance or emergency vehicle of a municipal department or public service corporation that is designated or authorized by the department or a local authority.

(d) Any other ambulance, fire truck or rescue vehicle that is authorized by the department in its sole discretion and that meets liability insurance requirements prescribed by the department.

5. "Autocycle" means a three-wheeled motorcycle on which the driver and passengers ride in a fully or partially enclosed seating area that is equipped with a roll cage, safety belts for each occupant and antilock brakes and that is designed to be controlled with a steering wheel and pedals.

6. "Automotive recycler" means a person that is engaged in the business of buying or acquiring a motor vehicle solely for the purpose of

dismantling, selling or otherwise disposing of the parts or accessories and that removes parts for resale from six or more vehicles in a calendar year.

7. "Aviation fuel" means all flammable liquids composed of a mixture of selected hydrocarbons expressly manufactured and blended for the purpose of effectively and efficiently operating an internal combustion engine for use in an aircraft but does not include fuel for jet or turbine powered aircraft.

8. "Bicycle" means a device, including a racing wheelchair, that is propelled by human power and on which a person may ride and that has either:

(a) Two tandem wheels, either of which is more than sixteen inches in diameter.

(b) Three wheels in contact with the ground, any of which is more than sixteen inches in diameter.

9. "Board" means the transportation board.

10. "Bus" means a motor vehicle designed for carrying sixteen or more passengers, including the driver.

11. "Business district" means the territory contiguous to and including a highway if there are buildings in use for business or industrial purposes within any six hundred feet along the highway, including hotels, banks or office buildings, railroad stations and public buildings that occupy at least three hundred feet of frontage on one side or three hundred feet collectively on both sides of the highway.

12. "Certificate of ownership" means a paper or an electronic record that is issued in another state or a foreign jurisdiction and that indicates ownership of a vehicle.

13. "Certificate of title" means a paper document or an electronic record that is issued by the department and that indicates ownership of a vehicle.

14. "Combination of vehicles" means a truck or truck tractor and semitrailer and any trailer that it tows but does not include a forklift designed for the purpose of loading or unloading the truck, trailer or semitrailer.

15. "Controlled substance" means a substance so classified under section 102(6) of the controlled substances act (21 United States Code section 802(6)) and includes all substances listed in schedules I through V of 21 Code of Federal Regulations part 1308.

16. "Conviction" means:

(a) An unvacated adjudication of guilt or a determination that a person violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal.

(b) An unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court.

(c) A plea of guilty or no contest accepted by the court.

(d) The payment of a fine or court costs.

17. "County highway" means a public road that is constructed and maintained by a county.

18. "Dealer" means a person who is engaged in the business of buying, selling or exchanging motor vehicles, trailers or semitrailers and who has an established place of business and has paid fees pursuant to section 28-4302.

19. "Department" means the department of transportation acting directly or through its duly authorized officers and agents.

20. "Digital network or software application" has the same meaning prescribed in section 28-9551.

21. "Director" means the director of the department of transportation.

22. "Drive" means to operate or be in actual physical control of a motor vehicle.

23. "Driver" means a person who drives or is in actual physical control of a vehicle.

24. "Driver license" means a license that is issued by a state to an individual and that authorizes the individual to drive a motor vehicle.

25. "Electric bicycle" means a bicycle or tricycle that is equipped with fully operable pedals and an electric motor of less than seven hundred fifty watts and that meets the requirements of one of the following classes:

(a) "Class 1 electric bicycle" means a bicycle or tricycle that is equipped with an electric motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the bicycle or tricycle reaches the speed of twenty miles per hour.

(b) "Class 2 electric bicycle" means a bicycle or tricycle that is equipped with an electric motor that may be used exclusively to propel the bicycle or tricycle and that is not capable of providing assistance when the bicycle or tricycle reaches the speed of twenty miles per hour.

(c) "Class 3 electric bicycle" means a bicycle or tricycle that is equipped with an electric motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the bicycle or tricycle reaches the speed of twenty-eight miles per hour.

26. "ELECTRIC MINIATURE SCOOTER" MEANS A DEVICE THAT:

(a) WEIGHS LESS THAN THIRTY POUNDS.

(b) HAS TWO OR THREE WHEELS.

(c) HAS HANDLEBARS.

(d) HAS A FLOORBOARD ON WHICH A PERSON MAY STAND WHILE RIDING.

(e) IS POWERED BY AN ELECTRIC MOTOR OR HUMAN POWER, OR BOTH.

(f) HAS A MAXIMUM SPEED THAT DOES NOT EXCEED TEN MILES PER HOUR, WITH OR WITHOUT HUMAN PROPULSION, ON A PAVED LEVEL SURFACE.

Ch. 120

~~26.~~ 27. "Electric personal assistive mobility device" means a self-balancing device with one wheel or two nontandem wheels and an electric propulsion system that limits the maximum speed of the device to fifteen miles per hour or less and that is designed to transport only one person.

28. "ELECTRIC STANDUP SCOOTER":

(a) MEANS A DEVICE THAT:

(i) WEIGHS LESS THAN SEVENTY-FIVE POUNDS.

(ii) HAS TWO OR THREE WHEELS.

(iii) HAS HANDLEBARS.

(iv) HAS A FLOORBOARD ON WHICH A PERSON MAY STAND WHILE RIDING.

(v) IS POWERED BY AN ELECTRIC MOTOR OR HUMAN POWER, OR BOTH.

(vi) HAS A MAXIMUM SPEED THAT DOES NOT EXCEED TWENTY MILES PER HOUR, WITH OR WITHOUT HUMAN PROPULSION, ON A PAVED LEVEL SURFACE.

(b) DOES NOT INCLUDE AN ELECTRIC MINIATURE SCOOTER.

~~27.~~ 29. "Evidence" includes both of the following:

(a) A display on a wireless communication device of a department-generated driver license, nonoperating identification license, vehicle registration card or other official record of the department that is presented to a law enforcement officer or in a court or an administrative proceeding.

(b) An electronic or digital license plate authorized pursuant to section 28-364.

~~28.~~ 30. "Farm" means any lands primarily used for agriculture production.

~~29.~~ 31. "Farm tractor" means a motor vehicle designed and used primarily as a farm implement for drawing implements of husbandry.

~~30.~~ 32. "Foreign vehicle" means a motor vehicle, trailer or semitrailer that is brought into this state other than in the ordinary course of business by or through a manufacturer or dealer and that has not been registered in this state.

~~31.~~ 33. "Golf cart" means a motor vehicle that has not less than three wheels in contact with the ground, that has an unladen weight of less than one thousand eight hundred pounds, that is designed to be and is operated at not more than twenty-five miles per hour and that is designed to carry not more than four persons including the driver.

~~32.~~ 34. "Hazardous material" means a material, and its mixtures or solutions, that the United States department of transportation determines under 49 Code of Federal Regulations is, or any quantity of a material listed as a select agent or toxin under 42 Code of Federal Regulations part 73 that is, capable of posing an unreasonable risk to health, safety and property if transported in commerce and that is required to be placarded or marked as required by the department's safety rules prescribed pursuant to chapter 14 of this title.

~~33.~~ 35. "Implement of husbandry" means a vehicle that is designed primarily for agricultural purposes and that is used exclusively in the conduct of agricultural operations, including an implement or vehicle whether self-propelled or otherwise that meets both of the following conditions:

(a) Is used solely for agricultural purposes including the preparation or harvesting of cotton, alfalfa, grains and other farm crops.

(b) Is only incidentally operated or moved on a highway whether as a trailer or self-propelled unit. For the purposes of this subdivision, "incidentally operated or moved on a highway" means travel between a farm and another part of the same farm, from one farm to another farm or between a farm and a place of repair, supply or storage.

~~34.~~ 36. "Limousine" means a motor vehicle providing prearranged ground transportation service for an individual passenger, or a group of passengers, that is arranged in advance or is operated on a regular route or between specified points and includes ground transportation under a contract or agreement for services that includes a fixed rate or time and is provided in a motor vehicle with a seating capacity not exceeding fifteen passengers including the driver.

~~35.~~ 37. "Livery vehicle" means a motor vehicle that:

(a) Has a seating capacity not exceeding fifteen passengers including the driver.

(b) Provides passenger services for a fare determined by a flat rate or flat hourly rate between geographic zones or within a geographic area.

(c) Is available for hire on an exclusive or shared ride basis.

(d) May do any of the following:

(i) Operate on a regular route or between specified places.

(ii) Offer prearranged ground transportation service as defined in section 28-141.

(iii) Offer on demand ground transportation service pursuant to a contract with a public airport, licensed business entity or organization.

~~36.~~ 38. "Local authority" means any county, municipal or other local board or body exercising jurisdiction over highways under the constitution and laws of this state.

~~37.~~ 39. "Manufacturer" means a person engaged in the business of manufacturing motor vehicles, trailers or semitrailers.

~~38.~~ 40. "Moped" means a bicycle, not including an electric bicycle[,] AN ELECTRIC MINIATURE SCOOTER OR AN ELECTRIC STANDUP SCOOTER, that is equipped with a helper motor if the vehicle has a maximum piston displacement of fifty cubic centimeters or less, a brake horsepower of one and one-half or less and a maximum speed of twenty-five miles per hour or less on a flat surface with less than a one percent grade.

Ch. 120

~~39.~~ 41. "Motorcycle" means a motor vehicle that has a seat or saddle for the use of the rider and that is designed to travel on not more than three wheels in contact with the ground but excludes a tractor, an electric bicycle, AN ELECTRIC MINIATURE SCOOTER, AN ELECTRIC STANDUP SCOOTER and a moped.

Ch. 120

~~40.~~ 42. "Motor driven cycle" means a motorcycle, including every motor scooter, with a motor that produces not more than five horsepower but does not include an electric bicycle, AN ELECTRIC MINIATURE SCOOTER OR AN ELECTRIC STANDUP SCOOTER.

~~41.~~ 43. "Motorized quadricycle" means a self-propelled motor vehicle to which all of the following apply:

(a) The vehicle is self-propelled by an emission-free electric motor and may include pedals operated by the passengers.

(b) The vehicle has at least four wheels in contact with the ground.

(c) The vehicle seats at least eight passengers, including the driver.

(d) The vehicle is operable on a flat surface using solely the electric motor without assistance from the pedals or passengers.

(e) The vehicle is a commercial motor vehicle as defined in section 28-5201.

(f) The vehicle is a limousine operating under a vehicle for hire company permit issued pursuant to section 28-9503.

(g) The vehicle is manufactured by a motor vehicle manufacturer that is licensed pursuant to chapter 10 of this title.

(h) The vehicle complies with the definition and standards for low-speed vehicles set forth in federal motor vehicle safety standard 500 and 49 Code of Federal Regulations sections 571.3(b) and 571.500, respectively.

~~42.~~ 44. "Motor vehicle":

(a) Means either:

(i) A self-propelled vehicle.

(ii) For the purposes of the laws relating to the imposition of a tax on motor vehicle fuel, a vehicle that is operated on the highways of this state and that is propelled by the use of motor vehicle fuel.

(b) Does not include a scrap vehicle, a personal delivery device, A PERSONAL MOBILE CARGO CARRYING DEVICE, a motorized wheelchair, an electric personal assistive mobility device, an electric bicycle, AN ELECTRIC MINIATURE SCOOTER, AN ELECTRIC STANDUP SCOOTER or a motorized skateboard. For the purposes of this subdivision:

Ch. 89

Ch. 120

(i) "Motorized skateboard" means a self-propelled device THAT DOES NOT HAVE HANDLEBARS AND that has a motor, a deck on which a person may ride and at least two tandem wheels in contact with the ground.

(ii) "Motorized wheelchair" means a self-propelled wheelchair that is used by a person for mobility.

~~43.~~ 45. "Motor vehicle fuel" includes all products that are commonly or commercially known or sold as gasoline, including casinghead gasoline, natural gasoline and all flammable liquids, and that are composed of a mixture of selected hydrocarbons expressly manufactured and blended for the purpose of effectively and efficiently operating internal combustion engines. Motor vehicle fuel does not include inflammable liquids that are specifically manufactured for racing motor vehicles and that are distributed for and used by racing motor vehicles at a racetrack, use fuel as defined in section 28-5601, aviation fuel, fuel for jet or turbine powered aircraft or the mixture created at the interface of two different substances being transported through a pipeline, commonly known as transmix.

~~44.~~ 46. "Neighborhood electric vehicle" means a self-propelled electrically powered motor vehicle to which all of the following apply:

(a) The vehicle is emission free.

(b) The vehicle has at least four wheels in contact with the ground.

(c) The vehicle complies with the definition and standards for low-speed vehicles set forth in federal motor vehicle safety standard 500 and 49 Code of Federal Regulations sections 571.3(b) and 571.500, respectively.

~~45.~~ 47. "Nonresident" means a person who is not a resident of this state as defined in section 28-2001.

~~46.~~ 48. "Off-road recreational motor vehicle" means a motor vehicle that is designed primarily for recreational nonhighway all-terrain travel and that is not operated on a public highway. Off-road recreational motor vehicle does not mean a motor vehicle used for construction, building trade, mining or agricultural purposes.

~~47.~~ 49. "Operator" means a person who drives a motor vehicle on a highway, who is in actual physical control of a motor vehicle on a highway or who is exercising control over or steering a vehicle being towed by a motor vehicle.

~~48.~~ 50. "Owner" means:

(a) A person who holds the legal title of a vehicle.

(b) If a vehicle is the subject of an agreement for the conditional sale or lease with the right of purchase on performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, the conditional vendee or lessee.

(c) If a mortgagor of a vehicle is entitled to possession of the vehicle, the mortgagor.

~~49.~~ 51. "Pedestrian" means any person afoot. A person who uses an electric personal assistive mobility device or a manual or motorized wheelchair is considered a pedestrian unless the manual wheelchair qualifies as a bicycle. For the purposes of this paragraph, "motorized wheelchair" means a self-propelled wheelchair that is used by a person for mobility.

Ch. 89

~~50.~~ 52. "Personal delivery device"[:]

[(a)] Means an electronically powered device that:

~~(a)~~ (i) Is operated primarily on sidewalks and within crosswalks and that is designed to transport property.

~~(b)~~ (ii) Weighs less than two hundred pounds, excluding cargo, unless otherwise authorized by a local authority pursuant to section 28-627.

~~(c)~~ (iii) Operates at a maximum speed of seven miles per hour, unless otherwise authorized by a local authority pursuant to section 28-627.

~~(d)~~ (iv) Is equipped with technology to allow for the operation of the device with or without the active control or monitoring of a natural person.

~~(e)~~ (v) Is equipped with a braking system that when active or engaged enables the personal delivery device to come to a controlled stop.

(b) DOES NOT INCLUDE A PERSONAL MOBILE CARGO CARRYING DEVICE.

53. "PERSONAL MOBILE CARGO CARRYING DEVICE" MEANS AN ELECTRONICALLY POWERED DEVICE THAT:

(a) IS OPERATED PRIMARILY ON SIDEWALKS AND WITHIN CROSSWALKS AND THAT IS DESIGNED TO TRANSPORT PROPERTY.

(b) WEIGHS LESS THAN EIGHTY POUNDS, EXCLUDING CARGO.

Ch. 89

(c) OPERATES AT A MAXIMUM SPEED OF TWELVE MILES PER HOUR.

(d) IS EQUIPPED WITH TECHNOLOGY TO TRANSPORT PERSONAL PROPERTY WITH THE ACTIVE MONITORING OF A PROPERTY OWNER AND THAT IS PRIMARILY DESIGNED TO REMAIN WITHIN TWENTY-FIVE FEET OF THE PROPERTY OWNER.

(e) IS EQUIPPED WITH A BRAKING SYSTEM THAT WHEN ACTIVE OR ENGAGED ENABLES THE PERSONAL MOBILE CARGO CARRYING DEVICE TO COME TO A CONTROLLED STOP.

~~51.~~ 54. "Power sweeper" means an implement, with or without motive power, that is only incidentally operated or moved on a street or highway and that is designed for the removal of debris, dirt, gravel, litter or sand whether by broom, vacuum or regenerative air system from asphaltic concrete or cement concrete surfaces, including parking lots, highways, streets and warehouses, and a vehicle on which the implement is permanently mounted.

~~52.~~ 55. "Public transit" means the transportation of passengers on scheduled routes by means of a conveyance on an individual passenger fare-paying basis excluding transportation by a sightseeing bus, school bus or taxi or a vehicle not operated on a scheduled route basis.

~~53.~~ 56. "Reconstructed vehicle" means a vehicle that has been assembled or constructed largely by means of essential parts, new or used, derived from vehicles or makes of vehicles of various names, models and types or that, if originally otherwise constructed, has been materially altered by the removal of essential parts or by the addition or substitution of essential parts, new or used, derived from other vehicles or makes of vehicles. For the purposes of this paragraph, "essential parts" means integral and body parts, the removal, alteration or substitution of which will tend to conceal the identity or substantially alter the appearance of the vehicle.

~~54.~~ 57. "Residence district" means the territory contiguous to and including a highway not comprising a business district if the property on the highway for a distance of three hundred feet or more is in the main improved with residences or residences and buildings in use for business.

~~55.~~ 58. "Right-of-way" when used within the context of the regulation of the movement of traffic on a highway means the privilege of the immediate use of the highway. Right-of-way when used within the context of the real property on which transportation facilities and appurtenances to the facilities are constructed or maintained means the lands or interest in lands within the right-of-way boundaries.

~~56.~~ 59. "School bus" means a motor vehicle that is designed for carrying more than ten passengers and that is either:

(a) Owned by any public or governmental agency or other institution and operated for the transportation of children to or from home or school on a regularly scheduled basis.

(b) Privately owned and operated for compensation for the transportation of children to or from home or school on a regularly scheduled basis.

~~57.~~ 60. "Scrap metal dealer" has the same meaning prescribed in section 44-1641.

~~58.~~ 61. "Scrap vehicle" has the same meaning prescribed in section 44-1641.

~~59.~~ 62. "Semitrailer" means a vehicle that is with or without motive power, other than a pole trailer or single-axle tow dolly, that is designed for carrying persons or property and for being drawn by a motor vehicle and that is constructed so that some part of its weight and that of its load rests on or is carried by another vehicle. For the purposes of this paragraph, "pole trailer" has the same meaning prescribed in section 28-601.

~~60.~~ 63. "Single-axle tow dolly" means a nonvehicle device that is drawn by a motor vehicle, that is designed and used exclusively to transport another motor vehicle and on which the front or rear wheels of the drawn motor vehicle are mounted on the tow dolly while the other wheels of the drawn motor vehicle remain in contact with the ground.

~~61.~~ 64. "State" means a state of the United States and the District of Columbia.

~~62.~~ 65. "State highway" means a state route or portion of a state route that is accepted and designated by the board as a state highway and that is maintained by the state.

~~63.~~ 66. "State route" means a right-of-way whether actually used as a highway or not that is designated by the board as a location for the construction of a state highway.

~~64.~~ 67. "Street" or "highway" means the entire width between the boundary lines of every way if a part of the way is open to the use of the public for purposes of vehicular travel.

~~65.~~ 68. "Taxi" means a motor vehicle that has a seating capacity not exceeding fifteen passengers, including the driver, that provides passenger services and that:

(a) Does not primarily operate on a regular route or between specified places.

(b) Offers local transportation for a fare determined on the basis of the distance traveled or prearranged ground transportation service as defined in section 28-141 for a predetermined fare.

~~66.~~ 69. "Title transfer form" means a paper or an electronic form that is prescribed by the department for the purpose of transferring a certificate of title from one owner to another owner.

~~67.~~ 70. "Traffic survival school" means a school that offers educational sessions to drivers who are required to attend and successfully complete educational sessions pursuant to this title that are designed to improve the safety and habits of drivers and that are approved by the department.

~~68.~~ 71. "Trailer" means a vehicle that is with or without motive power, other than a pole trailer or single-axle tow dolly, that is designed for carrying persons or property and for being drawn by a motor vehicle and that is constructed so that no part of its weight rests on the towing vehicle. A semitrailer equipped with an auxiliary front axle commonly known as a dolly is deemed to be a trailer. For the purposes of this paragraph, "pole trailer" has the same meaning prescribed in section 28-601.

~~69.~~ 72. "Transportation network company" has the same meaning prescribed in section 28-9551.

~~70.~~ 73. "Transportation network company vehicle" has the same meaning prescribed in section 28-9551.

~~71.~~ 74. "Transportation network service" has the same meaning prescribed in section 28-9551.

~~72.~~ 75. "Truck" means a motor vehicle designed or used primarily for the carrying of property other than the effects of the driver or passengers and includes a motor vehicle to which has been added a box, a platform or other equipment for such carrying.

~~73.~~ 76. "Truck tractor" means a motor vehicle that is designed and used primarily for drawing other vehicles and that is not constructed to carry a load other than a part of the weight of the vehicle and load drawn.

~~74.~~ 77. "Vehicle":

(a) Means a device in, on or by which a person or property is or may be transported or drawn on a public highway.

(b) Does not include:

Ch. 120 (i) Electric bicycles, ELECTRIC MINIATURE SCOOTERS, ELECTRIC STANDUP SCOOTERS and devices moved by human power.

(ii) Devices used exclusively on stationary rails or tracks.

(iii) Personal delivery devices.

(iv) ~~A~~ Scrap ~~vehicle~~ VEHICLES.

Ch. 89 (v) PERSONAL MOBILE CARGO CARRYING DEVICES.

~~75.~~ 78. "Vehicle transporter" means either:

(a) A truck tractor capable of carrying a load and drawing a semitrailer.

(b) A truck tractor with a stinger-steered fifth wheel capable of carrying a load and drawing a semitrailer or a truck tractor with a dolly mounted fifth wheel that is securely fastened to the truck tractor at two or more points and that is capable of carrying a load and drawing a semitrailer.

EXPLANATION OF BLEND
SECTION 28-454

Laws 2019, Chapters 256 and 321

Laws 2019, Ch. 256, section 4	Effective August 27, 2019
Laws 2019, Ch. 321, section 5	Effective August 27, 2019

Explanation

Since these two enactments are compatible, the Laws 2019, Ch. 256 and Ch. 321 text changes to section 28-454 are blended in the form shown on the following pages.

BLEND OF SECTION 28-454
Laws 2019, Chapters 256 and 321

28-454. Records maintained by department of transportation; redaction; definitions

A. Notwithstanding sections 28-447 and 28-455, an eligible person may request that persons be prohibited from accessing the eligible person's ~~residential address and telephone number~~ IDENTIFYING INFORMATION, INCLUDING ANY OF THAT PERSON'S DOCUMENTS, contained in any record maintained by the department.

Ch. 256

B. An eligible person may request this action by filing an affidavit that states all of the following on an application form developed by the administrative office of the courts in agreement with an association of counties, an organization of peace officers and the department:

1. The person's full legal name and residential address.

2. Unless the person is the spouse of a peace officer or the spouse or minor child of a deceased peace officer or the person is a former public official or former judge, the position the person currently holds and a description of the person's duties, except that an eligible person who is protected under an order of protection or injunction against harassment shall attach a copy of the order of protection or injunction against harassment.

3. The reasons the person reasonably believes that the person's life or safety or that of another person is in danger and that redacting the ~~residential address and telephone number~~ IDENTIFYING INFORMATION from the department's public records will serve to reduce the danger.

Ch. 256

C. The affidavit shall be filed with the presiding judge of the superior court in the county in which the affiant resides. To prevent multiple filings, an eligible person who is a peace officer, spouse of a peace officer, spouse or minor child of a deceased peace officer, prosecutor, code enforcement officer, corrections or detention officer, corrections support staff member or law enforcement support staff member shall deliver the affidavit to the peace officer's commanding officer, or to the head of the prosecuting, code enforcement, law enforcement, corrections or detention agency, as applicable, or that person's designee, who shall file the affidavits at one time. In the absence of an affidavit that contains a request for immediate action and that is supported by facts justifying an earlier presentation, the commanding officer, or the head of the prosecuting, code enforcement, law enforcement, corrections or detention agency, as applicable, or that person's designee, shall not file affidavits more often than quarterly.

D. On receipt of an affidavit or affidavits, the presiding judge of the superior court shall file with the clerk of the superior court a petition on behalf of all requesting affiants. Each affidavit presented shall be attached to the petition. In the absence of an affidavit that contains a request for immediate action and that is supported by facts justifying an earlier consideration, the presiding judge may accumulate affidavits and file a petition at the end of each quarter.

E. The presiding judge of the superior court shall review the petition and each attached affidavit to determine whether the action requested by each affiant should be granted. The presiding judge of the superior court shall order the redaction of the residence address and telephone number from the public records maintained by the department if the judge concludes that this action will reduce a danger to the life or safety of the affiant or another person.

F. On entry of the court order, the clerk of the superior court shall file the court order with the department. No more than one hundred fifty days after the date the department receives the court order, the department shall redact the ~~residence addresses and telephone numbers~~ IDENTIFYING INFORMATION of the affiants listed in the court order from the public records of the department. The ~~residence addresses and telephone numbers~~ IDENTIFYING INFORMATION shall not be disclosed and are not part of a public record.

G. If the court denies an affiant's request pursuant to this section, the affiant may request a court hearing. The hearing shall be conducted by the court in the county where the petition was filed.

H. On motion to the court, if the presiding judge of the superior court concludes that ~~a residential address or telephone number~~ IDENTIFYING
Ch. 256 — INFORMATION has been sealed in error or that the cause for the original affidavit no longer exists, the presiding judge may vacate the court order prohibiting public access to the ~~residential address or telephone number~~ IDENTIFYING INFORMATION.

I. Notwithstanding sections 28-447 and 28-455, the department shall not release a photograph of a peace officer if the peace officer has made a request as prescribed in this section that persons be prohibited from accessing the peace officer's ~~residential address and telephone number~~ IDENTIFYING INFORMATION in any record maintained by the department.

J. This section does not prohibit the use of a peace officer's photograph that is either:

1. Used by a law enforcement agency to assist a person who has a complaint against an officer to identify the officer.

2. Obtained from a source other than the department.

K. For the purposes of this section:

1. "Code enforcement officer" means a person who is employed by a state or local government and whose duties include performing field inspections of buildings, structures or property to ensure compliance with and enforce national, state and local laws, ordinances and codes.

2. "Corrections support staff member" means an adult or juvenile corrections employee who has direct contact with inmates.

3. "Eligible person" means a former public official, peace officer, spouse of a peace officer, spouse or minor child of a deceased public officer, justice, judge or former judge, commissioner, public defender, prosecutor, code enforcement officer, adult or juvenile corrections officer, corrections support staff member, probation officer, member of the board of executive clemency, law enforcement support staff member, employee of the
Ch. 321 — department of child safety OR EMPLOYEE OF ADULT PROTECTIVE SERVICES who has direct contact with families in the course of employment, national guard member who is acting in support of a law enforcement agency, person who is

protected under an order of protection or injunction against harassment or

Chs. 256 and 321

firefighter who is assigned to the Arizona ~~counterterrorism~~ COUNTER TERRORISM INFORMATION center in the department of public safety.

4. "Former public official" means a person who was duly elected or appointed to Congress, the legislature or a statewide office, who ceased serving in that capacity and who was the victim of a dangerous offense as defined in section 13-105 while in office.

5. "Law enforcement support staff member" means a person who serves in the role of an investigator or prosecutorial assistant in an agency that investigates or prosecutes crimes, who is integral to the investigation or prosecution of crimes and whose name or identity will be revealed in the course of public proceedings.

6. "Peace officer":

(a) Has the same meaning prescribed in section 1-215.

(b) Includes a federal law enforcement officer or agent who resides in this state and who has the power to make arrests pursuant to federal law.

7. "Prosecutor" means a county attorney, a municipal prosecutor or the attorney general and includes an assistant or deputy county attorney, municipal prosecutor or attorney general.

EXPLANATION OF BLEND
SECTION 28-672

Laws 2019, Chapters 112 and 153

Laws 2019, Ch. 112, section 1	Effective April 22, 2019
Laws 2019 Ch. 153, section 1	Effective August 27, 2019

Explanation

Since these two enactments are compatible, the Laws 2019, Ch. 112 and Ch. 153 text changes to section 28-672 are blended in the form shown on the following pages.

Section 28-672 was amended an additional time by Laws 2019, Ch. 255, which could not be blended with the Ch. 112 and Ch. 153 versions and will require separate publication in addition to this blend.

BLEND OF SECTION 28-672
Laws 2019, Chapters 112 and 153

28-672. Causing serious physical injury or death by a moving violation; time limitation; penalties; violation; classification; definition

A. A person is guilty of causing serious physical injury or death by a moving violation if the person violates any one of the following and the violation results in an accident causing serious physical injury or death to another person:

1. Section 28-645, subsection A, paragraph 3, subdivision (a).
2. Section 28-729.
3. Section 28-771.
4. Section 28-772.
5. Section 28-773.
6. Section 28-792.
7. Section 28-794.
8. Section 28-797, subsection F, G, H or I.
9. Section 28-855, subsection B.
10. Section 28-857, subsection A.
11. SECTION 28-914. Ch. 112

B. A person who violates this section shall attend and successfully complete traffic survival school educational sessions that are designed to improve the safety and habits of drivers and that are approved by the department. In addition, the court may order the person to perform community restitution.

C. The court shall report a conviction for a violation of this section to the department and:

1. For a first violation of this section, ~~may~~ SHALL direct the department to suspend THE PERSON'S DRIVING PRIVILEGE OR RESTRICT the person's driving privilege AS DESCRIBED IN SECTION 28-144 for AT LEAST NINETY DAYS AND not more than one hundred eighty days if the violation results in serious physical injury and AT LEAST ONE HUNDRED EIGHTY DAYS AND not more than one year if the violation results in death. Ch. 153

2. For a second or subsequent violation of this section within a period of thirty-six months, shall direct the department to suspend the person's driving privilege for one hundred eighty days if the violation results in serious physical injury and one year if the violation results in death.

D. If a person's driving privilege is suspended pursuant to any other statute because of an incident involving a violation of this section, the suspension period prescribed in subsection C of this section shall run consecutively with the other suspension period.

E. If a person fails to successfully complete traffic survival school educational sessions or perform community restitution pursuant to this section, the court shall notify the department and the department shall promptly suspend the driver license or permit of the driver or the privilege

of a nonresident to drive a motor vehicle in this state until the order is satisfied.

F. If the person who suffers serious physical injury as a result of a violation of this section appears before the court in which the action is pending at any time before trial and acknowledges receipt of satisfaction for the injury, on payment of the costs incurred, the court shall order that the prosecution be dismissed and the defendant be discharged. The reasons for the order shall be set forth and entered of record, and the order shall be a bar to another prosecution for the same offense.

G. Restitution awarded pursuant to section 13-603 as a result of a violation of this section shall not exceed ~~one hundred thousand dollars~~ $100,000.

Ch. 112

H. A prosecution for a violation of this section must be commenced within two years after actual discovery of the offense by the state or the political subdivision having jurisdiction or discovery by the state or the political subdivision that should have occurred with the exercise of reasonable diligence, whichever first occurs.

I. A person who violates this section is guilty of a class 1 misdemeanor.

J. For the purposes of this section, "serious physical injury" has the same meaning prescribed in section 13-105.

EXPLANATION OF BLEND
SECTION 28-2351

Laws 2019, Chapters 157, 161, 162, 178, 211, 234 and 261

Laws 2019, Ch. 157, section 1	Effective October 1, 2019
Laws 2019, Ch. 161, section 1	Effective October 1, 2019
Laws 2019, Ch. 162, section 1	Effective October 1, 2019
Laws 2019, Ch. 178, section 1	Effective October 1, 2019
Laws 2019, Ch. 211, section 1	Effective October 1, 2019
Laws 2019, Ch. 234, section 1	Effective October 1, 2019
Laws 2019, Ch. 261, section 1	Effective October 1, 2019

Explanation

Since these seven enactments are compatible, the Laws 2019, Ch. 157, Ch. 161, Ch. 162, Ch. 178, Ch. 211, Ch. 234 and Ch. 261 text changes to section 28-2351 are blended effective from and after September 30, 2019 in the form shown on the following page.

BLEND OF SECTION 28-2351
Laws 2019, Chapters 157, 161, 162, 178, 211, 234 and 261

28-2351. License plate provided; design

A. Notwithstanding any other law, the department shall provide to every owner one license plate for each vehicle registered. At the request of the owner and on payment of a fee in an amount prescribed by the director by rule, the department shall provide one additional license plate for a vehicle for which a special plate is requested pursuant to this chapter.

B. The license plate shall display the number assigned to the vehicle and to the owner of the vehicle and the name of this state, which may be abbreviated. The director shall coat the license plate with a reflective material that is consistent with the determination of the department regarding the color and design of license plates and special plates. The director shall design the license plate and the letters and numerals on the license plate to be of sufficient size to be plainly readable during daylight from a distance of one hundred feet. In addition to the standard license plate issued for a trailer before August 12, 2005, the director shall issue a license plate for trailers that has a design that is similar to the standard size license plate for trailers but that is the same size as the license plate for motorcycles. The trailer owner shall notify the department which size license plate the owner wants for the trailer.

C. Notwithstanding any other law, the department shall not contract with a nongovernmental entity to purchase or secure reflective material for the plates issued by the department unless the department has made a reasonable effort to secure qualified bids or proposals from as many individual responsible respondents as possible.

Chs. 157, 161, 162, 211, 234 and 261

Ch. 278

D. The department shall determine the color and design of the license plate. All other plates issued by the department, except the plates issued pursuant to sections 28-2404, 28-2412, 28-2413, 28-2414, 28-2416, 28-2416.01, 28-2417 through ~~28-2462~~ 28-2468, 28-2472, 28-2473, 28-2474, 28-2475[, 28-2476] and 28-4533 and article 14 of this chapter, shall be the same color as and similar in design to the license plate as determined by the department.

E. A passenger motor vehicle that is rented without a driver shall receive the same type of license plate as is issued for a private passenger motor vehicle.

EXPLANATION OF BLEND
SECTION 28-2403

Laws 2019, Chapters 157, 161, 162, 178, 211, 234 and 261

Laws 2019, Ch. 157, section 2	Effective October 1, 2019
Laws 2019, Ch. 161, section 2	Effective October 1, 2019
Laws 2019, Ch. 162, section 2	Effective October 1, 2019
Laws 2019, Ch. 178, section 2	Effective October 1, 2019
Laws 2019, Ch. 211, section 2	Effective October 1, 2019
Laws 2019, Ch. 234, section 2	Effective October 1, 2019
Laws 2019, Ch. 261, section 2	Effective October 1, 2019

Explanation

Since these seven enactments are compatible, the Laws 2019, Ch. 157, Ch. 161, Ch. 162, Ch. 178, Ch. 211, Ch. 234 and Ch. 261 text changes to section 28-2403 are blended effective from and after September 30, 2019 in the form shown on the following page.

BLEND OF SECTION 28-2403
Laws 2019, Chapters 157, 161, 162, 178, 211, 234 and 261

28-2403. Special plates; transfers; violation; classification

A. Except as otherwise provided in this article, the department shall issue or renew special plates in lieu of the regular license plates pursuant to the following conditions and procedures and only if the requirements prescribed by this article for the requested special plates are met:

1. Except as provided in sections 28-2416 and 28-2416.01, a person who is the registered owner of a vehicle registered with the department or who applies for an original or renewal registration of a vehicle may submit to the department a completed application form as prescribed by the department with the fee prescribed by section 28-2402 for special plates in addition to the registration fee prescribed by section 28-2003.

Chs. 157, 161, 162, 211, 234 and 261 —

2. Except for plates issued pursuant to sections 28-2404, 28-2412, 28-2413, 28-2414, 28-2416, 28-2416.01, 28-2417 through ~~28-2462~~ 28-2468, 28-2472, 28-2473, 28-2474, ~~and~~ 28-2475 AND 28-2476 and article 14 of this chapter, the special plates shall be the same color as and similar to the design of the regular license plates that is determined by the department.

Ch. 178 —

3. Except as provided in section 28-2416, the department shall issue special plates only to the owner or lessee of a vehicle that is currently registered, including any vehicle that has a declared gross weight, as defined in section 28-5431, of twenty-six thousand pounds or less.

4. Except as provided in sections 28-2416 and 28-2416.01, the department shall charge the fee prescribed by section 28-2402 for each annual renewal of special plates in addition to the registration fee prescribed by section 28-2003.

B. Except as provided in sections 28-2416 and 28-2416.01, on notification to the department and on payment of the transfer fee prescribed by section 28-2402, a person who is issued special plates may transfer the special plates to another vehicle the person owns or leases. Persons who are issued special plates for hearing impaired persons pursuant to section 28-2408 and international symbol of access special plates pursuant to section 28-2409 are exempt from the transfer fee. If a person who is issued special plates sells, trades or otherwise releases ownership of the vehicle on which the plates have been displayed, the person shall immediately report the transfer of the plates to the department or the person shall surrender the plates to the department as prescribed by the director. It is unlawful for a person to whom the plates have been issued to knowingly permit them to be displayed on a vehicle except the vehicle authorized by the department.

C. The special plates shall be affixed to the vehicle for which registration is sought in lieu of the regular license plates.

D. A person is guilty of a class 3 misdemeanor who:

1. Violates subsection B of this section.

2. Fraudulently gives false or fictitious information in the application for or renewal of special plates or placards issued pursuant to this article.

3. Conceals a material fact or otherwise commits fraud in the application for or renewal of special plates or placards issued pursuant to this article.

EXPLANATION OF BLEND
SECTION 28-6501

Laws 2019, Chapters 157, 161, 162, 178, 211, 234 and 261

Laws 2019, Ch. 157, section 5	Effective October 1, 2019
Laws 2019, Ch. 161, section 4	Effective October 1, 2019
Laws 2019, Ch. 162, section 4	Effective October 1, 2019
Laws 2019, Ch. 178, section 5	Effective October 1, 2019
Laws 2019, Ch. 211, section 4	Effective October 1, 2019
Laws 2019, Ch. 234, section 4	Effective October 1, 2019
Laws 2019, Ch. 261, section 4	Effective October 1, 2019

Explanation

Since these seven enactments are compatible, the Laws 2019, Ch. 157, Ch. 161, Ch. 162, Ch. 178, Ch. 211, Ch. 234 and Ch. 261 text changes to section 28-6501 are blended effective from and after September 30, 2019 in the form shown on the following page.

BLEND OF SECTION 28-6501
Laws 2019, Chapters 157, 161, 162, 178, 211, 234 and 261

28-6501. Definition of highway user revenues

In this article, unless the context otherwise requires or except as otherwise provided by statute, "highway user revenues" means all monies received in this state from licenses, taxes, penalties, interest and fees authorized by the following:

1. Chapters 2, 7, 8 and 15 of this title, except for:

(a) The special plate administration fees prescribed in sections 28-2404, 28-2407, 28-2412 through ~~28-2462~~ 28-2468 and 28-2514. **Chs. 157, 161, 162, 211, 234 and 261**

(b) The donations prescribed in sections 28-2404, 28-2407, 28-2412 through 28-2415, 28-2417 through ~~28-2462~~ 28-2468, 28-2473, 28-2474[, ~~and~~] **Ch. 178** 28-2475 AND 28-2476. **Ch. 178**

2. Section 28-1177.

3. Chapters 10 and 11 of this title.

4. Chapter 16, articles 1, 2 and 4 of this title, except as provided in sections 28-5926 and 28-5927.

EXPLANATION OF BLEND
SECTION 28-6991 (as amended by Laws 2018, Ch. 248, section 1, Ch. 307, section 7 and Ch. 308, section 3)

Laws 2019, Chapters 157, 161, 162, 211, 234 and 261

Laws 2019, Ch. 157, section 6	Effective October 1, 2019
Laws 2019, Ch. 161, section 5	Effective October 1, 2019
Laws 2019, Ch. 162, section 5	Effective October 1, 2019
Laws 2019, Ch. 211, section 5	Effective October 1, 2019
Laws 2019, Ch. 234, section 5	Effective October 1, 2019
Laws 2019, Ch. 261, section 5	Effective October 1, 2019

Explanation

Since these six enactments are compatible, the Laws 2019, Ch. 157, Ch. 161, Ch. 162, Ch. 211, Ch. 234 and Ch. 261 text changes to section 28-6991, as amended by Laws 2018, Ch. 248, section 1, Ch. 307, section 7 and Ch. 308, section 3, are blended effective from and after September 30, 2019 in the form shown on the following pages.

BLEND OF SECTION 28-6991 (as amended by Laws 2018, Ch. 248, section 1, Ch. 307, section 7 and Ch. 308, section 3)
Laws 2019, Chapters 157, 161, 162, 211, 234 and 261

28-6991. State highway fund; sources

The state highway fund is established that consists of:

1. Monies distributed from the Arizona highway user revenue fund pursuant to chapter 18 of this title.

2. Monies appropriated by the legislature.

3. Monies received from donations for the construction, improvement or maintenance of state highways or bridges. These monies shall be credited to a special account and shall be spent only for the purpose indicated by the donor.

4. Monies received from counties or cities under cooperative agreements, including proceeds from bond issues. The state treasurer shall deposit these monies to the credit of the fund in a special account on delivery to the treasurer of a concise written agreement between the department and the county or city stating the purposes for which the monies are surrendered by the county or city, and these monies shall be spent only as stated in the agreement.

5. Monies received from the United States under an act of Congress to provide aid for the construction of rural post roads, but monies received on projects for which the monies necessary to be provided by this state are wholly derived from sources mentioned in paragraphs 2 and 3 of this section shall be allotted by the department and deposited by the state treasurer in the special account within the fund established for each project. On completion of the project, on the satisfaction and discharge in full of all obligations of any kind created and on request of the department, the treasurer shall transfer the unexpended balance in the special account for the project into the state highway fund, and the unexpended balance and any further federal aid thereafter received on account of the project may be spent under the general provisions of this title.

6. Monies in the custody of an officer or agent of this state from any source that is to be used for the construction, improvement or maintenance of state highways or bridges.

7. Monies deposited in the state general fund and arising from the disposal of state personal property belonging to the department.

8. Receipts from the sale or disposal of any or all other property held by the department and purchased with state highway monies.

9. Monies generated pursuant to section 28-410.

10. Monies distributed pursuant to section 28-5808, subsection B, paragraph 2, subdivision (d).

11. Monies deposited pursuant to sections 28-1143, 28-2353 and 28-3003.

12. Except as provided in section 28-5101, the following monies:

(a) Monies deposited pursuant to section 28-2206 and section 28-5808, subsection B, paragraph 2, subdivision (e).

Chs. 157, 161, 162, 234 and 261

(b) ~~One dollar~~ $1 of each registration fee and ~~one dollar~~ $1 of each title fee collected pursuant to section 28-2003.

(c) ~~Two dollars~~ $2 of each late registration penalty collected by the director pursuant to section 28-2162.

(d) The air quality compliance fee collected pursuant to section 49-542.

Chs. 157, 161, 162, 211, 234 and 261

(e) The special plate administration fees collected pursuant to sections 28-2404, 28-2407, 28-2412 through 28-2416, 28-2416.01, 28-2417 through ~~28-2462~~ 28-2468 and 28-2514.

(f) Monies collected pursuant to sections 28-372, 28-2155 and 28-2156 if the director is the registering officer.

13. Monies deposited pursuant to chapter 5, article 5 of this title.

14. Donations received pursuant to section 28-2269.

15. Dealer and registration monies collected pursuant to section 28-4304.

16. Abandoned vehicle administration monies deposited pursuant to section 28-4804.

17. Monies deposited pursuant to section 28-710, subsection D, paragraph 2.

18. Monies deposited pursuant to section 28-2065.

19. Monies deposited pursuant to section 28-7311.

20. Monies deposited pursuant to section 28-7059.

21. Monies deposited pursuant to section 28-1105.

22. Monies deposited pursuant to section 28-2448, subsection D.

23. Monies deposited pursuant to section 28-3415.

24. Monies deposited pursuant to section 28-3002, subsection A, paragraph 14.

25. Monies deposited pursuant to section 28-7316.

26. Monies deposited pursuant to section 28-4302.

27. Monies deposited pursuant to section 28-3416.

28. Monies deposited pursuant to section 28-4504.

EXPLANATION OF BLEND
SECTION 28-6991 (as amended by Laws 2018, Ch. 248, section 1, Ch. 298, section 7, Ch. 307, section 7 and Ch. 308, section 3)

Laws 2019, Chapters 157, 161, 162, 211, 234 and 261

Laws 2019, Ch. 157, section 7	Conditionally Effective
Laws 2019, Ch. 161, section 6	Conditionally Effective
Laws 2019, Ch. 162, section 6	Conditionally Effective
Laws 2019, Ch. 211, section 6	Conditionally Effective
Laws 2019, Ch. 234, section 6	Conditionally Effective
Laws 2019, Ch. 261, section 6	Conditionally Effective

Explanation

Since these six enactments are compatible, the Laws 2019, Ch. 157, Ch. 161, Ch. 162, Ch. 211, Ch. 234 and Ch. 261 text changes to section 28-6991, as amended by Laws 2018, Ch. 248, section 1, Ch. 298, section 7, Ch. 307, section 7 and Ch. 308, section 3, are blended in the form shown on the following pages.

BLEND OF SECTION 28-6991 (as amended by Laws 2018, Ch. 248, section 1, Ch. 298, section 7, Ch. 307, section 7 and Ch. 308, section 3)
Laws 2019, Chapters 157, 161, 162, 211, 234 and 261

28-6991. State highway fund; sources

The state highway fund is established that consists of:

1. Monies distributed from the Arizona highway user revenue fund pursuant to chapter 18 of this title.

2. Monies appropriated by the legislature.

3. Monies received from donations for the construction, improvement or maintenance of state highways or bridges. These monies shall be credited to a special account and shall be spent only for the purpose indicated by the donor.

4. Monies received from counties or cities under cooperative agreements, including proceeds from bond issues. The state treasurer shall deposit these monies to the credit of the fund in a special account on delivery to the treasurer of a concise written agreement between the department and the county or city stating the purposes for which the monies are surrendered by the county or city, and these monies shall be spent only as stated in the agreement.

5. Monies received from the United States under an act of Congress to provide aid for the construction of rural post roads, but monies received on projects for which the monies necessary to be provided by this state are wholly derived from sources mentioned in paragraphs 2 and 3 of this section shall be allotted by the department and deposited by the state treasurer in the special account within the fund established for each project. On completion of the project, on the satisfaction and discharge in full of all obligations of any kind created and on request of the department, the treasurer shall transfer the unexpended balance in the special account for the project into the state highway fund, and the unexpended balance and any further federal aid thereafter received on account of the project may be spent under the general provisions of this title.

6. Monies in the custody of an officer or agent of this state from any source that is to be used for the construction, improvement or maintenance of state highways or bridges.

7. Monies deposited in the state general fund and arising from the disposal of state personal property belonging to the department.

8. Receipts from the sale or disposal of any or all other property held by the department and purchased with state highway monies.

9. Monies generated pursuant to section 28-410.

10. Monies distributed pursuant to section 28-5808, subsection B, paragraph 2, subdivision (d).

11. Monies deposited pursuant to sections 28-1143, 28-2353 and 28-3003.

12. Except as provided in section 28-5101, the following monies:

(a) Monies deposited pursuant to section 28-2206 and section 28-5808, subsection B, paragraph 2, subdivision (e).

Chs. 157, 161, 162, 234 and 261

(b) ~~One dollar~~ $1 of each registration fee and ~~one dollar~~ $1 of each title fee collected pursuant to section 28-2003.

(c) ~~Two dollars~~ $2 of each late registration penalty collected by the director pursuant to section 28-2162.

(d) The air quality compliance fee collected pursuant to section 49-542.

Chs. 157, 161, 162, 211, 234 and 261

(e) The special plate administration fees collected pursuant to sections 28-2404, 28-2407, 28-2412 through 28-2416, 28-2416.01, 28-2417 through ~~28-2462~~ 28-2468 and 28-2514.

(f) Monies collected pursuant to sections 28-372, 28-2155 and 28-2156 if the director is the registering officer.

13. Monies deposited pursuant to chapter 5, article 5 of this title.

14. Donations received pursuant to section 28-2269.

15. Dealer and registration monies collected pursuant to section 28-4304.

16. Abandoned vehicle administration monies deposited pursuant to section 28-4804.

17. Monies deposited pursuant to section 28-710, subsection D, paragraph 2.

18. Monies deposited pursuant to section 28-2065.

19. Monies deposited pursuant to section 28-7311.

20. Monies deposited pursuant to section 28-7059.

21. Monies deposited pursuant to section 28-1105.

22. Monies deposited pursuant to section 28-2448, subsection D.

23. Monies deposited pursuant to section 28-3415.

24. Monies deposited pursuant to section 28-3002, subsection A, paragraph 14.

25. Monies deposited pursuant to section 28-7316.

26. Monies deposited pursuant to section 28-4302.

27. Monies deposited pursuant to section 28-3416.

28. Monies deposited pursuant to section 28-4504.

29. Monies deposited pursuant to section 28-2098.

EXPLANATION OF BLEND
SECTION 28-6993

Laws 2019, Chapters 157, 161, 162, 211, 234 and 261

Laws 2019, Ch. 157, section 8	Effective October 1, 2019
Laws 2019, Ch. 161, section 7	Effective October 1, 2019
Laws 2019, Ch. 162, section 7	Effective October 1, 2019
Laws 2019, Ch. 211, section 7	Effective October 1, 2019
Laws 2019, Ch. 234, section 7	Effective October 1, 2019
Laws 2019, Ch. 261, section 7	Effective October 1, 2019

Explanation

Since these six enactments are compatible, the Laws 2019, Ch. 157, Ch. 161, Ch. 162, Ch. 211, Ch. 234 and Ch. 261 text changes to section 28-6993 are blended effective from and after September 30, 2019 in the form shown on the following pages.

BLEND OF SECTION 28-6993
Laws 2019, Chapters 157, 161, 162, 211, 234 and 261

28-6993. State highway fund; authorized uses

A. Except as provided in subsection B of this section and section 28-6538, the state highway fund shall be used for any of the following purposes in strict conformity with and subject to the budget as provided by this section and by sections 28-6997 through 28-7003:

1. To pay salaries, wages, necessary travel expenses and other expenses of officers and employees of the department and the incidental office expenses, including telegraph, telephone, postal and express charges and printing, stationery and advertising expenses.

2. To pay for both:

(a) Equipment, supplies, machines, tools, department offices and laboratories established by the department.

(b) The construction and repair of buildings or yards of the department.

3. To pay the cost of both:

(a) Engineering, construction, improvement and maintenance of state highways and parts of highways forming state routes.

(b) Highways under cooperative agreements with the United States that are entered into pursuant to this chapter and an act of Congress providing for the construction of rural post roads.

4. To pay land damages incurred by reason of establishing, opening, altering, relocating, widening or abandoning portions of a state route or state highway.

5. To reimburse the department revolving account.

6. To pay premiums on authorized indemnity bonds and on compensation insurance under the workers' compensation act.

7. To defray lawful expenses and costs required to administer and carry out the intent, purposes and provisions of this title, including repayment of obligations entered into pursuant to this title, payment of interest on obligations entered into pursuant to this title, repayment of loans and other financial assistance, including repayment of advances and interest on advances made to the department pursuant to section 28-7677, and payment of all other obligations and expenses of the board and department pursuant to chapter 21 of this title.

8. To pay lawful bills and charges incurred by the state engineer.

9. To acquire, construct or improve entry roads to state parks or roads within state parks.

10. To acquire, construct or improve entry roads to state prisons.

11. To pay the cost of relocating a utility facility pursuant to section 28-7156.

12. For the purposes provided in subsections C, D and E of this section and sections 28-1143, 28-2353 and 28-3003.

13. To pay the cost of issuing an Arizona centennial special plate pursuant to section 28-2448.

B. For each fiscal year, the department of transportation shall allocate and transfer monies in the state highway fund to the department of public safety for funding a portion of highway patrol costs in eight installments in each of the first eight months of a fiscal year that do not exceed ~~ten million dollars~~ $10,000,000.

Chs. 157, 161, 162, 234 and 261

C. Subject to legislative appropriation, the department may use the monies in the state highway fund as prescribed in section 28-6991, paragraph 12 to carry out the duties imposed by this title for registration or titling of vehicles, to operate joint title, registration and driver licensing offices, to cover the administrative costs of issuing the air quality compliance sticker, modifying the year validating tab and issuing the windshield sticker and to cover expenses and costs in issuing special plates pursuant to sections 28-2404, 28-2407, 28-2412 through ~~28-2462~~ [28-2468] and 28-2514.

Chs. 157, 161, 162, 211, 234 and 261

D. The department shall use monies deposited in the state highway fund pursuant to chapter 5, article 5 of this title only as prescribed by that article.

E. Monies deposited in the state highway fund pursuant to section 28-2269 shall be used only as prescribed by that section.

F. Monies deposited in the state highway fund pursuant to section 28-710, subsection D, paragraph 2 shall only be used for state highway work zone traffic control devices.

G. The department may exchange monies distributed to the state highway fund pursuant to section 28-6538, subsection A, paragraph 1 for local government surface transportation program federal monies suballocated to councils of government and metropolitan planning organizations if the local government scheduled to receive the federal monies concurs. An exchange of state highway fund monies pursuant to this subsection shall be in an amount that is at least equal to ninety percent of the federal obligation authority that exists in the project for which the exchange is proposed.

H. The department shall use monies deposited in the state highway fund pursuant to section 28-1105, subsection A, paragraph 2, subdivision (a) only for a transportation facility that is located within twenty drivable miles of the international port of entry and shall spend the monies proportionally based on the amount of total monies collected pursuant to section 28-1105, subsection A, paragraph 2, subdivision (a). For the purposes of this subsection, "transportation facility" means a highway or a state route or a county, city or town road that is used by a commercial vehicle or a commercial vehicle combination for which an axle fee is paid pursuant to section 28-5474.

EXPLANATION OF BLEND
SECTION 32-506

Laws 2019, Chapters 96 and 109

Laws 2019, Ch. 96, section 1	Effective August 27, 2019
Laws 2019, Ch. 109, section 4	Effective August 27, 2019

Explanation

Since these two enactments are compatible, the Laws 2019, Ch. 96 and Ch. 109 text changes to section 32-506 are blended in the form shown on the following pages.

BLEND OF SECTION 32-506
Laws 2019, Chapters 96 and 109

32-506. Nonapplicability of chapter

This chapter does not apply to the following persons while in the proper discharge of their professional duties:

Chs. 96 and 109

1. MEDICAL PRACTITIONERS WHO ARE LICENSED PURSUANT TO THIS TITLE IF THE practices ~~for the treatment of~~ TREAT physical or mental ailments or disease ~~by medical practitioners licensed pursuant to this title~~.

2. Commissioned physicians and surgeons who are serving in the armed forces of the United States or other federal agencies.

3. Persons who are licensed pursuant to chapter 3 or 12 of this title.

4. Students who are attending schools licensed pursuant to this chapter while they are on school premises during school hours.

5. Persons employed by theatrical groups who apply makeup, oils and cosmetics.

6. Persons who sell makeup, oils and cosmetics and who apply such products during the process of selling such products.

7. Shampoo assistants who shampoo hair under the direction of a cosmetologist or hairstylist licensed pursuant to this chapter.

Ch. 96

8. Services performed by and for persons WHO ARE in the custody of the state department of corrections.

9. Persons who apply makeup, oils and cosmetics to patients in a hospital, nursing home or residential care institution with the consent of the patient and the hospital, nursing home or residential care institution.

10. Persons who provide a service that results in tension on hair strands or roots by twisting, wrapping, weaving, extending, locking or braiding~~,~~ if the service does not include the application of dyes, reactive chemicals or other preparations to alter the color of the hair or to straighten, curl or alter the structure of the hair.

Ch. 96

11. Persons who provide threading.

12. Persons who provide tanning services by means of airbrushing, tanning beds or spray tanning.

13. Persons who apply makeup, including eyelash enhancements. This paragraph does not apply if a person is engaging in the practice of aesthetics or cosmetology. A person who is exempt pursuant to this paragraph shall post a sign in a conspicuous location in the person's place of business notifying the public that the person's services are not regulated by the board.

Ch. 96

14. PERSONS WHO DRY, STYLE, ARRANGE, DRESS, CURL, HOT IRON OR SHAMPOO AND CONDITION HAIR IF THE SERVICE DOES NOT INCLUDE APPLYING REACTIVE CHEMICALS TO PERMANENTLY STRAIGHTEN, CURL OR ALTER THE STRUCTURE OF THE HAIR AND IF THE PERSON TAKES AND COMPLETES A CLASS RELATING TO SANITATION, INFECTION PROTECTION AND LAW REVIEW THAT IS PROVIDED BY THE BOARD OR ITS DESIGNEE. THIS PARAGRAPH DOES NOT APPLY IF A PERSON IS ENGAGING IN THE PRACTICE OF AESTHETICS OR COSMETOLOGY. A PERSON WHO IS EXEMPT PURSUANT TO THIS PARAGRAPH SHALL POST A SIGN IN A CONSPICUOUS LOCATION IN THE PERSON'S PLACE OF BUSINESS NOTIFYING THE PUBLIC THAT THE PERSON'S SERVICES ARE NOT REGULATED BY THE BOARD.

Ch. 109

15. PERSONS WHO ARE PARTICIPATING IN A DEPARTMENT OF ECONOMIC SECURITY-APPROVED APPRENTICESHIP PROGRAM IN COSMETOLOGY AS DESCRIBED IN SECTION 32-511 WHILE WORKING WITH A MENTOR IN AN ESTABLISHMENT THAT IS LICENSED BY THE BOARD.

EXPLANATION OF BLEND
SECTION 32-1301

Laws 2019, Chapters 90 and 172

Laws 2019, Ch. 90, section 1	Effective August 27, 2019
Laws 2019, Ch. 172, section 1	Effective August 27, 2019

Explanation

Since these two enactments are identical, the Laws 2019, Ch. 90 and Ch. 172 text changes to section 32-1301 are blended in the form shown on the following pages.

BLEND OF SECTION 32-1301
Laws 2019, Chapters 90 and 172

32-1301. Definitions

In this chapter, unless the context otherwise requires:

1. "Accredited" means recognized or authorized by the American board of funeral service education.

2. "Administrative costs and expenses" means the cost of copies, transcripts, court reporter and witness fees, reimbursement for mileage and office of administrative hearings costs.

3. "Alternative container" means any unfinished wood box or other nonmetal receptacle or enclosure, without ornamentation or a fixed interior lining, that is designed for the encasement of human remains.

4. "Authorizing agent" means a person who is legally entitled to order the cremation, disinterment or embalming of human remains pursuant to section 32-1365.02.

5. "Beneficiary" means a person whose future funeral arrangements will be handled by a funeral establishment pursuant to a prearranged funeral agreement.

6. "Board" means the state board of funeral directors and embalmers.

7. "Business entity" includes any corporation, association, limited liability company, professional corporation, partnership, limited partnership, sole proprietorship, business trust, trust, joint venture and other business entity.

Chs. 90 and 172

8. "Casket" means a rigid container that is designed ~~for the permanent encasement of~~ TO PERMANENTLY ENCASE human remains and that is usually constructed of wood, metal or synthetic substances and ornamented and lined with fabric.

9. "Change of ownership" means a transfer of a controlling legal or equitable interest in a licensed funeral establishment or crematory resulting from a sale or merger. If the establishment or crematory is operated by a business entity, any transfer of the ownership of ten percent or more of the entity constitutes a change of ownership.

10. "Conviction" means a criminal adjudication or conviction by any state or federal court of competent jurisdiction, including a judgment based on a no contest plea, without regard to whether civil rights have been restored.

11. "Cremated remains" means the remaining bone fragments after cremation.

12. "Cremation" means the heating process that reduces human remains to bone fragments by combustion and evaporation.

13. "Cremation container" means a leak and spill resistant, rigid, combustible, closed receptacle into which human remains are placed before cremation.

14. "Cremationist" means a person who operates a crematory retort, who performs the actual cremation of human remains and who may be licensed pursuant to article 6 of this chapter.

15. "Crematory" means a building or portion of a building that is licensed pursuant to article 6 of this chapter and that houses a retort in which only human remains are cremated.

Chs. 90 and 172

16. "Disciplinary action" means AN action taken by the board to revoke or suspend a license or registration, to impose probationary requirements or civil penalties or to issue a letter of censure or reprimand to any person who is subject to this chapter and who violates any provision of this chapter or rules adopted by the board.

17. "Embalmer" means a person who is licensed pursuant to this chapter and who is engaged in embalming.

18. "Embalmer's assistant" means a person who is registered pursuant to this chapter and who is engaged in embalming without the supervision of a licensed embalmer.

19. "Embalming" means the implementation of reconstructive procedures and the process of disinfecting and preserving a dead human body to retard organic decomposition by treating the body to reduce the presence and growth of organisms.

20. "Financial institution" means a bank, savings and loan association, trust company or credit union that is lawfully doing business in this state and that is not affiliated with a funeral establishment.

21. "Fixed price prearranged funeral agreement funded by trust" means any agreement or combination of agreements that establishes a fixed price for funeral goods and services, that requires a funeral establishment to provide those funeral goods and services at the price levels in effect at the time of the execution of the agreement and that requires the purchaser to convey all or a portion of the accrued interest to the funeral establishment at the time that the funeral goods and services are actually provided.

22. "Funded by insurance" means that monies for a prearranged funeral agreement are paid directly to an insurance company licensed pursuant to title 20 on behalf of the beneficiary of the agreement.

23. "Funeral directing" means arranging, directing or providing a service in the disposition of dead human bodies for compensation.

24. "Funeral director" means a person who is licensed pursuant to this chapter and who is engaged in funeral directing.

25. "Funeral establishment" means a business at a specific location that is licensed pursuant to this chapter and that is devoted to the care, storage or preparation for final disposition or transportation of dead human bodies.

Chs. 90 and 172

26. "Funeral goods and services" means any personal property or services THAT ARE typically sold or provided in connection with the final disposition of human remains, including caskets, alternative containers, outer burial containers, cremation containers, transportation containers, funeral clothing or accessories, monuments, grave markers, urns, embalming services, funeral directing services and similar funeral or burial items. Funeral goods and services do not include goods and services sold by cemeteries.

27. "Good moral character" means that a person:

(a) Has not been convicted of a class 1 or 2 felony by a court of competent jurisdiction.

Chs. 90 and 172

(b) Has not, within five years of ~~application~~ APPLYING for licensure or registration, been convicted of a felony or misdemeanor if the offense has a reasonable relationship to the person's proposed area of licensure or registration.

(c) Has not, within five years of ~~application~~ APPLYING for licensure or registration, committed any act involving dishonesty, fraud, misrepresentation, breach of fiduciary duty, gross negligence or incompetence if the act has a reasonable relationship to the person's proposed area of licensure or registration.

(d) Is not currently incarcerated in or on community supervision after a period of imprisonment in a local, state or federal penal institution or on criminal probation.

(e) Has not engaged in fraud or misrepresentation in connection with an application for licensure or registration under this chapter or an examination required for licensure or registration.

Chs. 90 and 172

(f) Has not, within five years of ~~application~~ APPLYING for licensure or registration, had a license, registration or endorsement revoked or suspended by the board or by the funeral services licensing authority of any other jurisdiction.

(g) Has not surrendered a license, registration or endorsement to the board or the funeral licensing authority of any other jurisdiction in lieu of disciplinary action.

(h) Has not practiced funeral directing or embalming without a license in this state or any other jurisdiction that requires licensure to perform these activities.

28. "Holding facility" means a designated area for the retention of human remains.

29. "Human remains" means a lifeless human body or parts of a human body that ~~permit~~ ALLOW a reasonable inference that death occurred.

Chs. 90 and 172

30. "Intern" means a person who is licensed pursuant to this chapter and who is engaged in EITHER OR BOTH OF THE FOLLOWING:

(a) Embalming under the supervision of a licensed embalmer.

(b) ARRANGING AND DIRECTING FUNERALS UNDER THE SUPERVISION OF A LICENSED FUNERAL DIRECTOR.

31. "Intern trainee" means a person who intends to enter training as an intern and who is temporarily employed by a funeral establishment.

32. "License" means a written authorization that is issued by the board and that entitles a person to act as a funeral director, embalmer or intern or to operate a funeral establishment or crematory in this state.

33. "Licensee" means a person to whom the board has issued a license to act as a funeral director, embalmer or intern or to operate a funeral establishment or crematory in this state.

34. "Manage" means:

(a) That a responsible funeral director exercises control and oversight over all employees of a funeral establishment and over funeral transactions, including the care of dead human bodies, funeral services and activities and the documentation and retention of records.

(b) That a responsible cremationist exercises control and oversight over all employees of a crematory and crematory operations.

35. "National board examination" means the test or tests given by the conference of funeral service examining boards to determine the entry level knowledge and skills of a person regarding funeral directing and embalming.

36. "Net interest" means interest earned on a prearranged funeral trust account ~~less~~ MINUS applicable taxes, reasonable and necessary charges made by the financial institution and the annual service fee ~~permitted~~ ALLOWED to be deducted by the funeral establishment according to section 32-1391.06, subsection B.

Chs. 90 and 172

37. "Outer burial container" means a container that is designed for placement in a grave around a casket, including burial vaults, grave boxes and grave liners.

38. "Owner" means a person who owns ten percent or more of a business entity. Owner does not include shareholders of companies who have a class of common equity stock listed or authorized to be listed on the New York stock exchange or the American stock exchange or listed on the NASDAQ stock market.

39. "Person legally responsible" means the person responsible for burying a dead body as determined in section 36-831.

40. "Prearranged funeral agreement" means any agreement or combination of agreements under which a payment is made before the death of the intended beneficiary for funeral goods and services to be delivered or performed after the death of the beneficiary.

41. "Prearranged funeral trust account" means a trust account that is established at a financial institution and into which all monies paid on behalf of a beneficiary pursuant to a prearranged funeral agreement are deposited.

42. "Preparation" means washing, shaving, dressing or arranging hair on, applying cosmetics to or positioning bodily features on a dead human body and placing ~~a~~ dead human body in a casket.

Chs. 90 and 172

43. "Processed cremated remains" means cremated remains after they are pulverized and cleaned, leaving primarily small bone fragments.

44. "Provisionally accredited" means granted candidacy status by the American board of funeral service education.

45. "Registration" means a written authorization that is issued by the board and that entitles a person to act as an assistant funeral director, an embalmer's assistant or a prearranged funeral salesperson in this state.

46. "Responsible cremationist" means a licensed cremationist who manages a crematory.

47. "Responsible funeral director" means a person who is licensed pursuant to this chapter, who is engaged in funeral directing and who manages and is accountable for a funeral establishment.

48. "Retort" means an enclosed space within which cremation takes place.

49. "State equivalent examination" means the test or tests THAT ARE provided by the conference of funeral service examining boards and offered by the board to determine the entry level knowledge and skills of a person regarding funeral directing and embalming.

Chs. 90 and 172

50. "Supervise" or "supervision" means THAT a licensed embalmer has responsibility for and is within sight and sound of a licensed intern who

is embalming a dead human body or a student who is assisting in embalming a dead human body.

51. "Temporary container" means a receptacle that is usually made of cardboard, rigid plastic or another similar material and that is designed to hold processed cremated remains until they are placed in an urn or another permanent container.

Chs. 90 and 172

52. "Trust funds" means all monies THAT ARE deposited on behalf of a beneficiary of a prearranged funeral agreement funded by trust and all accrued net interest. Trust funds shall be considered an account kept in suspense until distributed to the beneficiary, the funeral establishment or the estate of the beneficiary in accordance with this article.

53. "Universal precautions" means the universal blood and fluid precautions recommended by the centers for disease control of the United States public health service to prevent the transmission of bloodborne and bodily fluid-borne infectious diseases.

54. "Unprofessional conduct" includes the following acts, whether occurring in this state or elsewhere:

Chs. 90 and 172

(a) ~~Commission of~~ COMMITTING a class 1 or 2 felony.

(b) ~~Commission of~~ COMMITTING a felony or misdemeanor if the offense has a reasonable relationship to funeral directing or embalming. Conviction by any court of competent jurisdiction or a plea of no contest is conclusive evidence of the commission.

(c) Providing false, misleading or deceptive information on an application for licensure or registration pursuant to this chapter or on an examination required for licensure or registration.

Chs. 90 and 172

(d) Bribing or offering to bribe, directly or indirectly, a member of the board to influence the member's actions in ~~the performance of~~ PERFORMING the member's duties.

(e) Wilfully interfering with an embalmer, funeral director or cremationist who has lawful custody of a dead human body in ~~the performance of~~ PERFORMING the embalmer's, funeral director's or cremationist's duty to embalm or prepare the body for burial, transportation or cremation.

(f) Paying or causing money or other valuable consideration to be paid to a person, other than an employee of a funeral establishment, to secure business regulated pursuant to this chapter from or through the person.

Chs. 90 and 172

(g) Violating any law of this state or any rule adopted by the department of health services that relates to ~~the~~ embalming or ~~preparation of~~ PREPARING dead human bodies.

(h) Certifying falsely to having embalmed or prepared a dead human body that was embalmed by a person other than a licensed embalmer making the certification or an intern under the supervision of a licensed embalmer making the certification.

(i) Falsely advertising or labeling any service or merchandise with the intention of deceiving the public.

(j) Shipping or delivering any merchandise or supplies that are not the substantial equivalent of or superior in quality to merchandise or supplies previously presented to the purchaser as samples.

(k) Committing any act involving dishonesty, fraud, misrepresentation, breach of fiduciary duty, gross negligence or

incompetence if the act has a reasonable relationship to funeral directing or embalming.

(l) Engaging in any conduct or practice that is reasonably related to funeral directing or embalming and that is or may be harmful or dangerous to the health, safety or welfare of the public.

(m) Within a period of five years, having a license, registration or endorsement suspended or revoked by the board or by the funeral services licensing authority of any other jurisdiction or surrendering a license, registration or endorsement in lieu of disciplinary action.

55. "Urn" means a receptacle into which processed cremated remains are placed for disposition.

EXPLANATION OF BLEND
SECTION 32-1322

Laws 2019, Chapters 90 and 172

Laws 2019, Ch. 90, section 2	Effective August 27, 2019
Laws 2019, Ch. 172, section 2	Effective August 27, 2019

Explanation

Since these two enactments are identical, the Laws 2019, Ch. 90 and Ch. 172 text changes to section 32-1322 are blended in the form shown on the following page.

BLEND OF SECTION 32-1322
Laws 2019, Chapters 90 and 172

32-1322. Interns, embalmers and funeral directors; qualifications for licensure

A. An applicant for licensure as an intern shall:

1. Hold a high school diploma or its equivalent.

2. Be a graduate of an accredited or provisionally accredited school of mortuary science.

3. Be of good moral character.

B. An applicant for licensure as an embalmer shall:

1. Pass the funeral service science section of the national board examination or the state equivalent examination.

2. Pass the embalmer state laws and rules examination.

3. Be of good moral character.

4. Have been licensed as an intern for at least one year.

5. Have successfully completed an internship program that included assisting in ~~the~~ embalming ~~of~~ at least twenty-five dead human bodies.

C. An applicant for licensure as a funeral director shall:

Chs. 90 and 172

1. Pass the funeral service arts section of the national board examination or the state equivalent examination.

2. Pass the funeral director state laws and rules examination.

3. Be of good moral character.

4. Have held an active license as an ~~embalmer~~ INTERN for at least one year and have assisted in ~~the~~ arranging and directing ~~of~~ at least twenty-five funerals.

EXPLANATION OF BLEND
SECTION 33-422

Laws 2019, Chapters 103 and 131

Laws 2019, Ch. 103, section 1	Effective August 27, 2019
Laws 2019, Ch. 131, section 1	Effective August 27, 2019

Explanation

Since these two enactments are compatible, the Laws 2019, Ch. 103 and Ch. 131 text changes to section 33-422 are blended in the form shown on the following pages.

BLEND OF SECTION 33-422
Laws 2019, Chapters 103 and 131

33-422. Land divisions; recording; disclosure affidavit

A. A seller of five or fewer parcels of land, other than subdivided land, in an unincorporated area of a county and any subsequent seller of such a parcel shall furnish a written affidavit of disclosure to the buyer~~,~~ at least seven days before the transfer of the property~~,~~ and the buyer shall acknowledge receipt of the affidavit.

Chs. 103 and 131

B. The affidavit must be written in ~~twelve point~~ TWELVE-POINT type.

C. ~~No~~ A release or waiver of a seller's liability arising out of any omission or misrepresentation contained in an affidavit of disclosure is NOT valid or binding on the buyer.

D. The buyer has the right to rescind the sales transaction for a period of five days after the affidavit of disclosure is furnished to the buyer.

E. The seller shall record the executed affidavit of disclosure at the same time that the deed is recorded. The county recorder is not required to verify the accuracy of any statement in the affidavit of disclosure. A subsequently recorded affidavit supersedes any previous affidavit.

F. The affidavit of disclosure shall meet the requirements of section 11-480 and follow substantially the following form:

When recorded mail to:

_____

_____

_____

_____

Affidavit of Disclosure
Pursuant to A.R.S. § 33-422

I, _____ (seller(s)) being duly sworn, hereby make this affidavit of disclosure relating to the real property situated in the unincorporated area of:

_____, County, State of Arizona, located at:

_____

and legally described as:

(Legal description attached hereto as exhibit "A")
(property).

1. There ☐ is ☐ is not . . . . legal access to the property, as defined in A.R.S. § 11-831 . . . . ☐ unknown
   Explain: _____

2. There ☐ is ☐ is not . . . . physical access to the property. ☐ unknown
   Explain: _____

3. There ☐ is ☐ is not . . . . a statement from a licensed surveyor or engineer available stating whether the property has

physical access that is traversable by a two-wheel drive passenger motor vehicle.

4. The legal and physical access to the property ☐ is ☐ is not . . . . the same....☐ unknown ☐ not applicable.
   Explain: _____
   _____
   _____
   If access to the parcel is not traversable by emergency vehicles, the county and emergency service providers may not be held liable for any damages resulting from the inability to traverse the access to provide needed services.
5. The road(s) is/are ☐ publicly maintained ☐ privately maintained ☐ not maintained ☐ not applicable. If applicable, there ☐ is ☐ is not . . . . a recorded road maintenance agreement.
   If the roads are not publicly maintained, it is the responsibility of the property owner(s) to maintain the roads and roads that are not improved to county standards and accepted for maintenance are not the county's responsibility.
6. A portion or all of the property ☐ is ☐ is not . . . . located in a FEMA designated regulatory floodplain. If the property is in a floodplain, it may be subject to floodplain regulation.
7. The property ☐ is ☐ is not subject to ☐ fissures or ☐ expansive soils. ☐ unknown
   Explain: _____
   _____
   _____
8. The following services are currently provided to the property: ☐ water ☐ sewer ☐ electric ☐ natural gas ☐ single party telephone ☐ cable television services.
9. The property ☐ is ☐ is not . . . . served by a water supply that requires the transportation of water to the property.
10. The property is served by ☐ a private water company ☐ a municipal water provider ☐ a private well ☐ a shared well ☐ no well. If served by a shared well, the shared well ☐ is ☐ is not . . . . a public water system, as defined by the safe drinking water act (42 United States Code § 300f).
    Notice to buyer: If the property is served by a well, a private water company or a municipal water provider the Arizona department of water resources may not have made a water supply determination. For more information about water supply, contact the water provider.
11. THE PROPERTY OR THE WATER USED ON THE PROPERTY ☐ IS ☐ IS NOT THE SUBJECT OF A STATEMENT OF CLAIMANT FOR THE USE OF WATER IN A GENERAL ADJUDICATION OF WATER RIGHTS. ☐ UNKNOWN.
    THIS IS A LAWSUIT TO DETERMINE THE USE OF AND RELATIVE PRIORITY OF WATER RIGHTS. A MAP OF ADJUDICATED AREAS IS AVAILABLE AT THE WEBSITE OF THE DEPARTMENT OF WATER RESOURCES.

Ch. 103

~~11.~~ 12. The property ☐ does have ☐ does not have . . . . an on-site wastewater treatment facility (i.e., standard septic or alternative system to treat and dispose of wastewater). ☐ unknown. If applicable: a) The property ☐ will ☐ will not . . . . require installation of an on-site wastewater treatment facility; b) The on-site wastewater treatment facility ☐ has ☐ has not been inspected.

~~12.~~ 13. The property ☐ has been ☐ has not been . . . . subject to a percolation test. ☐ unknown.

Ch. 131

14. THE PROPERTY ☐ DOES HAVE ☐ DOES NOT HAVE ONE OR MORE SOLAR ENERGY DEVICES THAT ARE ☐ LEASED ☐ OWNED.

NOTICE TO BUYER: IF THE PROPERTY CONTAINS SOLAR ENERGY DEVICES, IT IS THE RESPONSIBILITY OF THE BUYER TO VERIFY THE PROPER REPLACEMENT AND DISPOSAL METHOD FOR THE DEVICES, AS APPLICABLE. IF THE SOLAR ENERGY DEVICES ARE LEASED, THE SELLER OR PROPERTY OWNER SHALL DISCLOSE THE NAME AND CONTACT INFORMATION OF THE LEASING COMPANY.

LEASING COMPANY NAME: _____ *PHONE:* _____

~~13.~~ 15. The property ☐ does ☐ does not . . . . meet the minimum applicable county zoning requirements of the applicable zoning designation.

~~14.~~ 16. The sale of the property ☐ does ☐ does not . . . meet the requirements of A.R.S. § 11-831 regarding land divisions. If those requirements are not met, the property owner may not be able to obtain a building permit. The seller or property owner shall disclose each of the deficiencies to the buyer.

Explain: _____

_____

_____

~~15.~~ 17. The property ☐ is ☐ is not located in the clear zone of a military airport or ancillary military facility, as defined in A.R.S. § 28-8461. (Maps are available at the state real estate department's website.)

~~16.~~ 18. The property ☐ is ☐ is not located in the high noise or accident potential zone of a military airport or ancillary military facility, as defined in A.R.S. § 28-8461. (Maps are available at the state real estate department's website.)

~~17.~~ 19. Notice: If the property is located within the territory in the vicinity of a military airport or ancillary military facility, the property is required to comply with sound attenuation standards as prescribed by A.R.S. § 28-8482. (Maps are available at the state real estate department's website.)

~~18.~~ 20. The property ☐ is ☐ is not located under military restricted airspace. ☐ unknown. (Maps are available at the state real estate department's website.)

Chs. 103 — ~~19.~~

Chs. 103 and 131

21[.] The property ☐ is ☐ is not located in a military electronics range as defined in A.R.S. ~~sections~~ [§] 9-500.28 and [§] 11-818. ☐ unknown. (Maps are available at the state real estate department's website.)

~~20.~~ 22. Use of the property ☐ is ☐ is not limited in any way relating to an encumbrance of title due to a lis pendens, a court order or a state real estate department order or a pending legal action. If the use of the property is limited due to an encumbrance of title, the seller or property owner shall disclose the limitations to the buyer.

Explain: _____

_____

_____

This affidavit of disclosure supersedes any previously recorded affidavit of disclosure.

I certify under penalty of perjury that the information contained in this affidavit is true, complete and correct according to my best belief and knowledge.

Dated this ___(date)___ day of ___(year)___ by:

Seller's name (print): _____ Signature: _____

Seller's name (print): _____ Signature: _____

State of Arizona)
) ss.
County of _____)

Subscribed and sworn before me this ___(date)___ day of ___(year)___, by _____.

_____
Notary public

My commission expires:
_____(date)_____

Buyer(s) hereby acknowledges receipt of a copy of this affidavit of disclosure this _____(date)_____ day of _____(year)_____

Buyer's name (print): _____ Signature: _____

Buyer's name (print): _____ Signature: _____

G. For the purposes of this section, seller and subsequent seller do not include a trustee of a deed of trust who is selling property by a trustee's sale pursuant to ~~title 33,~~ chapter 6.1 OF THIS TITLE or any officer who is selling property by execution sale pursuant to title 12, chapter 9 and ~~title 33,~~ chapter 6 OF THIS TITLE. If the seller is a trustee of a subdivision trust as defined in section 6-801, the disclosure affidavit required by this section shall be provided by the beneficiary of the subdivision trust.

Chs. 103 and 131

EXPLANATION OF BLEND
SECTION 35-113

Laws 2019, Chapters 267 and 272

Laws 2019, Ch. 267, section 7	Effective August 27, 2019
Laws 2019, Ch. 272, section 2	Effective August 27, 2019

Explanation

Since these two enactments are compatible, the Laws 2019, Ch. 267 and Ch. 272 text changes to section 35-113 are blended in the form shown on the following page.

BLEND OF SECTION 35-113
Laws 2019, Chapters 267 and 272

35-113. Submission of budget estimates

The administrative head of each budget unit, not later than September 1 of each year or at a later date not to exceed thirty days after September 1 if approved by the director of the governor's office of strategic planning
Ch. 267— and budgeting, shall submit to the governor, with ~~five~~ TWO copies, estimates of the financial requirements and of receipts, including appropriated and nonappropriated monies in no less detail than the state general fund, of the budget unit for the next fiscal year. THE ESTIMATES SHALL INCLUDE A DETAILED ESTIMATE OF THE COST TO THE BUDGET UNIT IN THE NEXT FISCAL YEAR
Ch. 272— ATTRIBUTABLE TO A COUNTY'S, CITY'S OR TOWN'S ESTABLISHMENT OF A MINIMUM WAGE IF THAT MINIMUM WAGE EXCEEDS THE MINIMUM WAGE ESTABLISHED BY THIS STATE PURSUANT TO SECTION 23-363. The estimates shall be on the forms and in the manner prescribed by the governor with explanatory data that may be required, together with additional information the head of the budget unit desires to submit. The estimates submitted shall bear the approval of the administrative head of the budget unit.

EXPLANATION OF BLEND
SECTION 36-401

Laws 2019, Chapters 121 and 133

Laws 2019, Ch. 121, section 1	Effective August 27, 2019
Laws 2019, Ch. 133, section 2	Effective April 24, 2019

Explanation

Since these two enactments are compatible, the Laws 2019, Ch. 121 and Ch. 133 text changes to section 36-401 are blended in the form shown on the following pages.

BLEND OF SECTION 36-401
Laws 2019, Chapters 121 and 133

36-401. Definitions; adult foster care

A. In this chapter, unless the context otherwise requires:

1. "Accredited health care institution" means a health care institution, other than a hospital, that is currently accredited by a nationally recognized accreditation organization.

2. "Accredited hospital" means a hospital that is currently accredited by a nationally recognized organization on hospital accreditation.

Ch. 121

3. "ADULT BEHAVIORAL HEALTH THERAPEUTIC HOME" MEANS A RESIDENCE FOR INDIVIDUALS WHO ARE AT LEAST EIGHTEEN YEARS OF AGE, HAVE BEHAVIORAL HEALTH ISSUES AND NEED BEHAVIORAL HEALTH SERVICES THAT DOES ALL OF THE FOLLOWING FOR THOSE INDIVIDUALS:

(a) PROVIDES ROOM AND BOARD.

(b) ASSISTS IN ACQUIRING DAILY LIVING SKILLS.

(c) COORDINATES TRANSPORTATION TO SCHEDULED APPOINTMENTS.

(d) MONITORS BEHAVIORS.

(e) ASSISTS IN THE SELF-ADMINISTRATION OF MEDICATION.

(f) PROVIDES FEEDBACK TO CASE MANAGERS RELATED TO BEHAVIOR.

~~3.~~ 4. "Adult day health care facility" means a facility that provides adult day health services during a portion of a continuous twenty-four-hour period for compensation on a regular basis for five or more adults who are not related to the proprietor.

~~4.~~ 5. "Adult day health services" means a program that provides planned care supervision and activities, personal care, personal living skills training, meals and health monitoring in a group setting during a portion of a continuous twenty-four-hour period. Adult day health services may also include preventive, therapeutic and restorative health-related services that do not include behavioral health services.

~~5.~~ 6. "Adult foster care home" means a residential setting that provides room and board and adult foster care services for at least one and no more than four adults who are participants in the Arizona long-term care system pursuant to chapter 29, article 2 of this title or contracts for services with the United States department of veterans affairs and in which the sponsor or the manager resides with the residents and integrates the residents who are receiving adult foster care into that person's family.

~~6.~~ 7. "Adult foster care services" means supervision, assistance with eating, bathing, toileting, dressing, self-medication and other routines of daily living or services authorized by rules adopted pursuant to section 36-405 and section 36-2939, subsection C.

~~7.~~ 8. "Assisted living center" means an assisted living facility that provides resident rooms or residential units to eleven or more residents.

~~8.~~ 9. "Assisted living facility" means a residential care institution, including an adult foster care home, that provides or contracts

to provide supervisory care services, personal care services or directed care services on a continuous basis.

~~9.~~ 10. "Assisted living home" means an assisted living facility that provides resident rooms to ten or fewer residents.

~~10.~~ 11. "Behavioral health services" means services that pertain to mental health and substance use disorders and that are either:

(a) Performed by or under the supervision of a professional who is licensed pursuant to title 32 and whose scope of practice allows for the provision of these services.

(b) Performed on behalf of patients by behavioral health staff as prescribed by rule.

~~11.~~ 12. "Construction" means the building, erection, fabrication or installation of a health care institution.

~~12.~~ 13. "Continuous" means available at all times without cessation, break or interruption.

~~13.~~ 14. "Controlling person" means a person who:

(a) Through ownership, has the power to vote at least ten percent of the outstanding voting securities.

(b) If the applicant or licensee is a partnership, is the general partner or a limited partner who holds at least ten percent of the voting rights of the partnership.

(c) If the applicant or licensee is a corporation, an association or a limited liability company, is the president, the chief executive officer, the incorporator or any person who owns or controls at least ten percent of the voting securities. For the purposes of this subdivision, corporation does not include nonprofit corporations.

(d) Holds a beneficial interest in ten percent or more of the liabilities of the applicant or the licensee.

~~14.~~ 15. "Department" means the department of health services.

~~15.~~ 16. "Directed care services" means programs and services, including supervisory and personal care services, that are provided to persons who are incapable of recognizing danger, summoning assistance, expressing need or making basic care decisions.

~~16.~~ 17. "Direction" means authoritative policy or procedural guidance for the accomplishment of a function or activity.

~~17.~~ 18. "Director" means the director of the department of health services.

~~18.~~ 19. "Facilities" means buildings that are used by a health care institution for providing any of the types of services as defined in this chapter.

~~19.~~ 20. "Freestanding urgent care center":

(a) Means an outpatient treatment center that, regardless of its posted or advertised name, meets any of the following requirements:

(i) Is open twenty-four hours a day, excluding at its option weekends or certain holidays, but is not licensed as a hospital.

(ii) Claims to provide unscheduled medical services not otherwise routinely available in primary care physician offices.

(iii) By its posted or advertised name, gives the impression to the public that it provides medical care for urgent, immediate or emergency conditions.

(iv) Routinely provides ongoing unscheduled medical services for more than eight consecutive hours for an individual patient.

(b) Does not include the following:

(i) A medical facility that is licensed under a hospital's license and that uses the hospital's medical provider number.

(ii) A qualifying community health center pursuant to section 36-2907.06.

(iii) Any other health care institution licensed pursuant to this chapter.

(iv) A physician's office that offers extended hours or same-day appointments to existing and new patients and that does not meet the requirements of subdivision (a), item (i), (iii) or (iv) of this paragraph.

~~20.~~ 21. "Governing authority" means the individual, agency, partners, group or corporation, appointed, elected or otherwise designated, in which the ultimate responsibility and authority for the conduct of the health care institution are vested.

~~21.~~ 22. "Health care institution" means every place, institution, building or agency, whether organized for profit or not, that provides facilities with medical services, nursing services, behavioral health services, health screening services, other health-related services, supervisory care services, personal care services or directed care services and includes home health agencies as defined in section 36-151, outdoor behavioral health care programs and hospice service agencies. Health care institution does not include a community residential setting as defined in section 36-551.

~~22.~~ 23. "Health-related services" means services, other than medical, that pertain to general supervision, protective, preventive and personal care services, supervisory care services or directed care services.

~~23.~~ 24. "Health screening services" means the acquisition, analysis and delivery of health-related data of individuals to aid in the determination of the need for medical services.

~~24.~~ 25. "Hospice" means a hospice service agency or the provision of hospice services in an inpatient facility.

~~25.~~ 26. "Hospice service" means a program of palliative and supportive care for terminally ill persons and their families or caregivers.

~~26.~~ 27. "Hospice service agency" means an agency or organization, or a subdivision of that agency or organization, that is engaged in providing hospice services at the place of residence of its clients.

~~27.~~ 28. "Inpatient beds" or "resident beds" means accommodations with supporting services, such as food, laundry and housekeeping, for patients or residents who generally stay in excess of twenty-four hours.

Ch. 133 — 29. "INTERMEDIATE CARE FACILITY FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES" HAS THE SAME MEANING PRESCRIBED IN SECTION 36-551.

~~28.~~ 30. "Licensed capacity" means the total number of persons for whom the health care institution is authorized by the department to provide services as required pursuant to this chapter if the person is expected to stay in the health care institution for more than twenty-four hours. For a hospital, licensed capacity means only those beds specified on the hospital license.

~~29.~~ 31. "Medical services" means the services that pertain to medical care and that are performed at the direction of a physician on behalf of patients by physicians, dentists, nurses and other professional and technical personnel.

~~30.~~ 32. "Modification" means the substantial improvement, enlargement, reduction or alteration of or other change in a health care institution.

~~31.~~ 33. "Nonproprietary institution" means any health care institution that is organized and operated exclusively for charitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual, or that is operated by the state or any political subdivision of the state.

~~32.~~ 34. "Nursing care institution" means a health care institution that provides inpatient beds or resident beds and nursing services to persons who need continuous nursing services but who do not require hospital care or direct daily care from a physician.

~~33.~~ 35. "Nursing services" means those services that pertain to the curative, restorative and preventive aspects of nursing care and that are performed at the direction of a physician by or under the supervision of a registered nurse licensed in this state.

~~34.~~ 36. "Organized medical staff" means a formal organization of physicians, and dentists where appropriate, with the delegated authority and responsibility to maintain proper standards of medical care and to plan for continued betterment of that care.

~~35.~~ 37. "Outdoor behavioral health care program" means an agency that provides behavioral health services in an outdoor environment as an alternative to behavioral health services that are provided in a health care institution with facilities. Outdoor behavioral health care programs do not include:

(a) Programs, facilities or activities that are operated by a government entity or that are licensed by the department as a child care program pursuant to chapter 7.1 of this title.

(b) Outdoor activities for youth that are designated to be primarily recreational and that are organized by church groups, scouting organizations or similar groups.

(c) Outdoor youth programs licensed by the department of economic security.

~~36.~~ 38. "Personal care services" means assistance with activities of daily living that can be performed by persons without professional skills or professional training and includes the coordination or provision of intermittent nursing services and the administration of medications and treatments by a nurse who is licensed pursuant to title 32, chapter 15 or as otherwise provided by law.

~~37.~~ 39. "Physician" means any person who is licensed pursuant to title 32, chapter 13 or 17.

~~38.~~ 40. "Recidivism reduction services" means services that are delivered by an adult residential care institution to its residents to encourage lawful behavior and to discourage or prevent residents who are suspected of, charged with or convicted of one or more criminal offenses, or whose mental health and substance use can be reasonably expected to place

them at risk for the future threat of prosecution, diversion or incarceration, from engaging in future unlawful behavior.

~~39.~~ 41. "Recidivism reduction staff" means a person who provides recidivism reduction services.

~~40.~~ 42. "Residential care institution" means a health care institution other than a hospital or a nursing care institution that provides resident beds or residential units, supervisory care services, personal care services, behavioral health services, directed care services or health-related services for persons who do not need continuous nursing services.

~~41.~~ 43. "Residential unit" means a private apartment, unless otherwise requested by a resident, that includes a living and sleeping space, kitchen area, private bathroom and storage area.

~~42.~~ 44. "Respite care services" means services that are provided by a licensed health care institution to persons otherwise cared for in foster homes and in private homes to provide an interval of rest or relief of not more than thirty days to operators of foster homes or to family members.

~~43.~~ 45. "Substantial compliance" means that the nature or number of violations revealed by any type of inspection or investigation of a health care institution does not pose a direct risk to the life, health or safety of patients or residents.

~~44.~~ 46. "Supervision" means direct overseeing and inspection of the act of accomplishing a function or activity.

~~45.~~ 47. "Supervisory care services" means general supervision, including daily awareness of resident functioning and continuing needs, the ability to intervene in a crisis and assistance in the self-administration of prescribed medications.

~~46.~~ 48. "Temporary license" means a license that is issued by the department to operate a class or subclass of a health care institution at a specific location and that is valid until an initial licensing inspection.

~~47.~~ 49. "Unscheduled medical services" means medically necessary periodic health care services that are unanticipated or cannot reasonably be anticipated and that require medical evaluation or treatment before the next business day.

B. If there are fewer than four Arizona long-term care system participants receiving adult foster care in an adult foster care home, nonparticipating adults may receive other types of services that are authorized by law to be provided in the adult foster care home as long as the number of adults served, including the Arizona long-term care system participants, does not exceed four.

C. Nursing care services may be provided by the adult foster care licensee if the licensee is a nurse who is licensed pursuant to title 32, chapter 15 and the services are limited to those allowed pursuant to law. The licensee shall keep a record of nursing services rendered.

EXPLANATION OF BLEND
SECTION 36-402

Laws 2019, Chapters 184 and 190

Laws 2019, Ch. 184, section 1	Effective August 27, 2019
Laws 2019, Ch. 190, section 1	Effective May 8, 2019

Explanation

Since these two enactments are compatible, the Laws 2019, Ch. 184 and Ch. 190 text changes to section 36-402 are blended in the form shown on the following pages.

BLEND OF SECTION 36-402
Laws 2019, Chapters 184 and 190

36-402. Exemptions

A. This chapter and the rules adopted by the director pursuant to this chapter do not authorize the licensure, supervision, regulation or control of:

1. The remedial care or treatment of residents or patients in any home or institution conducted only for those who rely solely on treatment by prayer or spiritual means in accordance with the creed or tenets of any well-recognized church or religious denomination.

2. Establishments, such as motels, hotels and boarding houses, that provide domiciliary and ancillary commercial services, but do not provide adaptive, medical, hospital, nursing, behavioral health, health-related or supervisory care services.

3. Private offices and clinics of health care providers licensed under title 32 that are not freestanding urgent care centers, unless:

(a) Patients are kept overnight as bed patients or treated otherwise under general anesthesia, except when treatment by general anesthesia is regulated by title 32, chapter 11.

(b) The office or clinic is an abortion clinic. For the purposes of this subdivision, "abortion clinic" has the same meaning prescribed in section 36-449.01.

(c) THE OFFICE OR CLINIC IS A PAIN MANAGEMENT CLINIC. FOR THE PURPOSES OF THIS SUBDIVISION, "PAIN MANAGEMENT CLINIC" HAS THE SAME MEANING PRESCRIBED IN SECTION 36-448.01.

Ch. 184

4. Dispensaries and first aid stations located within business or industrial establishments maintained solely for the use of employees if the facility does not contain inpatient beds and is under the supervision of a physician OR A REGISTERED NURSE PRACTITIONER.

5. The collection, processing or distribution of whole human blood, blood components, plasma, blood fractions or derivatives procured, processed or distributed by federally licensed and regulated blood banks.

6. Places where four or fewer adults not related to the administrator or owner receive adult day health services for compensation on a regular basis.

7. Places at which persons receive health-related services only from relatives or from legal guardians or places that do not purport to be establishments that regularly provide health-related services and at which one or two persons receive health-related services on a twenty-four-hour basis.

Ch. 190

~~8. The Arizona pioneers' home. However, the department of health services shall evaluate the health and sanitation conditions at the Arizona pioneers' home annually using the standards applicable to licensed nursing care institutions.~~

~~9.~~ 8. The personal residence of a terminally ill person, or the personal residence of that person's relative or guardian, where that person receives hospice services from a hospice service agency.

~~10.~~ 9. All medical and health-related facilities and services that are provided to inmates who are confined in a state prison. The state department of corrections shall annually evaluate the medical and health-related facilities and services that are provided to inmates to determine that the facilities and services meet the applicable standards that are adopted by the director of the department of health services. The state department of corrections shall report the results of its annual evaluation and the actual findings, including a plan of correction for any deficiencies, to the director of the department of health services. The department of health services shall conduct validation surveys on a percentage of the medical and health-related facilities, the number of which shall be determined by the state department of corrections and the department of health services. The director of the state department of corrections shall maintain the annual evaluation reports. This paragraph does not apply to licensed behavioral or mental health inpatient treatment facilities that the state department of corrections operates.

~~11.~~ 10. A facility that provides medical and health services to inmates who are confined in a county jail. The sheriff shall annually evaluate the facility to determine if it meets the applicable standards that are adopted by either a national corrections commission on health care or an American correctional association, or the sheriff shall annually submit the facility to a similar separate inspection by an outside agency with medical standards. The sheriff must submit the certificate of accreditation or proof of successful inspection to the department annually and keep a copy of the certificate or proof of inspection.

~~12.~~ 11. Community education, advocacy or recovery support groups that are not owned or operated by or contracted to provide services with a health care institution.

B. A medical and health-related facility that provides medical and health services exclusively to persons who are incarcerated, detained or confined under court order or court jurisdiction is exempt from the patient-per-room capacity requirements provided in rule if the facility:

1. Does not exceed its intended medical and custodial purposes.

2. Adopts policies and procedures to comply with the national commission on correctional health care standards, or equivalent standards.

3. As soon as practicable, becomes accredited by the national commission on correctional health care, or by an equivalent organization.

4. Once accreditation is obtained, submits a certificate of accreditation to the department of health services annually.

5. Maintains a copy of the certificate of accreditation.

6. Maintains patient and custodial records, including on-site current photographs and fingerprints, if permitted by applicable law.

7. Makes patient lists with inmate identifiers available to the state department of corrections on reasonable request.

8. Provides timely notice of any major incident involving public safety to the appropriate law enforcement agency and allows that agency access to the facility for the purposes of law enforcement and investigation.

C. Subsection B of this section does not apply to health care institutions that exclusively provide behavioral health services.

EXPLANATION OF BLEND
SECTION 36-421

Laws 2019, Chapters 121 and 190

Laws 2019, Ch. 121, section 2	Effective August 27, 2019
Laws 2019, Ch. 190, section 2	Effective May 8, 2019

Explanation

Since these two enactments are compatible, the Laws 2019, Ch. 121 and Ch. 190 text changes to section 36-421 are blended in the form shown on the following page.

BLEND OF SECTION 36-421
Laws 2019, Chapters 121 and 190

36-421. Construction or modification of a health care institution

A. A license application for a health care institution shall include architectural plans and specifications or the department's approval of the architectural plans and specifications. These plans and specifications shall meet the minimum standards for licensure within the class or subclass of health care institution for which it is intended. The application shall include the name and address of each owner and lessee of any agricultural land that is regulated pursuant to section 3-365.

B. Construction or modification of a licensed health care institution shall meet the minimum standards for licensure within the class or subclass of health care institution for which it is intended.

C. An applicant shall comply with all state statutes and rules and local codes and ordinances required for the health care institution's construction.

D. A health care institution or its facility shall not be licensed if it is located on property that is less than four hundred feet from agricultural land that is regulated pursuant to section 3-365, except that the owner of the agricultural land may agree to comply with the buffer zone requirements of section 3-365. If the owner agrees in writing to comply with the buffer zone requirements and records the agreement in the office of the county recorder as a restrictive covenant running with the title to the land, the health care institution or facility may be licensed and located within the affected buffer zone. The agreement may include any stipulations regarding the health care institution or facility, including conditions for future expansion of the health care institution or facility and changes in the operational status of the health care institution or facility that will result in a breach of the agreement. This subsection does not apply to the issuance of a license for a health care institution located in the same location for which a health care institution license was previously issued.

E. Notwithstanding any law to the contrary, a health care institution that was licensed as a level 1 psychiatric acute behavioral health facility-inpatient facility as of January 1, 2012 and that is not certified under title XIX of the social security act shall be licensed as a hospital and is not required to comply with the physical plant standards for a general hospital, rural general hospital or special hospital prescribed by the department.

Ch. 121 — F. AN ADULT BEHAVIORAL HEALTH THERAPEUTIC HOME IS NOT REQUIRED TO COMPLY WITH THE BUILDING CODES OR ZONING STANDARDS FOR A HEALTH CARE INSTITUTION PRESCRIBED BY THE DEPARTMENT.

Ch. 190 — G. THE ARIZONA PIONEERS' HOME IS NOT REQUIRED TO COMPLY WITH SUBSECTION A OF THIS SECTION AND THE PHYSICAL PLANT STANDARDS FOR A HEALTH CARE INSTITUTION PRESCRIBED BY THE DEPARTMENT.

~~F.~~ H. For the purposes of this section, health care institution does not include a home health agency or a hospice service agency.

EXPLANATION OF BLEND
SECTION 36-424

Laws 2019, Chapters 133 and 134

Laws 2019, Ch. 133, section 3	Effective April 24, 2019
Laws 2019, Ch. 134, section 4	Effective April 24, 2019

Explanation

Since these two enactments are compatible, the Laws 2019, Ch. 133 and Ch. 134 text changes to section 36-424 are blended in the form shown on the following pages.

BLEND OF SECTION 36-424
Laws 2019, Chapters 133 and 134

36-424. Inspections; suspension or revocation of license; report to board of examiners of nursing care institution administrators

Chs. 133 and 134 — A. Subject to the ~~limitation~~ LIMIT prescribed by subsection B of this section, the director shall inspect the premises of the health care institution and investigate the character and other qualifications of the applicant to ascertain whether the applicant and the health care institution are in substantial compliance with the requirements of this chapter and the rules established pursuant to this chapter. The director may prescribe rules regarding department background investigations into an applicant's character and qualifications.

B. The director shall accept proof that a health care institution is an accredited hospital or is an accredited health care institution in lieu of all compliance inspections required by this chapter if the director receives a copy of the institution's accreditation report for the licensure period. If the health care institution's accreditation report is not valid for the entire licensure period, the department may conduct a compliance inspection of the health care institution during the time period the department does not have a valid accreditation report for the health care institution. FOR THE PURPOSES OF THIS SUBSECTION, EACH LICENSED PREMISES OF A HEALTH CARE INSTITUTION MUST HAVE ITS OWN ACCREDITATION REPORT. — Ch. 134

THE DIRECTOR MAY NOT ACCEPT AN ACCREDITATION REPORT IN LIEU OF A COMPLIANCE INSPECTION OF AN INTERMEDIATE CARE FACILITY FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES. — Ch. 133

THE DIRECTOR MAY ACCEPT AN ACCREDITATION REPORT IN LIEU OF A COMPLIANCE INSPECTION OF A BEHAVIORAL HEALTH RESIDENTIAL FACILITY PROVIDING SERVICES TO CHILDREN ONLY IF BOTH OF THE FOLLOWING APPLY: — Ch. 134

1. THE FACILITY IS ACCREDITED BY AN INDEPENDENT, NONPROFIT ACCREDITING ORGANIZATION APPROVED BY THE SECRETARY OF THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES.

2. THE FACILITY HAS NOT BEEN SUBJECT TO AN ENFORCEMENT ACTION PURSUANT TO SECTION 36-427 OR 36-431.01 WITHIN THE YEAR PRECEDING THE ANNUAL LICENSING FEE ANNIVERSARY DATE.

C. On a determination by the director that there is reasonable cause to believe a health care institution is not adhering to the licensing requirements of this chapter, the director and any duly designated employee or agent of the director, including county health representatives and county or municipal fire inspectors, consistent with standard medical practices, may enter on and into the premises of any health care institution that is licensed or required to be licensed pursuant to this chapter at any reasonable time for the purpose of determining the state of compliance with this chapter, the rules adopted pursuant to this chapter and local fire ordinances or rules. Any application for licensure under this chapter

constitutes permission for and complete acquiescence in any entry or inspection of the premises during the pendency of the application and, if licensed, during the term of the license. If an inspection reveals that the health care institution is not adhering to the licensing requirements established pursuant to this chapter, the director may take action authorized by this chapter. Any health care institution, including an accredited hospital, whose license has been suspended or revoked in accordance with this section is subject to inspection on application for relicensure or reinstatement of license.

D. The director shall immediately report to the board of examiners of nursing care institution administrators information identifying that a nursing care institution administrator's conduct may be grounds for disciplinary action pursuant to section 36-446.07.

EXPLANATION OF BLEND
SECTION 36-509

Laws 2019, Chapters 239 and 311

Laws 2019, Ch. 239, section 1	Effective August 27, 2019
Laws 2019, Ch. 311, section 1	Effective August 27, 2019

Explanation

Since these two enactments are compatible, the Laws 2019, Ch. 239 and Ch. 311 text changes to section 36-509 are blended in the form shown on the following pages.

BLEND OF SECTION 36-509
Laws 2019, Chapters 239 and 311

36-509. Confidential records; immunity; definition

A. A health care entity must keep records and information contained in records confidential and not as public records, except as provided in this section. Records and information contained in records may ~~only~~ be disclosed ONLY

Chs. 239 and 311

AS AUTHORIZED BY STATE OR FEDERAL LAW, INCLUDING THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT PRIVACY STANDARDS (45 CODE OF FEDERAL REGULATIONS PART 160 AND PART 164, SUBPART E), OR AS FOLLOWS to:

Ch. 311

1. Physicians and providers of health, mental health or social and welfare services involved in caring for, treating or rehabilitating the patient.

2. Individuals to whom the patient or the patient's health care decision maker has given authorization to have information disclosed.

3. Persons authorized by a court order.

4. Persons doing research only if the activity is conducted pursuant to applicable federal or state laws and regulations governing research.

5. The state department of corrections in cases in which prisoners confined to the state prison are patients in the state hospital on authorized transfers either by voluntary admission or by order of the court.

6. Governmental or law enforcement agencies if necessary to:

(a) Secure the return of a patient who is on unauthorized absence from any agency where the patient was undergoing evaluation and treatment.

(b) Report a crime on the premises.

(c) Avert a serious and imminent threat to an individual or the public.

7. Persons, including family members, other relatives, close personal friends or any other person identified by the patient, as otherwise authorized or required by state or federal law, including the health insurance portability and accountability act of 1996 privacy standards (45 Code of Federal Regulations part 160 and part 164, subpart E), or pursuant to one of the following:

(a) If the patient is present or otherwise available and has the capacity to make health care decisions, the health care entity may disclose the information if one of the following applies:

(i) The patient agrees verbally or agrees in writing by signing a consent form that permits disclosure.

(ii) The patient is given an opportunity to object and does not express an objection.

(iii) The health care entity reasonably infers from the circumstances, based on the exercise of professional judgment, that the patient does not object to the disclosure.

(b) If the patient is not present or the opportunity to agree or object to the disclosure of information cannot practicably be provided because of the patient's incapacity or an emergency circumstance, the health

care entity may disclose the information if the entity determines that the disclosure of the information is in the best interests of the patient. In determining whether the disclosure of information is in the best interests of the patient, in addition to all other relevant factors, the health care entity shall consider all of the following:

(i) The patient's medical and treatment history, including the patient's history of compliance or noncompliance with an established treatment plan based on information in the patient's medical record and on reliable and relevant information received from the patient's family members, friends or others involved in the patient's care, treatment or supervision.

(ii) Whether the information is necessary or, based on professional judgment, would be useful in assisting the patient in complying with the care, treatment or supervision prescribed in the patient's treatment plan.

(iii) Whether the health care entity has reasonable grounds to believe that the release of the information may subject the patient to domestic violence, abuse or endangerment by family members, friends or other persons involved in the patient's care, treatment or supervision.

(c) The health care entity believes the patient presents a serious and imminent threat to the health or safety of the patient or others, and the health care entity believes that family members, friends or others involved in the patient's care, treatment or supervision can help to prevent the threat.

(d) In order for the health care entity to notify a family member, friend or other person involved in the patient's care, treatment or supervision of the patient's location, general condition or death.

8. A state agency that licenses health professionals pursuant to title 32, chapter 13, 15, 17, 19.1 or 33 and that requires these records in the course of investigating complaints of professional negligence, incompetence or lack of clinical judgment.

9. A state or federal agency that licenses health care providers.

10. A governmental agency or a competent professional, as defined in section 36-3701, in order to comply with chapter 37 of this title.

11. Independent oversight committees established pursuant to title 41, chapter 35. Any information released pursuant to this paragraph shall comply with the requirements of section 41-3804 and applicable federal law and shall be released without personally identifiable information unless the personally identifiable information is required for the official purposes of the independent oversight committee. Case information received by an independent oversight committee shall be maintained as confidential. For the purposes of this paragraph, "personally identifiable information" includes a person's name, address, date of birth, social security number, tribal enrollment number, telephone or telefacsimile number, driver license number, places of employment, school identification number and military identification number or any other distinguishing characteristic that tends to identify a particular person.

12. A patient or the patient's health care decision maker.

13. The department of public safety or another law enforcement agency by the court to comply with the requirements of section 36-540, subsections O and P.

14. A third-party payor or the payor's contractor as permitted by the health insurance portability and accountability act privacy standards, 45 Code of Federal Regulations part 160 and part 164, subpart E.

15. A private entity that accredits the health care provider and with whom the health care provider has an agreement requiring the agency to protect the confidentiality of patient information.

16. The legal representative of a health care entity in possession of the record for the purpose of securing legal advice.

17. A person or entity as otherwise required by state or federal law.

18. A person or entity as permitted by the federal regulations on alcohol and drug abuse treatment (42 Code of Federal Regulations part 2).

19. A person or entity to conduct utilization review, peer review and quality assurance pursuant to section 36-441, 36-445, 36-2402 or 36-2917.

20. A person maintaining health statistics for public health purposes as authorized by law.

21. A grand jury as directed by subpoena.

22. A person or entity that provides services to the patient's health care provider, as defined in section 12-2291, and with whom the health care provider has a business associate agreement that requires the person or entity to protect the confidentiality of patient information as required by the health insurance portability and accountability act privacy standards, [(]45 Code of Federal Regulations part 164, subpart E[)].

Chs. 239 and 311

Ch. 239

23. A COUNTY MEDICAL EXAMINER OR AN ALTERNATE MEDICAL EXAMINER DIRECTING AN INVESTIGATION INTO THE CIRCUMSTANCES SURROUNDING A DEATH PURSUANT TO SECTION 11-593.

B. Information disclosed pursuant to subsection A, paragraph 7 of this section may include only information that is directly relevant to the person's involvement with the patient's health care or payment related to the patient's health care. Subsection A, paragraph 7 of this section does not prevent a health care entity from obtaining or receiving information about the patient from a family member, friend or other person involved in the patient's care, treatment or supervision. A health care entity shall keep a record of the name and contact information of any person to whom any patient information is released pursuant to subsection A, paragraph 7 of this section. A decision to release or withhold information pursuant subsection A, paragraph 7 of this section is subject to review pursuant to section 36-517.01.

C. Information and records obtained in the course of evaluation, examination or treatment and submitted in any court proceeding pursuant to this chapter or title 14, chapter 5 are confidential and are not public records unless the hearing requirements of this chapter or title 14, chapter 5 require a different procedure. Information and records that are obtained pursuant to this section and submitted in a court proceeding pursuant to title 14, chapter 5 and that are not clearly identified by the parties as confidential and segregated from nonconfidential information and records are considered public records.

D. Notwithstanding subsections A, B and C of this section, the legal representative of a patient who is the subject of a proceeding conducted pursuant to this chapter and title 14, chapter 5 has access to the patient's information and records in the possession of a health care entity or filed with the court.

E. A health care entity that acts in good faith under this article is not liable for damages in any civil action for the disclosure of records or payment records that is made pursuant to this article or as otherwise provided by law. The health care entity is presumed to have acted in good faith. This presumption may be rebutted by clear and convincing evidence.

F. For the purposes of this section, "information" means records and the information contained in records.

EXPLANATION OF BLEND
SECTION 36-664

Laws 2019, Chapters 239 and 311

Laws 2019, Ch. 239, section 2	Effective August 27, 2019
Laws 2019, Ch. 311, section 2	Effective August 27, 2019

Explanation

Since these two enactments are compatible, the Laws 2019, Ch. 239 and Ch. 311 text changes to section 36-664 are blended in the form shown on the following pages.

BLEND OF SECTION 36-664
Laws 2019, Chapters 239 and 311

36-664. Confidentiality; exceptions

A. A person who obtains communicable disease related information in the course of providing a health service or obtains that information from a health care provider pursuant to an authorization shall not disclose or be compelled to disclose that information except AS AUTHORIZED BY STATE OR FEDERAL LAW, INCLUDING THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT PRIVACY STANDARDS (45 CODE OF FEDERAL REGULATIONS PART 160 AND PART 164, SUBPART E), OR PURSUANT to the following:

Ch. 311

1. The protected person or, if the protected person lacks capacity to consent, the protected person's health care decision maker.

2. A health care provider or first responder who has had an occupational significant exposure risk to the protected person's blood or bodily fluid if the health care provider or first responder provides a written request that documents the occurrence and information regarding the nature of the occupational significant exposure risk and the report is reviewed and confirmed by a health care provider who is both licensed pursuant to title 32, chapter 13, 15 or 17 and competent to determine a significant exposure risk. A health care provider who releases communicable disease information pursuant to this paragraph shall provide education and counseling to the person who has had the occupational significant exposure risk.

3. The department or a local health department for purposes of notifying a Good Samaritan pursuant to subsection E of this section.

4. An agent or employee of a health facility or health care provider to provide health services to the protected person or the protected person's child or for billing or reimbursement for health services.

5. A health facility or health care provider, in relation to the procurement, processing, distributing or use of a human body or a human body part, including organs, tissues, eyes, bones, arteries, blood, semen, milk or other body fluids, for use in medical education, research or therapy or for transplantation to another person.

6. A health facility or health care provider, or an organization, committee or individual designated by the health facility or health care provider, that is engaged in the review of professional practices, including the review of the quality, utilization or necessity of medical care, or an accreditation or oversight review organization responsible for the review of professional practices at a health facility or by a health care provider.

7. A private entity that accredits the health facility or health care provider and with whom the health facility or health care provider has an agreement requiring the agency to protect the confidentiality of patient information.

8. A federal, state, county or local health officer if disclosure is mandated by federal or state law.

9. A federal, state or local government agency authorized by law to receive the information. The agency is authorized to redisclose the information only pursuant to this article or as otherwise permitted by law.

10. An authorized employee or agent of a federal, state or local government agency that supervises or monitors the health care provider or health facility or administers the program under which the health service is provided. An authorized employee or agent includes only an employee or agent who, in the ordinary course of business of the government agency, has access to records relating to the care or treatment of the protected person.

11. A person, health care provider or health facility to which disclosure is ordered by a court or administrative body pursuant to section 36-665.

12. The industrial commission or parties to an industrial commission of Arizona claim pursuant to section 23-908, subsection D and section 23-1043.02.

13. Insurance entities pursuant to section 20-448.01 and third-party payors or the payors' contractors.

14. Any person or entity as authorized by the patient or the patient's health care decision maker.

15. A person or entity as required by federal law.

16. The legal representative of the entity holding the information in order to secure legal advice.

17. A person or entity for research only if the research is conducted pursuant to applicable federal or state laws and regulations governing research.

18. A person or entity that provides services to the patient's health care provider, as defined in section 12-2291, and with whom the health care provider has a business associate agreement that requires the person or entity to protect the confidentiality of patient information as required by the health insurance portability and accountability act privacy standards~~,~~ [(]45 Code of Federal Regulations part 164, subpart E[)].

Ch. 239 19. A COUNTY MEDICAL EXAMINER OR AN ALTERNATE MEDICAL EXAMINER DIRECTING AN INVESTIGATION INTO THE CIRCUMSTANCES SURROUNDING A DEATH PURSUANT TO SECTION 11-593.

B. At the request of the department of child safety or the department of economic security and in conjunction with the placement of children in foster care or for adoption or court-ordered placement, a health care provider shall disclose communicable disease information, including HIV-related information, to the department of child safety or the department of economic security.

C. A state, county or local health department or officer may disclose communicable disease related information if the disclosure is any of the following:

1. Specifically authorized or required by federal or state law.

2. Made pursuant to an authorization signed by the protected person or the protected person's health care decision maker.

3. Made to a contact of the protected person. The disclosure shall be made without identifying the protected person.

4. For the purposes of research as authorized by state and federal law.

D. The director may authorize the release of information that identifies the protected person to the national center for health statistics of the United States public health service for the purposes of conducting a search of the national death index.

E. The department or a local health department shall disclose communicable disease related information to a Good Samaritan who submits a request to the department or the local health department. The request shall document the occurrence of the accident, fire or other life-threatening emergency and shall include information regarding the nature of the significant exposure risk. The department shall adopt rules that prescribe standards of significant exposure risk based on the best available medical evidence. The department shall adopt rules that establish procedures for processing requests from Good Samaritans pursuant to this subsection. The rules shall provide that the disclosure to the Good Samaritan shall not reveal the protected person's name and shall be accompanied by a written statement that warns the Good Samaritan that the confidentiality of the information is protected by state law.

F. An authorization to release communicable disease related information shall be signed by the protected person or, if the protected person lacks capacity to consent, the protected person's health care decision maker. An authorization shall be dated and shall specify to whom disclosure is authorized, the purpose for disclosure and the time period during which the release is effective. A general authorization for the release of medical or other information, including communicable disease related information, is not an authorization for the release of HIV-related information unless the authorization specifically indicates its purpose as an authorization for the release of confidential HIV-related information and complies with the requirements of this section.

G. A person to whom communicable disease related information is disclosed pursuant to this section shall not disclose the information to another person except as authorized by this section. This subsection does not apply to the protected person or a protected person's health care decision maker.

H. This section does not prohibit the listing of communicable disease related information, including acquired immune deficiency syndrome, HIV-related illness or HIV infection, in a certificate of death, autopsy report or other related document that is prepared pursuant to law to document the cause of death or that is prepared to release a body to a funeral director. This section does not modify a law or rule relating to access to death certificates, autopsy reports or other related documents.

I. If a person in possession of HIV-related information reasonably believes that an identifiable third party is at risk of HIV infection, that person may report that risk to the department. The report shall be in writing and include the name and address of the identifiable third party and the name and address of the person making the report. The department shall contact the person at risk pursuant to rules adopted by the department. The department employee making the initial contact shall have expertise in counseling persons who have been exposed to or tested positive for HIV or acquired immune deficiency syndrome.

J. Except as otherwise provided pursuant to this article or subject to an order or search warrant issued pursuant to section 36-665, a person who receives HIV-related information in the course of providing a health service or pursuant to a release of HIV-related information shall not disclose that information to another person or legal entity or be compelled by subpoena, order, search warrant or other judicial process to disclose that information to another person or legal entity.

K. This section and sections 36-663, 36-666, 36-667 and 36-668 do not apply to persons or entities subject to regulation under title 20.

EXPLANATION OF BLEND
SECTION 38-820

Laws 2019, Chapters 36 and 38

Laws 2019, Ch. 36, section 4	Effective August 27, 2019
Laws 2019, Ch. 38, section 3	Effective April 1, 2019 (Retroactive to July 20, 2011)

Explanation

Since these two enactments are compatible, the Laws 2019, Ch. 36 and Ch. 38 text changes to section 38-820 are blended in the form shown on the following pages.

BLEND OF SECTION 38-820
Laws 2019, Chapters 36 and 38

38-820. Credit for military service

Ch. 38 A. EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION, a member of the plan who has at least five years of credited service with the plan may receive credited service for periods of active military service performed before employment with the member's current employer if:

1. The member was honorably separated from the military service.

2. The period of military service for which the member receives credited service does not exceed sixty months.

3. The period of military service for which the member receives credited service is not on account with any other retirement system, except as provided by 10 United States Code section 12736 or except if the member is not yet eligible for a military retirement benefit.

4. The member pays the cost to purchase the prior active military service. The cost is the amount necessary to equal the increase in the actuarial present value of projected benefits resulting from the additional credited service.

5. The amount of benefits purchased pursuant to this subsection is subject to limits established by section 415 of the internal revenue code.

Ch. 38 B. AN ELECTED OFFICIAL WHO BECAME A MEMBER OF THE PLAN BEFORE JANUARY 1, 2012 MAY RECEIVE CREDITED SERVICE FOR ELIGIBLE PRIOR ACTIVE MILITARY SERVICE AS SPECIFIED IN SUBSECTION A OF THIS SECTION WITHOUT HAVING TO HAVE ACCRUED ANY MINIMUM AMOUNT OF CREDITED SERVICE WITH THE PLAN.

~~B.~~ C. An active member of the plan who volunteers or is ordered to perform military service may receive credited service for not more than sixty months of military service as provided by the uniformed services employment and reemployment rights act of 1994 (38 United States Code part III, chapter 43). The member's employer shall make employer contributions and the member shall make the member contributions pursuant to subsection Ch. 38 ~~C~~ D of this section if the member meets the following requirements:

1. Was an active member of the plan on the day before the member began military service.

Ch. 36 2. Entered into and served in the armed forces of the United States OR ANY MILITARY RESERVE UNIT OF ANY BRANCH OF THE ARMED FORCES OF THE UNITED STATES or is a member of the national guard.

3. Complies with the notice and return to work provisions of 38 United States Code section 4312.

Ch. 38 ~~C.~~ D. Contributions made pursuant to subsection ~~B~~ C of this section shall be for the period of time beginning on the date the member began military service and ending on the later of one of the following dates:

1. The date the member is separated from military service.

Chs. 36 and 38 2. The date the member is released from ~~service related~~ SERVICE-RELATED hospitalization or two years after initiation of ~~service related~~ SERVICE-RELATED hospitalization, whichever date is earlier.

3. The date the member dies as a result of or during military service.

~~D.~~ E. Notwithstanding any other law, on payment of the contributions
Ch. 38— made pursuant to subsection ~~B~~ C of this section, the member shall be credited with service for retirement purposes for the period of military service of not more than sixty months. The member shall submit a copy of the military discharge certificate (DD-256A) and a copy of the military service record (DD-214) or its equivalent with the member's application when applying for credited service corresponding to the period of military service.

~~E.~~ F. The employer and the member shall make contributions pursuant
Ch. 38 — to subsection ~~B~~ C of this section as follows:

1. Contributions shall be based on the compensation that the member would have received but for the period that the member was ordered into active military service.

2. If the employer cannot reasonably determine the member's rate of compensation for the period that the member was ordered into military service, contributions shall be based on the member's average rate of compensation during the twelve-month period immediately preceding the period of military service.

3. If a member has been employed less than twelve months before being ordered into military service, contributions shall be based on the member's compensation being earned immediately preceding the period of military service.

4. The member has up to three times the length of military service, not to exceed sixty months, to make the member contributions. Once the member has made the member contributions or on receipt of the member's death certificate, the employer shall make the employer contributions in a lump sum. Death benefits shall be calculated as prescribed by law.

5. If the member's employer pays military differential wage pay to members serving in the military, contributions shall be paid to the plan pursuant to section 38-810 for any military differential wage pay paid to the member while performing military service.

~~F.~~ G. In computing the length of total credited service of a member for the purpose of determining retirement benefits or eligibility, the period of military service, as prescribed by this section, shall be included.

~~G.~~ H. If a member performs military service due to a presidential call-up, not to exceed forty-eight months, the employer shall make the
Ch. 38 — employer and member contributions computed pursuant to subsection ~~E~~ F of this section on the member's return and in compliance with subsection ~~B~~ C of this section.

~~H.~~ I. In addition to, but not in duplication of, subsection ~~B~~ C of this section, beginning December 12, 1994 contributions, benefits and credited service provided pursuant to this section shall be provided pursuant to section 414(u) of the internal revenue code, and this section shall be interpreted in a manner consistent with that internal revenue code section.

~~I.~~ J. For plan years beginning after December 31, 2008, a member who does not currently perform services for an employer by reason of qualified military service as defined in section 414(u)(5) of the internal revenue code is not considered having a severance from employment during that qualified military service. Any payments by the employer to the member

during the qualified military service shall be considered compensation to the extent those payments do not exceed the amounts the member would have received if the member had continued to perform services for the employer rather than entering qualified military service.

~~J.~~ K. For deaths occurring from and after December 31, 2006, in the case of a member who dies while performing qualified military service as defined in section 414(u)(5) of the internal revenue code, the survivors of the member are entitled to any benefits, other than benefit accruals relating to the period of qualified military service, provided under the plan as though the member resumed and then terminated employment on account of death.

EXPLANATION OF BLEND
SECTION 38-849

Laws 2019, Chapters 36 and 302

Laws 2019, Ch. 36, section 11	Effective August 27, 2019
Laws 2019, Ch. 302, section 3	Effective August 27, 2019

Explanation

Since these two enactments are compatible, the Laws 2019, Ch. 36 and Ch. 302 text changes to section 38-849 are blended in the form shown on the following pages.

BLEND OF SECTION 38-849
Laws 2019, Chapters 36 and 302

38-849. Limitations on receiving pension; violation; classification; reemployment after severance; reinstatement of service credits; reemployment of retired member or member with a disability; definition

A. If a member is convicted of, or discharged because of, theft, embezzlement, fraud or misappropriation of an employer's property or property under the control of the employer, the member shall be subject to restitution and fines imposed by a court of competent jurisdiction. The court may order the restitution or fines to be paid from any payments otherwise payable to the member from the retirement system.

B. A person who knowingly makes any false statement or who falsifies
Ch. 302 — or ~~permits~~ ALLOWS to be falsified any record of the system with an intent to defraud the system is guilty of a class 5 felony. If any change or error in the records results in any member or beneficiary receiving from the system more or less than the member or beneficiary would have been entitled to receive had the records been correct, the local board shall correct such error, and as far as practicable shall adjust the payments in such manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled shall be paid. If a member is convicted of a crime specified in this subsection, section 13-713 applies.

C. If a member who received a severance refund on termination of employment pursuant to section 38-846.02 becomes reemployed with the same employer within two years after the former member's termination date, the member may have forfeited credited service attributable to service rendered during a prior period of service as an employee restored on satisfaction of each of the following conditions:

1. The member files with the system a written application for reinstatement of forfeited credited service within ninety days after again becoming an employee.

2. The retirement fund is paid the total amount previously withdrawn pursuant to section 38-846.02 plus compound interest from the date of withdrawal to the date of repayment. Interest shall be computed at the rate of nine percent for each year compounded each year from the date of withdrawal to the date of repayment. Forfeited credited service shall not be restored until complete payment is received by the fund.

3. The required payment is completed within one year after returning to employee status.

D. If a member who received a severance refund on termination of employment, as provided in section 38-846.02, is subsequently reemployed by an employer, the member's prior service credits shall be cancelled and service shall be credited only from the date the member's most recent reemployment period commenced. However, a present active member of the system who forfeited credited service, received a severance refund pursuant to section 38-846.02 and becomes reemployed with the same employer two years or more after the member's termination date or becomes reemployed with

another employer may elect to redeem any part of that forfeited credited service by paying into the system any amounts required pursuant to this subsection. A present active member who elects to redeem any part of forfeited credited service for which the member is deemed eligible by the board shall pay into the system the amounts previously paid or transferred to the member as a severance refund plus an amount, computed by the system's actuary that is necessary to equal the increase in the actuarial present value of projected benefits resulting from the redemption calculated using the actuarial methods and assumptions prescribed by the system's actuary. On satisfaction of this obligation the member's prior service credits shall be reinstated.

E. If a retired member becomes reemployed in any capacity by the employer from which the member retired before ~~one year~~ [~~from~~] TWELVE MONTHS [AFTER] the date of retirement or in the same position at any time following retirement: Ch. 302 — Chs. 36 and 302

1. The following apply:

(a) Within ten days after the retired member is reemployed, the local board shall advise the system in writing of the retired member's reemployment.

(b) The system shall not make pension payments to the retired member during the period of reemployment.

(c) Employee contributions shall not be made on the retired member's account, nor shall any service be credited during the period of reemployment. On subsequent termination of employment by the retired member, the retired member is entitled to receive a pension based on the member's service and compensation before the date of the member's reemployment. The employer shall pay the alternate contribution rate pursuant to section 38-843.05.

(d) ANY PENSION PAYMENTS RECEIVED BY THE RETIRED MEMBER, WHO RETIRED ON OR AFTER JULY 1, 2009, DURING THE PERIOD OF REEMPLOYMENT ARE CONSIDERED OVERPAYMENTS PURSUANT TO SECTION 38-850, UNLESS SUBSECTION B OF THIS SECTION APPLIES. IF THE BOARD DETERMINES IN THE BOARD'S SOLE DISCRETION, FOR A MEMBER WHO RETIRED ON OR AFTER JULY 1, 2009, THAT THE RETIRED MEMBER'S REEMPLOYMENT DURING THE TWELVE-MONTH PERIOD AND THE FAILURE OF THE EMPLOYER OR THE LOCAL BOARD TO SUSPEND THE MEMBER'S PENSION WERE NOT INTENTIONAL TO CIRCUMVENT THE REQUIREMENTS OF THIS SUBSECTION, THE PENSION PAYMENTS RECEIVED BY THE RETIRED MEMBER AFTER THE RETIRED MEMBER'S REEMPLOYMENT ARE SUBJECT TO REPAYMENT UP TO ONLY THE AMOUNT RECEIVED BETWEEN THE DATE OF THE MEMBER'S REEMPLOYMENT AND THE EXPIRATION OF THE TWELVE-MONTH PERIOD. Ch. 302 —

(e) IF A RETIRED MEMBER WHO RETIRED ON OR AFTER JULY 1, 2009 AND WHO IS REEMPLOYED TERMINATES EMPLOYMENT, THE RETIRED MEMBER MAY BE SUBSEQUENTLY REEMPLOYED WITH THE EMPLOYER FROM WHICH THE MEMBER RETIRED AND RESUME RECEIVING PENSION PAYMENTS AFTER A PERIOD OF TWELVE MONTHS, LESS THE PERIOD OF TIME THE RETIRED MEMBER WAS NOT REEMPLOYED AFTER RETIREMENT WITH THE EMPLOYER FROM WHICH THE MEMBER RETIRED, IF AT LEAST SIXTY DAYS OF THE TWELVE MONTHS ARE CONSECUTIVE.

2. Paragraph 1, subdivisions (a) and (b) of this subsection do not apply if any of the following ~~occur~~ OCCURS: Chs. 36 and 302 —

(a) The retired member becomes reemployed after sixty consecutive days from the member's retirement date as a result of participating in an

open competitive new hire process for an entry level, nonsupervisory position, except if the retired member is hired for the same position.

(b) The retired member is hired as a fire inspector or arson investigator.

Ch. 36 (c) NOTWITHSTANDING SECTION 38-844, the retired member WHO IS RECEIVING AN ACCIDENTAL DISABILITY, ORDINARY DISABILITY, CATASTROPHIC DISABILITY OR TEMPORARY DISABILITY AND WHO accepts a job reassignment as an accommodation in accordance with the Americans with disabilities act of 1990 due to a disability that is directly related to the retired member being awarded an accidental disability, ordinary disability, catastrophic disability or temporary disability benefit.

F. If a retired member is assigned voluntary duties acting as a limited authority peace officer, pursuant to the Arizona peace officer standards and training board rules, employee contributions shall not be made on the retired member's account, and any service shall not be credited during the period of reemployment. The employer shall not pay the alternate contribution rate pursuant to section 38-843.05.

Ch. 302 G. If after ~~one year from~~ TWELVE MONTHS AFTER the date of retirement a retired member becomes reemployed by the employer from which the member retired in a position other than the same position from which the member retired, employee contributions shall not be made on the retired member's account, and any service shall not be credited during the period of reemployment. The employer shall pay the alternate contribution rate pursuant to section 38-843.05.

H. At any time following retirement, if the retired member becomes employed by an employer, other than the employer from which the member retired, in a position ordinarily filled by an employee of an eligible group, employee contributions shall not be made on the retired member's account, and any service shall not be credited during the period of reemployment. The employer shall pay the alternate contribution rate pursuant to section 38-843.05.

I. If a member who retired under an accidental or ordinary disability becomes reemployed as an employee of an eligible group, section 38-844 applies and a determination shall be made by the local board as to whether subsection E, F, G or H of this section applies.

J. The local board shall review all reemployment determinations and voluntary assignments as described in subsection F of this section. If the local board or the system is not provided the necessary information required by the system to make a reemployment determination, the local board and the system shall suspend pension payments until information is received and a determination is made regarding whether the reemployment meets the requirements of subsection E, F, G, H or I of this section.

K. A person who defrauds the system or who takes, converts, steals or embezzles monies owned by or from the system and who fails or refuses to return the monies to the system on the board's written request is subject to civil suit by the system in the superior court in Maricopa county. On entry of an order finding the person has defrauded the system or taken, converted, stolen or embezzled monies owned by or from the system, the court shall enter an order against that person and for the system awarding the system all of its costs and expenses of any kind, including attorney fees,

that were necessary to successfully prosecute the action. The court shall also grant the system a judicial lien on all of the nonexempt property of the person against whom judgment is entered pursuant to this subsection in an amount equal to all amounts awarded to the system, plus interest at the rate prescribed by section 44-1201, until all amounts owed are paid to the system.

L. Notwithstanding any other provision of this article, the board may offset against any benefits otherwise payable by the system to an active or retired member or survivor any court ordered amounts awarded to the board and system and assessed against the member or survivor.

M. Notwithstanding any other provision of this article, a member who retires having met all of the qualifications for retirement and who subsequently becomes an elected official, by election or appointment, is not considered reemployed by the same employer.

N. For the purposes of this section, "same position" means a position in which the member performs substantially similar duties that were performed and exercises substantially similar authority that was exercised by the retired member before retirement.

EXPLANATION OF BLEND
SECTION 38-858

Laws 2019, Chapters 36 and 38

Laws 2019, Ch. 36, section 12	Effective August 27, 2019
Laws 2019, Ch. 38, section 10	Effective April 1, 2019 (Retroactive to July 20, 2011)

Explanation

Since these two enactments are compatible, the Laws 2019, Ch. 36 and Ch. 38 text changes to section 38-858 are blended in the form shown on the following pages.

BLEND OF SECTION 38-858
Laws 2019, Chapters 36 and 38

38-858. Credit for military service

Ch. 38 A. EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION, a member of the system who has at least five years of service with the system may receive credited service for periods of active military service performed before employment with the member's current employer if:

1. The member was honorably separated from the military service.

2. The period of military service for which the member receives credited service does not exceed sixty months.

3. The period of military service for which the member receives credited service is not on account with any other retirement system, except as provided by 10 United States Code section 12736 or except if the member is not yet eligible for a military retirement benefit.

4. The member pays the cost to purchase the prior active military service. The cost is the amount necessary to equal the increase in the actuarial present value of projected benefits resulting from the additional credited service.

5. The amount of benefits purchased pursuant to this subsection is subject to limits established by section 415 of the internal revenue code.

Ch. 38 B. A MEMBER WHO BECAME A MEMBER OF THE SYSTEM BEFORE JANUARY 1, 2012 MAY RECEIVE CREDITED SERVICE FOR ELIGIBLE PRIOR ACTIVE MILITARY SERVICE AS SPECIFIED IN SUBSECTION A OF THIS SECTION WITHOUT HAVING TO HAVE ACCRUED ANY MINIMUM AMOUNT OF CREDITED SERVICE IN THE SYSTEM.

~~B.~~ C. An active member of the system who volunteers or is ordered to perform military service may receive credited service for not more than sixty months of military service as provided by the uniformed services employment and reemployment rights act of 1994 (38 United States Code part III, chapter 43). The member's employer shall make employer contributions and the member shall make the member contributions pursuant to subsection Ch. 38 ~~C~~ D of this section if the member meets the following requirements:

1. Was an active member of the system on the day before the member began military service.

2. Entered into and served in the armed forces of the United States Ch. 36 OR ANY MILITARY RESERVE UNIT OF ANY BRANCH OF THE ARMED FORCES OF THE UNITED STATES or is a member of the national guard.

3. Complies with the notice and return to work provisions of 38 United States Code section 4312.

Ch. 38 ~~C.~~ D. Contributions made pursuant to subsection ~~B~~ C of this section shall be for the period of time beginning on the date the member began military service and ending on the later of one of the following dates:

1. The date the member is separated from military service.

Chs. 36 and 38 2. The date the member is released from ~~service related~~ SERVICE-RELATED hospitalization or two years after initiation of ~~service related~~ SERVICE-RELATED hospitalization, whichever date is earlier.

3. The date the member dies as a result of or during military service.

~~D.~~ E. Notwithstanding any other law, on payment of the contributions
Ch. 38 made pursuant to subsection ~~B~~ C of this section, the member shall be credited with service for retirement purposes for the period of military service of not more than sixty months. The member shall submit a copy of the military discharge certificate (DD-256A) and a copy of the military service record (DD-214) or its equivalent with the member's application when applying for credited service corresponding to the period of military service.

~~E.~~ F. The employer and the member shall make contributions pursuant
Ch. 38 to subsection ~~B~~ C of this section as follows:

1. Contributions shall be based on the compensation that the member would have received but for the period that the member was ordered into active military service.

2. If the employer cannot reasonably determine the member's rate of compensation for the period that the member was ordered into military service, contributions shall be based on the member's average rate of compensation during the twelve-month period immediately preceding the period of military service.

3. If a member has been employed less than twelve months before being ordered into military service, contributions shall be based on the member's compensation being earned immediately preceding the period of military service.

4. The member has up to three times the length of military service, not to exceed sixty months, to make the member contributions. Once the member has made the member contributions or on receipt of the member's death certificate, the employer shall make the employer contributions in a lump sum. Death benefits shall be calculated as prescribed by law.

5. If the member's employer pays military differential wage pay to members serving in the military, contributions shall be paid to the system pursuant to section 38-843 for any military differential wage pay paid to the member while performing military service.

~~F.~~ G. In computing the length of total credited service of a member for the purpose of determining retirement benefits or eligibility, the period of military service, as prescribed by this section, shall be included.

~~G.~~ H. If a member performs military service due to a presidential call-up, not to exceed forty-eight months, the employer shall make the employer and member contributions computed pursuant to subsection ~~E~~ F of this section on the member's return and in compliance with subsection ~~B~~ C
Ch. 38 of this section.

~~H.~~ I. In addition to, but not in duplication of, the provisions of subsection ~~B~~ C of this section, beginning December 12, 1994 contributions, benefits and credited service provided pursuant to this section shall be provided pursuant to section 414(u) of the internal revenue code, and this section shall be interpreted in a manner consistent with that internal revenue code section.

~~I.~~ J. For plan years beginning after December 31, 2008, a member who does not currently perform services for an employer by reason of qualified military service as defined in section 414(u)(5) of the internal revenue code is not considered having a severance from employment during that qualified military service. Any payments by the employer to the member

during the qualified military service shall be considered compensation to the extent those payments do not exceed the amounts the member would have received if the member had continued to perform services for the employer rather than entering qualified military service.

~~J.~~ K. For deaths occurring from and after December 31, 2006, in the case of a member who dies while performing qualified military service as defined in section 414(u)(5) of the internal revenue code, the survivors of the member are entitled to any benefits, other than benefit accruals relating to the period of qualified military service, provided under the system as though the member resumed and then terminated employment on account of death.

EXPLANATION OF BLEND
SECTION 38-907

Laws 2019, Chapters 36 and 38

Laws 2019, Ch. 36, section 20	Effective August 27, 2019
Laws 2019, Ch. 38, section 12	Effective April 1, 2019 (Retroactive to July 20, 2011)

Explanation

Since these two enactments are compatible, the Laws 2019, Ch. 36 and Ch. 38 text changes to section 38-907 are blended in the form shown on the following pages.

BLEND OF SECTION 38-907
Laws 2019, Chapters 36 and 38

38-907. Credit for military service

Ch. 38 A. EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION, a member of the plan who has at least five years of credited service with the plan may receive credited service for periods of active military service performed before employment with the member's current employer if:

1. The member was honorably separated from the military service.

2. The period of military service for which the member receives credited service does not exceed sixty months.

3. The period of military service for which the member receives credited service is not on account with any other retirement system, except as provided by 10 United States Code section 12736 or except if the member is not yet eligible for a military retirement benefit.

4. The member pays the cost to purchase the prior active military service. The cost is the amount necessary to equal the increase in the actuarial present value of projected benefits resulting from the additional credited service.

5. The amount of benefits purchased pursuant to this subsection is subject to limits established by section 415 of the internal revenue code.

Ch. 38 B. A MEMBER WHO BECAME A MEMBER BEFORE JANUARY 1, 2012 MAY REDEEM ELIGIBLE PRIOR MILITARY SERVICE AS SPECIFIED IN SUBSECTION A OF THIS SECTION WITHOUT HAVING TO HAVE ACCRUED ANY MINIMUM AMOUNT OF CREDITED SERVICE.

~~B.~~ C. An active member of the plan who volunteers or is ordered to perform military service may receive credited service for not more than sixty months of military service as provided by the uniformed services employment and reemployment rights act of 1994 (38 United States Code part III, chapter 43). The member's employer shall make employer contributions and the member shall make the member contributions pursuant to subsection Ch. 38 ~~C~~ D of this section if the member meets the following requirements:

1. Was an active member of the plan on the day before the member began military service.

2. Entered into and served in the armed forces of the United States Ch. 36 OR ANY MILITARY RESERVE UNIT OF ANY BRANCH OF THE ARMED FORCES OF THE UNITED STATES or is a member of the national guard.

3. Complies with the notice and return to work provisions of 38 United States Code section 4312.

Ch. 38 ~~C.~~ D. Contributions made pursuant to subsection ~~B~~ C of this section shall be for the period of time beginning on the date the member began military service and ending on the later of one of the following dates:

1. The date the member is separated from military service.

2. The date the member is released from ~~service related~~ Chs. 36 and 38 SERVICE-RELATED hospitalization or two years after initiation of ~~service related~~ SERVICE-RELATED hospitalization, whichever date is earlier.

3. The date the member dies as a result of or during military service.

~~D.~~ E. Notwithstanding any other law, on payment of the contributions
Ch. 38 made pursuant to subsection ~~B~~ C of this section, the member shall be credited with service for retirement purposes for the period of military service of not more than sixty months. The member shall submit a copy of the military discharge certificate (DD-256A) and a copy of the military service record (DD-214) or its equivalent with the member's application when applying for credited service corresponding to the period of military service.

~~E.~~ F. The employer and the member shall make contributions pursuant
Ch. 38 to subsection ~~B~~ C of this section as follows:

1. Contributions shall be based on the compensation that the member would have received but for the period that the member was ordered into active military service.

2. If the employer cannot reasonably determine the member's rate of compensation for the period that the member was ordered into military service, contributions shall be based on the member's average rate of compensation during the twelve-month period immediately preceding the period of military service.

3. If a member has been employed less than twelve months before being ordered into military service, contributions shall be based on the member's compensation being earned immediately preceding the period of military service.

4. The member has up to three times the length of military service, not to exceed sixty months, to make the member contributions. Once the member has made the member contributions or on receipt of the member's death certificate, the employer shall make the employer contributions in a lump sum. Death benefits shall be calculated as prescribed by law.

5. If the member's employer pays military differential wage pay to members serving in the military, contributions shall be paid to the plan pursuant to section 38-891 for any military differential wage pay paid to the member while performing military service.

~~F.~~ G. In computing the length of total credited service of a member for the purpose of determining retirement benefits or eligibility, the period of military service, as prescribed by this section, shall be included.

~~G.~~ H. If a member performs military service due to a presidential call-up, not to exceed forty-eight months, the employer shall make the employer and member contributions computed pursuant to subsection ~~E~~ F of
Ch. 38 this section on the member's return and in compliance with subsection ~~B~~ C of this section.

~~H.~~ I. In addition to, but not in duplication of, subsection ~~B~~ C of this section, beginning December 12, 1994 contributions, benefits and credited service provided pursuant to this section shall be provided pursuant to section 414(u) of the internal revenue code, and this section shall be interpreted in a manner consistent with that internal revenue code section.

~~I.~~ J. For plan years beginning after December 31, 2008, a member who does not currently perform services for an employer by reason of qualified military service as defined in section 414(u)(5) of the internal revenue code is not considered having a severance from employment during that qualified military service. Any payments by the employer to the member

during the qualified military service shall be considered compensation to the extent those payments do not exceed the amounts the member would have received if the member had continued to perform services for the employer rather than entering qualified military service.

~~J.~~ K. For deaths occurring from and after December 31, 2006 in the case of a member who dies while performing qualified military service as defined in section 414(u)(5) of the internal revenue code, the survivors of the member are entitled to any benefits, other than benefit accruals relating to the period of qualified military service, provided under the plan as though the member resumed and then terminated employment on account of death.

EXPLANATION OF BLEND
SECTION 41-608

Laws 2019, Chapters 178 and 229

Laws 2019, Ch. 178, section 6	Effective October 1, 2019
Laws 2019, Ch. 229, section 2	Effective October 1, 2019

Explanation

Since these two enactments are compatible, the Laws 2019, Ch. 178 and Ch. 229 text changes to section 41-608 are blended in the form shown on the following pages.

BLEND OF SECTION 41-608
Laws 2019, Chapters 178 and 229

41-608. Veterans' donations fund; grants

A. The veterans' donations fund is established consisting of monies, gifts and contributions donated to the department and monies deposited pursuant to sections 28-2414, 28-2428, 28-2431, 28-2447, 28-2454, 28-2473,
Ch. 178 — 28-2474, 28-2475[, 28-2476] and 43-620. The department shall administer the fund. Monies in the fund are continuously appropriated. The monies in the fund are exempt from the provisions of section 35-190 relating to lapsing of appropriations. The department shall adopt rules or policies for grants
Ch. 229 — of less than ~~five thousand dollars~~ $5,000 that encourage as much competition as practicable.

B. The director or the director's designee may solicit and receive donations, including in-kind donations, from the public for veterans. The director shall deposit, pursuant to sections 35-146 and 35-147, the monetary donations in the veterans' donations fund. Monies in the fund are subject to state auditing procedures. Except for monies deposited pursuant to sections 28-2431 and 28-2447, the donations may be used for the benefit of the veterans within this state as grants, subject to chapter 24 of this title, if applicable.

C. The director shall establish a separate subaccount in the veterans' donations fund for the deposit of monies received pursuant to section 28-2431, subsection C. The monies in the subaccount shall be used for the construction and maintenance of the enduring freedom memorial authorized pursuant to section 41-1363 for placement in Wesley Bolin Plaza.

D. The director shall establish a separate subaccount in the veterans' donations fund for the deposit of monies received pursuant to section 28-2447, subsection ~~C~~ F. The monies in the subaccount shall be used for the benefit of women veterans in this state, including providing shelter to homeless women veterans as grants, subject to chapter 24 of this title, if applicable.

Ch. 229 — E. The director shall establish a separate subaccount in the veterans' donations fund for the deposit of monies received pursuant to section 28-2454, subsection C. The first ~~thirty-two thousand dollars~~ $32,000 in the subaccount shall be reimbursed to the person that provides the ~~thirty-two thousand dollars~~ $32,000 pursuant to section 28-2454, subsection A. The director shall annually allocate monies from the subaccount to a foundation that is qualified under section 501(c)(3) of the United States internal revenue code for federal income tax purposes and that is the nation's oldest and largest provider of need-based scholarships to children of United States military members. The foundation must:

1. Have been in existence for at least fifty-two years.

2. Have provided more than thirty-three thousand scholarships that
Ch. 229 — are valued at almost ~~ninety million dollars~~ $90,000,000.

3. Have a mission that includes honoring marines and educating their children.

4. Award scholarship monies to children of marines and navy corpsmen who were killed or wounded in combat or who have demonstrated financial need.

F. The director shall inventory and account for the use of any tangible personal property donated to the fund.

G. On notice from the director, the state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the fund.

EXPLANATION OF BLEND
SECTION 41-619.57

Laws 2019, Chapters 133 and 134

Laws 2019, Ch. 133, section 9	Effective April 24, 2019
Laws 2019, Ch. 134, section 5	Effective April 24, 2019

Explanation

Since these two enactments are identical, the Laws 2019, Ch. 133 and Ch. 134 text changes to section 41-619.57 are blended in the form shown on the following pages.

BLEND OF SECTION 41-619.57
Laws 2019, Chapters 133 and 134

41-619.57. Central registry exceptions; expedited review; hearing

A. The board shall determine central registry exceptions for each substantiated report pursuant to section 8-804. The board shall determine a central registry exception after an expedited review or after a central registry exception hearing. The board shall conduct an expedited review within twenty days after receiving an application for a central registry exception.

B. Within forty-five days after conducting an expedited review, the board shall hold a central registry exception hearing if the board determines that the applicant does not qualify for a central registry exception under an expedited review but is qualified to apply for a central registry exception and the applicant submits an application for a central registry exception within the time limits prescribed by rule.

C. When determining whether a person is eligible to receive a central registry exception pursuant to section 8-804, the board shall consider whether the person has shown to the board's satisfaction that the person is successfully rehabilitated and is not a recidivist. Before granting a central registry exception under expedited review, the board shall consider all of the criteria listed in subsection E of this section.

D. The following persons shall be present during central registry exception hearings:

1. The board or its hearing officer.

2. The person who requested the central registry exception hearing. The person may be accompanied by a representative at the hearing.

E. The board may grant a central registry exception at a hearing if the person shows to the board's satisfaction that the person is successfully rehabilitated and is not a recidivist. The board may consider the person's criminal record in determining if a person has been successfully rehabilitated. If the applicant fails to appear at the hearing without good cause, the board may deny a central registry exception. The board shall grant or deny a central registry exception within eighty days after the central registry exception hearing. Before granting a central registry exception at a hearing the board shall consider all of the following in accordance with board rule:

1. The extent of the person's central registry records.

2. The length of time that has elapsed since the abuse or neglect occurred.

3. The nature of the abuse or neglect.

4. Any applicable mitigating circumstances.

5. The degree to which the person participated in the abuse or neglect.

6. The extent of the person's rehabilitation, including:

(a) Evidence of positive action to change the person's behavior, such as completion of counseling or a drug treatment, domestic violence or parenting program.

(b) Personal references attesting to the person's rehabilitation.

F. If the board grants a central registry exception to a person, the board shall notify the department of child safety, the department of economic security or the department of health services, as appropriate, in writing.

G. A person who is granted a central registry exception is not entitled to have the person's report and investigation outcome purged from the central registry except as required pursuant to section 8-804, subsections ~~F and G~~ H AND I.

Chs. 133 and 134

H. Pending the outcome of a central registry exception determination, a central registry exception applicant may not provide direct services to children pursuant to title 36, chapter 7.1.

I. The board is exempt from chapter 6, article 10 of this title.

EXPLANATION OF BLEND
SECTION 41-1604.07

Laws 2019, Chapters 228 and 310

Laws 2019, Ch. 228, section 2	Effective August 27, 2019
Laws 2019, Ch. 310, section 2	Effective June 7, 2019

Explanation

Since these two enactments are compatible, the Laws 2019, Ch. 228 and Ch. 310 text changes to section 41-1604.07 are blended in the form shown on the following pages.

BLEND OF SECTION 41-1604.07
Laws 2019, Chapters 228 and 310

41-1604.07. Earned release credits; forfeiture; restoration; released prisoner health care; annual report

A. Pursuant to rules adopted by the director, each prisoner who is in the eligible earned release credit class shall be allowed an earned release credit ~~of one day for every six days served~~ AS SET FORTH IN SUBSECTION B OF THIS SECTION, including time served in county jails, except for those prisoners who are sentenced to serve the full term of imprisonment imposed by the court.

B. THE EARNED RELEASE CREDIT IS:

1. THREE DAYS FOR EVERY SEVEN DAYS SERVED IF THE PRISONER:

(a) WAS SENTENCED TO A TERM OF IMPRISONMENT FOR THE POSSESSION OR USE OF MARIJUANA PURSUANT TO SECTION 13-3405, SUBSECTION A, PARAGRAPH 1, THE POSSESSION OR USE OF A DANGEROUS DRUG PURSUANT TO SECTION 13-3407, SUBSECTION A, PARAGRAPH 1, THE POSSESSION OR USE OF A NARCOTIC DRUG PURSUANT TO SECTION 13-3408, SUBSECTION A, PARAGRAPH 1 OR THE POSSESSION OF DRUG PARAPHERNALIA PURSUANT TO SECTION 13-3415.

Ch. 310

(b) HAS SUCCESSFULLY COMPLETED A DRUG TREATMENT PROGRAM OR OTHER MAJOR SELF-IMPROVEMENT PROGRAM PROVIDED BY THE DEPARTMENT DURING THE PRISONER'S TERM OF IMPRISONMENT.

(c) HAS NOT PREVIOUSLY BEEN CONVICTED OF A VIOLENT OR AGGRAVATED FELONY AS DEFINED IN SECTION 13-706.

2. ONE DAY FOR EVERY SIX DAYS SERVED IF THE PRISONER WAS SENTENCED TO A TERM OF IMPRISONMENT FOR AN OFFENSE NOT LISTED IN PARAGRAPH 1 OF THIS SUBSECTION.

~~B.~~ C. Release credits earned by a prisoner pursuant to ~~subsection~~ SUBSECTIONS A AND B of this section shall not reduce the term of imprisonment imposed by the court on the prisoner.

~~C.~~ D. On reclassification of a prisoner resulting from the prisoner's failure to adhere to the rules of the department or failure to demonstrate a continual willingness to volunteer for or successfully participate in a work, educational, treatment or training program, the director may declare all release credits earned by the prisoner forfeited. In the discretion of the director, forfeited release credits may subsequently be restored. The director shall maintain an account of release credits earned by each prisoner.

~~D.~~ E. A prisoner who has reached the prisoner's earned release date or sentence expiration date shall be released to begin the prisoner's term of community supervision imposed by the court or term of probation if the court waived community supervision pursuant to section 13-603, except that the director may deny or delay the prisoner's release to community supervision or probation if the director believes the prisoner may be a sexually violent person as defined in section 36-3701 until the screening process is complete and the director determines that the prisoner will not be referred to the county attorney pursuant to section 36-3702. If the term of community supervision is waived, the state department of corrections

shall provide reasonable notice to the probation department of the scheduled release of the prisoner from confinement by the department. If the court waives community supervision, the director shall issue the prisoner an absolute discharge on the prisoner's earned release credit date. A prisoner who is released on the earned release credit date to serve a term of probation is not under the control of the state department of corrections when community supervision has been waived and the state department of corrections is not required to provide parole services.

Ch. 310 ~~E.~~ F. Notwithstanding subsection ~~D~~ E of this section, a prisoner who fails to achieve functional literacy at an eighth grade literacy level shall not be released to begin the prisoner's term of community supervision until either the prisoner achieves an eighth grade functional literacy level as measured by standardized assessment testing, THE PRISONER IS RELEASED TO ENTER THE TRANSITION PROGRAM ESTABLISHED BY SECTION 31-281 AND IS ENROLLED IN A PROGRAM THAT PREPARES THE PRISONER TO ACHIEVE FUNCTIONAL LITERACY or the prisoner serves the full term of imprisonment imposed by the court, whichever first occurs. This subsection does not apply to inmates who either:

Ch. 228

1. Are unable to meet the functional literacy standard required by section 31-229.02, subsection A due to a medical, developmental or learning disability as described in section 31-229, subsection C.

2. Are classified as level five offenders.

3. Are foreign nationals.

4. Have less than six months of incarceration to serve on commitment to the department.

Ch. 310 5. ARE RELEASED PURSUANT TO SUBSECTION B, PARAGRAPH 1 OF THIS SECTION.

~~F.~~ G. The department shall establish conditions of community supervision it deems appropriate in order to ensure that the best interests of the prisoner and the citizens of this state are served. As a condition of community supervision, the director:

1. May order a released prisoner to participate in an appropriate drug treatment or education program that is administered by a qualified agency, organization or individual approved by the department of health services and that provides treatment or education to persons who abuse controlled substances. Each person who is enrolled in a drug treatment or education program shall pay for the cost of participation in the program to the extent of the person's financial ability.

2. May order additional conditions, including participation in a rehabilitation program or counseling and performance of community restitution work.

Ch. 310 3. UNLESS THE PRISONER IS RELEASED PURSUANT TO SUBSECTION B, PARAGRAPH 1 OF THIS SECTION, may order a prisoner to apply for health care benefits through the Arizona health care cost containment system before being released. The state department of corrections shall enter into an enrollment suspense agreement with the Arizona health care cost containment system to reinstate benefits for prisoners who were sentenced to twelve months or less and who were previously enrolled in the Arizona health care cost containment system immediately before incarceration. For all other prisoners, the state department of corrections shall submit a prerelease

application to the Arizona health care cost containment system at least thirty days before the prisoner's release date. The state department of corrections may coordinate with community-based organizations or the department of economic security to assist prisoners in applying for enrollment in the Arizona health care cost containment system.

4. Shall impose, if the prisoner was convicted of a violation of sexual conduct with a minor under fifteen years of age or molestation of a child under fifteen years of age, a prohibition on residing within four hundred forty feet of a school or its accompanying grounds. For the purposes of this paragraph, "school" means any public, charter or private school where children attend classes.

~~G.~~ H. The director may exchange a prisoner's health care information with the regional behavioral health authority or Arizona health care cost containment system justice system contact to facilitate the transition to care for released prisoners to access the full array of behavioral and physical health care services, including medication, counseling, case management, substance abuse treatment, and parenting skills and family reunification training. The director shall adopt policies and procedures that establish a care team to convene and discuss the services and resources, including housing and employment supports, that may be needed for the released prisoner to safely transition into the community. The care team shall be managed by the regional behavioral health authority or Arizona health care cost containment system contractor and may include the health care provider that is identified by and has a contract with the regional behavioral health authority or Arizona health care cost containment system contractor. The care team may also include representatives of nonprofit organizations that specialize in assisting prisoners who are transitioning back into the community and other organizations that link prisoners to additional services, including housing and employment.

~~H.~~ I. If a prisoner who reaches the prisoner's earned release credit date refuses to sign and agree to abide by the conditions of supervision before release on community supervision, the prisoner shall not be released. When the prisoner reaches the sentence expiration date, the prisoner shall be released to begin the term of community supervision. If the prisoner refuses to sign and agree to abide by the conditions of release, the prisoner shall not be released on the sentence expiration date and shall serve the term of community supervision in prison. The department is required to supervise any prisoner on community supervision until the period of community supervision expires. The department may bring a prisoner who is in violation of the prisoner's terms and conditions before the board of executive clemency.

~~I.~~ J. The director, pursuant to rules adopted by the department, shall authorize the release of any prisoner on the prisoner's earned release credit date to serve any consecutive term imposed on the prisoner. The release shall be for the sentence completed only. The prisoner shall remain under the custody and control of the department. The director may authorize the rescission of the release to any consecutive term if the prisoner fails to adhere to the rules of the department.

~~J.~~ K. If a prisoner absconds from community supervision, any time spent before the prisoner is returned to custody is excluded in calculating the remaining period of community supervision.

~~K.~~ L. A prisoner shall forfeit five days of the prisoner's earned release credits:

1. If the court finds or a disciplinary hearing held after a review by and recommendations from the attorney general's office determines that the prisoner does any of the following:

(a) Brings a claim without substantial justification.

(b) Unreasonably expands or delays a proceeding.

(c) Testifies falsely or otherwise presents false information or material to the court.

(d) Submits a claim that is intended solely to harass the party it is filed against.

2. For each time the prisoner tests positive for any prohibited drugs during the period of time the prisoner is incarcerated.

~~L.~~ M. If the prisoner does not have five days of earned release credits, the prisoner shall forfeit the prisoner's existing earned release credits and shall be ineligible from accruing earned release credits until the number of earned release credits the prisoner would have otherwise accrued equals the difference between five days and the number of existing earned release credit days the prisoner forfeits pursuant to this section.

~~M.~~ N. The director may authorize temporary release on inmate status of eligible inmates pursuant to rules adopted by the director within ninety days of any other authorized release date. The release authorization applies to any inmate who has been convicted of a drug offense, who has been determined to be eligible for participation in the transition program pursuant to section 31-281 and who has agreed to participate in the transition program.

O. ON ADMISSION, THE DEPARTMENT SHALL PROVIDE NOTICE TO ANY PRISONER WHO IS POTENTIALLY ELIGIBLE FOR EARNED RELEASE CREDIT PURSUANT TO SUBSECTION B, PARAGRAPH 1 OF THIS SECTION. THE NOTICE MUST INCLUDE ALL OF THE ELIGIBILITY REQUIREMENTS UNDER THIS SECTION.

P. THE DEPARTMENT SHALL DO ALL OF THE FOLLOWING:

1. ANNUALLY REPORT THE RECIDIVISM RATE OF PRISONERS RELEASED PURSUANT TO SUBSECTION B, PARAGRAPH 1 OF THIS SECTION FOR A MINIMUM OF THREE YEARS AFTER RELEASE.

2. REPORT THE FOLLOWING INFORMATION AT THE END OF EACH FISCAL QUARTER:

Ch. 310

(a) THE NUMBER OF PRISONERS WHO RECEIVED EARNED RELEASE CREDITS FOR EACH MONTH OF THE REPORTING PERIOD AND THE PERCENTAGE OF THE TOTAL PRISON POPULATION THAT RECEIVED EARNED RELEASE CREDITS.

(b) THE NUMBER OF PRISONERS WHO WERE ELIGIBLE FOR EARNED RELEASE CREDIT PURSUANT TO SUBSECTION B, PARAGRAPH 1 OF THIS SECTION AND FOR EACH OF THESE PRISONERS, THE FOLLOWING INFORMATION:

(i) THE MOST SERIOUS CRIME FOR WHICH EACH PRISONER IS RECEIVING EARNED RELEASE CREDIT.

(ii) THE MEAN AND MEDIAN LENGTH OF THE PRISON SENTENCES.

(iii) WHETHER THE PRISONER RECEIVED EARNED RELEASE CREDITS EACH MONTH OF THE REPORTING PERIOD.

(c) THE NUMBER OF PRISONERS WHO PARTICIPATED IN A PROGRAM THAT IS DESCRIBED IN SUBSECTION B, PARAGRAPH 1, SUBDIVISION (b) OF THIS SECTION IN EACH MONTH OF THE REPORTING PERIOD, INCLUDING THE PERCENTAGE OF THE TOTAL PRISON POPULATION THAT HAS PARTICIPATED IN THOSE PROGRAMS.

(d) THE NUMBER OF PRISONERS WHO ARE ELIGIBLE FOR RELEASE INTO THE TRANSITION PROGRAM ESTABLISHED PURSUANT TO SECTION 31-281 IN EACH MONTH OF THE REPORTING PERIOD AND THE PERCENTAGE OF THE TOTAL PRISON POPULATION THAT IS ELIGIBLE FOR RELEASE INTO THE TRANSITION PROGRAM. FOR ELIGIBLE PRISONERS, THE REPORT SHALL INCLUDE THE FOLLOWING INFORMATION:

(i) THE MOST SERIOUS CRIME FOR WHICH EACH PRISONER IS SERVING A SENTENCE.

(ii) THE MEAN AND MEDIAN LENGTH OF THE PRISON SENTENCES.

(iii) THE MEAN AND MEDIAN LENGTH OF TIME SERVED BY THE PRISONERS.

(e) THE NUMBER OF PRISONERS WHO ARE ENROLLED IN THE TRANSITION PROGRAM IN EACH MONTH OF THE REPORTING PERIOD, INCLUDING THE PERCENTAGE OF THE TOTAL PRISON POPULATION THAT IS ENROLLED IN THE TRANSITION PROGRAM. FOR ENROLLED PRISONERS, THE REPORT SHALL INCLUDE THE FOLLOWING INFORMATION:

(i) THE MOST SERIOUS CRIME FOR WHICH EACH PRISONER IS SERVING A SENTENCE.

(ii) THE MEAN AND MEDIAN LENGTH OF THE PRISON SENTENCES.

(iii) THE MEAN AND MEDIAN LENGTH OF TIME SERVED BY THE PRISONERS.

(f) THE NUMBER OF PRISONERS WHO ARE RELEASED INTO THE TRANSITION PROGRAM IN EACH MONTH OF THE REPORTING PERIOD, INCLUDING THE PERCENTAGE OF THE TOTAL PRISON POPULATION THAT IS RELEASED INTO THE TRANSITION PROGRAM. FOR RELEASED PRISONERS, THE REPORT SHALL INCLUDE THE FOLLOWING INFORMATION:

Ch. 310

(i) THE MOST SERIOUS CRIME FOR WHICH EACH PRISONER IS SERVING A SENTENCE.

(ii) THE MEAN AND MEDIAN LENGTH OF THE PRISON SENTENCES.

(iii) THE MEAN AND MEDIAN LENGTH OF TIME THAT THE PRISONERS SERVED.

(g) THE SIX-MONTH SUCCESS, RETURN TO CUSTODY AND NEW CONVICTION RATES FOR PRISONERS WHO ARE RELEASED TO A TRANSITION PROGRAM.

(h) THE ONE-YEAR SUCCESS, RETURN TO CUSTODY AND NEW CONVICTION RATES FOR PRISONERS WHO ARE RELEASED TO A TRANSITION PROGRAM.

(i) THE TWO-YEAR SUCCESS, RETURN TO CUSTODY AND NEW CONVICTION RATES FOR PRISONERS WHO ARE RELEASED TO A TRANSITION PROGRAM.

(j) THE THREE-YEAR SUCCESS, RETURN TO CUSTODY AND NEW CONVICTION RATES FOR PRISONERS WHO ARE RELEASED TO A TRANSITION PROGRAM.

(k) THE NUMBER OF PRISONERS WHO RECEIVED TREATMENT FOR SUBSTANCE ABUSE DURING THE FIRST HALF OF THE PRISONER'S TOTAL SENTENCE AND THE PERCENTAGE OF THE TOTAL PRISON POPULATION THAT RECEIVED TREATMENT FOR SUBSTANCE ABUSE DURING THE FIRST HALF OF THE PRISONERS' TOTAL SENTENCE. FOR PRISONERS WHO RECEIVED TREATMENT FOR SUBSTANCE ABUSE ACCORDING TO THIS SUBDIVISION, REPORT SHALL INCLUDE THE FOLLOWING INFORMATION:

(i) THE MOST SERIOUS CRIME COMMITTED BY EACH PRISONER.

(ii) THE MEAN AND MEDIAN LENGTH OF THE PRISON SENTENCES.

(iii) WHETHER THE PRISONERS RECEIVED TREATMENT FOR SUBSTANCE ABUSE EACH MONTH OF THE REPORTING PERIOD.

EXPLANATION OF BLEND
SECTION 42-1108

Laws 2019, Chapters 169, 203 and 273

Laws 2019, Ch. 169, section 1	Effective August 27, 2019
Laws 2019, Ch. 203, section 2	Effective August 27, 2019
Laws 2019, Ch. 273, section 3	Effective August 27, 2019 (Retroactive to January 1, 2019)

Explanation

Since these three enactments are compatible, the Laws 2019, Ch. 169, Ch. 203 and Ch. 273 text changes to section 42-1108 are blended in the form shown on the following pages.

BLEND OF SECTION 42-1108
Laws 2019, Chapters 169, 203 and 273

42-1108. Audit; deficiency assessments; nonaudit adjustments; electronic filing

A. If a taxpayer fails to file a return required by this title or title 43, or if the department is not satisfied with the return or payment of the amount of tax required to be paid under either title, the department may examine any return, including any books, papers, records or memoranda relating to the return, to determine the correct amount of tax. This examination must occur within the time periods prescribed by section 42-1104 and may be accomplished through a detailed review of transactions or records or by a statistically valid sampling method.

B. The department shall give the taxpayer notice of its determination of a deficiency by mail or as prescribed by subsection C of this section, and the deficiency, plus penalties and interest, is final forty-five days ~~from~~ AFTER the date of receipt of the notice to the taxpayer unless an appeal is taken to the department. For individual income tax, the period is ninety days ~~from~~ AFTER the date of mailing. In the case of a joint income tax return, the notice may be a single joint notice mailed to the last known address, but if either spouse notifies the department that separate residences have been established, the department shall mail duplicate originals of the joint notice to each spouse.

Chs. 169, 203 and 273

C. ~~Except for individual income tax, the~~ THE department may issue notice of its determination of a deficiency under subsection B of this section by using an electronic portal in lieu of mail, if all of the requirements of this subsection are met, ~~for taxable periods beginning from and~~ after December 31, 2018 or when the department establishes the electronic portal, whichever is later. The use of the electronic portal in lieu of mail is subject to the following requirements and conditions:

Ch. 169

~~1. The taxpayer shall provide an e-mail address to the department to receive the [written] notice of its determination of a deficiency using the electronic portal. The taxpayer shall notify the department of any update to the taxpayer's e-mail address.~~

Chs. 169, 203 and 273

1. THE TAXPAYER AGREES IN WRITING TO ALLOW THE DEPARTMENT TO USE THE ELECTRONIC PORTAL TO ISSUE NOTICE OF THE DEPARTMENT'S DETERMINATION OF DEFICIENCY FOR SPECIFIED TAX PERIODS. THE AGREEMENT SHALL INCLUDE AN EMAIL ADDRESS THAT THE DEPARTMENT MAY USE TO NOTIFY THE TAXPAYER AS REQUIRED BY PARAGRAPH 2 OF THIS SUBSECTION. A TAXPAYER THAT PROVIDES AN EMAIL ADDRESS IS CERTIFYING THAT THE TAXPAYER REGULARLY MONITORS THAT EMAIL ADDRESS. IF THE TAXPAYER'S EMAIL ADDRESS CHANGES, THE TAXPAYER SHALL NOTIFY THE DEPARTMENT OF A NEW EMAIL ADDRESS.

2. The department shall notify the taxpayer, using the taxpayer's e-mail address, on the same day the notice of its determination of a deficiency is posted to the electronic portal.

3. The date of receipt for a notice provided by electronic portal is the later of the date the notice is posted to the electronic portal or the date the notification is received by the taxpayer. A notification sent by e-mail is considered to be received by the taxpayer on the day it is sent by the department.

D. If a deficiency is determined and the assessment becomes final, the department shall mail notice and demand to the taxpayer for the payment of the deficiency. Notwithstanding section 42-1125, subsection E, the deficiency assessed is due and payable at the expiration of ten days ~~from~~ AFTER the date of the notice and demand.

Chs. 169, 203 and 273

E. A certificate by the department of the mailing or e-mailing of the notices specified in this section is prima facie evidence of the assessment of the deficiency and the giving of the notices.

F. Any amount of tax in excess of that disclosed by the return due to a nonaudit adjustment, as listed in subsection G OR H of this section, notice of which has been mailed to the taxpayer, is not a deficiency assessment within the meaning of this section. The taxpayer may not protest or appeal as in the case of a deficiency assessment, based on such a notice, and the assessment or collection of the amount of tax erroneously omitted in the return is not prohibited by this article.

Ch. 203

G. An adjustment due to any of the following is considered a nonaudit adjustment:

1. An addition, subtraction, multiplication, division or other mathematical error shown on any return.

2. The failure of the taxpayer to properly compute the tax liability based on the taxable income reported on the return.

3. An incorrect usage or selection of information for a filed return from tax tables, schedules or similar documents provided by the department if the incorrect usage is apparent from the existence of other information on the return.

4. An entry on a return that is inconsistent with an entry on a schedule, form, statement, list or other document filed with the return.

5. An omission of information required on the return to substantiate an entry.

6. An entry on a return of a deduction or credit in an amount that exceeds a statutory limit if the limit is a monetary figure, a percentage, a ratio or a fraction and the items entered into the application of this limit appear on the return, including claiming a deduction or credit that is not authorized by statute for the taxable period.

7. Missing or incorrect taxpayer identification numbers for the purposes of claiming ~~personal~~ exemptions~~, dependents~~ or credits.

Ch. 273

8. An entry of a credit or deduction that requires a preapproval if the credit or deduction has not been preapproved or if the entry is for more than the preapproved amount.

9. An entry of a credit or deduction amount carried forward from a prior year that is outside of the statutory period allowed for the carryforward or is for an amount that is inconsistent with the taxpayer's prior year returns.

H. If a taxpayer that files its return electronically is allowed to input the information from a document into the electronic filing program instead of providing the actual document with the return, the department may request a copy of the document from the taxpayer at any time. If the taxpayer provides the document, the department may adjust the return to reflect the amounts on the document. If the taxpayer does not provide the requested document within the period provided by the department, the

department may deny any deduction, credit or withholding that the document is intended to substantiate. AN ADJUSTMENT MADE PURSUANT TO THIS SUBSECTION IS CONSIDERED A NONAUDIT ADJUSTMENT UNDER SUBSECTION G, PARAGRAPH 4 OF THIS SECTION, EVEN THOUGH THE ACTUAL DOCUMENT IS NOT INCLUDED WITH THE ELECTRONICALLY FILED RETURN IF THE DEPARTMENT REQUESTS THE DOCUMENT WITHIN SIXTY DAYS AFTER THE DUE DATE OF THE RETURN OR THE DATE ON WHICH THE RETURN WAS FILED, WHICHEVER IS LATER.

Ch. 203

Chs. 169, 203 and 273

~~I. For the purposes of this section, "electronic portal" means a secure location on a website established by the department that requires the taxpayer to enter a password to access.~~

EXPLANATION OF BLEND
SECTION 42-2003

Laws 2019, Chapters 142 and 240

Laws 2019, Ch. 142, section 2	Effective August 27, 2019
Laws 2019 Ch. 240, section 5	Effective August 27, 2019

Explanation

Since these two enactments are compatible, the Laws 2019, Ch. 142 and Ch. 240 text changes to section 42-2003 are blended in the form shown on the following pages.

BLEND OF SECTION 42-2003
Laws 2019, Chapters 142 and 240

42-2003. Authorized disclosure of confidential information

A. Confidential information relating to:

1. A taxpayer may be disclosed to the taxpayer, its successor in interest or a designee of the taxpayer who is authorized in writing by the taxpayer. A principal corporate officer of a parent corporation may execute a written authorization for a controlled subsidiary.

2. A corporate taxpayer may be disclosed to any principal officer, any person designated by a principal officer or any person designated in a resolution by the corporate board of directors or other similar governing body. If a corporate officer signs a statement under penalty of perjury representing that the officer is a principal officer, the department may rely on the statement until the statement is shown to be false. For the purposes of this paragraph, "principal officer" includes a chief executive officer, president, secretary, treasurer, vice president of tax, chief financial officer, chief operating officer or chief tax officer or any other corporate officer who has the authority to bind the taxpayer on matters related to state taxes.

3. A partnership may be disclosed to any partner of the partnership. This exception does not include disclosure of confidential information of a particular partner unless otherwise authorized.

4. A limited liability company may be disclosed to any member of the company or, if the company is manager-managed, to any manager.

5. An estate may be disclosed to the personal representative of the estate and to any heir, next of kin or beneficiary under the will of the decedent if the department finds that the heir, next of kin or beneficiary has a material interest that will be affected by the confidential information.

6. A trust may be disclosed to the trustee or trustees, jointly or separately, and to the grantor or any beneficiary of the trust if the department finds that the grantor or beneficiary has a material interest that will be affected by the confidential information.

7. A government entity may be disclosed to the head of the entity or a member of the governing board of the entity, or any employee of the entity who has been delegated the authorization in writing by the head of the entity or the governing board of the entity.

8. Any taxpayer may be disclosed if the taxpayer has waived any rights to confidentiality either in writing or on the record in any administrative or judicial proceeding.

9. The name and taxpayer identification numbers of persons issued direct payment permits may be publicly disclosed.

10. Any taxpayer may be disclosed during a meeting or telephone call if the taxpayer is present during the meeting or telephone call and authorizes the disclosure of confidential information.

B. Confidential information may be disclosed to:

1. Any employee of the department whose official duties involve tax administration.

2. The office of the attorney general solely for its use in preparation for, or in an investigation that may result in, any proceeding involving tax administration before the department or any other agency or board of this state, or before any grand jury or any state or federal court.

3. The department of liquor licenses and control for its use in determining whether a spirituous liquor licensee has paid all transaction privilege taxes and affiliated excise taxes incurred as a result of the sale of spirituous liquor, as defined in section 4-101, at the licensed establishment and imposed on the licensed establishments by this state and its political subdivisions.

4. Other state tax officials whose official duties require the disclosure for proper tax administration purposes if the information is sought in connection with an investigation or any other proceeding conducted by the official. Any disclosure is limited to information of a taxpayer who is being investigated or who is a party to a proceeding conducted by the official.

5. The following agencies, officials and organizations, if they grant substantially similar privileges to the department for the type of information being sought, pursuant to statute and a written agreement between the department and the foreign country, agency, state, Indian tribe or organization:

(a) The United States internal revenue service, alcohol and tobacco tax and trade bureau of the United States treasury, United States bureau of alcohol, tobacco, firearms and explosives of the United States department of justice, United States drug enforcement agency and federal bureau of investigation.

(b) A state tax official of another state.

(c) An organization of states, federation of tax administrators or multistate tax commission that operates an information exchange for tax administration purposes.

(d) An agency, official or organization of a foreign country with responsibilities that are comparable to those listed in subdivision (a), (b) or (c) of this paragraph.

(e) An agency, official or organization of an Indian tribal government with responsibilities comparable to the responsibilities of the agencies, officials or organizations identified in subdivision (a), (b) or (c) of this paragraph.

6. The auditor general, in connection with any audit of the department subject to the restrictions in section 42-2002, subsection D.

7. Any person to the extent necessary for effective tax administration in connection with:

(a) The processing, storage, transmission, destruction and reproduction of the information.

(b) The programming, maintenance, repair, testing and procurement of equipment for purposes of tax administration.

(c) The collection of the taxpayer's civil liability.

8. The office of administrative hearings relating to taxes administered by the department pursuant to section 42-1101, but the department shall not disclose any confidential information without the taxpayer's written consent:

(a) Regarding income tax or withholding tax.

(b) On any tax issue relating to information associated with the reporting of income tax or withholding tax.

9. The United States treasury inspector general for tax administration for the purpose of reporting a violation of internal revenue code section 7213A (26 United States Code section 7213A), unauthorized inspection of returns or return information.

10. The financial management service of the United States treasury department for use in the treasury offset program.

11. The United States treasury department or its authorized agent for use in the state income tax levy program and in the electronic federal tax payment system.

12. The Arizona commerce authority for its use in:

(a) Qualifying renewable energy operations for the tax incentives under section 42-12006.

(b) Qualifying businesses with a qualified facility for income tax credits under sections 43-1083.03 and 43-1164.04.

(c) Fulfilling its annual reporting responsibility pursuant to section 41-1511, subsections U and V and section 41-1512, subsections U and V.

(d) Certifying computer data centers for tax relief under section 41-1519.

13. A prosecutor for purposes of section 32-1164, subsection C.

14. The office of the state fire marshal for use in determining compliance with and enforcing title 37, chapter 9, article 5.

15. The department of transportation for its use in administering taxes, surcharges and penalties prescribed by title 28.

16. The Arizona health care cost containment system administration for its use in administering nursing facility provider assessments.

17. The department of administration risk management division and the office of the attorney general if the information relates to a claim against this state pursuant to section 12-821.01 involving the department of revenue.

18. Another state agency if the taxpayer authorizes the disclosure of confidential information in writing, including an authorization that is part of an application form or other document submitted to the agency.

19. The department of economic security for its use in determining whether an employer has paid all amounts due under the unemployment insurance program pursuant to title 23, chapter 4.

Ch. 142 — 20. THE DEPARTMENT OF HEALTH SERVICES FOR ITS USE IN DETERMINING IF A MEDICAL MARIJUANA DISPENSARY IS IN COMPLIANCE WITH THE TAX REQUIREMENTS OF TITLE 42, CHAPTER 5 FOR PURPOSES OF SECTION 36-2806, SUBSECTION A.

C. Confidential information may be disclosed in any state or federal judicial or administrative proceeding pertaining to tax administration pursuant to the following conditions:

1. One or more of the following circumstances must apply:

(a) The taxpayer is a party to the proceeding.

(b) The proceeding arose out of, or in connection with, determining the taxpayer's civil or criminal liability, or the collection of the taxpayer's civil liability, with respect to any tax imposed under this title or title 43.

(c) The treatment of an item reflected on the taxpayer's return is directly related to the resolution of an issue in the proceeding.

(d) Return information directly relates to a transactional relationship between a person who is a party to the proceeding and the taxpayer and directly affects the resolution of an issue in the proceeding.

2. Confidential information may not be disclosed under this subsection if the disclosure is prohibited by section 42-2002, subsection C or D.

D. Identity information may be disclosed for purposes of notifying persons entitled to tax refunds if the department is unable to locate the persons after reasonable effort.

E. The department, on the request of any person, shall provide the names and addresses of bingo licensees as defined in section 5-401, verify whether or not a person has a privilege license and number, a tobacco product distributor's license and number or a withholding license and number or disclose the information to be posted on the department's website or otherwise publicly accessible pursuant to section 42-1124, subsection F and section 42-3401.

F. A department employee, in connection with the official duties relating to any audit, collection activity or civil or criminal investigation, may disclose return information to the extent that disclosure is necessary to obtain information that is not otherwise reasonably available. These official duties include the correct determination of and liability for tax, the amount to be collected or the enforcement of other state tax revenue laws.

G. Confidential information relating to transaction privilege tax, use tax, severance tax, jet fuel excise and use tax and any other tax collected by the department on behalf of any jurisdiction may be disclosed to any county, city or town tax official if the information relates to a taxpayer who is or may be taxable by a county, city or town or who may be subject to audit by the department pursuant to section 42-6002. Any taxpayer information THAT IS released by the department to the county, city or town:

1. May ~~only~~ be used ONLY for internal purposes, including audits. IF THERE IS A LEGITIMATE BUSINESS NEED RELATING TO ENFORCING LAWS, REGULATIONS AND ORDINANCES PURSUANT TO SECTION 9-500.39 OR 11-269.17, A COUNTY, CITY OR TOWN TAX OFFICIAL MAY REDISCLOSE TRANSACTION PRIVILEGE TAX INFORMATION RELATING TO A VACATION RENTAL OR SHORT-TERM RENTAL PROPERTY OWNER OR ONLINE LODGING OPERATOR FROM THE NEW LICENSE REPORT AND LICENSE UPDATE REPORT, SUBJECT TO THE FOLLOWING:

Ch. 240

(a) THE INFORMATION REDISCLOSED IS LIMITED TO THE FOLLOWING:

(i) THE TRANSACTION PRIVILEGE TAX LICENSE NUMBER.

(ii) THE TYPE OF ORGANIZATION OR OWNERSHIP OF THE BUSINESS.

(iii) THE LEGAL BUSINESS NAME AND DOING BUSINESS AS NAME, IF DIFFERENT FROM THE LEGAL NAME.

(iv) THE BUSINESS MAILING ADDRESS, TAX RECORD PHYSICAL LOCATION ADDRESS, TELEPHONE NUMBER, EMAIL ADDRESS AND FAX NUMBER.

(v) THE DATE THE BUSINESS STARTED IN THIS STATE, THE BUSINESS DESCRIPTION AND THE NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM CODE.

(vi) THE NAME, ADDRESS AND TELEPHONE NUMBER FOR EACH OWNER, PARTNER, CORPORATE OFFICER, MEMBER, MANAGING MEMBER OR OFFICIAL OF THE EMPLOYING UNIT.

Ch. 240

(b) REDISCLOSURE IS LIMITED TO NONELECTED OFFICIALS IN OTHER UNITS WITHIN THE COUNTY, CITY OR TOWN. THE INFORMATION MAY NOT BE REDISCLOSED TO AN ELECTED OFFICIAL OR THE ELECTED OFFICIAL'S STAFF.

(c) ALL REDISCLOSURES OF CONFIDENTIAL INFORMATION MADE PURSUANT TO THIS PARAGRAPH ARE SUBJECT TO PARAGRAPH 2 OF THIS SUBSECTION.

2. May not be disclosed to the public in any manner that does not comply with confidentiality standards established by the department. The county, city or town shall agree in writing with the department that any release of confidential information that violates the confidentiality standards adopted by the department will result in the immediate suspension of any rights of the county, city or town to receive taxpayer information under this subsection.

H. The department may disclose statistical information gathered from confidential information if it does not disclose confidential information attributable to any one taxpayer. The department may disclose statistical information gathered from confidential information, even if it discloses confidential information attributable to a taxpayer, to:

1. The state treasurer in order to comply with the requirements of section 42-5029, subsection A, paragraph 3.

2. The joint legislative income tax credit review committee, the joint legislative budget committee staff and the legislative staff in order to comply with the requirements of section 43-221.

I. The department may disclose the aggregate amounts of any tax credit, tax deduction or tax exemption enacted after January 1, 1994. Information subject to disclosure under this subsection shall not be disclosed if a taxpayer demonstrates to the department that such information would give an unfair advantage to competitors.

J. Except as provided in section 42-2002, subsection C, confidential information, described in section 42-2001, paragraph 1, subdivision (a), item (ii), may be disclosed to law enforcement agencies for law enforcement purposes.

K. The department may provide transaction privilege tax license information to property tax officials in a county for the purpose of identification and verification of the tax status of commercial property.

L. The department may provide transaction privilege tax, luxury tax, use tax, property tax and severance tax information to the ombudsman-citizens aide pursuant to title 41, chapter 8, article 5.

M. Except as provided in section 42-2002, subsection D, a court may order the department to disclose confidential information pertaining to a party to an action. An order shall be made only on a showing of good cause and that the party seeking the information has made demand on the taxpayer for the information.

N. This section does not prohibit the disclosure by the department of any information or documents submitted to the department by a bingo licensee. Before disclosing the information[,] the department shall obtain the name and address of the person requesting the information.

O. If the department is required or permitted to disclose confidential information, it may charge the person or agency requesting the information for the reasonable cost of its services.

P. Except as provided in section 42-2002, subsection D, the department of revenue shall release confidential information as requested by the department of economic security pursuant to section 42-1122 or 46-291. Information disclosed under this subsection is limited to the same type of information that the United States internal revenue service is authorized to disclose under section 6103(l)(6) of the internal revenue code.

Q. Except as provided in section 42-2002, subsection D, the department ~~of revenue~~ shall release confidential information as requested by the courts and clerks of the court pursuant to section 42-1122.

R. To comply with the requirements of section 42-5031, the department may disclose to the state treasurer, to the county stadium district board of directors and to any city or town tax official that is part of the county stadium district confidential information attributable to a taxpayer's business activity conducted in the county stadium district.

S. The department shall release to the attorney general confidential information as requested by the attorney general for purposes of determining compliance with or enforcing any of the following:

1. Any public health control law relating to tobacco sales as provided under title 36, chapter 6, article 14.

2. Any law relating to reduced cigarette ignition propensity standards as provided under title 37, chapter 9, article 5.

3. Sections 44-7101 and 44-7111, the master settlement agreement referred to in those sections and all agreements regarding disputes under the master settlement agreement.

T. For proceedings before the department, the office of administrative hearings, the STATE board of tax appeals or any state or federal court involving penalties that were assessed against a return preparer, an electronic return preparer or a payroll service company pursuant to section 42-1103.02, 42-1125.01 or 43-419, confidential information may be disclosed only before the judge or administrative law judge adjudicating the proceeding, the parties to the proceeding and the parties' representatives in the proceeding prior to its introduction into evidence in the proceeding. The confidential information may be introduced as evidence in the proceeding only if the taxpayer's name, the names of any dependents listed on the return, all social security numbers, the taxpayer's address, the taxpayer's signature and any attachments containing any of the foregoing information are redacted and if either:

1. The treatment of an item reflected on such A return is or may be related to the resolution of an issue in the proceeding.

2. Such a return or the return information relates or may relate to a transactional relationship between a person who is a party to the

proceeding and the taxpayer that directly affects the resolution of an issue in the proceeding.

3. The method of payment of the taxpayer's withholding tax liability or the method of filing the taxpayer's withholding tax return is an issue for the period.

U. The department and attorney general may share the information specified in subsection S of this section with any of the following:

1. Federal, state or local agencies located in this state for the purposes of enforcement of the statutes or agreements specified in subsection S of this section or for the purposes of enforcement of corresponding laws of other states.

2. Indian tribes located in this state for the purposes of enforcement of the statutes or agreements specified in subsection S of this section.

3. A court, arbitrator, data clearinghouse or similar entity for the purpose of assessing compliance with or making calculations required by the master settlement agreement or agreements regarding disputes under the master settlement agreement, and with counsel for the parties or expert witnesses in any such proceeding, if the information otherwise remains confidential.

V. The department may provide the name and address of qualifying hospitals and qualifying health care organizations, as defined in section 42-5001, to a business THAT IS classified and reporting transaction privilege tax under the utilities classification.

Ch. 240 — W. The department may disclose to an official of any city, town or county in a current agreement or considering a prospective agreement with the department as described in section 42-5032.02, subsection G any information relating to amounts subject to distribution THAT ARE required by section 42-5032.02. Information disclosed by the department under this subsection:

1. May only be used by the city, town or county for internal purposes.

2. May not be disclosed to the public in any manner that does not comply with confidentiality standards established by the department. The city, town or county must agree with the department in writing that any release of confidential information that violates the confidentiality standards will result in the immediate suspension of any rights of the city, town or county to receive information under this subsection.

X. Notwithstanding any other provision of this section, the department may not disclose information provided by an online lodging marketplace, as defined in section 42-5076, without the written consent of the online lodging marketplace, and the information may be disclosed only pursuant to subsection A, paragraphs 1 through 6, 8 and 10, subsection B,
Ch. 240 — paragraphs 1, 2, 7 and 8 and subsections C, ~~and~~ D AND G of this section. Such information:

1. Is not subject to disclosure pursuant to title 39, relating to public records.

2. May not be disclosed to any agency of this state or of any county, city, town or other political subdivision of this state.

EXPLANATION OF BLEND
SECTION 42-3401

Laws 2019, Chapters 65 and 203

Laws 2019, Ch. 65, section 2	Effective August 27, 2019
Laws 2019, Ch. 203, section 9	Effective August 27, 2019

Explanation

Since the Ch. 65 version includes all of the changes made by the Ch. 203 version, the Laws 2019, Ch. 65 amendment of section 42-3401 is the blend of both the Laws 2019, Ch. 65 and Ch. 203 versions.

BLEND OF SECTION 42-3401
Laws 2019, Chapters 65 and 203

42-3401. Tobacco distributor licenses; application; conditions; revocations and cancellations

A. Every person acquiring or possessing for the purpose of making the initial sale or distribution in this state of any tobacco products on which a tax is imposed by this chapter shall obtain from the department a license to sell tobacco products. The application for the license shall be in the form provided by the department and shall be accompanied by a fee of ~~twenty-five dollars~~ $25 for each place of business listed in the application. The form shall state that the identity of the applicant will be posted to the department's website for public inspection. The application for a license shall include the applicant's name and address, the applicant's principal place of business, all other places of business where the applicant's business is conducted for the purpose of making the initial sale or distribution of tobacco products in this state, including any location that maintains an inventory of tobacco products, and any other information required by the department. THE APPLICANT'S PRINCIPAL PLACE OF BUSINESS AND OTHER BUSINESS LOCATIONS MAY NOT INCLUDE A RESIDENTIAL LOCATION OR POST OFFICE BOX ADDRESS, EXCEPT AS ALLOWED UNDER SUBSECTION D, PARAGRAPH 2, SUBDIVISION (c) OF THIS SECTION. If the applicant is a firm, partnership, limited liability company, limited liability partnership or association, the applicant shall list the name and address of each of the applicant's members. If the applicant is a corporation, the application shall list the name and address of the applicant's officers and any person who directly or indirectly owns an aggregate amount of ten percent or more of the ownership interest in the corporation. If a licensee is a corporation, firm, partnership, limited liability company, limited liability partnership or association, the licensee under this subsection shall notify the department in writing within thirty days after any change in membership, legal entity status or ownership of more than fifty percent of the total ownership interest in a single transaction. If a licensee changes its business location, the licensee under this subsection shall notify the department within thirty days after a change in location. If the licensee is making a change in its business location by adding or replacing one or more additional places of business that are not currently listed on its application, the licensee must remit a fee of ~~twenty-five dollars~~ $25 for each additional place of business.

Chs. 65 and 203

Ch. 65

Chs. 65 and 203

B. For the purposes of subsection A of this section, an applicant with a controlling interest in more than one business engaged in activities as a distributor shall apply for a single license encompassing all such businesses and list each place of business in its application. For the purposes of this subsection, "controlling interest" means direct or indirect ownership of at least eighty percent of the voting shares of a corporation or of the interests in a company, business or person other than a corporation.

C. The department shall issue a license authorizing the applicant to acquire or possess tobacco products in this state on the condition that the applicant complies with this chapter and the rules of the department. The license:

1. Shall be nontransferable. A licensee may not transfer its license to a new owner when selling its business, and any court-appointed trustee, receiver or other person shall obtain a license in its own name in cases of liquidation, insolvency[,] [~~or~~] bankruptcy or pursuant to a court order if the business remains in operation as a distributor of tobacco products. A licensee shall apply for a new license if it changes its legal entity status or otherwise changes the legal structure of its business.

Ch. 65

Chs. 65 and 203

2. Shall be valid for one year unless earlier CANCELED OR revoked by the department.

3. Shall be displayed in a conspicuous place at the licensee's place of business. If the licensee operates from more than one place of business, the licensee must display a copy of its license in a conspicuous place at each location.

D. As a condition of licensure under this section, an applicant agrees to the following conditions:

1. A person may not hold or store any tobacco products, whether within or outside of this state, for sale or distribution in this state by or on behalf of a distributor at any place other than a location that has been disclosed to the department pursuant to subsection A of this section. This paragraph does not include a person holding or storing tobacco products by or on behalf of the distributor when the tobacco products are in transit to a distributor or retailer as part of a lawful sale.

2. All tobacco products held or stored, whether within or outside of this state, for sale or distribution in this state by or on behalf of a distributor:

(a) Shall be accessible to the department during normal business hours without a judicial warrant or prior written consent of the distributor.

(b) May not be held or stored ~~at a residential location or~~ in a vehicle, EXCEPT AS ALLOWED UNDER SECTION 42-3403, SUBSECTION B.

(c) MAY NOT BE HELD OR STORED AT A RESIDENTIAL LOCATION, UNLESS THE SOLE LUXURY FOR SALE OR DISTRIBUTION BY OR ON BEHALF OF THE DISTRIBUTOR IS TAXED AS A CIGAR UNDER SECTION 42-3052, PARAGRAPH 8 OR 9 AND THE PRODUCT WEIGHT OF THE CIGARS IS NOT MORE THAN FIVE HUNDRED POUNDS. IF THE PRODUCT IS HELD OR STORED AT A RESIDENTIAL LOCATION, AS A CONDITION OF LICENSURE, THE DISTRIBUTOR SHALL PROVIDE WRITTEN CONSENT AND ALLOW ACCESS TO THE DEPARTMENT TO INSPECT THE STOCK OF LUXURIES AND ALL BOOKS, PAPERS, INVOICES, RECORDS AND ELECTRONICALLY STORED DATA SHOWING SALES, RECEIPTS AND PURCHASES OF LUXURIES. THE DISTRIBUTOR SHALL SUBMIT THE WRITTEN CONSENT TO THE DEPARTMENT WITH THE LICENSE APPLICATION OR ON DEMAND OF THE DEPARTMENT.

Ch. 65

3. TOBACCO PRODUCTS MAY BE SOLD, TRANSFERRED OR DISTRIBUTED TO A RETAILER LOCATED ON AN INDIAN RESERVATION IN THIS STATE ONLY IF THE RETAILER IS REGISTERED WITH, AND HAS A REGISTRATION IDENTIFICATION NUMBER ISSUED BY, THE DEPARTMENT.

E. A person who is convicted of an offense described in section 42-1127, subsection E is permanently ineligible to hold a license issued under this section.

F. The department may not issue or renew a license to an applicant and may revoke a license issued under subsection C of this section if any of the following applies:

Chs. 65 and 203 1. The applicant or licensee owes ~~one thousand dollars~~ $1,000 or more in delinquent taxes imposed on tobacco products under this chapter that are not under protest or subject to a payment agreement.

2. The department has revoked any license held by the applicant or licensee within the previous two years.

3. The applicant or licensee has been convicted of a crime that relates to stolen or counterfeit cigarettes.

4. The applicant or licensee has imported cigarettes into the United States for sale or distribution in violation of 19 United States Code section 1681a.

5. The applicant or licensee has imported cigarettes into the United States for sale or distribution without fully complying with the federal cigarette labeling and advertising act (P.L. 89-92; 79 Stat. 282; 15 United States Code section 1331).

6. The applicant or licensee is in violation of section 13-3711 or section 36-798.06, subsection A.

7. Pursuant to section 44-7111, section 6(a), the applicant or licensee is in violation of section 44-7111, section 3(c).

8. The civil rights of the applicant or licensee have been suspended under section 13-904. An applicant or licensee whose civil rights have been

Chs. 65 and 203 suspended ~~will be~~ IS ineligible to hold a license for a period of five years following the restoration of the applicant's or licensee's civil rights.

G. In addition to any other civil or criminal penalty and except as otherwise provided in this section, the department may deny the issuance or

Ch. 65 renewal of ~~or suspend~~ or revoke a license issued under subsection C of this section if the person violates any requirement under this title more than two times within a three-year period or fails to otherwise maintain the conditions of licensure in this section.

H. The department shall publish on its website the names of each person who is issued a license under subsection C of this section, including any trade names or business names used by the licensee. The department shall update the published names at least once each month.

I. A person may not apply for or hold a distributor's license if that person does not engage in the activities described in subsection A of this section. In addition to any other applicable penalty, the department may cancel the license of any licensee that fails to incur any tax liability under this chapter for twelve consecutive months.

Ch. 65 J. Any ~~suspension,~~ revocation, cancellation or denial of a license issued under this section by the department must comply with section 41-1092.11, subsection B.

K. Notwithstanding any other law, for the purposes of subsection F, paragraphs 1 and 2 of this section, section 42-1127, subsection C and section 42-3461, subsection B, if a distributor has listed in its application more than one place of business, any ~~suspension,~~ revocation, cancellation, denial or nonrenewal of the distributor's license shall apply only with effect to remove the place of business or business location at which the activity occurred from the distributor's license. If such a removal occurs, the distributor shall be subject to restrictions that the department prescribes by rule.

Ch. 65

EXPLANATION OF BLEND
SECTION 42-5061 (as amended by Laws 2018, Ch. 104, section 15 and Ch. 249, section 1)

Laws 2019, Chapters 273 and 288

Laws 2019, Ch. 273, section 7	Effective August 27, 2019
Laws 2019, Ch. 288, section 1	Effective December 1, 2019

Explanation

Since these two enactments are compatible, the Laws 2019, Ch. 273 and Ch. 288 text changes to section 42-5061, as amended by Laws 2018, Ch. 104, section 15 and Ch. 249, section 1, are blended effective from and after November 30, 2019 in the form shown on the following pages.

BLEND OF SECTION 42-5061 (as amended by Laws 2018, Ch. 104, section 15 and Ch. 249, section 1)
Laws 2019, Chapters 273 and 288

42-5061. Retail classification; definitions

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

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

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

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

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

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

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

7. The sale of stocks and bonds.

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

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

10. Insulin, insulin syringes and glucose test strips.

11. Prescription eyeglasses or contact lenses.

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

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

14. Sales of motor vehicles to nonresidents of this state for use outside this state if the motor vehicle dealer ships or delivers the motor vehicle to a destination out of this state.

15. Food, as provided in and subject to the conditions of article 3 of this chapter and ~~section~~ SECTIONS 42-5074 AND 42-6017.

Ch. 273

16. Items purchased with United States department of agriculture coupons issued under the supplemental nutrition assistance program pursuant to the food and nutrition act of 2008 (P.L. 88-525; 78 Stat[.] 703; 7 United States Code sections 2011 through 2036b) by the United States department of agriculture food and nutrition service or food instruments issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; P.L. 111-296; 42 United States Code section 1786).

Chs. 273 and 288

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

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

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

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

21. The sale of cash equivalents and the sale of precious metal bullion and monetized bullion to the ultimate consumer, but the sale of coins or other forms of money for manufacture into jewelry or works of art is subject to the tax and the gross proceeds of sales or gross income derived from the redemption of any cash equivalent by the holder as a means of payment for goods or services that are taxable under this article is subject to the tax. For the purposes of this paragraph:

(a) "Cash equivalents" means items or intangibles, whether or not negotiable, that are sold to one or more persons, through which a value denominated in money is purchased in advance and may be redeemed in full or in part for tangible personal property, intangibles or services. Cash equivalents include gift cards, stored value cards, gift certificates, vouchers, traveler's checks, money orders or other instruments, orders or electronic mechanisms, such as an electronic code, personal identification number or digital payment mechanism, or any other prepaid intangible right to acquire tangible personal property, intangibles or services in the future, whether from the seller of the cash equivalent or from another person. Cash equivalents do not include either of the following:

(i) Items or intangibles that are sold to one or more persons, through which a value is not denominated in money.

(ii) Prepaid calling cards or prepaid authorization numbers for telecommunications services made taxable by subsection P of this section.

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

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

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

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

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

25. Tangible personal property sold to:

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

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

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

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

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

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

(g) A qualifying health sciences educational institution as defined in section 42-5001.

(h) Any person representing or working on behalf of another person described in subdivisions (a) through (g) of this paragraph if the tangible personal property is incorporated or fabricated into a project described in section 42-5075, subsection O.

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

27. Tangible personal property sold to:

(a) A person that is subject to tax under this article by reason of being engaged in business classified under section 42-5075 or to a

subcontractor working under the control of a person engaged in business classified under section 42-5075, if the property so sold is any of the following:

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

(ii) Incorporated or fabricated by the person into any project described in section 42-5075, subsection O.

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

(b) A person that is not subject to tax under section 42-5075 and that has been provided a copy of a certificate under section 42-5009, subsection L, if the property so sold is incorporated or fabricated by the person into the real property, structure, project, development or improvement described in the certificate.

28. The sale of a motor vehicle to:

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

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

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

30. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is associated with a major league baseball team or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual. This paragraph does not apply to an organization that is owned, managed or controlled, in whole or in part, by a major league baseball team, or its owners, officers, employees or agents, or by a major league baseball association or professional golfing association, or its owners, officers, employees or agents, unless the organization conducted or operated exhibition events in this state before January 1, 2018 that were exempt from taxation under section 42-5073.

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

32. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the organization sponsors or operates a rodeo featuring primarily farm and ranch animals and

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

33. Sales of ~~seeds, seedlings, roots, bulbs, cuttings and other~~ propagative ~~material~~ MATERIALS to persons who use those items to commercially produce agricultural, horticultural, viticultural or floricultural crops in this state. FOR THE PURPOSES OF THIS PARAGRAPH, "PROPAGATIVE MATERIALS":

Ch. 288

(a) INCLUDES SEEDS, SEEDLINGS, ROOTS, BULBS, LINERS, TRANSPLANTS, CUTTINGS, SOIL AND PLANT ADDITIVES, AGRICULTURAL MINERALS, AUXILIARY SOIL AND PLANT SUBSTANCES, MICRONUTRIENTS, FERTILIZERS, INSECTICIDES, HERBICIDES, FUNGICIDES, SOIL FUMIGANTS, DESICCANTS, RODENTICIDES, ADJUVANTS, PLANT NUTRIENTS AND PLANT GROWTH REGULATORS.

(b) EXCEPT FOR USE IN COMMERCIALLY PRODUCING INDUSTRIAL HEMP AS DEFINED IN SECTION 3-311, DOES NOT INCLUDE ANY PROPAGATIVE MATERIALS USED IN PRODUCING ANY PART, INCLUDING SEEDS, OF ANY PLANT OF THE GENUS CANNABIS.

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

35. Sales of natural gas or liquefied petroleum gas used to propel a motor vehicle.

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

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

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

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

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

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

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

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

42. Sales of:

(a) Livestock and poultry to persons engaging in the businesses of farming, ranching or producing livestock or poultry.

(b) Livestock and poultry feed, salts, vitamins and other additives for livestock or poultry consumption that are sold to persons for use or consumption by their own livestock or poultry, for use or consumption in the businesses of farming, ranching and producing or feeding livestock, poultry, or livestock or poultry products or for use or consumption in noncommercial boarding of livestock. For the purposes of this paragraph, "poultry" includes ratites.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

57. Computer data center equipment sold to the owner, operator or qualified colocation tenant of a computer data center that is certified by the Arizona commerce authority under section 41-1519 or an authorized agent of the owner, operator or qualified colocation tenant during the qualification period for use in the qualified computer data center. For the purposes of this paragraph, "computer data center", "computer data center equipment", "qualification period" and "qualified colocation tenant" have the same meanings prescribed in section 41-1519.

58. Orthodontic devices dispensed by a dental professional who is licensed under title 32, chapter 11 to a patient as part of the practice of dentistry.

59. Sales of tangible personal property incorporated or fabricated into a project described in section 42-5075, subsection O, that is located within the exterior boundaries of an Indian reservation for which the owner, as defined in section 42-5075, of the project is an Indian tribe or an affiliated Indian. For the purposes of this paragraph:

(a) "Affiliated Indian" means an individual native American Indian who is duly registered on the tribal rolls of the Indian tribe for whose benefit the Indian reservation was established.

(b) "Indian reservation" means all lands that are within the limits of areas set aside by the United States for the exclusive use and occupancy of an Indian tribe by treaty, law or executive order and that are recognized as Indian reservations by the United States department of the interior.

(c) "Indian tribe" means any organized nation, tribe, band or community that is recognized as an Indian tribe by the United States department of the interior and includes any entity formed under the laws of the Indian tribe.

60. Sales of works of fine art, as defined in section 44-1771, at an art auction or gallery in this state to nonresidents of this state for use outside this state if the vendor ships or delivers the work of fine art to a destination outside this state.

Ch. 273

61. SALES OF TANGIBLE PERSONAL PROPERTY BY A MARKETPLACE SELLER THAT ARE FACILITATED BY A MARKETPLACE FACILITATOR IN WHICH THE MARKETPLACE FACILITATOR HAS REMITTED OR WILL REMIT THE APPLICABLE TAX TO THE DEPARTMENT PURSUANT TO SECTION 42-5014.

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

1. Machinery, or equipment, used directly in manufacturing, processing, fabricating, job printing, refining or metallurgical operations. The terms "manufacturing", "processing", "fabricating", "job printing", "refining" and "metallurgical" as used in this paragraph refer to and include

those operations commonly understood within their ordinary meaning. "Metallurgical operations" includes leaching, milling, precipitating, smelting and refining.

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

3. Tangible personal property sold to persons engaged in business classified under the telecommunications classification, including a person representing or working on behalf of such a person in a manner described in section 42-5075, subsection O, and consisting of central office switching equipment, switchboards, private branch exchange equipment, microwave radio equipment and carrier equipment including optical fiber, coaxial cable and other transmission media that are components of carrier systems.

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

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

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

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

(a) A person:

(i) Holding, or exempted by federal law from obtaining, a federal certificate of public convenience and necessity for use as, in conjunction with or becoming part of an aircraft to be used to transport persons for hire in intrastate, interstate or foreign commerce.

(ii) That is certificated or licensed under federal aviation administration regulations (14 Code of Federal Regulations part 121 or 135) as a scheduled or unscheduled carrier of persons for hire for use as or in conjunction with or becoming part of an aircraft to be used to transport persons for hire in intrastate, interstate or foreign commerce.

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

(iv) Operating an aircraft to transport persons in any manner for compensation or hire, or for use in a fractional ownership program that meets the requirements of federal aviation administration regulations (14 Code of Federal Regulations part 91, subpart K), including as an air carrier, a foreign air carrier or a commercial operator or under a restricted category, within the meaning of 14 Code of Federal Regulations, regardless of whether the operation or aircraft is regulated or certified under part

91, 119, 121, 133, 135, 136 or 137, or another part of 14 Code of Federal Regulations.

(v) That will lease or otherwise transfer operational control, within the meaning of federal aviation administration operations specification A008, or its successor, of the aircraft, instruments or accessories to one or more persons described in item (i), (ii), (iii) or (iv) of this subdivision, subject to section 42-5009, subsection Q.

(b) Any foreign government.

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

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

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

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

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

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

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

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

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

14. Machinery or equipment used in research and development. For the purposes of this paragraph, "research and development" means basic and applied research in the sciences and engineering, and designing, developing or testing prototypes, processes or new products, including research and development of computer software that is embedded in or an integral part of

the prototype or new product or that is required for machinery or equipment otherwise exempt under this section to function effectively. Research and development do not include manufacturing quality control, routine consumer product testing, market research, sales promotion, sales service, research in social sciences or psychology, computer software research that is not included in the definition of research and development, or other nontechnological activities or technical services.

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

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

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

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

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

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

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

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

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

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

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

19. Machinery and equipment that are sold to a person engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state, including a person representing or working on behalf of such a person in a manner described in section 42-5075, subsection O, if the machinery and equipment are used directly and primarily to prevent, monitor, control or reduce air, water or land pollution.

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

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

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

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

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

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

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

2. Janitorial equipment and hand tools.

3. Office equipment, furniture and supplies.

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

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

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

7. Motors and pumps used in drip irrigation systems.

8. Machinery and equipment or other tangible personal property used by a contractor in the performance of a contract.

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

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

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

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

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

1. Agricultural producers who are owners, proprietors or tenants of agricultural lands, orchards, farms or gardens where agricultural products are grown, raised or prepared for market and who are marketing their own agricultural products.

2. Businesses classified under the:

(a) Transporting classification.

(b) Utilities classification.

(c) Telecommunications classification.

(d) Pipeline classification.

(e) Private car line classification.

(f) Publication classification.

(g) Job printing classification.

(h) Prime contracting classification.

(i) Restaurant classification.

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

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

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

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

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

J. There shall be deducted from the tax base fifty percent of the gross proceeds or gross income from any sale of tangible personal property made directly to the United States government or its departments or agencies that is not deducted under subsection I of this section.

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

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

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

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

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

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

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

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

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

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

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

R. For the purposes of this section, the transfer of title or possession of coal from an owner or operator of a power plant to a person in the business of refining coal is not a sale of coal if both of the following apply:

1. The transfer of title or possession of the coal is for the purpose of refining the coal.

2. The title or possession of the coal is transferred back to the owner or operator of the power plant after completion of the coal refining process. For the purposes of this paragraph, "coal refining process" means the application of a coal additive system that aids in the reduction of power plant emissions during the combustion of coal and the treatment of flue gas.

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

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

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

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

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

V. For the purposes of this section:

1. "Agricultural aircraft" means an aircraft that is built for agricultural use for the aerial application of pesticides or fertilizer or for aerial seeding.

2. "Aircraft" includes:

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

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

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

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

W. For the purposes of subsection I of this section:

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

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

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

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

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

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

EXPLANATION OF BLEND
SECTION 42-5061 (as amended by Laws 2018, Ch. 104, section 15, Ch. 249, section 1 and Ch. 263, section 1)

Laws 2019, Chapters 273 and 288

Laws 2019, Ch. 273, section 8	Conditionally Effective
Laws 2019, Ch. 288, section 2	Conditionally Effective

Explanation

Since these two enactments are compatible, the Laws 2019, Ch. 273 and Ch. 288 text changes to section 42-5061, as amended by Laws 2018, Ch. 104, section 15, Ch. 249, section 1 and Ch. 263, section 1, are blended in the form shown on the following pages.

BLEND OF SECTION 42-5061 (as amended by Laws 2018, Ch. 104, section 15, Ch. 249, section 1 and Ch. 263, section 1)
Laws 2019, Chapters 273 and 288

42-5061. Retail classification; definitions

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

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

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

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

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

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

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

7. The sale of stocks and bonds.

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

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

10. Insulin, insulin syringes and glucose test strips.

11. Prescription eyeglasses or contact lenses.

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

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

14. Sales of motor vehicles to nonresidents of this state for use outside this state if the motor vehicle dealer ships or delivers the motor vehicle to a destination out of this state.

15. Food, as provided in and subject to the conditions of article 3 of this chapter and ~~section~~ SECTIONS 42-5074 AND 42-6017.

Ch. 273

16. Items purchased with United States department of agriculture coupons issued under the supplemental nutrition assistance program pursuant to the food and nutrition act of 2008 (P.L. 88-525; 78 Stat[.] 703; 7 United States Code sections 2011 through 2036b) by the United States department of agriculture food and nutrition service or food instruments issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; P.L. 111-296; 42 United States Code section 1786).

Chs. 273 and 288

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

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

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

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

21. The sale of cash equivalents and the sale of precious metal bullion and monetized bullion to the ultimate consumer, but the sale of coins or other forms of money for manufacture into jewelry or works of art is subject to the tax and the gross proceeds of sales or gross income derived from the redemption of any cash equivalent by the holder as a means of payment for goods or services that are taxable under this article is subject to the tax. For the purposes of this paragraph:

(a) "Cash equivalents" means items or intangibles, whether or not negotiable, that are sold to one or more persons, through which a value denominated in money is purchased in advance and may be redeemed in full or in part for tangible personal property, intangibles or services. Cash equivalents include gift cards, stored value cards, gift certificates, vouchers, traveler's checks, money orders or other instruments, orders or electronic mechanisms, such as an electronic code, personal identification number or digital payment mechanism, or any other prepaid intangible right to acquire tangible personal property, intangibles or services in the future, whether from the seller of the cash equivalent or from another person. Cash equivalents do not include either of the following:

(i) Items or intangibles that are sold to one or more persons, through which a value is not denominated in money.

(ii) Prepaid calling cards or prepaid authorization numbers for telecommunications services made taxable by subsection P of this section.

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

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

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

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

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

25. Tangible personal property sold to:

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

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

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

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

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

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

(g) A qualifying health sciences educational institution as defined in section 42-5001.

(h) Any person representing or working on behalf of another person described in subdivisions (a) through (g) of this paragraph if the tangible personal property is incorporated or fabricated into a project described in section 42-5075, subsection O.

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

27. Tangible personal property sold to:

(a) A person that is subject to tax under this article by reason of being engaged in business classified under section 42-5075 or to a

subcontractor working under the control of a person engaged in business classified under section 42-5075, if the property so sold is any of the following:

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

(ii) Incorporated or fabricated by the person into any project described in section 42-5075, subsection O.

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

(b) A person that is not subject to tax under section 42-5075 and that has been provided a copy of a certificate under section 42-5009, subsection L, if the property so sold is incorporated or fabricated by the person into the real property, structure, project, development or improvement described in the certificate.

28. The sale of a motor vehicle to:

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

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

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

30. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is associated with a major league baseball team or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual. This paragraph does not apply to an organization that is owned, managed or controlled, in whole or in part, by a major league baseball team, or its owners, officers, employees or agents, or by a major league baseball association or professional golfing association, or its owners, officers, employees or agents, unless the organization conducted or operated exhibition events in this state before January 1, 2018 that were exempt from taxation under section 42-5073.

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

32. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the organization sponsors or operates a rodeo featuring primarily farm and ranch animals and

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

33. Sales of ~~seeds, seedlings, roots, bulbs, cuttings and other~~ propagative ~~material~~ MATERIALS to persons who use those items to commercially produce agricultural, horticultural, viticultural or floricultural crops in this state. FOR THE PURPOSES OF THIS PARAGRAPH, "PROPAGATIVE MATERIALS":

Ch. 288

(a) INCLUDES SEEDS, SEEDLINGS, ROOTS, BULBS, LINERS, TRANSPLANTS, CUTTINGS, SOIL AND PLANT ADDITIVES, AGRICULTURAL MINERALS, AUXILIARY SOIL AND PLANT SUBSTANCES, MICRONUTRIENTS, FERTILIZERS, INSECTICIDES, HERBICIDES, FUNGICIDES, SOIL FUMIGANTS, DESICCANTS, RODENTICIDES, ADJUVANTS, PLANT NUTRIENTS AND PLANT GROWTH REGULATORS.

(b) EXCEPT FOR USE IN COMMERCIALLY PRODUCING INDUSTRIAL HEMP AS DEFINED IN SECTION 3-311, DOES NOT INCLUDE ANY PROPAGATIVE MATERIALS USED IN PRODUCING ANY PART, INCLUDING SEEDS, OF ANY PLANT OF THE GENUS CANNABIS.

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

35. Sales of natural gas or liquefied petroleum gas used to propel a motor vehicle.

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

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

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

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

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

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

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

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

42. Sales of:

(a) Livestock and poultry to persons engaging in the businesses of farming, ranching or producing livestock or poultry.

(b) Livestock and poultry feed, salts, vitamins and other additives for livestock or poultry consumption that are sold to persons for use or consumption by their own livestock or poultry, for use or consumption in the businesses of farming, ranching and producing or feeding livestock, poultry, or livestock or poultry products or for use or consumption in noncommercial boarding of livestock. For the purposes of this paragraph, "poultry" includes ratites.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

57. Computer data center equipment sold to the owner, operator or qualified colocation tenant of a computer data center that is certified by the Arizona commerce authority under section 41-1519 or an authorized agent of the owner, operator or qualified colocation tenant during the qualification period for use in the qualified computer data center. For the purposes of this paragraph, "computer data center", "computer data center equipment", "qualification period" and "qualified colocation tenant" have the same meanings prescribed in section 41-1519.

58. Orthodontic devices dispensed by a dental professional who is licensed under title 32, chapter 11 to a patient as part of the practice of dentistry.

59. Sales of tangible personal property incorporated or fabricated into a project described in section 42-5075, subsection O, that is located within the exterior boundaries of an Indian reservation for which the owner, as defined in section 42-5075, of the project is an Indian tribe or an affiliated Indian. For the purposes of this paragraph:

(a) "Affiliated Indian" means an individual native American Indian who is duly registered on the tribal rolls of the Indian tribe for whose benefit the Indian reservation was established.

(b) "Indian reservation" means all lands that are within the limits of areas set aside by the United States for the exclusive use and occupancy of an Indian tribe by treaty, law or executive order and that are recognized as Indian reservations by the United States department of the interior.

(c) "Indian tribe" means any organized nation, tribe, band or community that is recognized as an Indian tribe by the United States department of the interior and includes any entity formed under the laws of the Indian tribe.

60. Sales of works of fine art, as defined in section 44-1771, at an art auction or gallery in this state to nonresidents of this state for use outside this state if the vendor ships or delivers the work of fine art to a destination outside this state.

61. Sales of coal.

Ch. 273

62. SALES OF TANGIBLE PERSONAL PROPERTY BY A MARKETPLACE SELLER THAT ARE FACILITATED BY A MARKETPLACE FACILITATOR IN WHICH THE MARKETPLACE FACILITATOR HAS REMITTED OR WILL REMIT THE APPLICABLE TAX TO THE DEPARTMENT PURSUANT TO SECTION 42-5014.

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

1. Machinery, or equipment, used directly in manufacturing, processing, fabricating, job printing, refining or metallurgical operations. The terms "manufacturing", "processing", "fabricating", "job printing",

"refining" and "metallurgical" as used in this paragraph refer to and include those operations commonly understood within their ordinary meaning. "Metallurgical operations" includes leaching, milling, precipitating, smelting and refining.

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

3. Tangible personal property sold to persons engaged in business classified under the telecommunications classification, including a person representing or working on behalf of such a person in a manner described in section 42-5075, subsection O, and consisting of central office switching equipment, switchboards, private branch exchange equipment, microwave radio equipment and carrier equipment including optical fiber, coaxial cable and other transmission media that are components of carrier systems.

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

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

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

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

(a) A person:

(i) Holding, or exempted by federal law from obtaining, a federal certificate of public convenience and necessity for use as, in conjunction with or becoming part of an aircraft to be used to transport persons for hire in intrastate, interstate or foreign commerce.

(ii) That is certificated or licensed under federal aviation administration regulations (14 Code of Federal Regulations part 121 or 135) as a scheduled or unscheduled carrier of persons for hire for use as or in conjunction with or becoming part of an aircraft to be used to transport persons for hire in intrastate, interstate or foreign commerce.

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

(iv) Operating an aircraft to transport persons in any manner for compensation or hire, or for use in a fractional ownership program that meets the requirements of federal aviation administration regulations (14 Code of Federal Regulations part 91, subpart K), including as an air carrier, a foreign air carrier or a commercial operator or under a restricted

category, within the meaning of 14 Code of Federal Regulations, regardless of whether the operation or aircraft is regulated or certified under part 91, 119, 121, 133, 135, 136 or 137, or another part of 14 Code of Federal Regulations.

(v) That will lease or otherwise transfer operational control, within the meaning of federal aviation administration operations specification A008, or its successor, of the aircraft, instruments or accessories to one or more persons described in item (i), (ii), (iii) or (iv) of this subdivision, subject to section 42-5009, subsection Q.

(b) Any foreign government.

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

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

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

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

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

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

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

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

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

14. Machinery or equipment used in research and development. For the purposes of this paragraph, "research and development" means basic and applied research in the sciences and engineering, and designing, developing

or testing prototypes, processes or new products, including research and development of computer software that is embedded in or an integral part of the prototype or new product or that is required for machinery or equipment otherwise exempt under this section to function effectively. Research and development do not include manufacturing quality control, routine consumer product testing, market research, sales promotion, sales service, research in social sciences or psychology, computer software research that is not included in the definition of research and development, or other nontechnological activities or technical services.

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

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

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

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

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

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

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

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

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

17. Machinery and equipment used directly in the feeding of poultry, the environmental control of housing for poultry, the movement of eggs

within a production and packaging facility or the sorting or cooling of eggs. This exemption does not apply to vehicles used for transporting eggs.

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

19. Machinery and equipment that are sold to a person engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state, including a person representing or working on behalf of such a person in a manner described in section 42-5075, subsection O, if the machinery and equipment are used directly and primarily to prevent, monitor, control or reduce air, water or land pollution.

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

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

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

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

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

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

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

2. Janitorial equipment and hand tools.

3. Office equipment, furniture and supplies.

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

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

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

7. Motors and pumps used in drip irrigation systems.

8. Machinery and equipment or other tangible personal property used by a contractor in the performance of a contract.

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

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

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

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

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

1. Agricultural producers who are owners, proprietors or tenants of agricultural lands, orchards, farms or gardens where agricultural products are grown, raised or prepared for market and who are marketing their own agricultural products.

2. Businesses classified under the:

(a) Transporting classification.

(b) Utilities classification.

(c) Telecommunications classification.

(d) Pipeline classification.

(e) Private car line classification.

(f) Publication classification.

(g) Job printing classification.

(h) Prime contracting classification.

(i) Restaurant classification.

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

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

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

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

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

J. There shall be deducted from the tax base fifty percent of the gross proceeds or gross income from any sale of tangible personal property made directly to the United States government or its departments or agencies that is not deducted under subsection I of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

U. For the purposes of this section:

1. "Agricultural aircraft" means an aircraft that is built for agricultural use for the aerial application of pesticides or fertilizer or for aerial seeding.

2. "Aircraft" includes:

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

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

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

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

V. For the purposes of subsection I of this section:

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

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

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

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

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

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

EXPLANATION OF BLEND
SECTION 42-5064

Laws 2019, Chapters 163 and 189

Laws 2019, Ch. 163, section 20	Effective August 27, 2019
Laws 2019, Ch. 189, section 2	Effective August 27, 2019

Explanation

Since these two enactments are compatible, the Laws 2019, Ch. 163 and Ch. 189 text changes to section 42-5064 are blended in the form shown on the following pages.

BLEND OF SECTION 42-5064
Laws 2019, Chapters 163 and 189

42-5064. Telecommunications classification; definitions

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

1. Sales of intrastate telecommunications services by a cable operator or by a microwave television transmission system that transmits television programming to multiple subscribers and that is operated pursuant to 47 Code of Federal Regulations parts 21 and 74.

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

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

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

3. The leasing or renting of space to make attachments to utility poles as follows:

(a) By a person that is engaged in business under this section.

(b) To a person that is engaged in business under section 42-5063 or this section or that is a cable operator.

Ch. 189

4. OVER-THE-TOP SERVICES. FOR THE PURPOSES OF THIS PARAGRAPH, "OVER-THE-TOP SERVICES" MEANS AUDIO OR VIDEO PROGRAMMING SERVICES THAT ARE RECEIVED BY THE PURCHASER BY MEANS OF AN INTERNET CONNECTION, REGARDLESS OF THE TECHNOLOGY USED, THAT INCLUDE LINEAR OR LIVE PROGRAMMING AND THAT ARE GENERALLY CONSIDERED COMPARABLE TO PROGRAMMING PROVIDED BY A RADIO OR TELEVISION BROADCAST STATION AND INCLUDES RELATED ON-DEMAND PROGRAMMING THAT IS PROVIDED AT NO ADDITIONAL CHARGE, REGARDLESS OF WHETHER THE SERVICES ARE PROVIDED INDEPENDENTLY OR PACKAGED WITH OTHER AUDIO OR VIDEO PROGRAMMING.

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

1. Sales of intrastate telecommunications services to:

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

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

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

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

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

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

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

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

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

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

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

E. For the purposes of this section:

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

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

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

2. "Cable operator" has the same meaning prescribed in section 9-505 Ch. 163— AND INCLUDES A VIDEO SERVICE PROVIDER.

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

4. "Internet access" means a service that enables users to access Chs. 163 and 189— content, information, ~~electronic mail~~ EMAIL or other services over the internet. Internet access does not include telecommunications services provided by a common carrier.

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

6. "Utility pole" means any wooden, metal or other pole used for utility purposes and the pole's appurtenances that are attached or authorized for attachment by the person controlling the pole.

EXPLANATION OF BLEND
SECTION 42-5159

Laws 2019, Chapters 273 and 288

Laws 2019, Ch. 273, section 9	Effective August 27, 2019
Laws 2019, Ch. 288, section 3	Effective December 1, 2019

Explanation

Since these two enactments are compatible, the Laws 2019, Ch. 273 and Ch. 288 text changes to section 42-5159 are blended effective from and after November 30, 2019 in the form shown on the following pages.

BLEND OF SECTION 42-5159
Laws 2019, Chapters 273 and 288

42-5159. Exemptions

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

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

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

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

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

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

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

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

8. Purchases of:

(a) Livestock and poultry to persons engaging in the businesses of farming, ranching or producing livestock or poultry.

(b) Livestock and poultry feed, salts, vitamins and other additives sold to persons for use or consumption in the businesses of farming, ranching and producing or feeding livestock or poultry or for use or consumption in

noncommercial boarding of livestock. For the purposes of this paragraph, "poultry" includes ratites.

Ch. 288

9. ~~Seeds, seedlings, roots, bulbs, cuttings and other~~ Propagative ~~material~~ MATERIALS for use in commercially producing agricultural, horticultural, viticultural or floricultural crops in this state. FOR THE PURPOSES OF THIS PARAGRAPH, "PROPAGATIVE MATERIALS":

(a) INCLUDES SEEDS, SEEDLINGS, ROOTS, BULBS, LINERS, TRANSPLANTS, CUTTINGS, SOIL AND PLANT ADDITIVES, AGRICULTURAL MINERALS, AUXILIARY SOIL AND PLANT SUBSTANCES, MICRONUTRIENTS, FERTILIZERS, INSECTICIDES, HERBICIDES, FUNGICIDES, SOIL FUMIGANTS, DESICCANTS, RODENTICIDES, ADJUVANTS, PLANT NUTRIENTS AND PLANT GROWTH REGULATORS.

(b) EXCEPT FOR USE IN COMMERCIALLY PRODUCING INDUSTRIAL HEMP AS DEFINED IN SECTION 3-311, DOES NOT INCLUDE ANY PROPAGATIVE MATERIALS USED IN PRODUCING ANY PART, INCLUDING SEEDS, OF ANY PLANT OF THE GENUS CANNABIS.

Chs. 273 and 288

10. Tangible personal property not exceeding ~~two hundred dollars~~ $200 in any one month purchased by an individual at retail outside the continental limits of the United States for the individual's own personal use and enjoyment.

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

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

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

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

13. Tangible personal property purchased by:

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

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

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

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

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

(f) A nonprofit charitable organization that has qualified under section 501(c)(3) of the United States internal revenue code and that engages

in and uses such property exclusively in programs for persons with mental or physical disabilities if the programs are exclusively for training, job placement, rehabilitation or testing.

(g) A person that is subject to tax under this chapter by reason of being engaged in business classified under section 42-5075, or a subcontractor working under the control of a person that is engaged in business classified under section 42-5075, if the tangible personal property is any of the following:

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

(ii) Incorporated or fabricated by the person into any project described in section 42-5075, subsection O.

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

(h) A person that is not subject to tax under section 42-5075 and that has been provided a copy of a certificate described in section 42-5009, subsection L, if the property purchased is incorporated or fabricated by the person into the real property, structure, project, development or improvement described in the certificate.

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

(j) A qualifying community health center as defined in section 42-5001.

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

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

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

(n) A qualifying health sciences educational institution as defined in section 42-5001.

(o) A person representing or working on behalf of any person described in subdivision (a), (b), (c), (d), (e), (f), (i), (j), (k), (m) or (n) of this paragraph, if the tangible personal property is incorporated or fabricated into a project described in section 42-5075, subsection O.

14. Commodities, as defined by title 7 United States Code section 2, that are consigned for resale in a warehouse in this state in or from which the commodity is deliverable on a contract for future delivery subject to

the rules of a commodity market regulated by the United States commodity futures trading commission.

15. Tangible personal property sold by:

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

(b) A nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is associated with a major league baseball team or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual. This subdivision does not apply to an organization that is owned, managed or controlled, in whole or in part, by a major league baseball team, or its owners, officers, employees or agents, or by a major league baseball association or professional golfing association, or its owners, officers, employees or agents, unless the organization conducted or operated exhibition events in this state before January 1, 2018 that were exempt from transaction privilege tax under section 42-5073.

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

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

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

18. Prescription eyeglasses and contact lenses.

19. Insulin, insulin syringes and glucose test strips.

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

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

22. Food, as provided in and subject to the conditions of article 3 of this chapter and ~~section~~ SECTIONS 42-5074 AND 42-6017.

Ch. 273

23. Items purchased with United States department of agriculture coupons issued under the supplemental nutrition assistance program pursuant to the food and nutrition act of 2008 (P.L. 88-525; 78 Stat[.] 703; 7 United States Code sections 2011 through 2036b) by the United States department of agriculture food and nutrition service or food instruments issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; P.L. 111-296; 42 United States Code section 1786).

Chs. 273 and 288

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

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

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

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

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

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

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

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

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

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

(b) Public educational institutions.

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

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

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

35. Liquid, solid or gaseous chemicals used in manufacturing, processing, fabricating, mining, refining, metallurgical operations, research and development and, beginning on January 1, 1999, printing, if using or consuming the chemicals, alone or as part of an integrated system

of chemicals, involves direct contact with the materials from which the product is produced for the purpose of causing or permitting a chemical or physical change to occur in the materials as part of the production process. This paragraph does not include chemicals that are used or consumed in activities such as packaging, storage or transportation but does not affect any exemption for such chemicals that is otherwise provided by this section. For the purposes of this paragraph, "printing" means a commercial printing operation and includes job printing, engraving, embossing, copying and bookbinding.

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

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

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

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

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

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

40. Through December 31, 1994, tangible personal property sold pursuant to a personal property liquidation transaction, as defined in section 42-5061. From and after December 31, 1994, tangible personal property sold pursuant to a personal property liquidation transaction, as defined in section 42-5061, if the gross proceeds of the sales were included

in the measure of the tax imposed by article 1 of this chapter or if the personal property liquidation was a casual activity or transaction.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

54. Computer data center equipment sold to the owner, operator or qualified colocation tenant of a computer data center that is certified by the Arizona commerce authority under section 41-1519 or an authorized agent of the owner, operator or qualified colocation tenant during the qualification period for use in the qualified computer data center. For the purposes of this paragraph, "computer data center", "computer data center equipment", "qualification period" and "qualified colocation tenant" have the same meanings prescribed in section 41-1519.

55. Coal acquired from an owner or operator of a power plant by a person who is responsible for refining coal if both of the following apply:

(a) The transfer of title or possession of the coal is for the purpose of refining the coal.

(b) The title or possession of the coal is transferred back to the owner or operator of the power plant after completion of the coal refining process. For the purposes of this subdivision, "coal refining process" means the application of a coal additive system that aids the reduction of power plant emissions during the combustion of coal and the treatment of flue gas.

56. Tangible personal property incorporated or fabricated into a project described in section 42-5075, subsection O, that is located within the exterior boundaries of an Indian reservation for which the owner, as defined in section 42-5075, of the project is an Indian tribe or an affiliated Indian. For the purposes of this paragraph:

(a) "Affiliated Indian" means an individual native American Indian who is duly registered on the tribal rolls of the Indian tribe for whose benefit the Indian reservation was established.

(b) "Indian reservation" means all lands that are within the limits of areas set aside by the United States for the exclusive use and occupancy of an Indian tribe by treaty, law or executive order and that are recognized as Indian reservations by the United States department of the interior.

(c) "Indian tribe" means any organized nation, tribe, band or community that is recognized as an Indian tribe by the United States

department of the interior and includes any entity formed under the laws of the Indian tribe.

57. Cash equivalents, precious metal bullion and monetized bullion purchased by the ultimate consumer, but coins or other forms of money for manufacture into jewelry or works of art are subject to tax, and tangible personal property that is purchased through the redemption of any cash equivalent by the holder as a means of payment for goods that are subject to tax under this article is subject to tax. For the purposes of this paragraph:

(a) "Cash equivalents" means items, whether or not negotiable, that are sold to one or more persons, through which a value denominated in money is purchased in advance and that may be redeemed in full or in part for tangible personal property, intangibles or services. Cash equivalents include gift cards, stored value cards, gift certificates, vouchers, traveler's checks, money orders or other tangible instruments or orders. Cash equivalents do not include either of the following:

(i) Items that are sold to one or more persons and through which a value is not denominated in money.

(ii) Prepaid calling cards for telecommunications services.

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

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

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

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

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

3. Tangible personal property sold to persons engaged in business classified under the telecommunications classification under section 42-5064, including a person representing or working on behalf of such a person in a manner described in section 42-5075, subsection O, and consisting of central office switching equipment, switchboards, private branch exchange equipment, microwave radio equipment and carrier equipment including optical fiber, coaxial cable and other transmission media that are components of carrier systems.

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

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

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

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

(a) A person:

(i) Holding, or exempted by federal law from obtaining, a federal certificate of public convenience and necessity for use as, in conjunction with or becoming part of an aircraft to be used to transport persons for hire in intrastate, interstate or foreign commerce.

(ii) That is certificated or licensed under federal aviation administration regulations (14 Code of Federal Regulations part 121 or 135) as a scheduled or unscheduled carrier of persons for hire for use as or in conjunction with or becoming part of an aircraft to be used to transport persons for hire in intrastate, interstate or foreign commerce.

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

(iv) Operating an aircraft to transport persons in any manner for compensation or hire, or for use in a fractional ownership program that meets the requirements of federal aviation administration regulations (14 Code of Federal Regulations part 91, subpart K), including as an air carrier, a foreign air carrier or a commercial operator or under a restricted category, within the meaning of 14 Code of Federal Regulations, regardless of whether the operation or aircraft is regulated or certified under part 91, 119, 121, 133, 135, 136 or 137, or another part of 14 Code of Federal Regulations.

(v) That will lease or otherwise transfer operational control, within the meaning of federal aviation administration operations specification A008, or its successor, of the aircraft, instruments or accessories to one or more persons described in item (i), (ii), (iii) or (iv) of this subdivision, subject to section 42-5009, subsection Q.

(b) Any foreign government.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19. Machinery and equipment that are used in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state, including production by a person representing or working on behalf of such a person

in a manner described in section 42-5075, subsection O, if the machinery and equipment are used directly and primarily to prevent, monitor, control or reduce air, water or land pollution.

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

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

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

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

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

22. Machinery, equipment, materials and other tangible personal property used directly and predominantly to construct a qualified environmental technology manufacturing, producing or processing facility as described in section 41-1514.02. This paragraph applies for ten full consecutive calendar or fiscal years after the start of initial construction.

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

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

2. Janitorial equipment and hand tools.

3. Office equipment, furniture and supplies.

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

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

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

7. Motors and pumps used in drip irrigation systems.

8. Machinery and equipment or tangible personal property used by a contractor in the performance of a contract.

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

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

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

E. The tax levied by this article does not apply to the purchase of solar energy devices from a retailer that is registered with the department as a solar energy retailer or a solar energy contractor.

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

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

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

G. The tax levied by this article does not apply to the purchase price of electricity, natural gas or liquefied petroleum gas by:

1. A qualified manufacturing or smelting business. A utility that claims this deduction shall report each month, on a form prescribed by the department, the name and address of each qualified manufacturing or smelting business for which this deduction is taken. This paragraph applies to gas transportation services. For the purposes of this paragraph:

(a) "Gas transportation services" means the services of transporting natural gas to a natural gas customer or to a natural gas distribution facility if the natural gas was purchased from a supplier other than the utility.

(b) "Manufacturing" means the performance as a business of an integrated series of operations that places tangible personal property in a form, composition or character different from that in which it was acquired and transforms it into a different product with a distinctive name, character or use. Manufacturing does not include job printing, publishing, packaging, mining, generating electricity or operating a restaurant.

(c) "Qualified manufacturing or smelting business" means one of the following:

(i) A business that manufactures or smelts tangible products in this state, of which at least fifty-one percent of the manufactured or smelted

products will be exported out of state for incorporation into another product or sold out of state for a final sale.

(ii) A business that derives at least fifty-one percent of its gross income from the sale of manufactured or smelted products manufactured or smelted by the business.

(iii) A business that uses at least fifty-one percent of its square footage in this state for manufacturing or smelting and business activities directly related to manufacturing or smelting.

(iv) A business that employs at least fifty-one percent of its workforce in this state in manufacturing or smelting and business activities directly related to manufacturing or smelting.

(v) A business that uses at least fifty-one percent of the value of its capitalized assets in this state, as reflected on the business's books and records, for manufacturing or smelting and business activities directly related to manufacturing or smelting.

(d) "Smelting" means to melt or fuse a metalliferous mineral, often with an accompanying chemical change, usually to separate the metal.

2. A business that operates an international operations center in this state and that is certified by the Arizona commerce authority pursuant to section 41-1520.

Ch. 273

H. A CITY OR TOWN MAY EXEMPT PROCEEDS FROM SALES OF PAINTINGS, SCULPTURES OR SIMILAR WORKS OF FINE ART IF SUCH WORKS OF FINE ART ARE SOLD BY THE ORIGINAL ARTIST. FOR THE PURPOSES OF THIS SUBSECTION, FINE ART DOES NOT INCLUDE AN ART CREATION SUCH AS JEWELRY, MACRAME, GLASSWORK, POTTERY, WOODWORK, METALWORK, FURNITURE OR CLOTHING IF THE ART CREATION HAS A DUAL PURPOSE, BOTH AESTHETIC AND UTILITARIAN, WHETHER SOLD BY THE ARTIST OR BY ANOTHER PERSON.

~~H.~~ I. For the purposes of subsection B of this section:

1. "Agricultural aircraft" means an aircraft that is built for agricultural use for the aerial application of pesticides or fertilizer or for aerial seeding.

2. "Aircraft" includes:

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

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

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

~~I.~~ J. For the purposes of subsection D of this section, "ancillary services", "electric distribution service", "electric generation service", "electric transmission service" and "other services" have the same meanings prescribed in section 42-5063.

EXPLANATION OF BLEND
SECTION 42-6004 (as amended by Laws 2018, Ch. 17, section 1, Ch. 249, section 6 and Ch. 341, section 2)

Laws 2019, Chapters 163 and 189

Laws 2019, Ch. 163, section 23	Effective August 27, 2019
Laws 2019, Ch. 189, section 3	Effective August 27, 2019

Explanation

Since these two enactments are compatible, the Laws 2019, Ch. 163 and Ch. 189 text changes to section 42-6004, as amended by Laws 2018, Ch. 17, section 1, Ch. 249, section 6 and Ch. 341, section 2, are blended in the form shown on the following pages.

BLEND OF SECTION 42-6004 (as amended by Laws 2018, Ch. 17, section 1, Ch. 249, section 6 and Ch. 341, section 2)
Laws 2019, Chapters 163 and 189

42-6004. Exemption from municipal tax; definitions

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

1. Exhibition events in this state sponsored, conducted or operated by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is associated with a major league baseball team or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual. This paragraph does not apply to an organization that is owned, managed or controlled, in whole or in part, by a major league baseball team, or its owners, officers, employees or agents, or by a major league baseball association or professional golfing association, or its owners, officers, employees or agents, unless the organization conducted or operated exhibition events in this state before January 1, 2018 that were exempt from state transaction privilege tax under section 42-5073.

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

3. Sales of warranty or service contracts.

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

5. Interest on finance contracts.

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

7. Orthodontic devices dispensed by a dental professional who is licensed under title 32, chapter 11 to a patient as part of the practice of dentistry.

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

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

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

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

10. Leasing real property between affiliated companies, businesses, persons or reciprocal insurers. For the purposes of this paragraph:

(a) "Affiliated companies, businesses, persons or reciprocal insurers" means the lessor holds a controlling interest in the lessee, the

lessee holds a controlling interest in the lessor, affiliated persons hold a controlling interest in both the lessor and the lessee, or an unrelated person holds a controlling interest in both the lessor and lessee.

(b) "Affiliated persons" means members of the individual's family or persons who have ownership or control of a business entity.

(c) "Controlling interest" means direct or indirect ownership of at least eighty percent of the voting shares of a corporation or of the interests in a company, business or person other than a corporation.

(d) "Members of the individual's family" means the individual's spouse and brothers and sisters, whether by whole or half blood, including adopted persons, ancestors and lineal descendants.

(e) "Reciprocal insurer" has the same meaning prescribed in section 20-762.

11. The gross proceeds of sales or gross income derived from a contract for the installation, assembly, repair or maintenance of machinery, equipment or other tangible personal property that is described in section 42-5061, subsection B and that has independent functional utility, pursuant to the following provisions:

(a) The deduction provided in this paragraph includes the gross proceeds of sales or gross income derived from all of the following:

(i) Any activity performed on machinery, equipment or other tangible personal property with independent functional utility.

(ii) Any activity performed on any tangible personal property relating to machinery, equipment or other tangible personal property with independent functional utility in furtherance of any of the purposes provided for under subdivision (d) of this paragraph.

(iii) Any activity that is related to the activities described in items (i) and (ii) of this subdivision, including inspecting the installation of or testing the machinery, equipment or other tangible personal property.

(b) The deduction provided in this paragraph does not include gross proceeds of sales or gross income from the portion of any contracting activity that consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of machinery, equipment or other tangible personal property described in section 42-5061, subsection B.

(c) The deduction provided in this paragraph shall be determined without regard to the size or useful life of the machinery, equipment or other tangible personal property.

(d) For the purposes of this paragraph, "independent functional utility" means that the machinery, equipment or other tangible personal property can independently perform its function without attachment to real property, other than attachment for any of the following purposes:

(i) Assembling the machinery, equipment or other tangible personal property.

(ii) Connecting items of machinery, equipment or other tangible personal property to each other.

(iii) Connecting the machinery, equipment or other tangible personal property, whether as an individual item or as a system of items, to water, power, gas, communication or other services.

(iv) Stabilizing or protecting the machinery, equipment or other tangible personal property during operation by bolting, burying or performing other dissimilar nonpermanent connections to either real property or real property improvements.

12. The leasing or renting of certified ignition interlock devices installed pursuant to the requirements prescribed by section 28-1461. For the purposes of this paragraph, "certified ignition interlock device" has the same meaning prescribed in section 28-1301.

13. Computer data center equipment sold to the owner, operator or qualified colocation tenant of a computer data center that is certified by the Arizona commerce authority under section 41-1519 or an authorized agent of the owner, operator or qualified colocation tenant during the qualification period for use in the qualified computer data center. For the purposes of this paragraph, "computer data center", "computer data center equipment", "qualification period" and "qualified colocation tenant" have the same meanings prescribed in section 41-1519.

14. The gross proceeds of sales or gross income derived from a contract with the owner of real property or improvements to real property for the maintenance, repair, replacement or alteration of existing property, except as specified in this paragraph. The gross proceeds of sales or gross income derived from a de minimis amount of modification activity does not subject the contract or any part of the contract to tax. For the purposes of this paragraph:

(a) Each contract is independent of another contract, except that any change order that directly relates to the scope of work of the original contract shall be treated the same as the original contract under this paragraph, regardless of the amount of modification activities included in the change order. If a change order does not directly relate to the scope of work of the original contract, the change order shall be treated as a new contract, with the tax treatment of any subsequent change order to follow the tax treatment of the contract to which the scope of work of the subsequent change order directly relates.

(b) Any term not defined in this paragraph that is defined in section 42-5075 has the same meaning prescribed in section 42-5075.

(c) This paragraph does not apply to a contract that primarily involves surface or subsurface improvements to land and that is subject to title 28, chapter 19, 20 or 22 or title 34, chapter 2 or 6 even if the contract also includes vertical improvements. If a city or town imposes a tax on contracts that are subject to procurement processes under those provisions, the city or town shall include in the request for proposals a notice to bidders when those projects are subject to the tax. This subdivision does not apply to contracts with:

(i) Community facilities districts, fire districts, county television improvement districts, community park maintenance districts, cotton pest control districts, hospital districts, pest abatement districts, health service districts, agricultural improvement districts, county free library districts, county jail districts, county stadium districts, special health care districts, public health services districts, theme park districts or revitalization districts.

(ii) Any special taxing district not specified in item (i) of this subdivision if the district does not substantially engage in the

modification, maintenance, repair, replacement or alteration of surface or subsurface improvements to land.

15. Monitoring services relating to an alarm system as defined in section 32-101.

16. Tangible personal property, job printing or publications sold to or purchased by, or tangible personal property leased, rented or licensed for use to or by, a qualifying health sciences educational institution as defined in section 42-5001.

17. The transfer of title or possession of coal back and forth between an owner or operator of a power plant and a person who is responsible for refining coal if both of the following apply:

(a) The transfer of title or possession of the coal is for the purpose of refining the coal.

(b) The title or possession of the coal is transferred back to the owner or operator of the power plant after completion of the coal refining process. For the purposes of this subdivision, "coal refining process" means the application of a coal additive system that aids the reduction of power plant emissions during the combustion of coal and the treatment of flue gas.

18. Tangible personal property incorporated or fabricated into a project described in paragraph 14 of this subsection, that is located within the exterior boundaries of an Indian reservation for which the owner, as defined in section 42-5075, of the project is an Indian tribe or an affiliated Indian. For the purposes of this paragraph:

(a) "Affiliated Indian" means an individual native American Indian who is duly registered on the tribal rolls of the Indian tribe for whose benefit the Indian reservation was established.

(b) "Indian reservation" means all lands that are within the limits of areas set aside by the United States for the exclusive use and occupancy of an Indian tribe by treaty, law or executive order and that are recognized as Indian reservations by the United States department of the interior.

(c) "Indian tribe" means any organized nation, tribe, band or community that is recognized as an Indian tribe by the United States department of the interior and includes any entity formed under the laws of that Indian tribe.

19. The charges for the leasing or renting of space to make attachments to utility poles as follows:

(a) By a person that is engaged in the business of providing or furnishing electrical services or telecommunication services or that is a cable operator.

(b) To a person that is engaged in the business of providing or furnishing electrical services or telecommunication services or that is a cable operator.

20. Until March 1, 2017, the gross proceeds of sales or gross income derived from entry fees paid by participants for events that consist of a run, walk, swim or bicycle ride or a similar event, or any combination of these events.

21. The gross proceeds of sales or gross income derived from entry fees paid by participants for events that are operated or conducted by nonprofit organizations that are exempt from taxation under section 501(c)(3) of the internal revenue code and of which no part of the

organization's net earnings inures to the benefit of any private shareholder or individual, if the event consists of a run, walk, swim or bicycle ride or a similar event, or any combination of these events.

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

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

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

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

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

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

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

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

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

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

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

7. Any amount attributable to fees collected by transportation network companies issued a permit pursuant to section 28-9552.

8. Transporting for hire persons by transportation network company drivers on transactions involving transportation network services as defined in section 28-9551.

9. Transporting for hire persons by vehicle for hire companies that are issued permits pursuant to section 28-9503.

10. Transporting for hire persons by vehicle for hire drivers on transactions involving vehicle for hire services as defined in section 28-9501.

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

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

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

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

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

Ch. 189 — G. A CITY, TOWN OR TAXING JURISDICTION SHALL NOT LEVY A TRANSACTION PRIVILEGE, SALES, GROSS RECEIPTS, USE, FRANCHISE OR OTHER SIMILAR TAX OR FEE, HOWEVER DENOMINATED, ON GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM OVER-THE-TOP SERVICES. FOR THE PURPOSES OF THIS SUBSECTION, "OVER-THE-TOP SERVICES" MEANS AUDIO OR VIDEO PROGRAMMING SERVICES THAT ARE RECEIVED BY THE PURCHASER BY MEANS OF AN INTERNET CONNECTION, REGARDLESS OF THE TECHNOLOGY USED, THAT INCLUDE LINEAR OR LIVE PROGRAMMING AND THAT ARE GENERALLY CONSIDERED COMPARABLE TO PROGRAMMING PROVIDED BY A RADIO OR TELEVISION BROADCAST STATION AND INCLUDES RELATED ON-DEMAND PROGRAMMING THAT IS PROVIDED AT NO ADDITIONAL CHARGE, REGARDLESS OF WHETHER THE SERVICES ARE PROVIDED INDEPENDENTLY OR PACKAGED WITH OTHER AUDIO OR VIDEO PROGRAMMING.

~~G.~~ H. For the purposes of this section:

1. "Cable operator" has the same meaning prescribed in section 9-505 Ch. 163 — AND INCLUDES A VIDEO SERVICE PROVIDER.

2. "Electrical services" means transmitting or distributing electricity, electric lights, current or power over lines, wires or cables.

3. "Telecommunication services" means transmitting or relaying sound, visual image, data, information, images or material over lines, wires or cables by radio signal, light beam, telephone, telegraph or other electromagnetic means.

4. "Utility pole" means any wooden, metal or other pole used for utility purposes and the pole's appurtenances that are attached or authorized for attachment by the person controlling the pole.

EXPLANATION OF BLEND
SECTION 42-6004 (as amended by Laws 2018, Ch. 17, section 1, Ch. 249, section 6, Ch. 263, section 3 and Ch. 341, section 2)

Laws 2019, Chapters 163 and 189

Laws 2019, Ch. 163, section 24	Conditionally effective
Laws 2019, Ch. 189, section 4	Conditionally effective

Explanation

Since these two enactments are compatible, the Laws 2019, Ch. 163 and Ch. 189 text changes to section 42-6004, as amended by Laws 2018, Ch. 17, section 1, Ch. 249, section 6, Ch. 263, section 3 and Ch. 341, section 2, are blended in the form shown on the following pages.

BLEND OF SECTION 42-6004 (as amended by Laws 2018, Ch. 17, section 1, Ch. 249, section 6, Ch. 263, section 3 and Ch. 341, section 2)
Laws 2019, Chapters 163 and 189

42-6004. Exemption from municipal tax; definitions

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

1. Exhibition events in this state sponsored, conducted or operated by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is associated with a major league baseball team or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual. This paragraph does not apply to an organization that is owned, managed or controlled, in whole or in part, by a major league baseball team, or its owners, officers, employees or agents, or by a major league baseball association or professional golfing association, or its owners, officers, employees or agents, unless the organization conducted or operated exhibition events in this state before January 1, 2018 that were exempt from state transaction privilege tax under section 42-5073.

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

3. Sales of warranty or service contracts.

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

5. Interest on finance contracts.

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

7. Orthodontic devices dispensed by a dental professional who is licensed under title 32, chapter 11 to a patient as part of the practice of dentistry.

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

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

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

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

10. Leasing real property between affiliated companies, businesses, persons or reciprocal insurers. For the purposes of this paragraph:

(a) "Affiliated companies, businesses, persons or reciprocal insurers" means the lessor holds a controlling interest in the lessee, the lessee holds a controlling interest in the lessor, affiliated persons hold a controlling interest in both the lessor and the lessee, or an unrelated person holds a controlling interest in both the lessor and lessee.

(b) "Affiliated persons" means members of the individual's family or persons who have ownership or control of a business entity.

(c) "Controlling interest" means direct or indirect ownership of at least eighty percent of the voting shares of a corporation or of the interests in a company, business or person other than a corporation.

(d) "Members of the individual's family" means the individual's spouse and brothers and sisters, whether by whole or half blood, including adopted persons, ancestors and lineal descendants.

(e) "Reciprocal insurer" has the same meaning prescribed in section 20-762.

11. The gross proceeds of sales or gross income derived from a contract for the installation, assembly, repair or maintenance of machinery, equipment or other tangible personal property that is described in section 42-5061, subsection B and that has independent functional utility, pursuant to the following provisions:

(a) The deduction provided in this paragraph includes the gross proceeds of sales or gross income derived from all of the following:

(i) Any activity performed on machinery, equipment or other tangible personal property with independent functional utility.

(ii) Any activity performed on any tangible personal property relating to machinery, equipment or other tangible personal property with independent functional utility in furtherance of any of the purposes provided for under subdivision (d) of this paragraph.

(iii) Any activity that is related to the activities described in items (i) and (ii) of this subdivision, including inspecting the installation of or testing the machinery, equipment or other tangible personal property.

(b) The deduction provided in this paragraph does not include gross proceeds of sales or gross income from the portion of any contracting activity that consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of machinery, equipment or other tangible personal property described in section 42-5061, subsection B.

(c) The deduction provided in this paragraph shall be determined without regard to the size or useful life of the machinery, equipment or other tangible personal property.

(d) For the purposes of this paragraph, "independent functional utility" means that the machinery, equipment or other tangible personal property can independently perform its function without attachment to real property, other than attachment for any of the following purposes:

(i) Assembling the machinery, equipment or other tangible personal property.

(ii) Connecting items of machinery, equipment or other tangible personal property to each other.

(iii) Connecting the machinery, equipment or other tangible personal property, whether as an individual item or as a system of items, to water, power, gas, communication or other services.

(iv) Stabilizing or protecting the machinery, equipment or other tangible personal property during operation by bolting, burying or performing other dissimilar nonpermanent connections to either real property or real property improvements.

12. The leasing or renting of certified ignition interlock devices installed pursuant to the requirements prescribed by section 28-1461. For the purposes of this paragraph, "certified ignition interlock device" has the same meaning prescribed in section 28-1301.

13. Computer data center equipment sold to the owner, operator or qualified colocation tenant of a computer data center that is certified by the Arizona commerce authority under section 41-1519 or an authorized agent of the owner, operator or qualified colocation tenant during the qualification period for use in the qualified computer data center. For the purposes of this paragraph, "computer data center", "computer data center equipment", "qualification period" and "qualified colocation tenant" have the same meanings prescribed in section 41-1519.

14. The gross proceeds of sales or gross income derived from a contract with the owner of real property or improvements to real property for the maintenance, repair, replacement or alteration of existing property, except as specified in this paragraph. The gross proceeds of sales or gross income derived from a de minimis amount of modification activity does not subject the contract or any part of the contract to tax. For the purposes of this paragraph:

(a) Each contract is independent of another contract, except that any change order that directly relates to the scope of work of the original contract shall be treated the same as the original contract under this paragraph, regardless of the amount of modification activities included in the change order. If a change order does not directly relate to the scope of work of the original contract, the change order shall be treated as a new contract, with the tax treatment of any subsequent change order to follow the tax treatment of the contract to which the scope of work of the subsequent change order directly relates.

(b) Any term not defined in this paragraph that is defined in section 42-5075 has the same meaning prescribed in section 42-5075.

(c) This paragraph does not apply to a contract that primarily involves surface or subsurface improvements to land and that is subject to title 28, chapter 19, 20 or 22 or title 34, chapter 2 or 6 even if the contract also includes vertical improvements. If a city or town imposes a tax on contracts that are subject to procurement processes under those provisions, the city or town shall include in the request for proposals a notice to bidders when those projects are subject to the tax. This subdivision does not apply to contracts with:

(i) Community facilities districts, fire districts, county television improvement districts, community park maintenance districts, cotton pest control districts, hospital districts, pest abatement districts, health service districts, agricultural improvement districts, county free library districts, county jail districts, county stadium districts, special

health care districts, public health services districts, theme park districts or revitalization districts.

(ii) Any special taxing district not specified in item (i) of this subdivision if the district does not substantially engage in the modification, maintenance, repair, replacement or alteration of surface or subsurface improvements to land.

15. Monitoring services relating to an alarm system as defined in section 32-101.

16. Tangible personal property, job printing or publications sold to or purchased by, or tangible personal property leased, rented or licensed for use to or by, a qualifying health sciences educational institution as defined in section 42-5001.

17. The sale of coal.

18. Tangible personal property incorporated or fabricated into a project described in paragraph 14 of this subsection, that is located within the exterior boundaries of an Indian reservation for which the owner, as defined in section 42-5075, of the project is an Indian tribe or an affiliated Indian. For the purposes of this paragraph:

(a) "Affiliated Indian" means an individual native American Indian who is duly registered on the tribal rolls of the Indian tribe for whose benefit the Indian reservation was established.

(b) "Indian reservation" means all lands that are within the limits of areas set aside by the United States for the exclusive use and occupancy of an Indian tribe by treaty, law or executive order and that are recognized as Indian reservations by the United States department of the interior.

(c) "Indian tribe" means any organized nation, tribe, band or community that is recognized as an Indian tribe by the United States department of the interior and includes any entity formed under the laws of that Indian tribe.

19. The charges for the leasing or renting of space to make attachments to utility poles as follows:

(a) By a person that is engaged in the business of providing or furnishing electrical services or telecommunication services or that is a cable operator.

(b) To a person that is engaged in the business of providing or furnishing electrical services or telecommunication services or that is a cable operator.

20. Until March 1, 2017, the gross proceeds of sales or gross income derived from entry fees paid by participants for events that consist of a run, walk, swim or bicycle ride or a similar event, or any combination of these events.

21. The gross proceeds of sales or gross income derived from entry fees paid by participants for events that are operated or conducted by nonprofit organizations that are exempt from taxation under section 501(c)(3) of the internal revenue code and of which no part of the organization's net earnings inures to the benefit of any private shareholder or individual, if the event consists of a run, walk, swim or bicycle ride or a similar event, or any combination of these events.

B. A city, town or other taxing jurisdiction shall not levy a transaction privilege, sales, use, franchise or other similar tax or fee,

however denominated, on natural gas or liquefied petroleum gas used to propel a motor vehicle.

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

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

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

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

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

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

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

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

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

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

7. Any amount attributable to fees collected by transportation network companies issued a permit pursuant to section 28-9552.

8. Transporting for hire persons by transportation network company drivers on transactions involving transportation network services as defined in section 28-9551.

9. Transporting for hire persons by vehicle for hire companies that are issued permits pursuant to section 28-9503.

10. Transporting for hire persons by vehicle for hire drivers on transactions involving vehicle for hire services as defined in section 28-9501.

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

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

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

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

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

Ch. 189

G. A CITY, TOWN OR TAXING JURISDICTION SHALL NOT LEVY A TRANSACTION PRIVILEGE, SALES, GROSS RECEIPTS, USE, FRANCHISE OR OTHER SIMILAR TAX OR FEE, HOWEVER DENOMINATED, ON GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM OVER-THE-TOP SERVICES. FOR THE PURPOSES OF THIS SUBSECTION, "OVER-THE-TOP SERVICES" MEANS AUDIO OR VIDEO PROGRAMMING SERVICES THAT ARE RECEIVED BY THE PURCHASER BY MEANS OF AN INTERNET CONNECTION, REGARDLESS OF THE TECHNOLOGY USED, THAT INCLUDE LINEAR OR LIVE PROGRAMMING AND THAT ARE GENERALLY CONSIDERED COMPARABLE TO PROGRAMMING PROVIDED BY A RADIO OR TELEVISION BROADCAST STATION AND INCLUDES RELATED ON-DEMAND PROGRAMMING THAT IS PROVIDED AT NO ADDITIONAL CHARGE, REGARDLESS OF WHETHER THE SERVICES ARE PROVIDED INDEPENDENTLY OR PACKAGED WITH OTHER AUDIO OR VIDEO PROGRAMMING.

~~G.~~ H. For the purposes of this section:

1. "Cable operator" has the same meaning prescribed in section 9-505

Ch. 163

AND INCLUDES A VIDEO SERVICE PROVIDER.

2. "Electrical services" means transmitting or distributing electricity, electric lights, current or power over lines, wires or cables.

3. "Telecommunication services" means transmitting or relaying sound, visual image, data, information, images or material over lines, wires or cables by radio signal, light beam, telephone, telegraph or other electromagnetic means.

4. "Utility pole" means any wooden, metal or other pole used for utility purposes and the pole's appurtenances that are attached or authorized for attachment by the person controlling the pole.

EXPLANATION OF BLEND
SECTION 43-222

Laws 2019, Chapters 203 and 273

Laws 2019, Ch. 203, section 12	Effective August 27, 2019
Laws 2019, Ch. 273, section 13	Effective August 27, 2019 (Retroactive to January 1, 2019)

Explanation

Since these two enactments are compatible, the Laws 2019, Ch. 203 and Ch. 273 text changes to section 43-222 are blended in the form shown on the following page.

BLEND OF SECTION 43-222
Laws 2019, Chapters 203 and 273

43-222. Income tax credit review schedule

The joint legislative income tax credit review committee shall review the following income tax credits:

1. For years ending in 0 and 5, sections 43-1079.01, 43-1087, 43-1088, 43-1089.04, 43-1167.01 and 43-1175.

2. For years ending in 1 and 6, sections 43-1072.02, 43-1074.02, 43-1083, 43-1083.02, 43-1164.03 and 43-1183.

3. For years ending in 2 and 7, sections 43-1073, 43-1080, 43-1085, 43-1086, 43-1089, 43-1089.01, 43-1089.02, 43-1089.03, 43-1164, 43-1169 and 43-1181.

4. For years ending in 3 and 8, sections 43-1074.01, 43-1081, 43-1168, 43-1170 and 43-1178.

Ch. 273 5. For years ending in 4 and 9, sections [43-1073.01,] 43-1076,
Ch. 203 43-1081.01, ~~43-1083.04,~~ 43-1084, 43-1162, 43-1164.05, 43-1170.01 and 43-1184 and, beginning in 2019, sections 43-1083.03 and 43-1164.04.

EXPLANATION OF BLEND
SECTION 43-1022

Laws 2019, Chapters 203 and 273

Laws 2019, Ch. 203, section 13	Effective August 27, 2019
Laws 2019, Ch. 273, section 19	Effective August 27, 2019 (Retroactive to January 1, 2019)

Explanation

Since these two enactments are compatible, the Laws 2019, Ch. 203 and Ch. 273 text changes to section 43-1022 are blended in the form shown on the following pages.

The Laws 2019, Ch. 203 version of section 43-1022 made a technical change in paragraph 9. The Ch. 273 version struck paragraph 9. Since this would not produce a substantive change, the blend version reflects the Ch. 273 version.

BLEND OF SECTION 43-1022
Laws 2019, Chapters 203 and 273

43-1022. Subtractions from Arizona gross income

In computing Arizona adjusted gross income, the following amounts shall be subtracted from Arizona gross income:

1. The amount of exemptions allowed by section 43-1023.

Chs. 203 and 273

2. Benefits, annuities and pensions in an amount totaling not more than ~~two thousand five hundred dollars~~ $2,500 received from one or more of the following:

(a) The United States government service retirement and disability fund, the United States foreign service retirement and disability system and any other retirement system or plan established by federal law, EXCEPT RETIRED OR RETAINER PAY OF THE UNIFORMED SERVICES OF THE UNITED STATES THAT QUALIFY FOR A SUBTRACTION UNDER PARAGRAPH 29 OF THIS SECTION.

Ch. 203

(b) The Arizona state retirement system, the corrections officer retirement plan, the public safety personnel retirement system, the elected officials' retirement plan, an optional retirement program established by the Arizona board of regents under section 15-1628, an optional retirement program established by a community college district board under section 15-1451 or a retirement plan established for employees of a county, city or town in this state.

3. A beneficiary's share of the fiduciary adjustment to the extent that the amount determined by section 43-1333 decreases the beneficiary's Arizona gross income.

Chs. 203 and 273

4. Interest income received on obligations of the United States, ~~less~~ MINUS any interest on indebtedness, or other related expenses, and deducted in arriving at Arizona gross income, ~~which~~ THAT were incurred or continued to purchase or carry such obligations.

5. The excess of a partner's share of income required to be included under section 702(a)(8) of the internal revenue code over the income required to be included under chapter 14, article 2 of this title.

6. The excess of a partner's share of partnership losses determined pursuant to chapter 14, article 2 of this title over the losses allowable under section 702(a)(8) of the internal revenue code.

7. The amount allowed by section 43-1025 for contributions during the taxable year of agricultural crops to charitable organizations.

8. The portion of any wages or salaries paid or incurred by the taxpayer for the taxable year that is equal to the amount of the federal work opportunity credit, the empowerment zone employment credit, the credit for employer paid social security taxes on employee cash tips and the Indian employment credit that the taxpayer received under sections 45A, 45B, 51(a) and 1396 of the internal revenue code.

Chs. 203 and 273

Ch. 273

~~9. The amount of prizes or winnings less than [five thousand dollars] in a single taxable year from any of the state lotteries established and operated pursuant to title 5, chapter 5.1, article 1.~~

~~10.~~ 9. The amount of exploration expenses that is determined pursuant to section 617 of the internal revenue code, that has been deferred in a taxable year ending before January 1, 1990 and for which a subtraction has not previously been made. The subtraction shall be made on a ratable

basis as the units of produced ores or minerals discovered or explored as a result of this exploration are sold.

~~11.~~ 10. The amount included in federal adjusted gross income pursuant to section 86 of the internal revenue code, relating to taxation of social security and railroad retirement benefits.

~~12.~~ 11. To the extent not already excluded from Arizona gross income under the internal revenue code, compensation received for active service as a member of the reserves, the national guard or the armed forces of the United States, including compensation for service in a combat zone as determined under section 112 of the internal revenue code.

~~13.~~ 12. The amount of unreimbursed medical and hospital costs, adoption counseling, legal and agency fees and other nonrecurring costs of adoption not to exceed ~~three thousand dollars~~ $3,000. In the case of a husband and wife who file separate returns, the subtraction may be taken by either taxpayer or may be divided between them, but the total subtractions allowed both husband and wife shall not exceed ~~three thousand dollars~~ $3,000. The subtraction under this paragraph may be taken for the costs that are described in this paragraph and that are incurred in prior years, but the subtraction may be taken only in the year during which the final adoption order is granted.

Chs. 203 and 273

~~14.~~ 13. The amount authorized by section 43-1027 for the taxable year relating to qualified wood stoves, wood fireplaces or gas fired fireplaces.

~~15.~~ 14. The amount by which a net operating loss carryover or capital loss carryover allowable pursuant to section 43-1029, subsection F exceeds the net operating loss carryover or capital loss carryover allowable pursuant to section 1341(b)(5) of the internal revenue code.

~~16.~~ 15. Any amount of qualified educational expenses that is distributed from a qualified state tuition program determined pursuant to section 529 of the internal revenue code and that is included in income in computing federal adjusted gross income.

~~17.~~ 16. Any item of income resulting from an installment sale that has been properly subjected to income tax in another state in a previous taxable year and that is included in Arizona gross income in the current taxable year.

~~18.~~ 17. The amount authorized by section 43-1030 relating to holocaust survivors.

~~19.~~ 18. For property placed in service:

(a) In taxable years beginning before December 31, 2012, an amount equal to the depreciation allowable pursuant to section 167(a) of the internal revenue code for the taxable year computed as if the election described in section 168(k)(2)(D)(iii) of the internal revenue code had been made for each applicable class of property in the year the property was placed in service.

(b) In taxable years beginning from and after December 31, 2012 through December 31, 2013, an amount determined in the year the asset was placed in service based on the calculation in subdivision (a) of this paragraph. In the first taxable year beginning from and after December 31, 2013, the taxpayer may elect to subtract the amount necessary to make the depreciation claimed to date for the purposes of this title the same as it

would have been if subdivision (c) of this paragraph had applied for the entire time the asset was in service. Subdivision (c) of this paragraph applies for the remainder of the asset's life. If the taxpayer does not make the election under this subdivision, subdivision (a) of this paragraph applies for the remainder of the asset's life.

(c) In taxable years beginning from and after December 31, 2013 through December 31, 2015, an amount equal to the depreciation allowable pursuant to section 167(a) of the internal revenue code for the taxable year as computed as if the additional allowance for depreciation had been ten percent of the amount allowed pursuant to section 168(k) of the internal revenue code.

(d) In taxable years beginning from and after December 31, 2015 through December 31, 2016, an amount equal to the depreciation allowable pursuant to section 167(a) of the internal revenue code for the taxable year as computed as if the additional allowance for depreciation had been fifty-five percent of the amount allowed pursuant to section 168(k) of the internal revenue code.

(e) In taxable years beginning from and after December 31, 2016, an amount equal to the depreciation allowable pursuant to section 167(a) of the internal revenue code for the taxable year as computed as if the additional allowance for depreciation had been the full amount allowed pursuant to section 168(k) of the internal revenue code.

~~20.~~ 19. With respect to property that is sold or otherwise disposed of during the taxable year by a taxpayer that complied with section 43-1021, paragraph 14 with respect to that property, the amount of depreciation that has been allowed pursuant to section 167(a) of the internal revenue code to the extent that the amount has not already reduced Arizona taxable income in the current or prior taxable years.

~~21.~~ 20. The amount contributed during the taxable year to college savings plans established pursuant to section 529 of the internal revenue code to the extent that the contributions were not deducted in computing federal adjusted gross income. The amount subtracted shall not exceed:

(a) ~~Two thousand dollars~~ $2,000 for a single individual or a head of household.

Chs. 203 and 273

(b) ~~Four thousand dollars~~ $4,000 for a married couple filing a joint return. In the case of a husband and wife who file separate returns, the subtraction may be taken by either taxpayer or may be divided between them, but the total subtractions allowed both husband and wife shall not exceed ~~four thousand dollars~~ $4,000.

~~22.~~ 21. The amount of any original issue discount that was deferred and not allowed to be deducted in computing federal adjusted gross income in the current taxable year pursuant to section 108(i) of the internal revenue code as added by section 1231 of the American recovery and reinvestment act of 2009 (P.L. 111-5).

~~23.~~ 22. The amount of previously deferred discharge of indebtedness income that is included in the computation of federal adjusted gross income in the current taxable year pursuant to section 108(i) of the internal revenue code as added by section 1231 of the American recovery and reinvestment act of 2009 (P.L. 111-5), to the extent that the amount was

previously added to Arizona gross income pursuant to section 43-1021, paragraph 16.

~~24.~~ 23. The portion of the net operating loss carryforward that would have been allowed as a deduction in the current year pursuant to section 172 of the internal revenue code if the election described in section 172(b)(1)(H) of the internal revenue code had not been made in the year of the loss that exceeds the actual net operating loss carryforward that was deducted in arriving at federal adjusted gross income. This subtraction only applies to taxpayers who made an election under section 172(b)(1)(H) of the internal revenue code as amended by section 1211 of the American recovery and reinvestment act of 2009 (P.L. 111-5) or as amended by section 13 of the worker, homeownership, and business assistance act of 2009 (P.L. 111-92).

~~25.~~ 24. For taxable years beginning from and after December 31, 2013, the amount of any net capital gain included in federal adjusted gross income for the taxable year derived from investment in a qualified small business as determined by the Arizona commerce authority pursuant to section 41-1518.

~~26.~~ 25. An amount of any net long-term capital gain included in federal adjusted gross income for the taxable year that is derived from an investment in an asset acquired after December 31, 2011, as follows:

(a) For taxable years beginning from and after December 31, 2012 through December 31, 2013, ten percent of the net long-term capital gain included in federal adjusted gross income.

(b) For taxable years beginning from and after December 31, 2013 through December 31, 2014, twenty percent of the net long-term capital gain included in federal adjusted gross income.

(c) For taxable years beginning from and after December 31, 2014, twenty-five percent of the net long-term capital gain included in federal adjusted gross income. For the purposes of this paragraph, a transferee that receives an asset by gift or at the death of a transferor is considered to have acquired the asset when the asset was acquired by the transferor. If the date an asset is acquired cannot be verified, a subtraction under this paragraph is not allowed.

~~27.~~ 26. If an individual is not claiming itemized deductions pursuant to section 43-1042, the amount of premium costs for long-term care insurance, as defined in section 20-1691.

~~28.~~ 27. The amount of eligible access expenditures paid or incurred during the taxable year to comply with the requirements of the Americans with disabilities act of 1990 (P.L. 101-336) or title 41, chapter 9, article 8 as provided by section 43-1024.

~~29.~~ 28. For taxable years beginning from and after December 31, 2017, the amount of any net capital gain included in Arizona gross income for the taxable year that is derived from the exchange of one kind of legal tender for another kind of legal tender. For the purposes of this paragraph:

(a) "Legal tender" means a medium of exchange, including specie, that is authorized by the United States Constitution or Congress ~~for the payment of~~ TO PAY debts, public charges, taxes and dues.

Chs. 203 and 273

(b) "Specie" means coins having precious metal content.

~~30.~~ 29. Benefits, annuities and pensions received as retired or retainer pay of the uniformed services of the United States in amounts as follows:

(a) For taxable years through December 31, 2018, an amount totaling not more than ~~two thousand five hundred dollars~~ $2,500.

Chs. 203 and 273

(b) For taxable years beginning from and after December 31, 2018, an amount totaling not more than ~~three thousand five hundred dollars~~ $3,500.

EXPLANATION OF BLEND
SECTION 43-1147 (as amended by Laws 2018, Ch. 106, section 1)

Laws 2019, Chapters 203 and 272

Laws 2019, Ch. 203, section 15	Effective January 1, 2020
Laws 2019, Ch. 272, section 8	Effective January 1, 2020

Explanation

Since these two enactments are compatible, the Laws 2019, Ch. 203 and Ch. 272 text changes to section 43-1147 are blended in the form shown on the following pages.

BLEND OF SECTION 43-1147 (as amended by Laws 2018, Ch. 106, section 1)
Laws 2019, Chapters 203 and 272

43-1147. Situs of sales of other than tangible personal property; definitions

A. Except as provided by subsection B of this section, sales, other than sales of tangible personal property, are in this state if either of the following applies:

1. The income-producing activity is performed in this state.

2. The income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

B. For taxable years beginning from and after December 31, 2013, a multistate service provider may elect to treat sales from services as being in this state based on a combination of income-producing activity sales and market sales. If the election under this subsection is made pursuant to subsection C of this section, the sales of services that are in this state shall be determined for taxable years beginning from and after:

1. December 31, 2013 through December 31, 2014, by the sum of the following:

(a) Eighty-five percent of the market sales.

(b) Fifteen percent of the income-producing activity sales.

2. December 31, 2014 through December 31, 2015, by the sum of the following:

(a) Ninety percent of the market sales.

(b) Ten percent of the income-producing activity sales.

3. December 31, 2015 through December 31, 2016, by the sum of the following:

(a) Ninety-five percent of the market sales.

(b) Five percent of the income-producing activity sales.

4. December 31, 2016, by one hundred percent of the market sales.

C. A multistate service provider may elect to treat sales from services as being in this state under subsection B of this section as follows:

1. The election must be made on the taxpayer's timely filed original income tax return. The election is:

(a) Effective retroactively for the full taxable year of the income tax return on which the election is made.

(b) Binding on the taxpayer for at least five consecutive taxable years, regardless of whether the taxpayer no longer meets the percentage threshold of a multistate service provider during that time period, except as provided by paragraph 2 of this subsection. To continue with the election
Ch. 272 — after ~~the~~ five consecutive taxable years, the taxpayer must meet the qualifications to be considered a multistate service provider and renew the election for another five consecutive taxable years.

2. During the election period, the election may be terminated as follows:

(a) Without the permission of the department on the acquisition or merger of the taxpayer.

(b) With the permission of the department before the expiration of five consecutive taxable years.

D. For a multistate service provider under subsection E, paragraph 3, subdivision (b) of this section, an election under subsection B of this section is limited to the treatment of sales for educational services. FOR A MULTISTATE SERVICE PROVIDER UNDER SUBSECTION E, PARAGRAPH 3, SUBDIVISION (c) OF THIS SECTION, AN ELECTION UNDER SUBSECTION B OF THIS SECTION IS LIMITED TO THE TREATMENT OF SALES FOR SUPPORT SERVICES, THE PAYMENT FOR WHICH IS A PERCENTAGE OF THE SALES FOR EDUCATIONAL SERVICES GENERATED BY A REGIONALLY ACCREDITED INSTITUTION OF HIGHER EDUCATION.

Ch. 272

E. For the purposes of this section:

1. "Income-producing activity sales" means the total sales from services that are sales in this state under subsection A of this section.

2. "Market sales" means the total sales from services AND SALES OF INTANGIBLES, AS DEFINED IN PARAGRAPH 3, SUBDIVISION (a) OF THIS SUBSECTION, for which the purchaser received the benefit of the service OR INTANGIBLES in this state.

Ch. 203

Ch. 272

3. "Multistate service provider" means ~~either~~ ANY OF THE FOLLOWING:

(a) A taxpayer that derives more than eighty-five percent of its sales from services or sales from intangibles provided to purchasers who receive the benefit of the service OR INTANGIBLES outside this state in the taxable year of election, and includes all taxpayers required to file a combined report pursuant to section 43-942 and all members of an affiliated group included in a consolidated return pursuant to section 43-947. In calculating the eighty-five percent, sales to students receiving educational services at campuses physically located in this state shall be excluded from the calculation. For the purposes of this subdivision, "sales from intangibles" means sales derived from credit and charge card receivables, including fees, merchant discounts, interchanges, interest and related revenue.

Ch. 203

(b) A taxpayer that is a regionally accredited institution of higher education with at least one university campus in this state that has more than two thousand students residing on the campus, and includes all taxpayers required to file a combined report pursuant to section 43-942 and all members of an affiliated group included in a consolidated return pursuant to section 43-947.

(c) A TAXPAYER THAT HAS MORE THAN TWO THOUSAND EMPLOYEES IN THIS STATE AND THAT DERIVES MORE THAN EIGHTY-FIVE PERCENT OF ITS SALES FROM SUPPORT SERVICES PROVIDED TO A REGIONALLY ACCREDITED INSTITUTION OF HIGHER EDUCATION, AND INCLUDES ALL TAXPAYERS REQUIRED TO FILE A COMBINED REPORT PURSUANT TO SECTION 43-942 AND ALL MEMBERS OF AN AFFILIATED GROUP INCLUDED IN A CONSOLIDATED RETURN PURSUANT TO SECTION 43-947.

Ch. 272

4. "Received the benefit of the service in this state" means the services are received by the purchaser in this state. If the state where the services are received cannot be readily determined, the services are considered to be received at the home of the customer or, in the case of a business, the office of the customer from which the services were ordered in the regular course of the customer's trade or business. If the ordering

location cannot be determined, the services are considered to be received at the home or office of the customer to which the services were billed. IN THE CASE OF A MULTISTATE SERVICE PROVIDER UNDER PARAGRAPH 3, SUBDIVISION (c) OF THIS SUBSECTION, THE BENEFIT OF SUPPORT SERVICES SHALL BE DEEMED RECEIVED AT THE BILLING ADDRESS OF THE STUDENT TO WHICH THE SERVICES RELATE.

Ch. 272

5. "Sales for educational services" means tuition and fees required for enrollment and fees required for courses of instruction, transcripts and graduation.

EXPLANATION OF BLEND
SECTION 48-805.01

Laws 2019, Chapters 117 and 130

Laws 2019, Ch. 117, section 1	Effective August 27, 2019
Laws 2019, Ch. 130, section 2	Effective August 27, 2019

Explanation

Since these two enactments are compatible, the Laws 2019, Ch. 117 and Ch. 130 text changes to section 48-805.01 are blended in the form shown on the following pages.

BLEND OF SECTION 48-805.01
Laws 2019, Chapters 117 and 130

48-805.01. Separate legal entities; joint exercise of powers

A. If public agencies identified in subsection B of this section form a separate legal entity pursuant to section 11-952, the entity has the powers common to the contracting powers specified in the agreement and may jointly exercise powers held in common by the contracting parties in a manner or according to the method provided in the agreement. Notwithstanding title 38, an officer or elected member of the governing body of a party to the agreement may also act in the capacity of a member of the governing body of the separate legal entity. In its own name and subject to the agreement, the separate legal entity, subject to existing applicable law, may:

1. Make and enter into contracts, including contracts, leases or other transactions with one or more of the parties to the agreement forming the separate legal entity.

2. Employ agents and employees.

3. Acquire, hold or dispose of property.

4. Acquire, construct, manage, maintain and operate buildings, works, infrastructure, apparatus, equipment and improvements.

5. Incur debts, liabilities and obligations.

6. Sue and be sued.

7. Require all current and prospective employees and volunteers to submit a full set of fingerprints to the joint powers authority, FIRE AUTHORITY, FIRE AND MEDICAL AUTHORITY OR FIRE AND AMBULANCE AUTHORITY. THE JOINT POWERS AUTHORITY, FIRE AUTHORITY, FIRE AND MEDICAL AUTHORITY OR FIRE AND AMBULANCE AUTHORITY SHALL SUBMIT THE FINGERPRINTS TO THE DEPARTMENT OF PUBLIC SAFETY for the purpose of obtaining a state and federal criminal records check pursuant to section 41-1750 and Public Law 92-544. The department of public safety may exchange this fingerprint data with the federal bureau of investigation.

Ch. 130

B. Cities, towns, counties and fire districts established pursuant to this title may form a separate legal entity pursuant to section 11-952, for the purposes of jointly exercising powers held in common by the contracting parties. Common powers of the contracting parties when otherwise authorized pursuant to state law may include fire protection, the preservation of life, providing emergency medical services, and carrying out its other powers and duties, including providing ambulance transportation services when authorized to do so pursuant to title 36, chapter 21.1, article 2. Any separate legal entity formed pursuant to this section shall include a fire district. The intergovernmental agreement must state the intent to form a separate legal entity pursuant to this subsection. The governing body of a separate legal entity formed pursuant to this subsection shall be composed of officials elected to one or more of the governing bodies of the political subdivisions that are parties to the agreement, or their designees. A separate legal entity identified pursuant to this subsection:

1. Is a political subdivision of this state having:

(a) The governmental and proprietary powers that are common to the contracting parties specified in the agreement and those powers provided for in section 11-952 and this section.

(b) The rights and immunities of the parties that are granted by the constitution and statutes of this state, including immunity of its property from taxation.

2. May separately contract for an undertaking with any two or more of the parties or other public agencies or other entities. Limitations on the exercise of common powers shall be applicable only to the parties to the agreement participating in the undertaking.

3. May establish any governance and board structure necessary to carry out its powers and duties subject to the requirements of section 11-952 and this section.

4. If specified in the agreement, is the authority that has jurisdiction for the purpose of fire code administration and enforcement for the parties to the agreement.

5. Shall be provided a .gov identifier for the website used to carry out its powers and duties by the applicable governmental issuer.

6. In addition to other powers provided for in the agreement by a vote of its governing body, may incur obligations payable from the entity's revenues, to pay the costs and expenses of acquiring or constructing any structures, facilities or equipment necessary to effectuate the purposes of the agreement subject to the following conditions and requirements:

(a) The parties to the agreement, with the approval of each participating entity's voters, may issue general obligation bonds for the purpose of funding the costs and expenses of acquiring or constructing any structures, facilities or equipment necessary to effectuate the purposes of the agreement. Each of the participating party's general obligation bonding authority is limited to that of each party's enabling legislation.

(b) The general obligation bonds are payable from the taxes or assessments paid to, or to be levied or collected by, the entity or the political subdivisions that are parties to the agreement that forms the entity.

(c) The general obligation bonds are limited to an amount as authorized by the qualified electors that are parties to the agreement and are subject to the requirements of sections 35-431 and 48-806.

Ch. 117

7. MAY USE THE TITLE FIRE AUTHORITY, FIRE AND MEDICAL AUTHORITY, FIRE AND EMERGENCY MEDICAL SERVICES AUTHORITY, FIRE AND AMBULANCE AUTHORITY OR AMBULANCE AUTHORITY TO IDENTIFY THE SEPARATE LEGAL ENTITY FORMED PURSUANT TO THIS SECTION. THE TITLES PRESCRIBED IN THIS PARAGRAPH MAY NOT BE USED IN THE NAME, TITLE OR DESIGNATION OF OTHER STATE OR LOCAL AGENCIES, BUSINESS ENTITIES OR NONPROFIT ORGANIZATIONS.

C. For the purposes of subsection B of this section, "undertaking":

1. Means one or more of the following:

(a) Purchasing, constructing, leasing or acquiring any real or personal property, works, apparatus, equipment or facilities that the political subdivisions that formed the entity are authorized by law to purchase, construct, lease or otherwise acquire.

(b) Improving, reconstructing, extending or adding to any real or personal property, works, apparatus, equipment or facilities owned or operated by the entity.

(c) Any program of development involving real or personal property, works, apparatus, equipment or facilities that the entity is authorized by law to purchase, construct, lease or otherwise acquire or the improvement, reconstruction, extension or addition to the program.

(d) Providing fire protection, for the preservation of life, for providing emergency medical services and for carrying out its other powers and duties, including providing ambulance transportation services when authorized to do so pursuant to title 36, chapter 21.1, article 2 and purchasing, constructing, leasing or acquiring, or the extension or addition of, works, apparatus, equipment or facilities designed to serve areas or territories already being served by any of the parties to the agreement.

2. Does not include the acquisition by eminent domain of existing works or facilities of a political subdivision.

D. The exercise of joint powers does not create any expansion of a certificate of necessity issued pursuant to title 36, chapter 21.1, article 2 or the operating rights as defined by the certificate of necessity held by one or more of the entities entering into a joint powers authority. The operating rights remain the same as those rights granted to the certificate of necessity holder at the date of the establishment of the joint powers authority unless modified pursuant to title 36, chapter 21.1, article 2.

E. A fire district board that participates in an agreement to form a separate legal entity pursuant to this section:

1. Is not subject to the public meeting requirements provided in section 48-805.

2. Shall hold a public meeting at least once every ninety days or as necessary to carry out its powers and duties.

3. If a cumulative financial report review occurs at least once every ninety days, is considered compliant with section 48-807, subsection P[,] EXCEPT THAT ADVERSE FINANCIAL IMPACT REPORTING SHALL BE REPORTED AS PROVIDED BY SECTION 48-807, SUBSECTION P.

Ch. 117

F. A municipality that participates in an agreement to form a separate legal entity pursuant to this section is not subject to a limit on the duration of the agreement.