

State of Arizona
House of Representatives
Fifty-fourth Legislature
First Regular Session
2019

CHAPTER 163
HOUSE BILL 2179

AN ACT

AMENDING SECTIONS 9-461.17, 9-584, 9-591, 11-1801, 13-1801, 13-3709, 13-3712, 16-911, 16-921, 18-502, 26-320, 40-283, 40-341, 40-354, 40-360.24, 40-360.41, 40-491, 41-1954, 42-5063, 42-5064, 42-5069 AND 42-5071, ARIZONA REVISED STATUTES; AMENDING SECTION 42-6004, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2018, CHAPTER 17, SECTION 1, CHAPTER 249, SECTION 6 AND CHAPTER 341, SECTION 2; AMENDING SECTION 42-6004, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2018, CHAPTER 17, SECTION 1, CHAPTER 249, SECTION 6, CHAPTER 263, SECTION 3 AND CHAPTER 341, SECTION 2; AMENDING SECTIONS 44-1273, 48-620, 48-5107 AND 48-5315, ARIZONA REVISED STATUTES; RELATING TO VIDEO SERVICE PROVIDERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 9-461.17, Arizona Revised Statutes, is amended
3 to read:

4 9-461.17. Telecommunications utility relocation: cost
5 reimbursement; definitions

6 A. To the fullest extent allowed by law, if any construction
7 project in any municipality that is undertaken individually or jointly by
8 an intergovernmental contract and that is funded in whole or in part by
9 voter-approved municipal bond proceeds requires that a telecommunications
10 utility adjust or otherwise relocate the telecommunications utility's
11 facilities, the municipality shall reimburse the telecommunications
12 utility, or cause the telecommunications utility to be reimbursed, for the
13 telecommunications utility's relocation costs incurred on facilities
14 located within the municipal boundaries.

15 B. If the telecommunications utility has existing land rights, the
16 municipality shall provide at the municipality's expense the
17 telecommunications utility with equal land rights in the new location of
18 the relocated facilities. If the telecommunications utility's existing
19 facilities are located in the right-of-way under a permit, the
20 municipality shall provide at the municipality's expense the
21 telecommunications utility with rights in the new location of the
22 relocated facilities equivalent to the telecommunications utility's
23 existing rights under the permit.

24 C. A telecommunications utility shall submit a verified itemized
25 claim to the municipality for reimbursement of relocation costs within one
26 hundred eighty days after each calendar quarter in which a
27 telecommunications utility incurs relocation costs.

28 D. The municipality shall:

29 1. Review each verified itemized claim submitted pursuant to
30 subsection C of this section. The review may include an audit conducted
31 pursuant to standard industry accounting principles.

32 2. Reimburse the telecommunications utility for the relocation
33 costs within ninety days after receipt of the verified itemized claim.

34 3. Reimburse verified itemized claims from all affected
35 telecommunications utilities in the order of receipt.

36 E. The reimbursement limitation for paid claims of relocation costs
37 for telecommunications utility facilities for which there are no existing
38 land rights is not more than two percent of the total project monies. The
39 total **OF THE** project monies is the total dollar amount of all
40 voter-approved **MUNICIPAL** bond proceeds that fund a construction project
41 from time to time.

42 F. The total amount of reimbursement paid for claims of relocation
43 costs of all telecommunications utility facilities for which there are no
44 existing land rights may not exceed the reimbursement limitation.

1 G. If a verified itemized claim causes the total amount of all
2 claims for telecommunications utility relocation costs to exceed the
3 reimbursement limitation, that claim shall be reduced so that the total
4 amount of reimbursement paid for all claims for which there are no
5 existing land rights equals the reimbursement limitation.

6 H. If the dollar amount of the reimbursement limitation increases
7 as a result of an increase in total project funds after the previous
8 reimbursement limitation is exhausted, within thirty days after the
9 reimbursement limitation is increased the municipality shall resume
10 processing previously submitted and new verified itemized claims under
11 this section.

12 I. The reimbursement limitation does not apply to any claims for
13 reimbursement of relocation costs for telecommunications utility
14 facilities with existing land rights or any amounts paid by the
15 municipality to provide equivalent land or permit rights. These claims
16 and amounts are excluded from the reimbursement limitation.

17 J. This section does not:

18 1. Apply to a construction project funded in whole or in part with
19 voter-approved municipal bond proceeds if approval of the bonds was
20 referred to the voters, or the initiative petition for the bonds was
21 applied for, before January 1, 2017.

22 2. Prohibit a municipality from complying with other applicable
23 law, or with an agreement, that requires the municipality to reimburse a
24 telecommunications utility for more relocation costs than this section
25 provides.

26 K. For the purposes of this section:

27 1. "Intergovernmental contract" means the joint exercise of powers
28 authorized by title 11, chapter 7, article 3.

29 2. "Municipality" includes a charter city.

30 3. "Relocation costs" means all costs of relocating a
31 telecommunications utility's facilities that the telecommunications
32 utility incurs as a direct result of the construction and operation of a
33 construction project. Relocation costs do not include profit but may
34 include a reasonable allocation of general overhead expenses.

35 4. "Telecommunications utility" means any public service
36 corporation, licensed cable ~~system~~ TELEVISION operator, VIDEO SERVICE
37 PROVIDER, telephone line or telegraph line corporation, agricultural
38 improvement district or other person engaged in the transmission, sale or
39 delivery of telecommunications, telephone, cable television, VIDEO,
40 internet or telegraph service directly to the public or to other users as
41 to be effectively available directly to the public.

1 Sec. 2. Section 9-584, Arizona Revised Statutes, is amended to
2 read:

3 9-584. Microcell equipment in public highways; permits; fees;
4 limitations; definitions

5 A. A political subdivision shall allow the following persons and
6 their affiliates to install, operate and maintain microcell equipment in
7 the public highways that are under the jurisdiction of the political
8 subdivision:

9 1. A telecommunications corporation within the licensed area of a
10 license issued by the political subdivision under this article.

11 2. A telecommunications corporation described in section 9-582,
12 subsection E.

13 3. A cable operator **AS DEFINED IN SECTION 9-505** in the area of
14 jurisdiction licensed by the political subdivision under section 9-506.

15 4. **A VIDEO SERVICE PROVIDER IN THE SERVICE AREA LICENSED BY THE**
16 **POLITICAL SUBDIVISION.**

17 B. On application a political subdivision shall issue permits for
18 the installation, operation and maintenance of microcell equipment in the
19 public highways within the political subdivision on a competitively
20 neutral and nondiscriminatory basis to all persons specified in subsection
21 A of this section. Only a qualified service provider may use microcell
22 equipment to provide commercial mobile radio service.

23 C. All application fees, permit fees and charges levied by a
24 political subdivision for applications or permits shall be levied on a
25 competitively neutral and nondiscriminatory basis and directly related to
26 the costs incurred by the political subdivision in providing services
27 relating to the granting or administration of applications or permits.
28 These fees and charges also shall be reasonably related in time to the
29 occurrence of the costs.

30 D. A political subdivision may not charge a recurring fee, rent or
31 other charge for use of aerial strand-mounted microcell equipment in
32 public highways within the political subdivision if the political
33 subdivision levies a rent, fee or charge on a person identified in
34 subsection A of this section for the use of the public highways to provide
35 a service. This subsection does not prohibit a political subdivision from
36 charging a competitively neutral and nondiscriminatory rent, fee or charge
37 for the use of utility poles or other poles of the political subdivision.

38 E. Except as the political subdivision agrees in the political
39 subdivision's sole discretion, at each site microcell equipment is limited
40 to:

41 1. Not more than two strand-mounted antennas and radio pairs that
42 are owned by a person specified in subsection A of this section or a
43 qualified service provider and that are used to provide commercial mobile
44 radio service.

1 2. Related devices that are owned by a person specified in
2 subsection A of this section and that are mounted on strand between
3 utility poles, including power supplies, housings, cables and similar
4 supporting furnishings and improvements.

5 F. This section does not:

6 1. Affect any authority of a political subdivision, an agricultural
7 improvement district or any other special taxing district, or any other
8 person controlling utility poles in the public highways to deny, limit,
9 restrict or determine the terms and conditions for use of or attachment to
10 the utility poles or attachments to other poles of the political
11 subdivision, district or other person by a person specified in subsection
12 A of this section.

13 2. Prohibit a political subdivision from imposing competitively
14 neutral and nondiscriminatory requirements for a person identified in
15 subsection A of this section to underground aerial facilities to which
16 microcell equipment is attached.

17 3. Prohibit a political subdivision from imposing a tax, rent, fee
18 or charge on revenue from services provided through microcell equipment.

19 4. Affect any authority of a political subdivision to manage the
20 public highways within the political subdivision's boundaries or to
21 exercise the political subdivision's police powers and land use powers,
22 including review and approval of an application before issuing a permit.

23 5. Affect the application of federal law on processing
24 applications, issuing permits and levying charges for the construction,
25 management, installation, operation, maintenance and control of microcell
26 equipment in the public highways.

27 G. For the purposes of this section:

28 1. "Affiliate" means a person that directly or indirectly, through
29 one or more intermediaries, controls, is controlled by or is under common
30 control with a person specified in subsection A of this section.

31 2. "Microcell equipment" means devices that are connected to the
32 aerial facilities of a person specified in subsection A of this section
33 and that are used solely for transmitting, processing and receiving voice
34 and data wireless telecommunications services. Microcell equipment does
35 not include any ground-based equipment.

36 3. Political subdivision does not include an agricultural
37 improvement district or other special taxing district that controls
38 utility poles or an irrigation district.

39 4. "Qualified service provider" means a person that has all
40 applicable authorizations required to provide commercial mobile radio
41 service using microcell equipment.

42 5. "Utility pole" means a pole or similar structure and attached
43 appurtenances including strand that is designed for telecommunications,
44 cable, data or electric functions.

1 Sec. 3. Section 9-591, Arizona Revised Statutes, is amended to
2 read:

3 9-591. Definitions

4 In this article, unless the context otherwise requires:

5 1. "Antenna" means communications equipment that transmits or
6 receives electromagnetic radio frequency signals and that is used in
7 providing wireless services.

8 2. "Applicable codes" means uniform building, fire, electrical,
9 plumbing or mechanical codes that are adopted by a recognized national
10 code organization or local amendments to those codes that are enacted to
11 address threats of destruction of property or injury to persons and to an
12 extent that is not inconsistent with this article.

13 3. "Applicant" means any person that submits an application and
14 that is a wireless provider.

15 4. "Application" means a request that is submitted by an applicant
16 to an authority for a permit to collocate small wireless facilities or to
17 approve the installation, modification or replacement of a utility pole or
18 wireless support structure.

19 5. "Authority" means any city, town, special district or political
20 subdivision of this state that is authorized to make legislative,
21 quasi-judicial or administrative decisions concerning an application.
22 Authority does not include any state court that has jurisdiction over an
23 authority and does not include a county, special taxing district, or
24 electric cooperative.

25 6. "Authority utility pole" means a utility pole that is owned or
26 operated by an authority and that is in a right-of-way. Authority utility
27 pole does not include a utility pole for electric distribution.

28 7. "Cable operator" has the same meaning prescribed in section
29 9-505 **AND INCLUDES A VIDEO SERVICE PROVIDER**. Cable operator does not
30 include a special taxing district.

31 8. "Collocate" or "collocation" means to install, mount, maintain,
32 modify, operate or replace wireless facilities on, within or adjacent to a
33 wireless support structure or utility pole.

34 9. "Communications service" means cable service as defined in
35 47 United States Code section 522(6), information service as defined in
36 47 United States Code section 153(24), telecommunications service as
37 defined in 47 United States Code section 153(53) or wireless service.

38 10. "Communications service provider" means a cable operator, a
39 provider of information service as defined in 47 United States Code
40 section 153(24), a telecommunications carrier as defined in 47 United
41 States Code section 153(51) or a wireless services provider.

42 11. "Fee" means a onetime charge.

43 12. "Law" means any federal, state or local law, statute, common
44 law, code, rule, regulation, order or ordinance.

1 13. "Monopole" means a wireless support structure that is not more
2 than forty inches in diameter at the ground level and that has all of the
3 wireless facilities mounted on the pole or contained inside of the pole.

4 14. "Permit" means written permission required by an authority to
5 install, mount, maintain, modify, operate or replace a utility pole or
6 monopole, to collocate a small wireless facility on a utility pole or
7 wireless support structure or to collocate wireless facilities on a
8 monopole.

9 15. "Person" means an individual, corporation, limited liability
10 company, partnership, association, trust or other entity or organization,
11 including an authority.

12 16. "Private easement" means an easement or other real property
13 right that is only for the benefit of the grantor and grantee and the
14 grantor's or grantee's successors and assigns.

15 17. "Rate" means a recurring charge.

16 18. "Right-of-way" means the area on, below or above a public
17 roadway, highway, street, sidewalk, alley or utility easement.
18 Right-of-way does not include a federal interstate highway, a state
19 highway or state route under the jurisdiction of the department of
20 transportation, a private easement, property that is owned by a special
21 taxing district, or a utility easement that does not authorize the
22 deployment sought by the wireless provider.

23 19. "Small wireless facility" means a wireless facility that meets
24 both of the following qualifications:

25 (a) All antennas are located inside an enclosure of not more than
26 six cubic feet in volume or, in the case of an antenna that has exposed
27 elements, the antenna and all of the antenna's exposed elements could fit
28 within an imaginary enclosure of not more than six cubic feet in volume.

29 (b) All other wireless equipment associated with the facility is
30 cumulatively not more than twenty-eight cubic feet in volume, or fifty
31 cubic feet in volume if the equipment was ground mounted before August 9,
32 2017. The following types of associated ancillary equipment are not
33 included in the calculation of equipment volume pursuant to this
34 subdivision:

35 (i) An electric meter.

36 (ii) Concealment elements.

37 (iii) A telecommunications demarcation box.

38 (iv) Grounding equipment.

39 (v) A power transfer switch.

40 (vi) A cutoff switch.

41 (vii) Vertical cable runs for the connection of power and other
42 services.

1 20. "Special taxing district" means a special district formed
2 pursuant to title 48, chapter 11, 12, 17, 18, 19, 20 or 22.

3 21. "Utility pole" means a pole or similar structure that is used
4 in whole or in part for communications services, electric distribution,
5 lighting or traffic signals. Utility pole does not include a monopole.

6 22. "Wireless facility":

7 (a) Means equipment at a fixed location that enables wireless
8 communications between user equipment and a communications network,
9 including both of the following:

10 (i) Equipment associated with wireless communications.

11 (ii) Radio transceivers, antennas, coaxial or fiber-optic cables,
12 regular and backup power supplies and comparable equipment, regardless of
13 technological configuration.

14 (b) Includes small wireless facilities.

15 (c) Does not include the structure or improvements on, under or
16 within which the equipment is collocated, wireline backhaul facilities,
17 coaxial or fiber-optic cable that is between wireless support structures
18 or utility poles or coaxial or fiber-optic cable that is otherwise not
19 immediately adjacent to, or directly associated with, an antenna.

20 (d) Does not include Wi-Fi radio equipment described in section
21 9-506, subsection I or microcell equipment described in section 9-584,
22 subsection E.

23 23. "Wireless infrastructure provider" means any person that is
24 authorized to provide telecommunications service in this state and that
25 builds or installs wireless communications transmission equipment,
26 wireless facilities, utility poles or monopoles but that is not a wireless
27 services provider. Wireless infrastructure provider does not include a
28 special taxing district.

29 24. "Wireless provider" means a cable operator, wireless
30 infrastructure provider or wireless services provider.

31 25. "Wireless services" means any services that are provided to the
32 public and that use licensed or unlicensed spectrum, whether at a fixed
33 location or mobile, using wireless facilities.

34 26. "Wireless services provider" means a person that provides
35 wireless services. Wireless services provider does not include a special
36 taxing district.

37 27. "Wireless support structure":

38 (a) Means:

39 (i) A freestanding structure, such as a monopole.

40 (ii) A tower, either guyed or self-supporting.

41 (iii) A sign or billboard.

42 (iv) Any other existing or proposed structure designed to support
43 or capable of supporting small wireless facilities.

44 (b) Does not include a utility pole.

1 Sec. 4. Section 11-1801, Arizona Revised Statutes, is amended to
2 read:

3 11-1801. Definitions

4 In this article, unless the context otherwise requires:

5 1. "Antenna" means communications equipment that transmits or
6 receives electromagnetic radio frequency signals and that is used in
7 providing wireless services.

8 2. "Applicable codes" means uniform building, fire, electrical,
9 plumbing or mechanical codes that are adopted by a recognized national
10 code organization or local amendments to those codes that are enacted to
11 address threats of destruction of property or injury to persons and to an
12 extent that is not inconsistent with this article.

13 3. "Applicant" means any person that submits an application and
14 that is a wireless provider.

15 4. "Application" means a request that is submitted by an applicant
16 to a county on a form provided by the county for a permit to collocate
17 small wireless facilities or to approve the installation, modification or
18 replacement of a utility pole.

19 5. "Cable operator" has the same meaning prescribed in section
20 9-505 **AND INCLUDES A VIDEO SERVICE PROVIDER**. Cable operator does not
21 include a special taxing district.

22 6. "Collocate" or "collocation" means to install, mount, maintain,
23 modify, operate or replace wireless facilities on, within or adjacent to a
24 wireless support structure or utility pole.

25 7. "Communications service" means cable service as defined in
26 47 United States Code section 522(6), information service as defined in
27 47 United States Code section 153(24), telecommunications service as
28 defined in 47 United States Code section 153(53) or wireless service.

29 8. "Communications service provider" means a cable operator, a
30 provider of information service as defined in 47 United States Code
31 section 153(24), a telecommunications carrier as defined in 47 United
32 States Code section 153(51) or a wireless services provider.

33 9. "County utility pole" means a utility pole that is owned or
34 operated by a county and that is in a right-of-way.

35 10. "Fee" means a onetime charge to process an application and
36 inspect any work performed by an applicant pursuant to a permit issued by
37 the county.

38 11. "Law" means any federal, state or local law, statute, common
39 law, code, rule, regulation, order or ordinance.

40 12. "Permit" means written permission issued by a county to
41 install, mount, maintain, modify, operate or replace a utility pole or to
42 collocate a small wireless facility on a utility pole or wireless support
43 structure.

1 13. "Person" means an individual, corporation, limited liability
2 company, partnership, association, trust or other entity or organization,
3 including a county.

4 14. "Private easement" means an easement or other real property
5 right that is only for the benefit of the grantor and grantee and the
6 grantor's or grantee's successors and assigns.

7 15. "Rate" means a onetime charge for the granting of a right to
8 use a portion of a right-of-way as specified in a permit or to collocate a
9 small wireless facility on or adjacent to a utility pole or to install,
10 modify or replace a utility pole as specified in a permit.

11 16. "Right-of-way" means the area on, below or above a county
12 roadway, highway, street, sidewalk, alley or utility easement.
13 Right-of-way does not include a federal interstate highway, a state
14 highway or state route under the jurisdiction of the department of
15 transportation, a private easement, property that is owned by a special
16 taxing district, or a utility easement that does not authorize the
17 deployment sought by the wireless provider.

18 17. "Small wireless facility" means a wireless facility that meets
19 both of the following qualifications:

20 (a) All antennas are located inside an enclosure of not more than
21 six cubic feet in volume or, in the case of an antenna that has exposed
22 elements, the antenna and all of the antenna's exposed elements could fit
23 within an imaginary enclosure of not more than six cubic feet in volume.

24 (b) All other wireless equipment associated with the facility is
25 cumulatively not more than twenty-eight cubic feet in volume, or fifty
26 cubic feet in volume if the equipment was ground mounted before August 9,
27 2017. The following types of associated ancillary equipment are not
28 included in the calculation of equipment volume pursuant to this
29 subdivision:

30 (i) An electric meter.

31 (ii) Concealment elements.

32 (iii) A telecommunications demarcation box.

33 (iv) Grounding equipment.

34 (v) A power transfer switch.

35 (vi) A cutoff switch.

36 (vii) Vertical cable runs for the connection of power and other
37 services.

38 18. "Special taxing district" means a special district formed
39 pursuant to title 48, chapter 11, 12, 17, 18, 19, 20 or 22.

40 19. "Utility pole" means a pole or similar structure that is used
41 in whole or in part for communications services, electric distribution,
42 lighting or traffic signals or a similar function.

43 20. "Wireless facility":

1 (a) Means equipment at a fixed location that enables wireless
2 communications between user equipment and a communications network,
3 including both of the following:

4 (i) Equipment associated with wireless communications.

5 (ii) Radio transceivers, antennas, coaxial or fiber-optic cables,
6 regular and backup power supplies and comparable equipment, regardless of
7 technological configuration.

8 (b) Includes small wireless facilities.

9 (c) Does not include the structure or improvements on, under or
10 within which the equipment is collocated, wireline backhaul facilities,
11 coaxial or fiber-optic cable that is between wireless support structures
12 or utility poles or coaxial or fiber-optic cable that is otherwise not
13 immediately adjacent to, or directly associated with, an antenna.

14 (d) Does not include Wi-Fi radio equipment described in section
15 9-506, subsection I or microcell equipment described in section 9-584,
16 subsection E.

17 21. "Wireless infrastructure provider" means any person that is
18 authorized to provide telecommunications service in this state and that
19 builds or installs wireless communications transmission equipment,
20 wireless facilities or utility poles but that is not a wireless services
21 provider. Wireless infrastructure provider does not include a special
22 taxing district.

23 22. "Wireless provider" means a cable operator, wireless
24 infrastructure provider or wireless services provider.

25 23. "Wireless services" means any services that are provided to the
26 public and that use licensed or unlicensed spectrum, whether at a fixed
27 location or mobile, using wireless facilities.

28 24. "Wireless services provider" means a person that provides
29 wireless services. Wireless services provider does not include a special
30 taxing district.

31 25. "Wireless support structure":

32 (a) Means:

33 (i) A freestanding structure.

34 (ii) A tower, either guyed or self-supporting.

35 (iii) Any other existing or proposed structure designed to support
36 or capable of supporting small wireless facilities.

37 (b) Does not include a utility pole.

38 Sec. 5. Section 13-1801, Arizona Revised Statutes, is amended to
39 read:

40 13-1801. Definitions

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

42 1. "Check" means any check, draft or other negotiable or
43 nonnegotiable instrument of any kind.

- 1 2. "Control" or "exercise control" means to act so as to exclude
2 others from using their property except on the defendant's own terms.
- 3 3. "Credit" means an express agreement with the drawee for the
4 payment of a check.
- 5 4. "Deprive" means to withhold the property interest of another
6 either permanently or for so long a time period that a substantial portion
7 of its economic value or usefulness or enjoyment is lost, to withhold with
8 the intent to restore it only on payment of any reward or other
9 compensation or to transfer or dispose of it so that it is unlikely to be
10 recovered.
- 11 5. "Draw" means making, drawing, uttering, preparing, writing or
12 delivering a check.
- 13 6. "Funds" means money or credit.
- 14 7. "Issue" means to deliver or cause to be delivered a check to a
15 person who thereby acquires a right against the drawer with respect to the
16 check. A person who draws a check with the intent that it be so delivered
17 is deemed to have issued it if the delivery occurs.
- 18 8. "Material misrepresentation" means a pretense, promise,
19 representation or statement of present, past or future fact that is
20 fraudulent and that, when used or communicated, is instrumental in causing
21 the wrongful control or transfer of property or services. The pretense
22 may be verbal or it may be a physical act.
- 23 9. "Means of transportation" means any vehicle.
- 24 10. "Obtain" means to bring about or to receive the transfer of any
25 interest in property, whether to a defendant or to another, or to secure
26 the performance of a service or the possession of a trade secret.
- 27 11. "Pass" means, for a payee, holder or bearer of a check that
28 previously has been or purports to have been drawn and issued by another,
29 to deliver a check, for a purpose other than collection, to a third person
30 who by delivery acquires a right with respect to the check.
- 31 12. "Property" means any thing of value, tangible or intangible,
32 including trade secrets.
- 33 13. "Property of another" means property in which any person other
34 than the defendant has an interest on which the defendant is not
35 privileged to infringe, including property in which the defendant also has
36 an interest, notwithstanding the fact that the other person might be
37 precluded from civil recovery because the property was used in an unlawful
38 transaction or was subject to forfeiture as contraband. Property in
39 possession of the defendant is not deemed property of another person who
40 has only a security interest in the property, even if legal title is in
41 the creditor pursuant to a security agreement.
- 42 14. "Services" includes labor, professional services,
43 transportation, cable ~~television~~ SERVICE AND VIDEO SERVICE, computer or
44 communication services, gas or electricity services, accommodation in

1 hotels, restaurants or leased premises or elsewhere, admission to
2 exhibitions and use of vehicles or other movable property.

3 15. "Value" means the fair market value of the property or services
4 at the time of the theft. The value of ferrous metal, **AS DEFINED IN**
5 **SECTION 44-1641**, or nonferrous metal, ~~as defined in section 44-1641~~, is
6 the average fair market value of the metal in the local area together with
7 the repair or replacement value of any property from which the metal was
8 removed at the time of the theft. Written instruments that do not have a
9 readily ascertained market value have as their value either the face
10 amount of indebtedness less the portion satisfied or the amount of
11 economic loss involved in deprivation of the instrument, whichever is
12 greater. When property has an undeterminable value the trier of fact
13 shall determine its value and, in reaching its decision, may consider all
14 relevant evidence, including evidence of the property's value to its
15 owner.

16 B. In determining the classification of the offense, the state may
17 aggregate in the indictment or information amounts taken in thefts
18 committed pursuant to one scheme or course of conduct, whether the amounts
19 were taken from one or several persons.

20 Sec. 6. Section 13-3709, Arizona Revised Statutes, is amended to
21 read:

22 13-3709. Obtaining cable television and video services
23 fraudulently; manufacturing, distributing and
24 selling unauthorized decoding devices;
25 classification; definition

26 A. Any person who with the intent to defraud another of any part of
27 the lawful charge for services that are provided over or by a licensed
28 cable television system as defined in section 9-505, ~~OR A LICENSED VIDEO~~
29 **SERVICE NETWORK** makes any unauthorized connection, whether physically,
30 electrically, acoustically, inductively or otherwise, or attaches any
31 unauthorized device or devices to any cable, wire, microwave or other
32 component of a licensed cable television system **OR LICENSED VIDEO SERVICE**
33 **NETWORK**, to a television set or to any other instrument that is authorized
34 to be attached to a **LICENSED** cable television system **OR LICENSED VIDEO**
35 **SERVICE NETWORK** is guilty of a class 2 misdemeanor.

36 B. Any person who manufactures, distributes, sells, rents, lends,
37 offers or advertises for sale, rental or use any device that the person
38 intends to be used by another person to obtain services that are provided
39 over or by a licensed cable television system **OR A LICENSED VIDEO SERVICE**
40 **NETWORK** without payment of the charge for those services is guilty of a
41 class 6 felony.

42 C. For the purposes of subsection B of this section it is a
43 rebuttable presumption that the person intended that the device would be
44 used by another person to obtain services that are provided over or by a
45 licensed cable television system **OR A LICENSED VIDEO SERVICE NETWORK**

1 without payment of the charge for those services if, while advertising,
2 selling, renting or lending the device, the person states that the device
3 will enable the person who receives the device to obtain cable television,
4 VIDEO or other services without payment of the charge for those services.

5 D. For the purposes of subsection B of this section, it is a
6 separate violation for each individual device that is manufactured,
7 distributed, sold, rented, lent, offered or advertised for sale, rental or
8 use in violation of subsection B of this section.

9 E. A person whose business or property is injured arising out of a
10 violation of this section may bring an action in superior court to recover
11 damages or for an injunction, or both. The successful party to the action
12 may recover reasonable attorney fees.

13 F. ~~As used in~~ FOR THE PURPOSES OF this section, "device" includes
14 any component or combination of components capable of converting a
15 scrambled, ENCRYPTED or ~~coded~~ ENCODED cable television OR VIDEO SERVICE
16 signal to a signal usable on a standard television receiver.

17 Sec. 7. Section 13-3712, Arizona Revised Statutes, is amended to
18 read:

19 13-3712. Interruption of or injury to cable television and
20 video systems; classification

21 Any person who, without the consent of the owner, knowingly tampers
22 with, removes or injures any cable, wire, microwave or other component of
23 a licensed cable television system as defined in section 9-505 OR LICENSED
24 VIDEO SERVICE NETWORK or knowingly interrupts the service of ~~such a~~ THE
25 licensed cable television system OR LICENSED VIDEO SERVICE NETWORK without
26 the consent of the owner is guilty of a class 2 misdemeanor.

27 Sec. 8. Section 16-911, Arizona Revised Statutes, is amended to
28 read:

29 16-911. Exemption from definition of contribution

30 A. A person may make any contribution not otherwise prohibited by
31 law.

32 B. The following are not contributions:

33 1. The value of an individual's volunteer services or expenses that
34 are provided without compensation or reimbursement, including the
35 individual's:

36 (a) Travel expenses.

37 (b) Use of real or personal property.

38 (c) Cost of invitations, food or beverages.

39 (d) Use of e-mail, internet activity or social media messages, only
40 if the individual's use is not paid for by the individual or any other
41 person and if the e-mails, social media messages or other internet
42 activities do not contain or include transmittal of a paid advertisement
43 or paid fund-raising solicitation.

1 2. The costs incurred for covering or carrying a news story,
2 commentary or editorial by a broadcasting station or cable television
3 operator, VIDEO SERVICE PROVIDER, an internet website, a newspaper or
4 another periodical publication, including an internet-based or electronic
5 publication, if the cost for the news story, commentary or editorial is
6 not paid for by and the medium is not owned or under the control of a
7 candidate or committee.

8 3. Any payment to defray the expense of an elected official meeting
9 with constituents or attending an informational tour, conference, seminar
10 or presentation, if the payor or the elected official does not attempt to
11 influence the result of an election and the payment is reported if
12 required pursuant to title 38, chapter 3.1 or title 41, chapter 7, article
13 8.1, or both.

14 4. The payment by a political party to support its nominee,
15 including:

16 (a) The printing or distribution of, or postage expenses for, voter
17 guides, sample ballots, pins, bumper stickers, handbills, brochures,
18 posters, yard signs and other similar materials distributed through the
19 party.

20 (b) Coordinated ~~political~~ party expenditures.

21 5. The payment by any person to defray a political party's
22 operating expenses or party-building activities, including:

23 (a) Party staff and personnel.

24 (b) Studies and reports.

25 (c) Voter registration, recruitment, polling and turnout efforts.

26 (d) Party conventions and party meetings.

27 (e) Construction, purchase or lease of party buildings or
28 facilities.

29 6. The value of any of the following to a committee:

30 (a) Interest earned on the committee's deposits or investments.

31 (b) Transfers between committees to reimburse expenses and
32 distribute monies raised through a joint fund-raising effort, if the
33 transfers comply with an agreement to reimburse and distribute monies that
34 was executed before the joint fund-raising effort occurred.

35 (c) Payment of a committee's legal or accounting expenses by any
36 person.

37 (d) An extension of credit for goods and services on a committee's
38 behalf by a creditor if the terms are substantially similar to extensions
39 of credit to nonpolitical debtors that are of similar risk and size of
40 obligation. The creditor must make a commercially reasonable attempt to
41 collect the debt, except that if an extension of credit remains
42 unsatisfied by the committee after six months the committee is deemed to
43 have received a contribution but the creditor is not deemed to have made a
44 contribution.

1 7. The value of nonpartisan communications that are intended to
2 encourage voter registration and turnout efforts.

3 8. Any payment to a filing officer for arguments in a publicity
4 pamphlet.

5 9. The payment by any sponsor or its affiliate for the costs of
6 establishing, administering and soliciting contributions from its
7 employees, members, executives, stockholders and retirees and their
8 families to the sponsor's separate segregated fund.

9 10. Any payment by any entity for the costs of communicating with
10 its employees, members, executives, stockholders and retirees and their
11 families about any subject, without regard to whether those communications
12 are made in coordination with any candidate or candidate's agent.

13 11. The value of allowing a candidate or a committee's
14 representative to appear at any private residence or at the facilities of
15 any entity to speak about the candidate's campaign or about a ballot
16 measure, if the venue is furnished by the venue's owner, is not paid for
17 by a third party and is not a sports stadium, coliseum, convention center,
18 hotel ballroom, concert hall or other similar arena that is generally open
19 to the public.

20 12. The costs of hosting a debate or candidates' forum, if at least
21 two opposing candidates, with respect to any given office sought, or
22 representatives of at least two opposing ballot measure campaigns, with
23 respect to any measure on the ballot, are invited with the same or similar
24 advance notice and method of invitation.

25 13. The preparation and distribution of voter guides, subject to
26 the following:

27 (a) A featured candidate or ballot measure shall not receive
28 greater prominence or substantially more space in the voter guide than any
29 other candidate or ballot measure.

30 (b) The voter guide shall not include any message that constitutes
31 express advocacy.

32 14. Monies that are loaned by a financial institution in the
33 ordinary course of business and not for the purpose of influencing the
34 results of an election, except that the loan is deemed a pro rata
35 contribution by any endorser or guarantor, other than the candidate's
36 spouse.

37 15. The costs of publishing a book or producing a documentary, if
38 the publication and production are for distribution to the general public
39 through traditional distribution mechanisms or a fee is obtained for the
40 purchase of the publication or viewing of the documentary.

41 C. This section does not imply that any transactions that are not
42 specifically listed in subsection B of this section are contributions
43 unless those transactions otherwise meet the definition of contribution as
44 defined in section 16-901.

1 Sec. 9. Section 16-921, Arizona Revised Statutes, is amended to
2 read:

3 16-921. Exemptions from definition of expenditure

4 A. A person may make any expenditure not otherwise prohibited by
5 law.

6 B. The following are not expenditures:

7 1. The value of an individual's volunteer services or expenses that
8 are provided without compensation or reimbursement, including the
9 individual's:

10 (a) Travel expenses.

11 (b) Use of real or personal property.

12 (c) Cost of invitations, food or beverages.

13 (d) Use of e-mail, internet activity or social media messages, only
14 if the individual's use is not paid for by the individual or any other
15 person and if the e-mails, social media messages or other internet
16 activities do not contain or include transmittal of a paid advertisement
17 or paid fund-raising solicitation.

18 2. The value of any news story, commentary or editorial by any
19 broadcasting station, cable television operator, VIDEO SERVICE PROVIDER,
20 programmer or producer, newspaper, magazine, website or other periodical
21 publication that is not owned or operated by a candidate, a candidate's
22 spouse or any committee.

23 3. The payment by any person to defray a political party's
24 operating expenses or party-building activities, including:

25 (a) Party staff and personnel.

26 (b) Studies and reports.

27 (c) Voter registration, recruitment, polling and turnout efforts.

28 (d) Party conventions and party meetings.

29 (e) Construction, purchase or lease of party buildings or
30 facilities.

31 4. The value of any of the following to a committee:

32 (a) Interest earned on the committee's deposits or investments.

33 (b) Transfers between committees to reimburse expenses and
34 distribute monies raised through a joint fund-raising effort, except that
35 contributions shall be allocated as described in the fund-raising
36 solicitation and expenses shall be allocated in the same proportion as
37 contributions.

38 (c) Payment of a committee's legal or accounting expenses.

39 (d) An extension of credit for goods and services on a committee's
40 behalf by a creditor if the terms are substantially similar to extensions
41 of credit to nonpolitical debtors that are of similar risk and size of
42 obligation. The creditor must make a commercially reasonable attempt to
43 collect the debt, except that if an extension of credit remains
44 unsatisfied by the committee after six months the committee is deemed to

1 have received a contribution but the creditor is not deemed to have made a
2 contribution.

3 5. The value of nonpartisan communications that are intended to
4 encourage voter registration and turnout efforts.

5 6. Any payment by a person that is not a committee to a filing
6 officer for arguments in a publicity pamphlet.

7 7. Any payment for legal or accounting services that are provided
8 to a committee.

9 8. The payment of costs of publishing a book or producing a
10 documentary, if the publication and production are for distribution to the
11 general public through traditional distribution mechanisms or a fee is
12 obtained for the purchase of the publication or viewing of the
13 documentary.

14 C. This section does not imply that any transactions that are not
15 specifically listed in subsection B of this section are expenditures
16 unless those transactions otherwise meet the definition of expenditure as
17 defined in section 16-901.

18 Sec. 10. Section 18-502, Arizona Revised Statutes, is amended to
19 read:

20 18-502. Prohibited activities; applicability

21 A. It is unlawful for any person who is not an owner or operator of
22 a computer to transmit computer software to a computer, with actual
23 knowledge or with conscious avoidance of actual knowledge, and to use the
24 software to do any of the following:

25 1. Modify, through intentionally deceptive means, settings that
26 control any of the following:

27 (a) The page that appears when an owner or operator of a computer
28 launches an internet browser or similar computer software used to access
29 and navigate the internet.

30 (b) The default provider or web proxy that an owner or operator of
31 a computer uses to access or search the internet.

32 (c) An owner's or operator's list of bookmarks used to access web
33 pages.

34 2. Collect, through intentionally deceptive means, personally
35 identifiable information:

36 (a) Through the use of a keystroke logging function that records
37 all keystrokes made by an authorized user who uses the computer and
38 transfers that information from the computer to another person.

39 (b) In a manner that correlates the information with data
40 respecting all or substantially all of the websites visited by an owner or
41 operator of the computer, other than websites operated by the person
42 collecting the information.

43 (c) With respect only to information described in section 18-501,
44 paragraph 9, by extracting such information from the hard drive of an
45 owner's or operator's computer.

1 3. Prevent, through intentionally deceptive means, an owner's or
2 operator's reasonable efforts to block the installation or execution of,
3 or to disable, computer software by causing software that an owner or
4 operator of the computer has properly removed or disabled automatically to
5 reinstall or reactivate on the computer.

6 4. Intentionally misrepresent that computer software will be
7 uninstalled or disabled by an owner's or operator's action.

8 5. Through intentionally deceptive means, remove, disable or render
9 inoperative security, antispyware or antivirus computer software installed
10 on the computer.

11 6. Take control of the computer by:

12 (a) Accessing or using the modem or internet service for the
13 computer for the purpose of causing damage to the computer or causing an
14 owner or operator to incur financial charges for a service that the owner
15 or operator of the computer has not authorized.

16 (b) Opening multiple, sequential, stand-alone advertisements in an
17 owner's or operator's internet browser without the authorization of the
18 owner or operator that a reasonable computer user cannot close without
19 turning off the computer or closing the internet browser.

20 7. Modify any of the following settings related to the computer's
21 access to, or use of, the internet:

22 (a) Settings that protect information about an owner or operator of
23 the computer for the purpose of stealing personally identifiable
24 information of the owner or operator.

25 (b) Security settings for the purpose of causing damage to a
26 computer.

27 8. Prevent an owner's or operator's reasonable efforts to block the
28 installation of, or to disable, computer software, by doing either of the
29 following:

30 (a) Presenting the owner or operator with an option to decline
31 installation of computer software with knowledge that, if the option is
32 selected, the installation nevertheless proceeds.

33 (b) Falsely representing that computer software has been disabled.

34 B. It is unlawful for any person who is not an owner or operator of
35 a computer to do either of the following with regard to the computer:

36 1. Induce an owner or operator to install a computer software
37 component on the computer by intentionally misrepresenting the extent to
38 which installing the software is necessary for security or privacy reasons
39 or in order to open, view or play a particular type of content.

40 2. Deceptively cause the execution on the computer of a computer
41 software component with the intent of causing an owner or operator to use
42 the component in a manner that violates any other provision of this
43 section.

44 C. This section does not apply to any monitoring of, or interaction
45 with, a subscriber's internet or other network connection or service, or a

1 computer, by a telecommunications carrier, cable operator, VIDEO SERVICE
2 PROVIDER, computer hardware or software provider or provider of
3 information service or interactive computer service for network or
4 computer security purposes, diagnostics, technical support, maintenance,
5 repair, authorized updates of software or system firmware, authorized
6 remote system management or detection or prevention of the unauthorized
7 use of or fraudulent or other illegal activities in connection with a
8 network, service or computer software, including scanning for and removing
9 software prescribed under this article.

10 Sec. 11. Section 26-320, Arizona Revised Statutes, is amended to
11 read:

12 26-320. First informer broadcasters; training and
13 certification; access; definitions

14 A. The division may coordinate with a broadcasting association in
15 this state or a cable television telecommunication association in this
16 state, or both, to develop comprehensive, coordinated plans for preparing
17 for and responding appropriately to an emergency or disaster.

18 B. The division may designate and authorize a statewide
19 organization that represents broadcasters, cable television communications
20 or any other provider that uses emerging technologies or a federally
21 licensed radio or television station to establish and conduct a program
22 approved by the division to train and certify broadcast engineers and
23 technical personnel that are critical to station operations as first
24 informer broadcasters. Training and certification pursuant to this
25 subsection shall:

26 1. Be consistent with federal law and guidelines.

27 2. Include education in restoring, repairing and resupplying any
28 facilities or equipment of a broadcaster in an area affected by an
29 emergency or disaster.

30 3. Include education concerning the personal safety of a first
31 informer broadcaster in an area affected by an emergency or disaster.

32 C. To the extent practicable and consistent with not endangering
33 public safety or inhibiting recovery efforts, state and local government
34 agencies shall allow a first informer broadcaster to access an area
35 affected by an emergency or disaster to restore, repair or resupply any
36 facility or equipment critical to the ability of a broadcaster to acquire,
37 produce and transmit essential emergency or disaster related public
38 information programming, including repairing and maintaining transmitters
39 and generators and transporting fuel for generators.

40 D. For the purposes of this section:

41 1. "Broadcaster" means a radio broadcasting station, cable
42 TELEVISION operator, VIDEO SERVICE PROVIDER or television broadcasting
43 station primarily engaged in, and deriving income from, the business of
44 facilitating speech via over-the-air communications, both as to pure
45 speech and commercial speech.

1 2. "First informer broadcaster" means a person who is trained and
2 certified as a first informer broadcaster pursuant to this section.

3 Sec. 12. Section 40-283, Arizona Revised Statutes, is amended to
4 read:

5 40-283. Transmission lines; use of public streets for utility
6 right-of-way; notice; election

7 A. Any person engaged in transportation or transmission business
8 within the state may construct and operate lines connecting any points
9 within the state and connect at the state boundary with like lines, except
10 that within the confines of municipal corporations the use and occupancy
11 of streets shall be under rights acquired by franchises according to law
12 or licenses pursuant to title 9, chapter 5, articles 1.1 and 4, and
13 subject to control and regulation by the municipal authorities. The use
14 of highways, except state highways, by public utilities not within any
15 incorporated city or town shall be regulated by the board of supervisors
16 of the county by license or franchise.

17 B. A board of supervisors in granting a license or franchise, or at
18 any time after it is granted, may impose restrictions and limitations upon
19 the use of the public roads as it deems best for the public safety or
20 welfare.

21 C. Every franchise granted under this article shall include
22 provisions requiring the grantee to bear all expenses, including damage
23 and compensation for any alteration of the direction, surface, grade or
24 alignment of a county road, made for the purpose of such franchise. If
25 the surface of a county highway is used by any grantee for trackage, the
26 franchise shall include reasonable regulations for maintenance by the
27 grantee of that portion of the highway so used.

28 D. A board of supervisors may authorize public service
29 corporations, telecommunications corporations, ~~or cable television systems~~
30 OPERATORS OR VIDEO SERVICE PROVIDERS to construct a line, plant, service
31 or system within the right-of-way of any road, highway or easement that is
32 designated for access or public use by plat or survey of record of a
33 subdivision, or of unsubdivided land as defined in section 32-2101,
34 provided that any such authorization or construction pursuant to such
35 authorization does not impose on the county the duty of maintaining the
36 road or highway unless the county accepts the road or highway into the
37 county maintenance system by appropriate resolution. ~~Nothing contained in~~
38 This subsection ~~shall be construed to~~ DOES NOT grant county boards of
39 supervisors additional authority to require public service corporations,
40 telecommunications corporations, ~~or cable television systems~~ OPERATORS OR
41 VIDEO SERVICE PROVIDERS to obtain licenses or franchises.

42 E. A board of supervisors, before granting any of the privileges
43 authorized under this section, shall give public notice of its intention
44 to ~~make such~~ grant SUCH PRIVILEGES by publishing notice in a newspaper of
45 general circulation, published within the county, at least once a week for

1 three weeks ~~prior to~~ BEFORE the day set for consideration of such action.
2 If, on or before such date, more than fifty ~~per cent~~ PERCENT of the
3 qualified electors of the county petition the board of supervisors to deny
4 ~~such~~ THE privilege, it shall do so, and any privilege granted against ~~such~~
5 THE petition ~~shall be~~ IS void.

6 Sec. 13. Section 40-341, Arizona Revised Statutes, is amended to
7 read:

8 40-341. Definitions

9 In this article, unless the context otherwise requires:

10 1. "Clerk" means the clerk of the board of supervisors or any
11 person or officer who acts as clerk of the board of supervisors.

12 2. "Convert" or "conversion" means the removal of existing overhead
13 electric or communication facilities and the replacement thereof with
14 underground electric or communication facilities constructed at the same
15 or different locations.

16 3. "Electric or communication facilities" means any works or
17 improvements used or useful in providing electric, communication or cable
18 television service OR VIDEO SERVICE, including ~~but not limited to~~ poles,
19 supports, tunnels, manholes, vaults, conduits, pipes, wires, conductors,
20 guys, stubs, platforms, crossarms, braces, transformers, insulators,
21 cutouts, switches, capacitors, meters, communication circuits, appliances,
22 attachments and appurtenances. ~~"Electric facilities" shall~~ DOES not
23 include any facilities used or intended to be used for the transmission of
24 electric energy at nominal voltages in excess of twenty-five thousand
25 volts or having a circuit capacity in excess of twelve thousand
26 kva. ~~"Communication facilities" shall~~ DOES not include facilities used
27 or intended to be used for the transmission of intelligence by microwave
28 or radio, apparatus cabinets or outdoor public telephones.

29 4. "Local government" means the city or town council if all or any
30 part of the underground conversion service area is located within the
31 limits of an incorporated city or town or the county board of supervisors
32 if the underground conversion service area is located in an unincorporated
33 area.

34 5. "Lot" includes any portion, piece, parcel or subdivision of
35 land, but not property owned or controlled by any person as a right of
36 way.

37 6. "Owner" means the person in whom legal title appears by recorded
38 deed, or the person in possession under claim of title, or the person
39 exercising acts of ownership for ~~himself~~ THE PERSON or as the personal
40 representative of the owner, including the boards of trustees of school
41 districts and the boards of education of high school districts owning
42 property within the underground conversion service area.

43 7. "Overhead electric or communication facilities" means electric
44 or communication facilities located above the surface of the ground,
45 except as provided for in paragraphs 3 and 12 of this section.

1 8. "Public agency" means any irrigation, power, electrical or
2 agricultural improvement district now or hereafter organized that provides
3 electric or communication service to the public by means of electric or
4 communication facilities.

5 9. "Public place" includes streets, alleys, roadways, sidewalks,
6 rights of way, easements and similar properties as to which a city, town,
7 county, the state, the public service corporation or the public agency may
8 have a right.

9 10. "Public service corporation" means any person or corporation
10 that provides electric or communication service to the public by means of
11 electric or communication facilities.

12 11. "Real property" means the real estate owned in fee, but not
13 inclusive of buildings or structures located thereon, or any property
14 owned or controlled as a railroad or street ~~right of way~~ RIGHT-OF-WAY.

15 12. "Underground conversion service area" means an area in which
16 existing electric and communication facilities are to be placed
17 underground, exclusive of any lines or facilities used or intended to be
18 used for the transmission of electric energy at nominal voltages in excess
19 of twenty-five thousand volts or having a circuit capacity in excess of
20 twelve thousand kva and facilities used or intended to be used for the
21 transmission of intelligence by microwave or radio and facilities such as
22 transformers, pull boxes, service terminals, pedestal terminals, splice
23 closures, apparatus cabinets and similar facilities ~~which~~ THAT normally
24 are above the surface in areas where service lines are underground in
25 accordance with standard underground practices, and on-the-ground
26 facilities attached to overhead facilities ~~which~~ THAT are used to connect
27 an underground system to overhead facilities.

28 13. "Underground conversion cost" means the costs to be paid by
29 each owner to each public service corporation or public agency by the
30 property owners within an underground conversion service area, as provided
31 in this article.

32 Sec. 14. Section 40-354, Arizona Revised Statutes, is amended to
33 read:

34 40-354. No extension of corporation commission jurisdiction
35 to public agencies, video service networks or cable
36 television systems

37 Nothing contained in this article ~~shall vest~~ VESTS any jurisdiction
38 over public agencies, VIDEO SERVICE NETWORKS or cable television systems
39 in the Arizona corporation commission.

40 Sec. 15. Section 40-360.24, Arizona Revised Statutes, is amended to
41 read:

42 40-360.24. Notice of damage to underground facility

43 A. In the event of any damage that results in a release from any
44 underground facility that transports natural gas, liquefied petroleum gas,
45 liquefied natural gas, petroleum products or any other hazardous gases or

1 liquids in connection with any excavation, the person responsible for the
2 excavation operations shall immediately notify the underground facilities
3 operator and 911 or the local emergency response agency.

4 B. In the event of any damage to or dislocation of any underground
5 facility or detectible underground location device in connection with any
6 excavation the person responsible for the excavation operations shall
7 immediately notify the underground facilities operator and shall not
8 attempt any repair to the damaged facility or device except the temporary
9 emergency repairs allowed by this section.

10 C. Temporary emergency repairs shall not be made by an excavator to
11 a public utility's or municipal corporation's natural gas, electric,
12 propane, hazardous liquid, communication, cable television **SYSTEM OR VIDEO**
13 **SERVICE NETWORK**, sewer system, wastewater or water facilities without the
14 consent of the underground facilities operator.

15 D. The excavation shall be left open until the arrival of
16 representatives of the underground facilities operator. ~~upon~~ **ON** receipt
17 of notice, the underground facilities operator shall dispatch its
18 representatives promptly, but in no event later than two working days, to
19 examine the underground facility and, if necessary, effect repairs.
20 Unless it would interfere with compliance with commission rules or
21 requirements regarding maintenance or restoration of service and repair of
22 facilities, the underground facilities operator shall immediately respond
23 to a notification for emergencies involving injury or damage.

24 Sec. 16. Section 40-360.41, Arizona Revised Statutes, is amended to
25 read:

26 **40-360.41. Definitions**

27 In this article, unless the context otherwise requires:

28 1. "Authorized person" means:

29 (a) An employee of a public utility ~~which~~ **THAT** produces, transmits
30 or delivers electricity.

31 (b) An employee of a public utility ~~which~~ **THAT** provides and whose
32 work relates to communication services or state, county or municipal
33 agencies ~~which~~ **THAT** have authorized circuit construction on or near the
34 poles or structures of a public utility.

35 (c) An employee of an industrial plant whose work relates to the
36 electrical system of the industrial plant.

37 (d) An employee of a cable television **OPERATOR, VIDEO SERVICE**
38 **PROVIDER** or communication services company or an employee of a contractor
39 of a cable television **OPERATOR, VIDEO SERVICE PROVIDER** or communication
40 services company if specifically authorized by the owner of the poles to
41 make **ATTACHMENTS FOR** cable television or communication services
42 ~~attachments~~ **OR VIDEO SERVICES**.

43 (e) An employee or agent of state, county or municipal agencies
44 ~~which~~ **THAT** have or whose work relates to overhead electrical lines or
45 circuit construction or conductors on poles or structures of any type.

1 2. "High voltage" means voltage in excess of six hundred volts
2 measured between conductors or between a conductor and the ground.

3 3. "Overhead line" means all bare or insulated electrical
4 conductors installed aboveground.

5 4. "Person" or "business entity" means those parties ~~who~~ THAT
6 contract to perform any function or activity ~~upon~~ ON any land, building,
7 highway or other premises.

8 5. "Public utility" includes public service corporations,
9 municipally owned systems and districts subject to article XIII, section
10 7, Constitution of Arizona.

11 Sec. 17. Section 40-491, Arizona Revised Statutes, is amended to
12 read:

13 40-491. Definitions

14 In this article, unless the context otherwise requires:

15 1. "Customer" means the person in whose name a utility service is
16 provided.

17 2. "Person" means an individual, partnership, firm, association or
18 corporation.

19 3. "Reconnection" means the restoration of utility service to a
20 customer or other person after service has been legally disconnected by
21 the utility.

22 4. "Tamper" or "tampering" means any of the following if committed
23 against property that is owned or operated by the utility for transmission
24 or distribution:

25 (a) Rearranging, damaging, altering, interfering with or otherwise
26 preventing the performance of a normal or customary function of utility
27 property.

28 (b) Connecting any wire, conduit or device to any utility property.

29 (c) Defacing, puncturing, removing, reversing or altering any
30 utility property.

31 (d) Preventing any meter from properly measuring or registering.

32 (e) Knowingly taking, receiving, using or converting to personal
33 use or the use of another any utility service that has not been measured
34 or authorized.

35 (f) Diverting or changing the intended course or path of the
36 utility service without the authorization or consent of the utility.

37 (g) Causing, procuring, permitting, aiding or abetting any person
38 to do any of the acts listed in this paragraph.

39 5. "Utility" means any public service corporation, licensed cable
40 television system OR VIDEO SERVICE NETWORK, telephone line or telegraph
41 line corporation or person engaged in the generation, transmission or
42 delivery of electricity, gas, telephone, cable television, telegraph or
43 water service, including this state or any political subdivision or agency
44 of this state.

1 6. "Utility service" means the provision of services or commodities
2 by the utility for compensation.

3 Sec. 18. Section 41-1954, Arizona Revised Statutes, is amended to
4 read:

5 41-1954. Powers and duties

6 A. In addition to the powers and duties of the agencies listed in
7 section 41-1953, subsection E, the department shall:

8 1. Administer the following services:

9 (a) Employment services, including manpower programs and work
10 training, field operations, technical services, unemployment compensation,
11 community work and training and other related functions in furtherance of
12 programs under the social security act, as amended, the Wagner-Peyser act,
13 as amended, the federal unemployment tax act, as amended, 33 United States
14 Code, the family support act of 1988 (P.L. 100-485) and other related
15 federal acts and titles.

16 (b) Individual and family services, which shall include a section
17 on aging, services to children, youth and adults and other related
18 functions in furtherance of social service programs under the social
19 security act, as amended, title IV, except parts B and E, grants to states
20 for aid and services to needy families with children and for ~~child-welfare~~
21 **CHILD WELFARE** services, title XX, grants to states for services, the older
22 Americans act, as amended, the family support act of 1988 (P.L. 100-485)
23 and other related federal acts and titles.

24 (c) Income maintenance services, including categorical assistance
25 programs, special services unit, child support collection services,
26 establishment of paternity services, maintenance and operation of a state
27 case registry of child support orders, a state directory of new hires, a
28 support payment clearinghouse and other related functions in furtherance
29 of programs under the social security act, title IV, grants to states for
30 aid and services to needy families with children and for ~~child-welfare~~
31 **CHILD WELFARE** services, title XX, grants to states for services, as
32 amended, and other related federal acts and titles.

33 (d) Rehabilitation services, including vocational rehabilitation
34 services and sections for the blind and visually impaired, communication
35 disorders, correctional rehabilitation and other related functions in
36 furtherance of programs under the vocational rehabilitation act, as
37 amended, the Randolph-Sheppard act, as amended, and other related federal
38 acts and titles.

39 (e) Administrative services, including the coordination of program
40 evaluation and research, interagency program coordination and in-service
41 training, planning, grants, development and management, information,
42 legislative liaison, budget, licensing and other related functions.

43 (f) Manpower planning, including a state manpower planning council
44 for the purposes of the federal-state-local cooperative manpower planning
45 system and other related functions in furtherance of programs under the

1 comprehensive employment and training act of 1973, as amended, and other
2 related federal acts and titles.

3 (g) Economic opportunity services, including the furtherance of
4 programs prescribed under the economic opportunity act of 1967, as
5 amended, and other related federal acts and titles.

6 (h) Intellectual disability and other developmental disability
7 programs, with emphasis on referral and purchase of services. The program
8 shall include educational, rehabilitation, treatment and training services
9 and other related functions in furtherance of programs under the
10 developmental disabilities services and facilities construction
11 act, ~~Public Law (P.L. 91-517),~~ and other related federal acts and titles.

12 (i) Nonmedical home and community based services and functions,
13 including ~~department designated~~ DEPARTMENT-DESIGNATED case management,
14 housekeeping services, chore services, home health aid, personal care,
15 visiting nurse services, adult day care or adult day health, respite
16 sitter care, attendant care, home delivered meals and other related
17 services and functions.

18 2. Provide a coordinated system of initial intake, screening,
19 evaluation and referral of persons served by the department.

20 3. Adopt rules it deems necessary or desirable to further the
21 objectives and programs of the department.

22 4. Formulate policies, plans and programs to effectuate the
23 missions and purposes of the department.

24 5. Employ and determine the conditions of employment and prescribe
25 the duties and powers of administrative, professional, technical,
26 secretarial, clerical and other persons subject to chapter 4, article 4
27 and, as applicable, article 5 of this title as may be necessary in the
28 performance of its duties, contract for the services of outside advisors,
29 consultants and aides as may be reasonably necessary and reimburse
30 department volunteers, designated by the director, for expenses in
31 transporting clients of the department on official business.

32 6. Make contracts and incur obligations within the general scope of
33 its activities and operations subject to the availability of funds.

34 7. Contract with or assist other departments, agencies and
35 institutions of the state, local and federal governments in the
36 furtherance of its purposes, objectives and programs.

37 8. Be designated as the single state agency for the purposes of
38 administering and in furtherance of each federally supported state plan.

39 9. Accept and disburse grants, matching funds and direct payments
40 from public or private agencies for the conduct of programs that are
41 consistent with the overall purposes and objectives of the department.

42 10. Provide information and advice on request by local, state and
43 federal agencies and by private citizens, business enterprises and
44 community organizations on matters within the scope of its duties subject
45 to the departmental rules on the confidentiality of information.

- 1 11. Establish and maintain separate financial accounts as required
2 by federal law or regulations.
- 3 12. Advise and make recommendations to the governor and the
4 legislature on all matters concerning its objectives.
- 5 13. Have an official seal that ~~shall be~~ IS judicially noticed.
- 6 14. Annually estimate the current year's population of each county,
7 city and town in this state, using the periodic census conducted by the
8 United States department of commerce, or its successor agency, as the
9 basis for such estimates and deliver such estimates to the economic
10 estimates commission before December 15.
- 11 15. Estimate the population of any newly annexed areas of a
12 political subdivision as of July 1 of the fiscal year in which the
13 annexation occurs and deliver such estimates as promptly as is feasible
14 after the annexation occurs to the economic estimates commission.
- 15 16. Establish and maintain a statewide program of services for
16 persons who are both hearing impaired and visually impaired and coordinate
17 appropriate services with other agencies and organizations to avoid
18 duplication of these services and to increase efficiency. The department
19 of economic security shall enter into agreements for the utilization of
20 the personnel and facilities of the department of economic security, the
21 department of health services and other appropriate agencies and
22 organizations in providing these services.
- 23 17. Establish and charge fees for deposit in the department of
24 economic security prelayoff assistance services fund to employers who
25 voluntarily participate in the services of the department that provide job
26 service and retraining for persons who have been or are about to be laid
27 off from employment. The department shall charge only those fees
28 necessary to cover the costs of administering the job service and
29 retraining services.
- 30 18. Establish a focal point for addressing the issue of hunger in
31 ~~Arizona~~ THIS STATE and provide coordination and assistance to public and
32 private nonprofit organizations that aid hungry persons and families
33 throughout this state. Specifically such activities shall include:
- 34 (a) Collecting and disseminating information regarding the location
35 and availability of surplus food for distribution to needy persons, the
36 availability of surplus food for donation to charity food bank
37 organizations, and the needs of charity food bank organizations for
38 surplus food.
- 39 (b) Coordinating the activities of federal, state, local and
40 private nonprofit organizations that provide food assistance to the
41 hungry.
- 42 (c) Accepting and disbursing federal monies, and any state monies
43 appropriated by the legislature, to private nonprofit organizations in
44 support of the collection, receipt, handling, storage and distribution of
45 donated or surplus food items.

1 (d) Providing technical assistance to private nonprofit
2 organizations that provide or intend to provide services to the hungry.

3 (e) Developing a state plan on hunger that, at a minimum,
4 identifies the magnitude of the hunger problem in this state, the
5 characteristics of the population in need, the availability and location
6 of charity food banks and the potential sources of surplus food, assesses
7 the effectiveness of the donated food collection and distribution network
8 and other efforts to alleviate the hunger problem, and recommends goals
9 and strategies to improve the status of the hungry. The state plan on
10 hunger shall be incorporated into the department's state comprehensive
11 plan prepared pursuant to section 41-1956.

12 (f) Establishing a special purpose advisory council on hunger
13 pursuant to section 41-1981.

14 19. Establish an office to address the issue of homelessness and to
15 provide coordination and assistance to public and private nonprofit
16 organizations that prevent homelessness or aid homeless individuals and
17 families throughout this state. These activities shall include:

18 (a) Promoting and participating in planning for the prevention of
19 homelessness and the development of services to homeless persons.

20 (b) Identifying and developing strategies for resolving barriers in
21 state agency service delivery systems that inhibit the provision and
22 coordination of appropriate services to homeless persons and persons in
23 danger of being homeless.

24 (c) Assisting in the coordination of the activities of federal,
25 state and local governments and the private sector that prevent
26 homelessness or provide assistance to homeless people.

27 (d) Assisting in obtaining and increasing funding from all
28 appropriate sources to prevent homelessness or assist in alleviating
29 homelessness.

30 (e) Serving as a clearinghouse on information regarding funding and
31 services available to assist homeless persons and persons in danger of
32 being homeless.

33 (f) Developing an annual state comprehensive homeless assistance
34 plan to prevent and alleviate homelessness.

35 (g) Submitting an annual report to the governor, the president of
36 the senate and the speaker of the house of representatives on the status
37 of homelessness and efforts to prevent and alleviate homelessness. **THE**
38 **DEPARTMENT SHALL PROVIDE A COPY OF THIS REPORT TO THE SECRETARY OF STATE.**

39 20. Cooperate with the Arizona-Mexico commission in the governor's
40 office and with researchers at universities in this state to collect data
41 and conduct projects in the United States and Mexico on issues that are
42 within the scope of the department's duties and that relate to quality of
43 life, trade and economic development in this state in a manner that will
44 help the Arizona-Mexico commission to assess and enhance the economic
45 competitiveness of this state and of the Arizona-Mexico region.

1 21. Exchange information, including case specific information, and
2 cooperate with the department of child safety for the administration of
3 the department of child safety's programs.

4 B. If the department of economic security has responsibility for
5 the care, custody or control of a child or is paying the cost of care for
6 a child, it may serve as representative payee to receive and administer
7 social security and United States department of veterans affairs benefits
8 and other benefits payable to such child. Notwithstanding any law to the
9 contrary, the department of economic security:

10 1. Shall deposit, pursuant to sections 35-146 and 35-147, such
11 monies as it receives to be retained separate and apart from the state
12 general fund on the books of the department of administration.

13 2. May use such monies to defray the cost of care and services
14 expended by the department of economic security for the benefit, welfare
15 and best interests of the child and invest any of the monies that the
16 director determines are not necessary for immediate use.

17 3. Shall maintain separate records to account for the receipt,
18 investment and disposition of funds received for each child.

19 4. On termination of the department of economic security's
20 responsibility for the child, shall release any funds remaining to the
21 child's credit in accordance with the requirements of the funding source
22 or in the absence of such requirements shall release the remaining funds
23 to:

24 (a) The child, if the child is at least eighteen years of age or is
25 emancipated.

26 (b) The person responsible for the child if the child is a minor
27 and not emancipated.

28 C. Subsection B of this section does not pertain to benefits
29 payable to or for the benefit of a child receiving services under title
30 36.

31 D. Volunteers reimbursed for expenses pursuant to subsection A,
32 paragraph 5 of this section are not eligible for workers' compensation
33 under title 23, chapter 6.

34 E. In implementing the temporary assistance for needy families
35 program pursuant to Public Law 104-193, the department shall provide for
36 cash assistance to ~~two-parent~~ TWO-PARENT families if both parents are able
37 to work only on documented participation by both parents in work
38 activities described in title 46, chapter 2, article 5, except that
39 payments may be made to families who do not meet the participation
40 requirements if:

41 1. It is determined on an individual case basis that they have
42 emergency needs.

43 2. The family is determined to be eligible for diversion from
44 long-term cash assistance pursuant to title 46, chapter 2, article 5.

1 F. The department shall provide for cash assistance under temporary
2 assistance for needy families pursuant to Public Law 104-193 to ~~two-parent~~
3 **TWO-PARENT** families for no longer than six months if both parents are able
4 to work, except that additional assistance may be provided on an
5 individual case basis to families with extraordinary circumstances. The
6 department shall establish by rule the criteria to be used to determine
7 eligibility for additional cash assistance.

8 G. The department shall adopt the following discount medical
9 payment system for persons who the department determines are eligible and
10 who are receiving rehabilitation services pursuant to subsection A,
11 paragraph 1, subdivision ~~(c)~~ (d) of this section:

12 1. For inpatient hospital admissions and outpatient hospital
13 services the department shall reimburse a hospital according to the rates
14 established by the Arizona health care cost containment system
15 administration pursuant to section 36-2903.01, subsection G.

16 2. The department's liability for a hospital claim under this
17 subsection is subject to availability of funds.

18 3. A hospital bill is considered received for purposes of
19 paragraph 5 of this subsection on initial receipt of the legible,
20 error-free claim form by the department if the claim includes the
21 following error-free documentation in legible form:

22 (a) An admission face sheet.

23 (b) An itemized statement.

24 (c) An admission history and physical.

25 (d) A discharge summary or an interim summary if the claim is
26 split.

27 (e) An emergency record, if admission was through the emergency
28 room.

29 (f) Operative reports, if applicable.

30 (g) A labor and delivery room report, if applicable.

31 4. The department shall require that the hospital pursue other
32 third-party payors before submitting a claim to the department. Payment
33 received by a hospital from the department pursuant to this subsection is
34 considered payment by the department of the department's liability for the
35 hospital bill. A hospital may collect any unpaid portion of its bill from
36 other ~~third party~~ **THIRD-PARTY** payors or in situations covered by title 33,
37 chapter 7, article 3.

38 5. For inpatient hospital admissions and outpatient hospital
39 services rendered on and after October 1, 1997, if the department receives
40 the claim directly from the hospital, the department shall pay a
41 hospital's rate established according to this section subject to the
42 following:

43 (a) If the hospital's bill is paid within thirty days of the date
44 the bill was received, the department shall pay ninety-nine ~~per cent~~
45 **PERCENT** of the rate.

1 (b) If the hospital's bill is paid after thirty days but within
2 sixty days of the date the bill was received, the department shall pay one
3 hundred ~~per cent~~ PERCENT of the rate.

4 (c) If the hospital's bill is paid any time after sixty days of the
5 date the bill was received, the department shall pay one hundred ~~per cent~~
6 PERCENT of the rate plus a fee of one ~~per cent~~ PERCENT per month for each
7 month or portion of a month following the sixtieth day of receipt of the
8 bill until the date of payment.

9 6. For medical services other than those for which a rate has been
10 established pursuant to section 36-2903.01, subsection G, the department
11 shall pay according to the Arizona health care cost containment system
12 capped fee-for-service schedule adopted pursuant to section 36-2904,
13 subsection K or any other established fee schedule the department
14 determines reasonable.

15 H. The department shall not pay claims for services pursuant to
16 this section that are submitted more than nine months after the date of
17 service for which the payment is claimed.

18 I. To assist in the location of persons or assets for the purpose
19 of establishing paternity, establishing, modifying or enforcing child
20 support obligations and other related functions, the department has
21 access, including automated access if the records are maintained in an
22 automated database, to records of state and local government agencies,
23 including:

24 1. Vital statistics, including records of marriage, birth and
25 divorce.

26 2. State and local tax and revenue records, including information
27 on residence address, employer, income and assets.

28 3. Records concerning real and titled personal property.

29 4. Records of occupational and professional licenses.

30 5. Records concerning the ownership and control of corporations,
31 partnerships and other business entities.

32 6. Employment security records.

33 7. Records of agencies administering public assistance programs.

34 8. Records of the motor vehicle division of the department of
35 transportation.

36 9. Records of the state department of corrections.

37 10. Any system used by a state agency to locate a person for motor
38 vehicle or law enforcement purposes, including access to information
39 contained in the Arizona criminal justice information system.

40 J. Notwithstanding subsection I of this section, the department or
41 its agents shall not seek or obtain information on the assets of an
42 individual unless paternity is presumed pursuant to section 25-814 or
43 established.

1 K. Access to records of the department of revenue pursuant to
2 subsection I of this section shall be provided in accordance with section
3 42-2003.

4 L. The department also has access to certain records held by
5 private entities with respect to child support obligors or obligees, or
6 individuals against whom such an obligation is sought. The information
7 shall be obtained as follows:

8 1. In response to a child support subpoena issued by the department
9 pursuant to section 25-520, the names and addresses of these persons and
10 the names and addresses of the employers of these persons, as appearing in
11 customer records of public utilities, ~~and cable television companies~~
12 OPERATORS AND VIDEO SERVICE PROVIDERS.

13 2. Information on these persons held by financial institutions.

14 M. Pursuant to department rules, the department may compromise or
15 settle any support debt owed to the department if the director or an
16 authorized agent determines that it is in the best interest of ~~the~~ THIS
17 state and after considering each of the following factors:

18 1. The obligor's financial resources.

19 2. The cost of further enforcement action.

20 3. The likelihood of recovering the full amount of the debt.

21 N. Notwithstanding any law to the contrary, a state or local
22 governmental agency or private entity is not subject to civil liability
23 for the disclosure of information made in good faith to the department
24 pursuant to this section.

25 Sec. 19. Section 42-5063, Arizona Revised Statutes, is amended to
26 read:

27 42-5063. Utilities classification; definitions

28 A. The utilities classification is comprised of the business of:

29 1. Producing and furnishing or furnishing to consumers natural or
30 artificial gas and water.

31 2. Providing to retail electric customers ancillary services,
32 electric distribution services, electric generation services, electric
33 transmission services and other services related to providing electricity.

34 B. The utilities classification does not include:

35 1. Sales of ancillary services, electric distribution services,
36 electric generation services, electric transmission services and other
37 services related to providing electricity, gas or water to a person who
38 resells the services.

39 2. Sales of natural gas or liquefied petroleum gas used to propel a
40 motor vehicle.

41 3. Sales of alternative fuel, as defined in section 1-215, to a
42 used oil fuel burner who has received a permit to burn used oil or used
43 oil fuel under section 49-426 or 49-480.

44 4. Sales of ancillary services, electric distribution services,
45 electric generation services, electric transmission services and other

1 services that are related to providing electricity to a retail electric
2 customer who is located outside this state for use outside this state if
3 the electricity is delivered to a point of sale outside this state.

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

12 6. The leasing or renting of space to make attachments to utility
13 poles as follows:

14 (a) By a person that is engaged in business under this section.

15 (b) To a person that is engaged in business under this section or
16 section 42-5064 or that is a cable operator.

17 C. The tax base for the utilities classification is the gross
18 proceeds of sales or gross income derived from the business, but the
19 following shall be deducted from the tax base:

20 1. Revenues received by a municipally owned utility in the form of
21 fees charged to persons constructing residential, commercial or industrial
22 developments or connecting residential, commercial or industrial
23 developments to a municipal utility system or systems if the fees are
24 segregated and used only for capital expansion, system enlargement or debt
25 service of the utility system or systems.

26 2. Revenues received by any person or persons owning a utility
27 system in the form of reimbursement or contribution compensation for
28 property and equipment installed to provide utility access to, on or
29 across the land of an actual utility consumer if the property and
30 equipment become the property of the utility. This deduction shall not
31 exceed the value of such property and equipment.

32 3. Gross proceeds of sales or gross income derived from sales to:

33 (a) Qualifying hospitals as defined in section 42-5001.

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

38 4. The portion of gross proceeds of sales or gross income that is
39 derived from sales to a qualified environmental technology manufacturer,
40 producer or processor as defined in section 41-1514.02 of a utility
41 product and that is used directly in environmental technology
42 manufacturing, producing or processing. This paragraph shall apply for
43 twenty full consecutive calendar or fiscal years from the date the first
44 paper manufacturing machine is placed in service. In the case of a
45 qualified environmental technology manufacturer, producer or processor who

1 does not manufacture paper, the time period shall begin with the date the
2 first manufacturing, processing or production equipment is placed in
3 service.

4 5. The portion of gross proceeds of sales or gross income
5 attributable to transfers of electricity by any retail electric customer
6 owning a solar photovoltaic energy generating system to an electric
7 distribution system, if the electricity transferred is generated by the
8 customer's system.

9 6. Gross proceeds of sales or gross income derived from sales of
10 electricity, natural gas or liquefied petroleum gas to a qualified
11 manufacturing or smelting business. A utility that claims this deduction
12 shall report each month, on a form prescribed by the department, the name
13 and address of each qualified manufacturing or smelting business for which
14 this deduction is taken. This paragraph applies to gas transportation
15 services. For the purposes of this paragraph:

16 (a) "Gas transportation services" means the services of
17 transporting natural gas to a natural gas customer or to a natural gas
18 distribution facility if the natural gas was purchased from a supplier
19 other than the utility.

20 (b) "Manufacturing" means the performance as a business of an
21 integrated series of operations that places tangible personal property in
22 a form, composition or character different from that in which it was
23 acquired and transforms it into a different product with a distinctive
24 name, character or use. Manufacturing does not include job printing,
25 publishing, packaging, mining, generating electricity or operating a
26 restaurant.

27 (c) "Qualified manufacturing or smelting business" means one of the
28 following:

29 (i) A business that manufactures or smelts tangible products in
30 this state, of which at least fifty-one percent of the manufactured or
31 smelted products will be exported out of state for incorporation into
32 another product or sold out of state for a final sale.

33 (ii) A business that derives at least fifty-one percent of its
34 gross income from the sale of manufactured or smelted products
35 manufactured or smelted by the business.

36 (iii) A business that uses at least fifty-one percent of its square
37 footage in this state for manufacturing or smelting and business
38 activities directly related to manufacturing or smelting.

39 (iv) A business that employs at least fifty-one percent of its
40 workforce in this state in manufacturing or smelting and business
41 activities directly related to manufacturing or smelting.

42 (v) A business that uses at least fifty-one percent of the value of
43 its capitalized assets in this state, as reflected on the business's books
44 and records, for manufacturing or smelting and business activities
45 directly related to manufacturing or smelting.

1 (d) "Smelting" means to melt or fuse a metalliferous mineral, often
2 with an accompanying chemical change, usually to separate the metal.

3 7. Gross proceeds of sales or gross income derived from sales of
4 electricity or natural gas to a business that operates an international
5 operations center in this state and that is certified by the Arizona
6 commerce authority pursuant to section 41-1520.

7 D. For the purposes of this section:

8 1. "Ancillary services" means those services so designated in
9 federal energy regulatory commission order 888 adopted in 1996 that
10 include the services necessary to support the transmission of electricity
11 from resources to loads while maintaining reliable operation of the
12 transmission system according to good utility practice.

13 2. "Cable operator" has the same meaning prescribed in section
14 9-505 **AND INCLUDES A VIDEO SERVICE PROVIDER.**

15 3. "Electric distribution service" means distributing electricity
16 to retail electric customers through the use of electric distribution
17 facilities.

18 4. "Electric generation service" means providing electricity for
19 sale to retail electric customers but excluding electric distribution or
20 transmission services.

21 5. "Electric transmission service" means transmitting electricity
22 to retail electric customers or to electric distribution facilities so
23 classified by the federal energy regulatory commission or, to the extent
24 permitted by law, so classified by the Arizona corporation commission.

25 6. "Other services" includes metering, meter reading services,
26 billing and collecting services.

27 7. "Retail electric customer" means a person who purchases
28 electricity for that person's own use, including use in that person's
29 trade or business and not for resale, redistribution or retransmission.

30 8. "Utility pole" means any wooden, metal or other pole used for
31 utility purposes and the pole's appurtenances that are attached or
32 authorized for attachment by the person controlling the pole.

33 Sec. 20. Section 42-5064, Arizona Revised Statutes, is amended to
34 read:

35 **42-5064. Telecommunications classification; definitions**

36 A. The telecommunications classification is comprised of the
37 business of providing intrastate telecommunications services. The
38 telecommunications classification does not include:

39 1. Sales of intrastate telecommunications services by a cable
40 operator or by a microwave television transmission system that transmits
41 television programming to multiple subscribers and that is operated
42 pursuant to 47 Code of Federal Regulations parts 21 and 74.

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

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

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

9 3. The leasing or renting of space to make attachments to utility
10 poles as follows:

11 (a) By a person that is engaged in business under this section.

12 (b) To a person that is engaged in business under section 42-5063
13 or this section or that is a cable operator.

14 B. The tax base for the telecommunications classification is the
15 gross proceeds of sales or gross income derived from the business,
16 including the gross income derived from tolls, subscriptions and services
17 on behalf of subscribers or from the publication of a directory of the
18 names of subscribers. However, the gross proceeds of sales or gross
19 income derived from the following shall be deducted from the tax base:

20 1. Sales of intrastate telecommunications services to:

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

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

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

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

34 4. Sales of direct broadcast satellite television services pursuant
35 to 47 Code of Federal Regulations part 25 by a direct broadcast satellite
36 television service that operates pursuant to 47 Code of Federal
37 Regulations part 25.

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

41 C. A person that is engaged in a transient lodging business subject
42 to taxation under section 42-5070 and that provides telephone, fax or
43 internet access services to its customers at an additional charge, which
44 is separately stated on the customer invoice, is considered to be engaged
45 in business subject to taxation under this section for the purposes of

1 taxing the gross proceeds of sales or gross income derived from providing
2 those services.

3 D. The gross proceeds of sales or gross income derived from a
4 bundled transaction of services that are taxable pursuant to section
5 42-5023 are subject to the following:

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

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

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

27 E. For the purposes of this section:

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

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

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

34 2. "Cable operator" has the same meaning prescribed in section
35 9-505 **AND INCLUDES A VIDEO SERVICE PROVIDER.**

36 3. "Internet" means the computer and telecommunications facilities
37 that comprise the interconnected worldwide network of networks that employ
38 the transmission control protocol or internet protocol, or any predecessor
39 or successor protocol, to communicate information of all kinds by wire or
40 radio.

41 4. "Internet access" means a service that enables users to access
42 content, information, ~~electronic mail~~ **E-MAIL** or other services over the
43 internet. Internet access does not include telecommunications services
44 provided by a common carrier.

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

6 6. "Utility pole" means any wooden, metal or other pole used for
7 utility purposes and the pole's appurtenances that are attached or
8 authorized for attachment by the person controlling the pole.

9 Sec. 21. Section 42-5069, Arizona Revised Statutes, is amended to
10 read:

11 42-5069. Commercial lease classification; definitions

12 A. The commercial lease classification is comprised of the business
13 of leasing for a consideration the use or occupancy of real property.

14 B. A person who, as a lessor, leases or rents for a consideration
15 under one or more leases or rental agreements the use or occupancy of real
16 property that is used by the lessee for commercial purposes is deemed to
17 be engaged in business and subject to the tax imposed by article 1 of this
18 chapter, but this subsection does not include leases or rentals of real
19 property used for residential or agricultural purposes.

20 C. The commercial lease classification does not include:

21 1. Any business activities that are classified under the transient
22 lodging classification.

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

26 3. Leasing real property to a lessee who subleases the property if
27 the lessee is engaged in business classified under the commercial lease
28 classification or the transient lodging classification.

29 4. Leasing real property pursuant to a written lease agreement
30 entered into before December 1, 1967. This exclusion does not apply to
31 the businesses of hotels, guest houses, dude ranches and resorts, rooming
32 houses, apartment houses, office buildings, automobile storage garages,
33 parking lots or tourist camps, or to the extension or renewal of any such
34 written lease agreement.

35 5. Leasing real property between affiliated companies, businesses,
36 persons or reciprocal insurers. For the purposes of this paragraph:

37 (a) "Affiliated companies, businesses, persons or reciprocal
38 insurers" means the lessor holds a controlling interest in the lessee, the
39 lessee holds a controlling interest in the lessor, affiliated persons hold
40 a controlling interest in both the lessor and the lessee, or an unrelated
41 person holds a controlling interest in both the lessor and lessee.

42 (b) "Affiliated persons" means members of an individual's family or
43 persons who have ownership or control of a business entity.

1 (c) "Controlling interest" means direct or indirect ownership of at
2 least eighty percent of the voting shares of a corporation or of the
3 interests in a company, business or person other than a corporation.

4 (d) "Members of an individual's family" means the individual's
5 spouse and brothers and sisters, whether by whole or half blood, including
6 adopted persons, ancestors and lineal descendants.

7 (e) "Reciprocal insurers" has the same meaning prescribed in
8 section 20-762.

9 6. Leasing real property for boarding horses.

10 7. Leasing or renting real property or the right to use real
11 property at exhibition events in this state sponsored, operated or
12 conducted by a nonprofit organization that is exempt from taxation under
13 section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if
14 the organization is associated with major league baseball teams or a
15 national touring professional golfing association and no part of the
16 organization's net earnings inures to the benefit of any private
17 shareholder or individual. This paragraph does not apply to an
18 organization that is owned, managed or controlled, in whole or in part, by
19 a major league baseball team, or its owners, officers, employees or
20 agents, or by a major league baseball association or professional golfing
21 association, or its owners, officers, employees or agents, unless the
22 organization conducted or operated exhibition events in this state before
23 January 1, 2018 that were exempt from taxation under section 42-5073.

24 8. Leasing or renting real property or the right to use real
25 property for use as a rodeo featuring primarily farm and ranch animals in
26 this state sponsored, operated or conducted by a nonprofit organization
27 that is exempt from taxation under section 501(c)(3), 501(c)(4),
28 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code and no part
29 of the organization's net earnings inures to the benefit of any private
30 shareholder or individual.

31 9. Leasing or renting dwelling units, lodging facilities or trailer
32 or mobile home spaces if the units, facilities or spaces are intended to
33 serve as the principal or permanent place of residence for the lessee or
34 renter or if the unit, facility or space is leased or rented to a single
35 tenant thirty or more consecutive days.

36 10. Leasing or renting real property and improvements for use
37 primarily for religious worship by a nonprofit organization that is exempt
38 from taxation under section 501(c)(3) of the internal revenue code and no
39 part of the organization's net earnings inures to the benefit of any
40 private shareholder or individual.

41 11. Leasing or renting real property used for agricultural purposes
42 under either of the following circumstances:

43 (a) The lease or rental is between family members, trusts, estates,
44 corporations, partnerships, joint venturers or similar entities, or any
45 combination thereof, if the individuals or at least eighty percent of the

1 beneficiaries, shareholders, partners or joint venturers share a family
2 relationship as parents or ancestors of parents, children or descendants
3 of children, siblings, cousins of the first degree, aunts, uncles, nieces
4 or nephews of the first degree, spouses of any of the listed relatives and
5 listed relatives by the half-blood or by adoption.

6 (b) The lessor leases or rents real property used for agricultural
7 purposes under no more than three leases or rental agreements.

8 12. Leasing, renting or granting the right to use real property to
9 vendors or exhibitors by a trade or industry association that is a
10 qualifying organization pursuant to section 513(d)(3)(C) of the internal
11 revenue code for a period not to exceed twenty-one days in connection with
12 an event that meets all of the following conditions:

13 (a) The majority of such vending or exhibition activities relate to
14 the nature of the trade or business sponsoring the event.

15 (b) The event is held in conjunction with a formal business meeting
16 of the trade or industry association.

17 (c) The event is organized by the persons engaged in the particular
18 trade or industry.

19 13. Leasing, renting or granting the right to use real property for
20 a period not to exceed twenty-one days by a coliseum, civic center, civic
21 plaza, convention center, auditorium or arena owned by this state or any
22 of its political subdivisions.

23 14. Leasing or subleasing real property used by a nursing care
24 institution as defined in section 36-401 that is licensed pursuant to
25 title 36, chapter 4.

26 15. Leasing or renting an eligible facility as defined in section
27 28-7701.

28 16. Granting or providing rights to real property that constitute a
29 profit à prendre for the severance of minerals, including all rights to
30 use the surface or subsurface of the property as is necessary or
31 convenient to the right to sever the minerals. This paragraph does not
32 exclude from the commercial lease classification leasehold rights to the
33 real property that are granted in addition to and not included within the
34 right of profit à prendre, but the tax base for the grant of such a
35 leasehold right, if the gross income derived from the grant is not
36 separately stated from the gross income derived from the grant of the
37 profit à prendre, shall not exceed the fair market value of the leasehold
38 rights computed after excluding the value of all rights under the profit à
39 prendre. For the purposes of this paragraph, "profit à prendre" means a
40 right to use the land of another to mine minerals, and carries with it the
41 right of entry and the right to remove and take the minerals from the land
42 and also includes the right to use the surface of the land as is necessary
43 and convenient for exercise of the profit.

1 17. The leasing or renting of space to make attachments to utility
2 poles as follows:

3 (a) By a person that is engaged in business under section 42-5063
4 or 42-5064 or that is a cable operator.

5 (b) To a person that is engaged in business under section 42-5063
6 or 42-5064 or that is a cable operator.

7 D. The tax base for the commercial lease classification is the
8 gross proceeds of sales or gross income derived from the business, but
9 reimbursements to the lessor for utility service shall be deducted from
10 the tax base.

11 E. Notwithstanding section 42-1104, subsection B, paragraph 1,
12 subdivision (b) and paragraph 2, the failure to file tax returns for the
13 commercial lease classification that report gross income derived from any
14 agreement that constitutes, in whole or in part, a grant of a right of
15 profit à prendre for the severance of minerals does not constitute an
16 exception to the general rule for the statute of limitations.

17 F. For the purposes of this section:

18 1. "Cable operator" has the same meaning prescribed in section
19 9-505 **AND INCLUDES A VIDEO SERVICE PROVIDER.**

20 2. "Leasing" includes renting.

21 3. "Real property" includes any improvements, rights or interest in
22 such property.

23 4. "Utility pole" means any wooden, metal or other pole used for
24 utility purposes and the pole's appurtenances that are attached or
25 authorized for attachment by the person controlling the pole.

26 Sec. 22. Section 42-5071, Arizona Revised Statutes, is amended to
27 read:

28 42-5071. Personal property rental classification; definitions

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

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

35 2. Activities engaged in by the Arizona exposition and state fair
36 board or county fair commissions in connection with events sponsored by
37 such entities.

38 3. Leasing or renting tangible personal property by a parent
39 corporation to a subsidiary corporation or by a subsidiary corporation to
40 another subsidiary of the same parent corporation if taxes were paid under
41 this chapter on the gross proceeds or gross income accruing from the
42 initial sale of the tangible personal property. For the purposes of this
43 paragraph, "subsidiary" means a corporation of which at least eighty
44 percent of the voting shares are owned by the parent corporation.

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

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

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

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

17 8. Leasing or renting certified ignition interlock devices
18 installed pursuant to the requirements prescribed by section 28-1461. For
19 the purposes of this paragraph, "certified ignition interlock device" has
20 the same meaning prescribed in section 28-1301.

21 9. The leasing or renting of space to make attachments to utility
22 poles, as follows:

23 (a) By a person that is engaged in business under section 42-5063
24 or 42-5064 or that is a cable operator.

25 (b) To a person that is engaged in business under section 42-5063
26 or 42-5064 or that is a cable operator.

27 10. Leasing or renting billboards that are designed, intended or
28 used to advertise or inform and that are visible from any street, road or
29 other highway.

30 B. The tax base for the personal property rental classification is
31 the gross proceeds of sales or gross income derived from the business, but
32 the gross proceeds of sales or gross income derived from the following
33 shall be deducted from the tax base:

34 1. Reimbursements by the lessee to the lessor of a motor vehicle
35 for payments by the lessor of the applicable fees and taxes imposed by
36 sections 28-2003, 28-2352, 28-2402, 28-2481 and 28-5801, title 28, chapter
37 15, article 2 and article IX, section 11, Constitution of Arizona, to the
38 extent such amounts are separately identified as such fees and taxes and
39 are billed to the lessee.

40 2. Leases or rentals of tangible personal property that, if it had
41 been purchased instead of leased or rented by the lessee, would have been
42 exempt under:

43 (a) Section 42-5061, subsection A, paragraph 8, 9, 12, 13, 25, 29,
44 49 or 53.

1 (b) Section 42-5061, subsection B, except that a lease or rental of
2 new machinery or equipment is not exempt pursuant to section 42-5061,
3 subsection B, paragraph 13 if the lease is for less than two years.

4 (c) Section 42-5061, subsection I, paragraph 1.

5 (d) Section 42-5061, subsection M.

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

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

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

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

19 D. In computing the tax base, the gross proceeds of sales or gross
20 income from the lease or rental of a motor vehicle does not include any
21 amount attributable to the car rental surcharge under section 5-839,
22 28-5810 or 48-4234.

23 E. Until December 31, 1988, leasing or renting animals for
24 recreational purposes is exempt from the tax imposed by this section.
25 Beginning January 1, 1989, the gross proceeds or gross income from leasing
26 or renting animals for recreational purposes is subject to taxation under
27 this section. Tax liabilities, penalties and interest paid for taxable
28 periods before January 1, 1989 shall not be refunded unless the taxpayer
29 requesting the refund provides proof satisfactory to the department that
30 the monies paid as taxes will be returned to the customer.

31 F. For the purposes of this section:

32 1. "Cable operator" has the same meaning prescribed by section
33 9-505 **AND INCLUDES A VIDEO SERVICE PROVIDER.**

34 2. "Utility pole" means any wooden, metal or other pole used for
35 utility purposes and the pole's appurtenances that are attached or
36 authorized for attachment by the person controlling the pole.

37 Sec. 23. Section 42-6004, Arizona Revised Statutes, as amended by
38 Laws 2018, chapter 17, section 1, chapter 249, section 6 and chapter 341,
39 section 2, is amended to read:

40 **42-6004. Exemption from municipal tax; definitions**

41 A. A city, town or special taxing district shall not levy a
42 transaction privilege, sales, use or other similar tax on:

43 1. Exhibition events in this state sponsored, conducted or operated
44 by a nonprofit organization that is exempt from taxation under section
45 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the

1 organization is associated with a major league baseball team or a national
2 touring professional golfing association and no part of the organization's
3 net earnings inures to the benefit of any private shareholder or
4 individual. This paragraph does not apply to an organization that is
5 owned, managed or controlled, in whole or in part, by a major league
6 baseball team, or its owners, officers, employees or agents, or by a major
7 league baseball association or professional golfing association, or its
8 owners, officers, employees or agents, unless the organization conducted
9 or operated exhibition events in this state before January 1, 2018 that
10 were exempt from state transaction privilege tax under section 42-5073.

11 2. Interstate telecommunications services, which include that
12 portion of telecommunications services, such as subscriber line service,
13 allocable by federal law to interstate telecommunications service.

14 3. Sales of warranty or service contracts.

15 4. Sales of motor vehicles to nonresidents of this state for use
16 outside this state if the motor vehicle dealer ships or delivers the motor
17 vehicle to a destination outside this state.

18 5. Interest on finance contracts.

19 6. Dealer documentation fees on the sales of motor vehicles.

20 7. Orthodontic devices dispensed by a dental professional who is
21 licensed under title 32, chapter 11 to a patient as part of the practice
22 of dentistry.

23 8. Sales of internet access services to the person's subscribers
24 and customers. For the purposes of this paragraph:

25 (a) "Internet" means the computer and telecommunications facilities
26 that comprise the interconnected worldwide network of networks that employ
27 the transmission control protocol or internet protocol, or any predecessor
28 or successor protocol, to communicate information of all kinds by wire or
29 radio.

30 (b) "Internet access" means a service that enables users to access
31 content, information, electronic mail or other services over the internet.
32 Internet access does not include telecommunication services provided by a
33 common carrier.

34 9. The gross proceeds of sales or gross income retained by the
35 Arizona exposition and state fair board from ride ticket sales at the
36 annual Arizona state fair.

37 10. Leasing real property between affiliated companies, businesses,
38 persons or reciprocal insurers. For the purposes of this paragraph:

39 (a) "Affiliated companies, businesses, persons or reciprocal
40 insurers" means the lessor holds a controlling interest in the lessee, the
41 lessee holds a controlling interest in the lessor, affiliated persons hold
42 a controlling interest in both the lessor and the lessee, or an unrelated
43 person holds a controlling interest in both the lessor and lessee.

44 (b) "Affiliated persons" means members of the individual's family
45 or persons who have ownership or control of a business entity.

1 (c) "Controlling interest" means direct or indirect ownership of at
2 least eighty percent of the voting shares of a corporation or of the
3 interests in a company, business or person other than a corporation.

4 (d) "Members of the individual's family" means the individual's
5 spouse and brothers and sisters, whether by whole or half blood, including
6 adopted persons, ancestors and lineal descendants.

7 (e) "Reciprocal insurer" has the same meaning prescribed in section
8 20-762.

9 11. The gross proceeds of sales or gross income derived from a
10 contract for the installation, assembly, repair or maintenance of
11 machinery, equipment or other tangible personal property that is described
12 in section 42-5061, subsection B and that has independent functional
13 utility, pursuant to the following provisions:

14 (a) The deduction provided in this paragraph includes the gross
15 proceeds of sales or gross income derived from all of the following:

16 (i) Any activity performed on machinery, equipment or other
17 tangible personal property with independent functional utility.

18 (ii) Any activity performed on any tangible personal property
19 relating to machinery, equipment or other tangible personal property with
20 independent functional utility in furtherance of any of the purposes
21 provided for under subdivision (d) of this paragraph.

22 (iii) Any activity that is related to the activities described in
23 items (i) and (ii) of this subdivision, including inspecting the
24 installation of or testing the machinery, equipment or other tangible
25 personal property.

26 (b) The deduction provided in this paragraph does not include gross
27 proceeds of sales or gross income from the portion of any contracting
28 activity that consists of the development of, or modification to, real
29 property in order to facilitate the installation, assembly, repair,
30 maintenance or removal of machinery, equipment or other tangible personal
31 property described in section 42-5061, subsection B.

32 (c) The deduction provided in this paragraph shall be determined
33 without regard to the size or useful life of the machinery, equipment or
34 other tangible personal property.

35 (d) For the purposes of this paragraph, "independent functional
36 utility" means that the machinery, equipment or other tangible personal
37 property can independently perform its function without attachment to real
38 property, other than attachment for any of the following purposes:

39 (i) Assembling the machinery, equipment or other tangible personal
40 property.

41 (ii) Connecting items of machinery, equipment or other tangible
42 personal property to each other.

43 (iii) Connecting the machinery, equipment or other tangible
44 personal property, whether as an individual item or as a system of items,
45 to water, power, gas, communication or other services.

1 (iv) Stabilizing or protecting the machinery, equipment or other
2 tangible personal property during operation by bolting, burying or
3 performing other dissimilar nonpermanent connections to either real
4 property or real property improvements.

5 12. The leasing or renting of certified ignition interlock devices
6 installed pursuant to the requirements prescribed by section 28-1461. For
7 the purposes of this paragraph, "certified ignition interlock device" has
8 the same meaning prescribed in section 28-1301.

9 13. Computer data center equipment sold to the owner, operator or
10 qualified colocation tenant of a computer data center that is certified by
11 the Arizona commerce authority under section 41-1519 or an authorized
12 agent of the owner, operator or qualified colocation tenant during the
13 qualification period for use in the qualified computer data center. For
14 the purposes of this paragraph, "computer data center", "computer data
15 center equipment", "qualification period" and "qualified colocation
16 tenant" have the same meanings prescribed in section 41-1519.

17 14. The gross proceeds of sales or gross income derived from a
18 contract with the owner of real property or improvements to real property
19 for the maintenance, repair, replacement or alteration of existing
20 property, except as specified in this paragraph. The gross proceeds of
21 sales or gross income derived from a de minimis amount of modification
22 activity does not subject the contract or any part of the contract to tax.
23 For the purposes of this paragraph:

24 (a) Each contract is independent of another contract, except that
25 any change order that directly relates to the scope of work of the
26 original contract shall be treated the same as the original contract under
27 this paragraph, regardless of the amount of modification activities
28 included in the change order. If a change order does not directly relate
29 to the scope of work of the original contract, the change order shall be
30 treated as a new contract, with the tax treatment of any subsequent change
31 order to follow the tax treatment of the contract to which the scope of
32 work of the subsequent change order directly relates.

33 (b) Any term not defined in this paragraph that is defined in
34 section 42-5075 has the same meaning prescribed in section 42-5075.

35 (c) This paragraph does not apply to a contract that primarily
36 involves surface or subsurface improvements to land and that is subject to
37 title 28, chapter 19, 20 or 22 or title 34, chapter 2 or 6 even if the
38 contract also includes vertical improvements. If a city or town imposes a
39 tax on contracts that are subject to procurement processes under those
40 provisions, the city or town shall include in the request for proposals a
41 notice to bidders when those projects are subject to the tax. This
42 subdivision does not apply to contracts with:

43 (i) Community facilities districts, fire districts, county
44 television improvement districts, community park maintenance districts,
45 cotton pest control districts, hospital districts, pest abatement

1 districts, health service districts, agricultural improvement districts,
2 county free library districts, county jail districts, county stadium
3 districts, special health care districts, public health services
4 districts, theme park districts or revitalization districts.

5 (ii) Any special taxing district not specified in item (i) of this
6 subdivision if the district does not substantially engage in the
7 modification, maintenance, repair, replacement or alteration of surface or
8 subsurface improvements to land.

9 15. Monitoring services relating to an alarm system as defined in
10 section 32-101.

11 16. Tangible personal property, job printing or publications sold
12 to or purchased by, or tangible personal property leased, rented or
13 licensed for use to or by, a qualifying health sciences educational
14 institution as defined in section 42-5001.

15 17. The transfer of title or possession of coal back and forth
16 between an owner or operator of a power plant and a person who is
17 responsible for refining coal if both of the following apply:

18 (a) The transfer of title or possession of the coal is for the
19 purpose of refining the coal.

20 (b) The title or possession of the coal is transferred back to the
21 owner or operator of the power plant after completion of the coal refining
22 process. For the purposes of this subdivision, "coal refining process"
23 means the application of a coal additive system that aids the reduction of
24 power plant emissions during the combustion of coal and the treatment of
25 flue gas.

26 18. Tangible personal property incorporated or fabricated into a
27 project described in paragraph 14 of this subsection, that is located
28 within the exterior boundaries of an Indian reservation for which the
29 owner, as defined in section 42-5075, of the project is an Indian tribe or
30 an affiliated Indian. For the purposes of this paragraph:

31 (a) "Affiliated Indian" means an individual native American Indian
32 who is duly registered on the tribal rolls of the Indian tribe for whose
33 benefit the Indian reservation was established.

34 (b) "Indian reservation" means all lands that are within the limits
35 of areas set aside by the United States for the exclusive use and
36 occupancy of an Indian tribe by treaty, law or executive order and that
37 are recognized as Indian reservations by the United States department of
38 the interior.

39 (c) "Indian tribe" means any organized nation, tribe, band or
40 community that is recognized as an Indian tribe by the United States
41 department of the interior and includes any entity formed under the laws
42 of that Indian tribe.

43 19. The charges for the leasing or renting of space to make
44 attachments to utility poles as follows:

1 (a) By a person that is engaged in the business of providing or
2 furnishing electrical services or telecommunication services or that is a
3 cable operator.

4 (b) To a person that is engaged in the business of providing or
5 furnishing electrical services or telecommunication services or that is a
6 cable operator.

7 20. Until March 1, 2017, the gross proceeds of sales or gross
8 income derived from entry fees paid by participants for events that
9 consist of a run, walk, swim or bicycle ride or a similar event, or any
10 combination of these events.

11 21. The gross proceeds of sales or gross income derived from entry
12 fees paid by participants for events that are operated or conducted by
13 nonprofit organizations that are exempt from taxation under section
14 501(c)(3) of the internal revenue code and of which no part of the
15 organization's net earnings inures to the benefit of any private
16 shareholder or individual, if the event consists of a run, walk, swim or
17 bicycle ride or a similar event, or any combination of these events.

18 B. A city, town or other taxing jurisdiction shall not levy a
19 transaction privilege, sales, use, franchise or other similar tax or fee,
20 however denominated, on natural gas or liquefied petroleum gas used to
21 propel a motor vehicle.

22 C. A city, town or other taxing jurisdiction shall not levy a
23 transaction privilege, sales, gross receipts, use, franchise or other
24 similar tax or fee, however denominated, on gross proceeds of sales or
25 gross income derived from any of the following:

26 1. A motor carrier's use on the public highways in this state if
27 the motor carrier is subject to a fee prescribed in title 28, chapter 16,
28 article 4.

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

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

36 4. Incarcerating or detaining in a privately operated prison, jail
37 or detention facility prisoners who are under the jurisdiction of the
38 United States, this state or any other state or a political subdivision of
39 this state or of any other state.

40 5. Transporting for hire persons, freight or property by light
41 motor vehicles subject to a fee under title 28, chapter 15, article 4.

42 6. Any amount attributable to development fees that are incurred in
43 relation to the construction, development or improvement of real property
44 and paid by the taxpayer as defined in the model city tax code or by a

1 contractor providing services to the taxpayer. For the purposes of this
2 paragraph:

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

5 (b) The attributable amount is equal to the total amount of
6 development fees paid by the taxpayer or by a contractor providing
7 services to the taxpayer and the total development fees credited in
8 exchange for the construction of, contribution to or dedication of real
9 property for providing public infrastructure, public safety or other
10 public services necessary to the development. The real property must be
11 the subject of the development fees.

12 (c) "Development fees" means fees imposed to offset capital costs
13 of providing public infrastructure, public safety or other public services
14 to a development and authorized pursuant to section 9-463.05, section
15 11-1102 or title 48 regardless of the jurisdiction to which the fees are
16 paid.

17 7. Any amount attributable to fees collected by transportation
18 network companies issued a permit pursuant to section 28-9552.

19 8. Transporting for hire persons by transportation network company
20 drivers on transactions involving transportation network services as
21 defined in section 28-9551.

22 9. Transporting for hire persons by vehicle for hire companies that
23 are issued permits pursuant to section 28-9503.

24 10. Transporting for hire persons by vehicle for hire drivers on
25 transactions involving vehicle for hire services as defined in section
26 28-9501.

27 D. A city, town or other taxing jurisdiction shall not levy a
28 transaction privilege, sales, use, franchise or other similar tax or fee,
29 however denominated, in excess of one-tenth of one percent of the value of
30 the entire product mined, smelted, extracted, refined, produced or
31 prepared for sale, profit or commercial use, on persons engaged in the
32 business of mineral processing, except to the extent that the tax is
33 computed on the gross proceeds or gross income from sales at retail.

34 E. In computing the tax base, any city, town or other taxing
35 jurisdiction shall not include in the gross proceeds of sales or gross
36 income:

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

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

41 F. A city or town shall not levy a use tax on the storage, use or
42 consumption of tangible personal property in the city or town by a school
43 district or charter school.

1 G. For the purposes of this section:
2 1. "Cable operator" has the same meaning prescribed in section
3 9-505 **AND INCLUDES A VIDEO SERVICE PROVIDER.**
4 2. "Electrical services" means transmitting or distributing
5 electricity, electric lights, current or power over lines, wires or
6 cables.
7 3. "Telecommunication services" means transmitting or relaying
8 sound, visual image, data, information, images or material over lines,
9 wires or cables by radio signal, light beam, telephone, telegraph or other
10 electromagnetic means.
11 4. "Utility pole" means any wooden, metal or other pole used for
12 utility purposes and the pole's appurtenances that are attached or
13 authorized for attachment by the person controlling the pole.
14 Sec. 24. Section 42-6004, Arizona Revised Statutes, as amended by
15 Laws 2018, chapter 17, section 1, chapter 249, section 6, chapter 263,
16 section 3 and chapter 341, section 2, is amended to read:
17 **42-6004. Exemption from municipal tax; definitions**
18 A. A city, town or special taxing district shall not levy a
19 transaction privilege, sales, use or other similar tax on:
20 1. Exhibition events in this state sponsored, conducted or operated
21 by a nonprofit organization that is exempt from taxation under section
22 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the
23 organization is associated with a major league baseball team or a national
24 touring professional golfing association and no part of the organization's
25 net earnings inures to the benefit of any private shareholder or
26 individual. This paragraph does not apply to an organization that is
27 owned, managed or controlled, in whole or in part, by a major league
28 baseball team, or its owners, officers, employees or agents, or by a major
29 league baseball association or professional golfing association, or its
30 owners, officers, employees or agents, unless the organization conducted
31 or operated exhibition events in this state before January 1, 2018 that
32 were exempt from state transaction privilege tax under section 42-5073.
33 2. Interstate telecommunications services, which include that
34 portion of telecommunications services, such as subscriber line service,
35 allocable by federal law to interstate telecommunications service.
36 3. Sales of warranty or service contracts.
37 4. Sales of motor vehicles to nonresidents of this state for use
38 outside this state if the motor vehicle dealer ships or delivers the motor
39 vehicle to a destination outside this state.
40 5. Interest on finance contracts.
41 6. Dealer documentation fees on the sales of motor vehicles.
42 7. Orthodontic devices dispensed by a dental professional who is
43 licensed under title 32, chapter 11 to a patient as part of the practice
44 of dentistry.

1 8. Sales of internet access services to the person's subscribers
2 and customers. For the purposes of this paragraph:

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

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

12 9. The gross proceeds of sales or gross income retained by the
13 Arizona exposition and state fair board from ride ticket sales at the
14 annual Arizona state fair.

15 10. Leasing real property between affiliated companies, businesses,
16 persons or reciprocal insurers. For the purposes of this paragraph:

17 (a) "Affiliated companies, businesses, persons or reciprocal
18 insurers" means the lessor holds a controlling interest in the lessee, the
19 lessee holds a controlling interest in the lessor, affiliated persons hold
20 a controlling interest in both the lessor and the lessee, or an unrelated
21 person holds a controlling interest in both the lessor and lessee.

22 (b) "Affiliated persons" means members of the individual's family
23 or persons who have ownership or control of a business entity.

24 (c) "Controlling interest" means direct or indirect ownership of at
25 least eighty percent of the voting shares of a corporation or of the
26 interests in a company, business or person other than a corporation.

27 (d) "Members of the individual's family" means the individual's
28 spouse and brothers and sisters, whether by whole or half blood, including
29 adopted persons, ancestors and lineal descendants.

30 (e) "Reciprocal insurer" has the same meaning prescribed in section
31 20-762.

32 11. The gross proceeds of sales or gross income derived from a
33 contract for the installation, assembly, repair or maintenance of
34 machinery, equipment or other tangible personal property that is described
35 in section 42-5061, subsection B and that has independent functional
36 utility, pursuant to the following provisions:

37 (a) The deduction provided in this paragraph includes the gross
38 proceeds of sales or gross income derived from all of the following:

39 (i) Any activity performed on machinery, equipment or other
40 tangible personal property with independent functional utility.

41 (ii) Any activity performed on any tangible personal property
42 relating to machinery, equipment or other tangible personal property with
43 independent functional utility in furtherance of any of the purposes
44 provided for under subdivision (d) of this paragraph.

1 (iii) Any activity that is related to the activities described in
2 items (i) and (ii) of this subdivision, including inspecting the
3 installation of or testing the machinery, equipment or other tangible
4 personal property.

5 (b) The deduction provided in this paragraph does not include gross
6 proceeds of sales or gross income from the portion of any contracting
7 activity that consists of the development of, or modification to, real
8 property in order to facilitate the installation, assembly, repair,
9 maintenance or removal of machinery, equipment or other tangible personal
10 property described in section 42-5061, subsection B.

11 (c) The deduction provided in this paragraph shall be determined
12 without regard to the size or useful life of the machinery, equipment or
13 other tangible personal property.

14 (d) For the purposes of this paragraph, "independent functional
15 utility" means that the machinery, equipment or other tangible personal
16 property can independently perform its function without attachment to real
17 property, other than attachment for any of the following purposes:

18 (i) Assembling the machinery, equipment or other tangible personal
19 property.

20 (ii) Connecting items of machinery, equipment or other tangible
21 personal property to each other.

22 (iii) Connecting the machinery, equipment or other tangible
23 personal property, whether as an individual item or as a system of items,
24 to water, power, gas, communication or other services.

25 (iv) Stabilizing or protecting the machinery, equipment or other
26 tangible personal property during operation by bolting, burying or
27 performing other dissimilar nonpermanent connections to either real
28 property or real property improvements.

29 12. The leasing or renting of certified ignition interlock devices
30 installed pursuant to the requirements prescribed by section 28-1461. For
31 the purposes of this paragraph, "certified ignition interlock device" has
32 the same meaning prescribed in section 28-1301.

33 13. Computer data center equipment sold to the owner, operator or
34 qualified colocation tenant of a computer data center that is certified by
35 the Arizona commerce authority under section 41-1519 or an authorized
36 agent of the owner, operator or qualified colocation tenant during the
37 qualification period for use in the qualified computer data center. For
38 the purposes of this paragraph, "computer data center", "computer data
39 center equipment", "qualification period" and "qualified colocation
40 tenant" have the same meanings prescribed in section 41-1519.

41 14. The gross proceeds of sales or gross income derived from a
42 contract with the owner of real property or improvements to real property
43 for the maintenance, repair, replacement or alteration of existing
44 property, except as specified in this paragraph. The gross proceeds of
45 sales or gross income derived from a de minimis amount of modification

1 activity does not subject the contract or any part of the contract to tax.
2 For the purposes of this paragraph:

3 (a) Each contract is independent of another contract, except that
4 any change order that directly relates to the scope of work of the
5 original contract shall be treated the same as the original contract under
6 this paragraph, regardless of the amount of modification activities
7 included in the change order. If a change order does not directly relate
8 to the scope of work of the original contract, the change order shall be
9 treated as a new contract, with the tax treatment of any subsequent change
10 order to follow the tax treatment of the contract to which the scope of
11 work of the subsequent change order directly relates.

12 (b) Any term not defined in this paragraph that is defined in
13 section 42-5075 has the same meaning prescribed in section 42-5075.

14 (c) This paragraph does not apply to a contract that primarily
15 involves surface or subsurface improvements to land and that is subject to
16 title 28, chapter 19, 20 or 22 or title 34, chapter 2 or 6 even if the
17 contract also includes vertical improvements. If a city or town imposes a
18 tax on contracts that are subject to procurement processes under those
19 provisions, the city or town shall include in the request for proposals a
20 notice to bidders when those projects are subject to the tax. This
21 subdivision does not apply to contracts with:

22 (i) Community facilities districts, fire districts, county
23 television improvement districts, community park maintenance districts,
24 cotton pest control districts, hospital districts, pest abatement
25 districts, health service districts, agricultural improvement districts,
26 county free library districts, county jail districts, county stadium
27 districts, special health care districts, public health services
28 districts, theme park districts or revitalization districts.

29 (ii) Any special taxing district not specified in item (i) of this
30 subdivision if the district does not substantially engage in the
31 modification, maintenance, repair, replacement or alteration of surface or
32 subsurface improvements to land.

33 15. Monitoring services relating to an alarm system as defined in
34 section 32-101.

35 16. Tangible personal property, job printing or publications sold
36 to or purchased by, or tangible personal property leased, rented or
37 licensed for use to or by, a qualifying health sciences educational
38 institution as defined in section 42-5001.

39 17. The sale of coal.

40 18. Tangible personal property incorporated or fabricated into a
41 project described in paragraph 14 of this subsection, that is located
42 within the exterior boundaries of an Indian reservation for which the
43 owner, as defined in section 42-5075, of the project is an Indian tribe or
44 an affiliated Indian. For the purposes of this paragraph:

1 (a) "Affiliated Indian" means an individual native American Indian
2 who is duly registered on the tribal rolls of the Indian tribe for whose
3 benefit the Indian reservation was established.

4 (b) "Indian reservation" means all lands that are within the limits
5 of areas set aside by the United States for the exclusive use and
6 occupancy of an Indian tribe by treaty, law or executive order and that
7 are recognized as Indian reservations by the United States department of
8 the interior.

9 (c) "Indian tribe" means any organized nation, tribe, band or
10 community that is recognized as an Indian tribe by the United States
11 department of the interior and includes any entity formed under the laws
12 of that Indian tribe.

13 19. The charges for the leasing or renting of space to make
14 attachments to utility poles as follows:

15 (a) By a person that is engaged in the business of providing or
16 furnishing electrical services or telecommunication services or that is a
17 cable operator.

18 (b) To a person that is engaged in the business of providing or
19 furnishing electrical services or telecommunication services or that is a
20 cable operator.

21 20. Until March 1, 2017, the gross proceeds of sales or gross
22 income derived from entry fees paid by participants for events that
23 consist of a run, walk, swim or bicycle ride or a similar event, or any
24 combination of these events.

25 21. The gross proceeds of sales or gross income derived from entry
26 fees paid by participants for events that are operated or conducted by
27 nonprofit organizations that are exempt from taxation under section
28 501(c)(3) of the internal revenue code and of which no part of the
29 organization's net earnings inures to the benefit of any private
30 shareholder or individual, if the event consists of a run, walk, swim or
31 bicycle ride or a similar event, or any combination of these events.

32 B. A city, town or other taxing jurisdiction shall not levy a
33 transaction privilege, sales, use, franchise or other similar tax or fee,
34 however denominated, on natural gas or liquefied petroleum gas used to
35 propel a motor vehicle.

36 C. A city, town or other taxing jurisdiction shall not levy a
37 transaction privilege, sales, gross receipts, use, franchise or other
38 similar tax or fee, however denominated, on gross proceeds of sales or
39 gross income derived from any of the following:

40 1. A motor carrier's use on the public highways in this state if
41 the motor carrier is subject to a fee prescribed in title 28, chapter 16,
42 article 4.

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

1 3. The sale of a motor vehicle and any repair and replacement parts
2 and tangible personal property becoming a part of such motor vehicle to a
3 motor carrier who is subject to a fee prescribed in title 28, chapter 16,
4 article 4 and who is engaged in the business of leasing, renting or
5 licensing such property.

6 4. Incarcerating or detaining in a privately operated prison, jail
7 or detention facility prisoners who are under the jurisdiction of the
8 United States, this state or any other state or a political subdivision of
9 this state or of any other state.

10 5. Transporting for hire persons, freight or property by light
11 motor vehicles subject to a fee under title 28, chapter 15, article 4.

12 6. Any amount attributable to development fees that are incurred in
13 relation to the construction, development or improvement of real property
14 and paid by the taxpayer as defined in the model city tax code or by a
15 contractor providing services to the taxpayer. For the purposes of this
16 paragraph:

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

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

26 (c) "Development fees" means fees imposed to offset capital costs
27 of providing public infrastructure, public safety or other public services
28 to a development and authorized pursuant to section 9-463.05, section
29 11-1102 or title 48 regardless of the jurisdiction to which the fees are
30 paid.

31 7. Any amount attributable to fees collected by transportation
32 network companies issued a permit pursuant to section 28-9552.

33 8. Transporting for hire persons by transportation network company
34 drivers on transactions involving transportation network services as
35 defined in section 28-9551.

36 9. Transporting for hire persons by vehicle for hire companies that
37 are issued permits pursuant to section 28-9503.

38 10. Transporting for hire persons by vehicle for hire drivers on
39 transactions involving vehicle for hire services as defined in section
40 28-9501.

41 D. A city, town or other taxing jurisdiction shall not levy a
42 transaction privilege, sales, use, franchise or other similar tax or fee,
43 however denominated, in excess of one-tenth of one percent of the value of
44 the entire product mined, smelted, extracted, refined, produced or
45 prepared for sale, profit or commercial use, on persons engaged in the

1 business of mineral processing, except to the extent that the tax is
2 computed on the gross proceeds or gross income from sales at retail.

3 E. In computing the tax base, any city, town or other taxing
4 jurisdiction shall not include in the gross proceeds of sales or gross
5 income:

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

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

10 F. A city or town shall not levy a use tax on the storage, use or
11 consumption of tangible personal property in the city or town by a school
12 district or charter school.

13 G. For the purposes of this section:

14 1. "Cable operator" has the same meaning prescribed in section
15 9-505 **AND INCLUDES A VIDEO SERVICE PROVIDER.**

16 2. "Electrical services" means transmitting or distributing
17 electricity, electric lights, current or power over lines, wires or
18 cables.

19 3. "Telecommunication services" means transmitting or relaying
20 sound, visual image, data, information, images or material over lines,
21 wires or cables by radio signal, light beam, telephone, telegraph or other
22 electromagnetic means.

23 4. "Utility pole" means any wooden, metal or other pole used for
24 utility purposes and the pole's appurtenances that are attached or
25 authorized for attachment by the person controlling the pole.

26 Sec. 25. Section 44-1273, Arizona Revised Statutes, is amended to
27 read:

28 **44-1273. Limited exemptions**

29 A. The following sellers are not required to register and, except
30 for section 44-1278, subsection B and section 44-1282, are exempt from
31 this article:

32 1. A person acting within the scope of a license issued under
33 title 20.

34 2. A person who is either a:

35 (a) Charitable organization as defined in section 44-6551, this
36 state or any county or municipality of this state or its agencies.

37 (b) Political party, candidate for federal, state or local office
38 or campaign committee required to file financial information with federal,
39 state or local election agencies.

40 3. A person making telephone solicitations without the intent to
41 complete and who does not complete the sales presentation during the
42 telephone solicitation but completes the sales presentation at a later
43 face-to-face meeting between the solicitor and the consumer provided that
44 the later face-to-face meeting is not for the purpose of collecting the
45 payment or delivering any item purchased.

1 4. A person who after making a telephone contact with a consumer
2 sends the consumer descriptive literature and does not require payment
3 before the consumer's review of the descriptive literature and the person
4 is not conducting a solicitation involving any of the following:

5 (a) The sale of an investment or an opportunity for an investment
6 that is not registered with any state or federal authority.

7 (b) A prize promotion or premium.

8 (c) A recovery service.

9 (d) A business opportunity or merchandise related to a business
10 opportunity.

11 5. A person or solicitor for a person who operates a retail
12 business establishment under the same name as the name used in the
13 solicitation of sales by telephone, if on a continuing basis all of the
14 following apply:

15 (a) Merchandise is displayed and offered for sale or services are
16 offered for sale and provided at the person's business establishment.

17 (b) At least fifty ~~per cent~~ PERCENT of the person's business
18 involves the buyer obtaining the merchandise at the person's business
19 establishment.

20 (c) The person holds a transaction privilege tax license pursuant
21 to title 42, chapter 5.

22 6. A person or solicitor for a person soliciting another business
23 if all of the following apply:

24 (a) At least fifty ~~per cent~~ PERCENT of the person's dollar volume
25 consists of repeat sales to existing businesses.

26 (b) The person does not conduct a prize promotion that requires or
27 implies that to win a consumer must pay money or purchase merchandise.

28 (c) Neither the person nor any of the person's principals has
29 within twenty years been convicted in any state of a felony or crime of
30 moral turpitude, breach of trust, fraud, theft, dishonesty or violation of
31 telephone solicitation laws, been subject to a final judgment in a civil
32 action involving fraud, deceit or misrepresentation or been subject to an
33 administrative order involving fraud, deceit, misrepresentation or any
34 violation of telephone solicitations laws of any agency of this state,
35 another state, the federal government, a territory of the United States or
36 another country.

37 (d) The person is not selling a business opportunity or merchandise
38 related to a business opportunity.

39 7. A person or solicitor on behalf of a person who solicits sales
40 by periodically publishing and delivering a catalog to consumers if all of
41 the following apply:

42 (a) The catalog contains a written description or illustration of
43 each item offered for sale and the price of each item offered for sale.

44 (b) The catalog includes the business address or home office
45 address of the person.

1 (c) The catalog includes at least twenty-four pages of written
2 material and illustrations.

3 (d) The catalog is distributed in more than one state and has an
4 annual circulation by mail of at least two hundred fifty thousand.

5 B. The following sellers shall file a limited registration
6 statement pursuant to section 44-1272.01 and, except for sections 44-1278
7 and 44-1282, are exempt from this article:

8 1. A person acting within the scope of a license issued under title
9 6 or 32 or by the corporation commission pursuant to this title, except
10 persons licensed under title 6, chapter 13.

11 2. If soliciting within the scope of the license, any licensed
12 securities, commodities or investments broker or dealer or investment
13 advisor or any licensed associated person of a securities, commodities or
14 investments broker or dealer or investment advisor.

15 3. An issuer or a subsidiary of an issuer that has a class of
16 securities that is subject to section 12 of the securities exchange act of
17 1934 (15 United States Code sections 78a through 78mm) and that is either
18 registered or exempt from registration under paragraph (A), (B), (C), (E),
19 (F), (G) or (H) or subsection (g)(2) of section 12 of the act. A
20 subsidiary of an issuer that qualifies for exemption under this paragraph
21 is not exempt unless at least sixty ~~per cent~~ PERCENT of the voting power
22 of the subsidiary's shares is owned by the qualifying issuer or issuers.

23 4. A person certificated or regulated by the corporation commission
24 pursuant to title 40, chapter 2 or a subsidiary of that person or a
25 federal communications commission licensed cellular telephone company or
26 radio telecommunication services provider.

27 5. A person making telephone solicitations for a newspaper of
28 general circulation, a magazine or a licensed ~~or franchised~~ cable
29 television system OR VIDEO SERVICE PROVIDER.

30 6. An issuer or subsidiary of an issuer that is subject to
31 registration under chapter 12, article 6 or 7 of this title or that is
32 exempt from registration under section 44-1843, subsection A, paragraph 1,
33 2, 3, 4, 5, 7 or 9.

34 7. A person making telephone solicitations for the sale or purchase
35 of books, recordings, videocassettes and similar goods through a
36 membership group or club regulated by the federal trade commission or
37 through a contractual plan or arrangement such as a continuity plan,
38 subscription arrangement, series arrangement or single purchase under
39 which the seller ships goods to a consumer who has consented in advance to
40 receive those goods and the recipient is given the opportunity to review
41 goods for at least seven days and to receive a full refund for return of
42 undamaged goods.

43 8. A person or solicitor for a person when soliciting previous
44 customers, if all of the following apply:

1 (a) The person is not offering to sell or selling a security that
2 is not registered with any state or federal authority.

3 (b) The person makes the solicitation under the same name as the
4 name used to sell merchandise to the customer previously.

5 (c) The person does not operate a recovery service.

6 (d) The person does not conduct a prize promotion that requires a
7 consumer to, or implies that to win a consumer must, pay money or purchase
8 merchandise.

9 (e) The person has not, or any of its principals have not, within
10 twenty years been convicted in any state of a felony or a crime of moral
11 turpitude, breach of trust, fraud, theft, dishonesty or a violation of
12 telephone solicitation laws, been subject to a final judgment in a civil
13 action involving fraud, deceit or misrepresentation or been subject to an
14 administrative order involving fraud, deceit, misrepresentation or any
15 violation of telephone solicitation laws of any agency of this state,
16 another state, the federal government, a territory of the United States or
17 another country.

18 9. A person making telephone solicitations exclusively for the
19 purpose of the sale of telephone answering services to be provided by that
20 person or that person's employer.

21 10. Any bank holding company, bank, financial institution, trust
22 company, savings and loan association, credit union, mortgage banker or
23 broker, consumer lender or insurer that is licensed or supervised by an
24 official or agency of this state, any other state or the United States,
25 including any parent, subsidiary or affiliate of these institutions.

26 11. A person providing telemarketing sales service continuously for
27 at least five years under the same ownership and control that derives
28 seventy-five ~~per cent~~ PERCENT of its gross telemarketing sales revenues
29 from contracts with persons exempted by this section. A seller using an
30 exempt telemarketing sales service is not exempt unless otherwise
31 qualifying for an exemption under this section.

32 C. On request by the secretary of state, the director of the
33 department of insurance shall provide a current list in a mutually
34 acceptable electronic format to the secretary of state of the requested
35 licensees described in subsection A, paragraph 1 of this section that
36 includes all of the following information:

37 1. The true legal name of the seller.

38 2. All of the names under which the seller is doing business or
39 intends to do business.

40 3. The complete street address of the physical location of the
41 principal place of business of the seller and the telephone number for the
42 location.

43 4. The name and address of the seller's agent who is authorized to
44 receive service of process in this state.

1 D. In any civil proceeding alleging a violation of this article,
2 the burden of proving an exemption or an exception from a definition is on
3 the person claiming the exemption or exception. In any criminal
4 proceeding in which a violation of this article is alleged, the burden of
5 producing evidence to support a defense based on an exemption or an
6 exception from a definition is on the person claiming the exemption or
7 exception.

8 E. Any person or solicitor exempted in part from this article by
9 this section shall not make or submit a charge to a consumer's credit card
10 account or a consumer's checking, savings, share or similar account unless
11 any of the following applies:

12 1. The person provides that the consumer may receive a full refund
13 for the return of undamaged and unused goods or a cancellation of services
14 by providing notice to the person within seven days after the date that
15 the consumer receives the merchandise and the person processes:

16 (a) A full refund within thirty days after the date that the person
17 receives the returned merchandise from the consumer.

18 (b) A full refund within thirty days after the purchaser of
19 services cancels an order for the services or a pro rata refund for any
20 services not yet performed for the consumer.

21 2. The person provides the consumer with a signed copy of a written
22 contract that includes the person's name, address and business telephone
23 number and that fully describes the merchandise offered by the person, the
24 total price to be charged by the person and any terms or conditions
25 affecting the sale.

26 3. The person is either a:

27 (a) Charitable organization as defined in section 44-6551, this
28 state or any county or municipality of this state or its agencies.

29 (b) Political party, candidate for federal, state or local office
30 or campaign committee required to file financial information with federal,
31 state or local election agencies.

32 Sec. 26. Section 48-620, Arizona Revised Statutes, is amended to
33 read:

34 48-620. Improvement districts for underground utility and
35 cable television facilities in public rights-of-way
36 and easements; procedures; costs; definitions

37 A. Subject to the limitations contained in this section, the powers
38 and duties of the governing body of a municipality for establishing
39 underground utility facilities are as provided in this article for other
40 types of improvement districts.

41 B. Notwithstanding section 48-507, after the governing body passes
42 a resolution or notice declaring its intention to order an improvement
43 district for underground utility facilities, the governing body shall hold
44 a hearing at least thirty days after the completion of the posting and
45 publication of the notice of intention pursuant to section 48-506. At the

1 hearing, the governing body shall consider the issue of ordering an
2 election on the formation of the improvement district and shall receive
3 public comment on the proposed district. Section 48-507, regarding
4 written protests of the proposed improvement, does not apply to a district
5 formed pursuant to this section. The governing body may only order the
6 election on the issue of formation of the district if the owners of real
7 property in the district have signed and submitted petitions to the clerk
8 of the governing body in support of the formation of the district. The
9 petitions shall comply with the following:

10 1. Clearly state that they are petitions in support of the
11 formation of an underground utility improvement district and shall
12 specifically describe in words or by use of a map the location of the
13 proposed district's boundaries. The petitions shall require the signer's
14 signature, name and address or description of the property that is owned
15 in the district in a manner sufficient to determine ownership through the
16 use of public records.

17 2. Be signed by owners of a majority of the real property within
18 the boundaries of the proposed district as measured by square footage or
19 acreage owned. Signatures ~~shall~~ ARE not ~~be~~ required to be notarized and
20 for property with more than one owner, the signature of one owner is
21 binding on the remaining owners of the property. On submittal to the
22 clerk of the governing body, the petitions are a public record. Ownership
23 of property ~~shall be~~ IS as of the date of the hearing and ~~shall be~~ IS
24 determined by records of the county assessor or other public records
25 regarding property ownership. For purposes of this paragraph, "owner"
26 means a person, association, corporation or other entity without regard to
27 residency.

28 C. If the governing body finds that sufficient signatures are
29 submitted pursuant to subsection B of this section, the governing body may
30 proceed with a simplified ballot card election pursuant to subsection G of
31 this section. If there are not sufficient signatures, the governing body
32 shall not proceed with the formation of the district. If no registered
33 voters reside within the area of the proposed district, an election is not
34 required and the governing body may declare the formation of the district.

35 D. The requirement pursuant to section 48-577 that plans and
36 specifications be filed prior to adoption of the resolution of intention
37 may be satisfied by a general plan showing at least the general location
38 and type of facilities to be constructed. Actual plans and specifications
39 shall be filed following the adoption of the resolution ordering the
40 election regarding the improvement but ~~prior to~~ BEFORE the election and
41 the recording of the assessment and warrant. A person interested and
42 objecting to an improvement or to the extent of the assessment district
43 for a district established pursuant to this section may file a written
44 protest with the city or town clerk within thirty days after completion or
45 posting of the notice, or within thirty days after the date of the last

1 publication of the notice if that date is after the completion of the
2 posting.

3 E. The requirement pursuant to section 48-584 for notice of the
4 award of contract may be satisfied by the inclusion in the resolution of
5 intention of the name of the coordinating utility. The ~~fifteen day~~
6 FIFTEEN-DAY period for filing notice of objections under section 48-584,
7 subsection E shall begin ~~upon~~ ON completion of publication and posting of
8 the notice of proposed improvement stating the name of the coordinating
9 utility.

10 F. The governing body shall determine the boundaries of the
11 district and designate the transmission facilities and, if applicable, any
12 independent parallel facilities, to be placed underground and shall obtain
13 from the coordinating utility an accurate statement of the costs of the
14 project, including an estimate of the average cost in assessments on an
15 average single family residence in the district. The amount shall be
16 included in the engineer's estimate required by section 48-577. The costs
17 shall include:

18 1. The amount by which the cost of placing facilities underground
19 would exceed the cost of placing comparable facilities overhead.

20 2. The reconstruction cost and net depreciation costs of any
21 existing facilities to be removed.

22 3. The actual costs of removing such existing facilities, less the
23 salvage value of the facilities removed.

24 4. The charge to finance the costs prescribed in this subsection
25 over a stated period of not to exceed fifteen years.

26 5. The tax reimbursement amount.

27 G. On receipt of an accurate estimate of the costs of the project,
28 the governing body shall call a simplified ballot card election in the
29 area affected by the proposed district. The simplified ballot card shall
30 contain the words for a district formation election "district, yes" and
31 "district, no" and for an assessment election "assessment, yes" and
32 "assessment, no". A single simplified ballot card may be used for both
33 the question of the formation of the district and the question of the
34 assessment. The election may be conducted in a simplified format and
35 administered by the governing body. The governing body shall mail to all
36 registered voters and property owners within the proposed district
37 simplified ballot cards with return postage prepaid. The simplified
38 ballot card shall clearly state that to be valid a voted ballot card shall
39 be returned to the governing body within thirty days after the governing
40 body mails the ballot card and a ballot card that is not timely returned
41 shall not be counted. A person who is qualified to vote in a municipal
42 election for that municipality or a property owner who owns land within
43 the proposed improvement district ~~are~~ IS qualified to vote in an election
44 for a municipal improvement district formed pursuant to this section,
45 except that only residents of or property owners in the area that is

1 within the proposed district may vote. If a majority of the persons
2 voting with the simplified ballot card approves the formation of the
3 district and if a majority of the persons voting with the simplified
4 ballot card approves the assessment, the governing body may form the
5 district and make the assessment. If more than one governing body is
6 affected by a proposed district, each governing body may form its own
7 district for the portion of the work within its jurisdiction. Assessments
8 for districts that are formed for a portion of the same project shall be
9 distributed between districts in proportion to the benefits to be
10 received. When the governing body acquires jurisdiction to order the
11 work, it shall not call for construction bids but may enter into a
12 contract or contracts with the utility, utilities or licensed cable
13 television system whose facilities are to be placed underground. Prior to
14 entering into a contract or contracts the coordinating utility shall
15 submit a final report to the municipality. The amount stated in the final
16 report may be based on detailed engineering studies. If the amount stated
17 in the final report exceeds the amount stated in the preliminary report
18 the governing body may either:

- 19 1. Terminate the project.
- 20 2. Call a new election on the improvement.

21 H. The contract shall provide for payment to the utility or
22 licensed cable television system over a term of not to exceed fifteen
23 years of the amount set forth in the final report, shall specify those
24 facilities to be owned by the municipality and those to be owned by the
25 utility, utilities or licensed cable television system and shall contain
26 such provisions for the prepayment of any assessment at the option of any
27 property owner, and such other terms, covenants and conditions as the
28 governing body and the utility, utilities or licensed cable television
29 system determine. The licensed cable television system shall not be
30 entitled to reimbursement except where the cable television system's
31 parallel facilities are installed to replace existing cable television
32 facilities other than independent parallel facilities not included by the
33 governing body in the work. The amount payable on the contract or
34 contracts ~~shall be~~ IS payable solely from amounts collected on the
35 assessment levied in the district. ~~No~~ A payment or performance bond ~~shall~~
36 ~~be~~ IS NOT required of a utility or licensed cable television system
37 entering into a contract with the governing body.

38 I. The municipality may retain an independent engineering
39 consultant to review all reports, estimates and costs provided by the
40 coordinating utility.

41 J. The coordinating utility shall advance or reimburse a governing
42 body for the costs of forming the district and the cost of printing,
43 advertising and posting incurred or to be incurred by a governing body and
44 shall bear its own expenses for engineering and design, and preparing the
45 reports, plans and specifications. ~~Upon~~ ON completion of the work, the

1 coordinating utility shall reimburse a governing body for its reasonable
2 expenses incurred with respect to the district. Unless otherwise provided
3 for in a manner acceptable to the coordinating utility, the amounts
4 advanced or reimbursed shall be included in the contract and in the amount
5 assessed.

6 K. This section does not amend or modify any existing line
7 extension policies of any utility involved. The costs to be reimbursed
8 under the contract shall be reduced to the extent of amounts paid or to be
9 paid by landowners or from other sources directly to the utility or cable
10 television system for the installation of the facilities.

11 L. The assessment and warrant may be recorded at any time following
12 approval of the project at an election. The hearing on the assessment may
13 be held at any time not less than twenty days from the date of recording
14 of the assessment and warrant. An additional hearing following notice
15 from the superintendent of streets to the governing body of completion of
16 the work shall be requested only if any member of the governing body or
17 any owner of or any person claiming an interest in any lot ~~which~~ THAT
18 received an assessment, within one year of the date of the notice of
19 completion, files a written notice with the clerk stating that the work
20 has not been performed substantially in accordance with the resolution of
21 intention, the plans and specifications and estimate. The notice shall
22 state in particular the failure to perform and may also state, if
23 applicable, any requested reduction in the assessment of any one or more
24 parcels due solely to the failure of such performance. The notice shall
25 state the name and address of the person filing the notice and shall
26 describe such person's interest in land subject to assessment. The
27 governing body may enforce the contract and may recess the hearing to
28 permit the utility or licensed cable television system to complete the
29 work. If the work cannot be completed, the assessment may be adjusted to
30 take the failure to complete into consideration. The amount due under the
31 agreement with the utility or licensed cable television system shall be
32 adjusted accordingly. Repayment under the contract shall be conditioned
33 on completion of the work and approval of the assessment as provided by
34 law. Unless an objection has been filed, repayment shall begin within
35 nine months of the notice of completion.

36 M. An improvement district formed pursuant to this section shall
37 not issue bonds, and the assessment for district purposes against the
38 property within the district shall not exceed the amount specified in the
39 engineer's estimate. Notwithstanding any other statute, the assessment
40 for an underground electrical power line shall not be assessed against the
41 owners of the frontage of the right-of-way of the underground power line
42 but shall be assessed against all property owners benefiting from the
43 burial of the power line.

1 N. The governing body shall provide for the levy and collection of
2 assessments on the real property in the district in the manner provided
3 for in this article. However, the assessment may be paid in installments
4 necessary to pay amounts due under the contract and to reimburse the
5 municipality for expenses incurred as provided in the assessment.

6 O. A district formed under this section shall not engage in any
7 activity other than contracting for or establishing underground
8 transmission facilities together, where applicable, with parallel
9 facilities.

10 P. The governing body by resolution may summarily determine that it
11 will participate in the costs of the improvement. If the municipality is
12 willing to assume the total outstanding assessment for the underground
13 utility facilities, the governing body may summarily dissolve the district
14 by resolution after payment of all liabilities including all amounts due
15 under the contract.

16 Q. The formation of an improvement district for underground utility
17 facilities under this section does not prevent the establishment of other
18 improvement districts which may include all or part of the same property
19 for any purposes authorized by law.

20 R. If a petition for the formation of an improvement district for
21 underground utilities is presented to the governing body, and the petition
22 purports to be signed by all of the real property owners in the proposed
23 district exclusive of mortgagees and other lienholders, the governing
24 body, after verifying such ownership and making a finding of such fact,
25 may adopt a resolution of intention to order the proposed improvement
26 pursuant to section 48-576 and has immediate jurisdiction to adopt the
27 resolution ordering the improvement pursuant to section 48-581, without
28 the necessity of publication and posting of the resolution of intention
29 provided for in section 48-578.

30 S. If the governing body determines that a parcel of property is a
31 single family residence and that payment of the assessment would cause a
32 financial hardship on the owners which would be likely to cause a
33 delinquency in payment of the assessment, the assessment for an
34 improvement made under this section shall provide for an extension in the
35 time to pay principal and interest on the assessment against that parcel
36 for a period of time not to exceed ten years. If the governing body
37 determines that the grounds for extension no longer exist, then the
38 extension will be terminated and all payments ~~which~~ THAT would have been
39 due but for the extension shall become due. The assessment shall provide
40 for adjustments in the assessments against the remaining parcels to
41 provide for timely payment under the agreement.

42 T. Notice of the passage of a resolution of intention for an
43 improvement under this section shall be given to the corporation
44 commission and, where the improvement involves a utility regulated
45 thereby, the rural electrification administration.

1 U. In this section, unless the context otherwise requires:

2 1. "Coordinating utility" means the utility whose proposed or
3 existing transmission facilities are to be placed underground. The
4 coordinating utility is responsible for assembling into one report cost
5 estimates and other data provided by each utility or licensed cable
6 television system whose facilities are to be placed underground.

7 2. "Cost" means all costs of design and construction of facilities.

8 3. "Facilities" means any works or improvements used or useful in
9 providing electric, communications, ~~or~~ licensed cable television service
10 ~~OR VIDEO SERVICE~~, including ~~but not limited to~~ poles, supports, tunnels,
11 manholes, vaults, conduits, pipes, wires, conductors, guys, studs,
12 platforms, crossarms, braces, transformers, insulators, cutouts, switches,
13 capacitors, meters, communication circuits, appliances, attachments and
14 appurtenances but excluding any works for transmission by microwave or
15 radio. Facilities shall include only transmission facilities and parallel
16 facilities.

17 4. "Governing body" means the council of a city or town or the
18 board of supervisors of a county.

19 5. "Independent parallel facilities" means existing parallel
20 facilities ~~which~~ ~~THAT~~ do not rely for their support on poles or other
21 structures to be removed as part of the work. If the utility or licensed
22 cable television system elects to remove the independent parallel
23 facilities but the removal and underground replacement thereof was not
24 included by the governing body in the work, the reconstruction and removal
25 costs of such independent parallel facilities shall not be included in a
26 contract or be assessed.

27 6. "Parallel facilities" means facilities that run or are permitted
28 to run in the easement in which the transmission facilities are to be
29 placed underground and that may be included underground with the
30 transmission facilities, and facilities appurtenant thereto. Any parallel
31 facilities shall have a right to be included underground and have access
32 to a trench on such reasonable terms and conditions as the coordinating
33 utility and the owners of the parallel facility may determine provided
34 they do not interfere with the installation or operation of the
35 transmission facilities.

36 7. "Private parallel facilities" means parallel facilities other
37 than those owned or operated by a public utility or licensed cable
38 television system. Private parallel facilities have the rights of
39 parallel facilities except that the costs thereof shall not be included in
40 a contract or be assessed.

41 8. "Tax reimbursement" means an annual charge for reimbursement for
42 property taxes, or voluntary contributions in lieu of property taxes as
43 provided in chapter 1, article 8 of this title, by applying the tax rates
44 in effect on the date of adoption of the resolution of intention to the
45 amount by which the estimated average taxable value of underground

1 facilities, excluding the value of trenches, backfill and compaction, on
2 completion exceeds the estimated average taxable value of comparable
3 overhead facilities. In this paragraph, "estimated average taxable value"
4 means the average of the estimated taxable value for each year of
5 reimbursement. The value of the trenches, backfill and compaction of the
6 underground facilities shall be attributed to and shall inure to the
7 benefit of the owners of property within the district and shall be owned
8 by the city. Reimbursement shall not be for a period longer than fifteen
9 years.

10 9. "Transmission facilities" means facilities ~~which~~ THAT are, or
11 are appurtenant to, electric transmission lines of more than twenty-five
12 kilovolts but not more than two hundred thirty kilovolts in size.

13 Sec. 27. Section 48-5107, Arizona Revised Statutes, is amended to
14 read:

15 48-5107. Utility relocation reimbursement; definition

16 A. All costs for the relocation, and reasonable ongoing costs
17 related to the relocation, of utility facilities incurred after July 1,
18 2003 as a direct result of the construction and operation of a light rail
19 project shall be reimbursed by the light rail project to the utility. The
20 board shall make the payments from transportation excise tax revenues
21 allocated pursuant to section 48-5103, subsection A, paragraph 3,
22 subdivision (a) within ninety days after presentation of a statement of
23 verified expenses. The statement of verified expenses shall not include
24 profit but may include a reasonable allocation of general overhead. The
25 verified expenses may be reviewed and audited by the light rail operator,
26 but the audit must be concluded within ninety days and shall be conducted
27 pursuant to standard industry accounting principles.

28 B. If the relocated utility has existing land rights, the light
29 rail operator shall relocate the utility with equal land rights. If the
30 relocated utility is operating in the right-of-way under a permit, the
31 light rail operator shall relocate the utility according to the utility's
32 existing rights under the permit within the right-of-way.

33 C. The light rail operator shall be fully responsible for acts,
34 negligence or omissions of all of its employees on the project that result
35 in damage to utility facilities.

36 D. For the purposes of this section, "utility" means any public
37 service corporation, agricultural improvement district, licensed cable
38 television system, LICENSED VIDEO SERVICE NETWORK, telephone line or
39 telegraph line corporation or person engaged in the generation,
40 transmission or delivery of electricity, natural gas, telephone, cable
41 television, VIDEO, telegraph or water service, including this state or any
42 political subdivision or agency of this state.

1 Sec. 28. Section 48-5315, Arizona Revised Statutes, is amended to
2 read:

3 48-5315. Utility relocation reimbursement; definition

4 A. If county transportation excise tax monies collected pursuant to
5 section 42-6106 are used to construct a light rail system under the
6 regional transportation plan, all costs for the relocation, and reasonable
7 ongoing costs related to the relocation, of utility facilities incurred as
8 a direct result of the construction and operation of the light rail system
9 shall be reimbursed by the light rail project to the utility. The board
10 shall make the payments from transportation excise tax revenues within
11 ninety days after presentation of a statement of verified expenses. The
12 statement of verified expenses shall not include profit but may include a
13 reasonable allocation of general overhead. The verified expenses may be
14 reviewed and audited by the light rail operator. The audit must be
15 concluded within ninety days and shall be conducted pursuant to standard
16 industry accounting principles.

17 B. If the relocated utility has existing land rights, the light
18 rail operator shall relocate the utility with equal land rights. If the
19 relocated utility is operating in the right-of-way under a permit, the
20 light rail operator shall relocate the utility according to the utility's
21 existing rights under the permit within the right-of-way.

22 C. The light rail operator shall be fully responsible for acts,
23 negligence or omissions of all of its employees on the project that result
24 in damage to utility facilities.

25 D. For the purposes of this section, "utility" means any public
26 service corporation, licensed cable television system, **LICENSED VIDEO**
27 **SERVICE NETWORK**, telephone line or telegraph line corporation or person
28 engaged in the generation, transmission or delivery of electricity,
29 natural gas, telephone, cable television, **VIDEO**, telegraph or water
30 service, including this state or any political subdivision or agency of
31 this state.

32 Sec. 29. Conditional enactment

33 Section 42-6004, Arizona Revised Statutes, as amended by Laws 2018,
34 chapter 17, section 1, chapter 249, section 6, chapter 263, section 3,
35 chapter 341, section 2 and this act, becomes effective on the date
36 prescribed by Laws 2018, chapter 263, section 5 but only on the occurrence
37 of the condition prescribed by Laws 2018, chapter 263, section 5.

APPROVED BY THE GOVERNOR MAY 1, 2019.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 1, 2019.