

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

HOUSE BILL 2111

AN ACT

AMENDING SECTIONS 41-1516, 41-1532, 42-1004, 42-1103, 42-5001 AND 42-5006, ARIZONA REVISED STATUTES; REPEALING SECTION 42-5007, ARIZONA REVISED STATUTES; AMENDING SECTIONS 42-5009, 42-5010, 42-5029, 42-5032.01 AND 42-5032.02, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-5039; AMENDING SECTIONS 42-5061, 42-5071, 42-5072 AND 42-5075, ARIZONA REVISED STATUTES; REPEALING SECTION 42-5076, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 5, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-5078; AMENDING SECTIONS 42-5151, 42-5155, 42-5159, 42-5160, 42-6001, 42-6002, 42-6004 AND 42-6005, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 6, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 1.1; AMENDING SECTIONS 42-6102, 42-6105, 42-6106, 42-6107, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 6, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-6113; AMENDING SECTIONS 43-1072.01, 44-1263, 48-4022, 48-5805 AND 49-290, ARIZONA REVISED STATUTES; RELATING TO _____.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 41-1516, Arizona Revised Statutes, is amended to
3 read:
4 41-1516. Healthy forest enterprise incentives; definitions
5 A. The Arizona commerce authority shall:
6 1. Implement a program to encourage counties, cities and towns to
7 provide local incentives to economic enterprises that promote forest health
8 in this state.
9 2. Identify and certify to the department of revenue the names of and
10 relevant information relating to qualified businesses for the purposes of
11 available state tax incentives for economic enterprises that promote forest
12 health in this state.
13 B. To qualify for state tax incentives pursuant to this section, a
14 business:
15 1. Must be primarily engaged in a qualifying project. The business
16 shall submit to the authority evidence that it is engaged in a qualifying
17 project as follows:
18 (a) The business operation must enhance or sustain forest health,
19 sustain or recover watershed or improve public safety.
20 (b) If the qualifying forest product is on federal land, the business
21 shall submit a letter from the federal agency administering the land, or
22 official records or documents produced in connection with the project,
23 stating that the business is primarily engaged in the business of harvesting
24 or processing qualifying forest products for commercial use as follows:
25 (i) At least seventy per cent of the harvested or processed products,
26 measured by weight, must be qualifying forest products.
27 (ii) At least seventy-five per cent of the qualifying forest products,
28 measured by weight, must be harvested from sources in this state.
29 (c) If the qualifying forest product is not on federal land, the
30 business shall submit a letter from the state forester stating that the
31 business is primarily engaged in the business of harvesting or processing
32 qualifying forest products for commercial use as follows:
33 (i) At least seventy per cent of the harvested or processed products
34 must be qualifying forest products.
35 (ii) At least seventy-five per cent of the harvested or processed
36 products must be from areas in this state.
37 (d) If the business is engaged in transporting qualifying forest
38 products, it must submit a letter from the state forester or United States
39 forest service, or official records or documents produced in connection with
40 the project, stating that all of the qualifying forest products it transports
41 are harvested from areas in this state. In addition, the business must
42 submit evidence to the authority that at least seventy-five per cent of the
43 mileage traveled by its units each year are for transporting qualifying
44 forest products from or to qualifying projects described in subdivision (b)

1 or (c) of this paragraph, unless a lower mileage is due to forest closures or
2 weather conditions that are beyond the control of the business.

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

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

6 4. Must enter into a memorandum of understanding with the authority
7 containing:

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

10 (b) A commitment to continue in business and use the qualifying
11 equipment primarily on qualifying projects in this state as described in
12 paragraph 1 of this subsection, other than for reasons beyond the control of
13 the business. The authority shall consult with the department of revenue in
14 designing the memorandum of understanding to incorporate the legal
15 qualifications for the available tax incentives and shall include the
16 requirement that any qualifying equipment that is purchased or leased free of
17 transaction privilege or use tax must continue to be used in this state for
18 the term of the memorandum of understanding or the duration of its
19 operational life, whichever is shorter.

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

25 (d) The authorization for the authority to terminate, adjust or
26 recapture all or part of the tax benefits provided to the business on
27 noncompliance with the law, noncompliance with the terms of the memorandum or
28 violation of the terms of any contracts with the federal or state government
29 relating to the qualifying project. The authority shall notify the
30 department of revenue of the conditions of noncompliance. The department of
31 revenue may also terminate the certification if it obtains information
32 indicating a failure to qualify and comply. The department of revenue may
33 require the business to file appropriate amended tax returns or to file
34 appropriate use tax returns reflecting the recapture of the direct or
35 indirect tax benefits.

36 5. Must submit a copy of the certification to the department of
37 revenue for approval before using the certification for purposes of any tax
38 incentive. The department of revenue shall review and approve the
39 certification in a timely manner if the business is in good standing with the
40 department and is not delinquent in the payment of any tax collected by the
41 department. A failure to approve or deny the certification within sixty days
42 after the date the business submits it to the department constitutes approval
43 of the certification.

1 ~~C. For the purposes of section 42-5075, subsection B, paragraph 18,~~
2 ~~the authority shall certify prime contractors that contract for the~~
3 ~~construction of any building, or other structure, project, development or~~
4 ~~improvement owned by a qualified business for purposes of a qualifying~~
5 ~~project described in subsection B, paragraph 1 of this section.~~

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

8 1. Apply to the authority.

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

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

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

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

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

31 ~~H.~~ G. On or before March 1 of each year, each qualifying business
32 shall make a report to the authority on all business activity in the
33 preceding calendar year. Business information contained in the reports is
34 confidential and shall not be disclosed to the public except as provided by
35 this section and except that a copy of the report shall be transmitted to the
36 department of revenue. The report shall be in a form prescribed by the
37 authority and include:

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

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

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

- 1 ~~I.~~ H. On or before May 1 of each year, the authority shall report to
2 the joint legislative budget committee:
- 3 1. The quantity, measured by weight, of qualifying forest products
4 reported by harvesters, by transporters and by processors in the preceding
5 calendar year.
- 6 2. The number of new full-time employees hired in qualified employment
7 positions in this state in the preceding calendar year and reported for tax
8 credit purposes.
- 9 3. The total number of all full-time employees employed in qualified
10 employment positions in this state in the preceding calendar year and
11 reported for tax credit purposes.
- 12 ~~J.~~ I. For purposes of administering and ensuring compliance with this
13 section, agents of the authority may enter, and a qualified business shall
14 allow access to, a qualifying project site at reasonable times and on
15 reasonable notice to:
- 16 1. Inspect the facilities at the site.
- 17 2. Obtain factual data and records pertinent to and required by law to
18 be kept for purposes of tax incentives.
- 19 3. Otherwise ascertain compliance with law and the terms of the
20 memorandum of understanding.
- 21 ~~K.~~ J. The authority shall revoke the business' certification and
22 notify the department of revenue and county assessor if either:
- 23 1. Within thirty days after a formal request from the authority or the
24 department of revenue the business fails or refuses to provide the
25 information or access for inspections required by this section.
- 26 2. The business no longer meets the terms and conditions required for
27 qualification for the applicable tax incentives.
- 28 ~~L.~~ K. For the purposes of this section:
- 29 1. "Forest health" means the degree to which the integrity of the
30 forest is sustained, including reducing the risk of catastrophic wildfire and
31 destructive insect infestation, benefiting wildland habitats, watersheds and
32 communities.
- 33 2. "Harvesting" means all operations relating to felling or otherwise
34 removing trees and other forest plant growth and preparing them for transport
35 for subsequent processing.
- 36 3. "Processing" means:
- 37 (a) Any change in the physical structure of qualifying forest products
38 removed from a qualifying project into a marketable commercial product or
39 component of a product that has commercial value to a consumer or purchaser
40 and that is ready to be used with or without further altering its form.
- 41 (b) Burning qualifying forest products in the process of commercial
42 electrical generation or commercial thermal energy production for heating or
43 cooling, regardless of the physical structure of the forest product before
44 burning.

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

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

11 (b) Forest residue receiving and handling equipment, including truck
12 dumpers, log unloaders, scales, log decking facilities and equipment and chip
13 pile facilities.

14 (c) Sorting and processing equipment, including portable and
15 stationary log loaders, front-end loaders, ~~fork-lifts~~ FORKLIFTS and cranes,
16 chippers and grinders, screens, decks and debarkers, saws and sawmill
17 equipment, firewood processing, wood residue baling and bagging equipment,
18 kilns, planing and molding equipment and laminating and joining equipment.

19 (d) Forest waste and residue disposal and processing equipment,
20 including:

21 (i) Processing and sizing equipment, hogs, chippers, screens,
22 pelletizers and wood splitters.

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

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

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

29 (v) Generated waste disposal equipment, including ash silos and
30 wastewater treatment and disposal equipment.

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

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

37 6. "Qualifying project" means harvesting, transporting or processing
38 qualifying forest products as required for certification pursuant to this
39 section.

40 Sec. 2. Section 41-1532, Arizona Revised Statutes, is amended to read:

41 41-1532. Tax incentives; conditions

42 A. ~~A prime contractor may qualify for an exemption from transaction~~
43 ~~privilege tax with respect to activities in a military reuse zone as~~
44 ~~provided, and subject to the terms and conditions prescribed, by section~~
45 ~~42-5075, subsection B, paragraph 4.~~

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

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

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

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

22 (b) The authority to notify the department of revenue of the
23 conditions of noncompliance.

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

26 ~~C.~~ B. Taxable property in a military reuse zone that is devoted to
27 providing aviation or aerospace services or to manufacturing, assembling or
28 fabricating aviation or aerospace products qualifies for assessment as class
29 six property as provided, and subject to the terms and conditions prescribed,
30 by sections 42-12006 and 42-15006.

31 ~~D.~~ C. To qualify for a tax incentive described in subsection ~~A or C~~ B
32 of this section, the taxpayer shall provide to the authority information
33 relating to the amount of tax benefits the taxpayer receives each year for
34 each year in which the taxpayer claims the incentives on forms prescribed by
35 the authority. If the taxpayer fails to provide the required information,
36 the authority shall immediately revoke the taxpayer's certification of
37 eligibility and notify the department of revenue.

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

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

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

5 B. The department may:

6 1. With the approval of the attorney general:

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

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

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

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

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

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

25 C. In the determination of any issue of law or fact under this title
26 or title 43, neither the department, nor any officer or agency having any
27 administrative duties under this title or title 43, nor any court is bound by
28 the determination of any other executive officer or administrative agency of
29 this state. In the determination of any case arising under this title or
30 title 43, the rule of res judicata is applicable only if the liability
31 involved is for the same year or period as was involved in another case
32 previously determined under this title or title 43.

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

37 E. The attorney general shall prosecute in the name of this state all
38 actions necessary to enforce this title and title 43. The attorney general
39 may defend all actions brought against this state or an officer or agency of
40 this state arising under this title and title 43. The attorney general may
41 delegate the prosecuting authority to any county attorney for prosecution in
42 that county.

43 F. A special collections account is established in the state general
44 fund. All monies collected pursuant to contracts authorized by subsection B,
45 paragraph 3 of this section shall be deposited in the special collections

1 account. The department shall pay from the account all fees and court costs
2 provided for in the contracts authorized under subsection B, paragraph 3 of
3 this section. The department shall allocate the remainder of the amounts
4 collected under subsection B, paragraph 3 of this section to the state or the
5 political subdivision in the proportion that the monies would have been
6 distributed pursuant to chapter 5 of this title or section 43-206,
7 respectively.

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

9 42-1103. Enjoining delinquent taxpayer from engaging or
10 continuing in business

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

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

27 C. On application for an injunction against a person other than a
28 delinquent taxpayer, the court may issue an order temporarily restraining the
29 person from engaging or continuing in business. The court shall hear the
30 matter within three days and on a showing that the person has been given
31 notice of the hearing as required by law, that demand has been made on the
32 taxpayer to furnish security, that the taxpayer has not furnished security
33 and that the director considers the collection from the primarily responsible
34 person of the total amount of tax due or reasonably expected to become due to
35 be in jeopardy, the court may forthwith enjoin the person from engaging or
36 continuing in business until the person complies in full with the demand of
37 the director for furnishing security.

38 D. The court shall not issue a temporary restraining order or
39 injunction under this section against any person who has furnished security
40 pursuant to section 42-1102, ~~OR~~ 42-5006 ~~or 42-5007~~. On a showing to the
41 court by any person against whom a temporary restraining order or injunction
42 has issued under this section that the person has furnished such security,
43 the court shall dissolve or set aside the temporary restraining order or
44 injunction.

1 Sec. 5. Section 42-5001, Arizona Revised Statutes, is amended to read:
2 42-5001. Definitions

3 In this article and article 2 of this chapter, unless the context
4 otherwise requires:

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

8 (a) Casual activities or sales.

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

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

12 3. "CONTRACTOR" IS SYNONYMOUS WITH THE TERM "BUILDER" AND MEANS ANY
13 PERSON OR ORGANIZATION THAT UNDERTAKES TO OR OFFERS TO UNDERTAKE TO, OR
14 PURPORTS TO HAVE THE CAPACITY TO UNDERTAKE TO, OR SUBMITS A BID TO, OR DOES
15 PERSONALLY OR BY OR THROUGH OTHERS, MODIFY ANY BUILDING, HIGHWAY, ROAD,
16 RAILROAD, EXCAVATION, MANUFACTURED BUILDING OR OTHER STRUCTURE, PROJECT,
17 DEVELOPMENT OR IMPROVEMENT, OR TO DO ANY PART OF SUCH A PROJECT, INCLUDING
18 THE ERECTION OF SCAFFOLDING OR OTHER STRUCTURE OR WORKS IN CONNECTION WITH
19 SUCH A PROJECT, AND INCLUDES SUBCONTRACTORS AND SPECIALTY CONTRACTORS. FOR
20 ALL PURPOSES OF TAXATION OR DEDUCTION, THIS DEFINITION GOVERNS WITHOUT REGARD
21 TO WHETHER OR NOT THE CONTRACTOR IS ACTING IN FULFILLMENT OF A CONTRACT.

22 ~~2-~~ 4. "Distribution base" means the portion of the revenues derived
23 from the tax levied by this article and articles 5 and 8 of this chapter
24 designated for distribution to counties, municipalities and other purposes
25 according to section 42-5029, subsection D.

26 ~~3-~~ 5. "Engaging", when used with reference to engaging or continuing
27 in business, includes the exercise of corporate or franchise powers.

28 ~~4-~~ 6. "Gross income" means the gross receipts of a taxpayer derived
29 from trade, business, commerce or sales and the value proceeding or accruing
30 from the sale of tangible personal property or service, or both, and without
31 any deduction on account of losses.

32 ~~5-~~ 7. "Gross proceeds of sales" means the value proceeding or
33 accruing from the sale of tangible personal property without any deduction on
34 account of the cost of property sold, expense of any kind or losses, but cash
35 discounts allowed and taken on sales are not included as gross income.

36 ~~6-~~ 8. "Gross income" and "gross proceeds of sales" do not include
37 goods, wares or merchandise, or value thereof, returned by customers if the
38 sale price is refunded either in cash or by credit, nor the value of
39 merchandise traded in on the purchase of new merchandise when the trade-in
40 allowance is deducted from the sales price of the new merchandise before
41 completion of the sale.

42 ~~7-~~ 9. "Gross receipts" means the total amount of the sale, lease or
43 rental price, as the case may be, of the retail sales of retailers, including
44 any services that are a part of the sales, valued in money, whether received
45 in money or otherwise, including all receipts, cash, credits and property of

1 every kind or nature, and any amount for which credit is allowed by the
2 seller to the purchaser without any deduction from the amount on account of
3 the cost of the property sold, materials used, labor or service performed,
4 interest paid, losses or any other expense. Gross receipts do not include
5 cash discounts allowed and taken nor the sale price of property returned by
6 customers if the full sale price is refunded either in cash or by credit.

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

12 ~~9-~~ 11. "Qualifying community health center":

13 (a) Means an entity that is recognized as nonprofit under section
14 501(c)(3) of the United States internal revenue code, that is a
15 community-based, primary care clinic that has a community-based board of
16 directors and that is either:

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

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

20 (b) Includes clinics that are being constructed as qualifying
21 community health centers.

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

33 ~~11-~~ 13. "Qualifying hospital" means any of the following:

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

37 (b) A licensed nursing care institution or a licensed residential care
38 institution or a residential care facility operated in conjunction with a
39 licensed nursing care institution or a licensed kidney dialysis center, which
40 provides medical services, nursing services or health related services and is
41 not used or held for profit.

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

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

3 ~~12-~~ 14. "Retailer" includes every person engaged in the business
4 classified under the retail classification pursuant to section 42-5061 and,
5 when in the opinion of the department it is necessary for the efficient
6 administration of this article, includes dealers, distributors, supervisors,
7 employers and salesmen, representatives, peddlers or canvassers as the agents
8 of the dealers, distributors, supervisors or employers under whom they
9 operate or from whom they obtain the tangible personal property sold by them,
10 whether in making sales on their own behalf or on behalf of the dealers,
11 distributors, supervisors or employers.

12 ~~13-~~ 15. "Sale" means any transfer of title or possession, or both,
13 exchange, barter, lease or rental, conditional or otherwise, in any manner or
14 by any means whatever, including consignment transactions and auctions, of
15 tangible personal property or other activities taxable under this chapter,
16 for a consideration, and includes:

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

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

21 (c) Furnishing, preparing or serving for a consideration any tangible
22 personal property consumed on the premises of the person furnishing,
23 preparing or serving the tangible personal property.

24 ~~14-~~ 16. "Solar daylighting" means a device that is specifically
25 designed to capture and redirect the visible portion of the solar beam, while
26 controlling the infrared portion, for use in illuminating interior building
27 spaces in lieu of artificial lighting.

28 ~~15-~~ 17. "Solar energy device" means a system or series of mechanisms
29 designed primarily to provide heating, to provide cooling, to produce
30 electrical power, to produce mechanical power, to provide solar daylighting
31 or to provide any combination of the foregoing by means of collecting and
32 transferring solar generated energy into such uses either by active or
33 passive means, including wind generator systems that produce electricity.
34 Solar energy systems may also have the capability of storing solar energy for
35 future use. Passive systems shall clearly be designed as a solar energy
36 device, such as a trombe wall, and not merely as a part of a normal
37 structure, such as a window.

38 ~~16-~~ 18. "Tangible personal property" means personal property ~~which~~
39 ~~THAT~~ may be seen, weighed, measured, felt or touched or ~~THAT~~ is in any other
40 manner perceptible to the senses.

41 ~~17-~~ 19. "Tax year" or "taxable year" means either the calendar year or
42 the taxpayer's fiscal year, if permission is obtained from the department to
43 use a fiscal year as the tax period instead of the calendar year.

44 ~~18-~~ 20. "Taxpayer" means any person who is liable for any tax ~~which~~
45 ~~THAT~~ is imposed by this article.

1 ~~19.~~ 21. "Wholesaler" or "jobber" means any person who sells tangible
2 personal property for resale and not for consumption by the purchaser.

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

4 42-5006. Taxpayer bonds; out of state licensed contractors and
5 manufactured building dealers

6 A. Notwithstanding section 42-1102, the department shall require a
7 surety bond for each taxpayer ~~who is required to be licensed under title 32,~~
8 ~~chapter 10 or~~ who is regulated under title 41, chapter 16, article 2, if the
9 taxpayer's principal place of business is outside this state or if the
10 taxpayer has conducted business in this state for less than one year. The
11 department shall prescribe the form of the bond. The bond shall be maintained
12 for a period of at least two years.

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

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

28 D. A licensee on application for a new license covered by subsection A
29 of this section, renewal of a license covered by subsection A of this section
30 or transfer of a license covered by subsection A of this section is exempt
31 from posting a bond if the licensee has for at least two years immediately
32 preceding the application made timely payment of all transaction privilege
33 taxes incurred.

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

40 Sec. 7. Repeal

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

1 Sec. 8. Section 42-5009, Arizona Revised Statutes, is amended to read:
2 42-5009. Certificates establishing deductions; liability for
3 making false certificate

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

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

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

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

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

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

43 E. If a seller is entitled to a deduction by complying with subsection
44 B of this section, the department may require the purchaser to establish the
45 accuracy and completeness of the information provided to the seller that

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

10 F. The department may prescribe a form for a certificate used to
11 establish entitlement to the deductions described in section 42-5061,
12 subsection A, paragraph ~~47~~ 46 and section 42-5063, subsection B, paragraph 3.
13 Under rules the department may prescribe, the department may also require
14 additional information for the seller to be entitled to the deduction. If a
15 seller is entitled to the deductions described in section 42-5061, subsection
16 A, paragraph ~~47~~ 46 and section 42-5063, subsection B, paragraph 3, the
17 department may require the purchaser who executed the certificate to
18 establish the accuracy and completeness of the information contained in the
19 certificate that would entitle the seller to the deduction. If the purchaser
20 cannot establish the accuracy and completeness of the information, the
21 purchaser is liable in an amount equal to any tax, penalty and interest that
22 the seller would have been required to pay under this article. Payment of
23 the amount under this subsection exempts the purchaser from liability for any
24 tax imposed under article 4 of this chapter. The amount shall be treated as
25 tax revenues collected from the seller in order to designate the distribution
26 base for purposes of section 42-5029.

27 G. If a seller claims a deduction under section 42-5061, subsection A,
28 paragraph 25 and establishes entitlement to the deduction with an exemption
29 letter that the purchaser received from the department and the exemption
30 letter was based on a contingent event, the department may require the
31 purchaser that received the exemption letter to establish the satisfaction of
32 the contingent event within a reasonable time. If the purchaser cannot
33 establish the satisfaction of the event, the purchaser is liable in an amount
34 equal to any tax, penalty and interest that the seller would have been
35 required to pay under this article if the seller had not been furnished the
36 exemption letter. Payment of the amount under this subsection exempts the
37 purchaser from liability for any tax imposed under article 4 of this chapter.
38 The amount shall be treated as tax revenues collected from the seller in
39 order to designate the distribution base for purposes of section 42-5029.
40 For the purposes of this subsection, "reasonable time" means a time
41 limitation that the department determines and that does not exceed the time
42 limitations pursuant to section 42-1104.

43 H. The department shall prescribe forms for certificates used to
44 establish the satisfaction of the criteria necessary to qualify the sale of a
45 motor vehicle for the deductions described in section 42-5061, subsection A,

1 paragraph 14, paragraph 28, subdivision (a) and paragraph ~~45~~ 44 and
2 subsection U. To establish entitlement to these deductions, a motor vehicle
3 dealer shall retain:

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

7 2. A copy of the nonresident registration permit authorized by section
8 28-2154.

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

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

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

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

35 K. THE DEPARTMENT SHALL PRESCRIBE A FORM FOR A CERTIFICATE TO BE USED
36 TO ESTABLISH ENTITLEMENT TO THE DEDUCTION DESCRIBED IN SECTION 42-5061,
37 SUBSECTION A, PARAGRAPH 27, SUBDIVISION (b) RELATING TO HIGHWAY, STREET AND
38 BRIDGE CONSTRUCTION. A HIGHWAY, STREET OR BRIDGE CONTRACTOR SHALL OBTAIN A
39 NEW CERTIFICATE FOR EACH PROJECT AND IS SUBJECT TO THE FOLLOWING REQUIREMENTS
40 AND CONDITIONS:

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

44 2. THE DEPARTMENT SHALL ISSUE THE CERTIFICATE TO A HIGHWAY, STREET OR
45 BRIDGE CONTRACTOR ON RECEIVING SUFFICIENT DOCUMENTATION TO ESTABLISH THAT THE

1 HIGHWAY, STREET OR BRIDGE CONTRACTOR MEETS THE REQUIREMENTS OF THIS
2 SUBSECTION.

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

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

10 Sec. 9. Section 42-5010, Arizona Revised Statutes, is amended to read:
11 42-5010. Rates; distribution base

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

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

- 17 (a) Transporting classification.
- 18 (b) Utilities classification.
- 19 (c) Telecommunications classification.
- 20 (d) Pipeline classification.
- 21 (e) Private car line classification.
- 22 (f) Publication classification.
- 23 (g) Job printing classification.
- 24 (h) ~~Prime contracting~~ MANUFACTURED BUILDING DEALER classification.
- 25 ~~(i) Owner builder sales classification.~~
- 26 ~~(j)~~ (i) Amusement classification.
- 27 ~~(k)~~ (j) Restaurant classification.
- 28 ~~(l)~~ (k) Personal property rental classification.
- 29 ~~(m)~~ (l) Retail classification.
- 30 (m) HIGHWAY, STREET OR BRIDGE CONSTRUCTION CLASSIFICATION.

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

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

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

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

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

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

10 E. Fifty-three and one-third per cent of the tax revenues collected
11 from persons on account of engaging in business under the business
12 classification listed in subsection A, paragraph 4 of this section is
13 designated as distribution base for purposes of section 42-5029.

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

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

32 H. Any increase in the rate of tax that is imposed by this chapter and
33 that is enacted by the legislature or by a vote of the people does not apply
34 with respect to contracts entered into by ~~prime~~ HIGHWAY, STREET OR BRIDGE
35 contractors or pursuant to written bids made by ~~prime~~ HIGHWAY, STREET OR
36 BRIDGE contractors on or before the effective date of the legislation or the
37 date of the election enacting the increase. To qualify for the exemption
38 under this subsection, the ~~prime~~ HIGHWAY, STREET OR BRIDGE contractor must
39 maintain sufficient documentation, in a manner and form prescribed by the
40 department, to verify the date of the contract or written bid.

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

43 1. Any increase in the rate of tax that is levied by this article or
44 article 2 of this chapter enacted by the legislature or by a vote of the
45 people does not apply for a period of one hundred twenty days from the date

1 of the tax rate increase to the gross proceeds of sales or gross income from
2 the business of the taxpayer with respect to written contracts entered into
3 before the effective date of the tax rate increase unless the taxpayer has
4 entered into a contract that contains a provision that entitles the taxpayer
5 to recover from the purchaser the amount of the additional tax levied.

6 2. The provisions of this subsection apply without regard to the
7 accounting method used by the taxpayer to report the taxes imposed under
8 article 2 of this chapter.

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

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

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

24 42-5029. Remission and distribution of monies; definition

25 A. The department shall deposit, pursuant to sections 35-146 and
26 35-147, all revenues collected under this article and articles 4, 5 and 8 of
27 this chapter pursuant to section 42-1116, separately accounting for:

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

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

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

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

35 B. The department shall credit payments of estimated tax to an
36 estimated tax clearing account and each month shall transfer all monies in
37 the estimated tax clearing account to a fund designated as the transaction
38 privilege and severance tax clearing account. The department shall credit
39 all other payments to the transaction privilege and severance tax clearing
40 account, separately accounting for the monies designated as distribution base
41 under sections 42-5010, 42-5164, 42-5205 and 42-5353. Each month the
42 department shall report to the state treasurer the amount of monies collected
43 pursuant to this article and articles 4, 5 and 8 of this chapter.

44 C. On notification by the department, the state treasurer shall
45 distribute the monies deposited in the transaction privilege and severance

1 tax clearing account in the manner prescribed by this section and by sections
2 42-5164, 42-5205 and 42-5353, after deducting warrants drawn against the
3 account pursuant to sections 42-1118 and 42-1254.

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

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

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

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

12 (b) The proportion that the distribution base monies collected during
13 the calendar month in each county under this article, section 42-5164,
14 subsection B, section 42-5205, subsection B and section 42-5353 bear to the
15 total distribution base monies collected under this article, section 42-5164,
16 subsection B, section 42-5205, subsection B and section 42-5353 throughout
17 the state for the calendar month.

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

20 (a) Average the following proportions:

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

33 (ii) The proportion that the distribution base monies collected during
34 the calendar month in each county under this article, section 42-5164,
35 subsection B, section 42-5205, subsection B and section 42-5353 bear to the
36 total distribution base monies collected under this article, section 42-5164,
37 subsection B, section 42-5205, subsection B and section 42-5353 throughout
38 the state for the calendar month.

39 (b) If the proportion computed under subdivision (a) of this paragraph
40 for any county is greater than the proportion computed under paragraph 2 of
41 this subsection, the department shall compute the difference between the
42 amount distributed to that county under paragraph 2 of this subsection and
43 the amount that would have been distributed under paragraph 2 of this
44 subsection using the proportion computed under subdivision (a) of this
45 paragraph and shall pay that difference to the county from the amount

1 available for distribution under this paragraph. Any monies remaining after
2 all payments under this subdivision shall be distributed among the counties
3 according to the proportions computed under paragraph 2 of this subsection.

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

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

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

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

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

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

35 2. After any transfer of monies pursuant to paragraph 1 of this
36 subsection, twelve per cent of the remaining monies collected during the
37 preceding month shall be transferred to the technology and research
38 initiative fund established by section 15-1648 to be distributed among the
39 universities for the purpose of investment in technology and research-based
40 initiatives.

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

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

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

- 18 (a) In fiscal year 2001-2002, \$15,305,900.
- 19 (b) In fiscal year 2002-2003, \$31,530,100.
- 20 (c) In fiscal year 2003-2004, \$48,727,700.
- 21 (d) In fiscal year 2004-2005, \$66,957,200.
- 22 (e) In fiscal year 2005-2006 and each fiscal year thereafter,
23 \$86,280,500.

24 6. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
25 subsection, seven million eight hundred thousand dollars is appropriated each
26 fiscal year, to be paid in monthly installments, to the department of
27 education to be used for school safety as provided in section 15-154 and two
28 hundred thousand dollars is appropriated each fiscal year, to be paid in
29 monthly installments to the department of education to be used for the
30 character education matching grant program as provided in section 15-154.01.

31 7. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
32 subsection, no more than seven million dollars may be appropriated by the
33 legislature each fiscal year to the department of education to be used for
34 accountability purposes as described in section 15-241 and title 15, chapter
35 9, article 8.

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

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

44 10. After the payment of monies pursuant to paragraphs 1 through 9 of
45 this subsection, the remaining monies collected during the preceding month

1 shall be transferred to the classroom site fund established by section
2 15-977. The monies shall be allocated as follows in the manner prescribed by
3 section 15-977:

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

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

8 (c) Forty per cent shall be allocated for maintenance and operation
9 purposes.

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

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

31 H. On receiving a certificate of default from the greater Arizona
32 development authority pursuant to section 41-2257 or 41-2258 and to the
33 extent not otherwise expressly prohibited by law, the state treasurer shall
34 withhold from the next succeeding distribution of monies pursuant to this
35 section due to the defaulting political subdivision the amount specified in
36 the certificate of default and immediately deposit the amount withheld in the
37 greater Arizona development authority revolving fund. The state treasurer
38 shall continue to withhold and deposit the monies until the greater Arizona
39 development authority certifies to the state treasurer that the default has
40 been cured. In no event may the state treasurer withhold any amount that the
41 defaulting political subdivision certifies to the state treasurer and the
42 authority as being necessary to make any required deposits then due for the
43 payment of principal and interest on bonds of the political subdivision that
44 were issued before the date of the loan repayment agreement or bonds and that
45 have been secured by a pledge of distributions made pursuant to this section.

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

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

21 K. On notice from the auditor general pursuant to section 9-626,
22 subsection D, the state treasurer shall withhold from the distribution of
23 monies pursuant to this section to the affected city the amount computed
24 pursuant to section 9-626, subsection D. The state treasurer shall continue
25 to withhold monies pursuant to this subsection until the entire amount
26 specified in the notice has been withheld. The state treasurer shall credit
27 any monies withheld pursuant to this subsection to the state general fund as
28 provided by subsection D, paragraph 4 of this section.

29 L. For the purposes of this section, "community college district"
30 means a community college district that is established pursuant to sections
31 15-1402 and 15-1403 and that is a political subdivision of this state and,
32 unless otherwise specified, includes a community college district established
33 pursuant to section 15-1402.01 and a provisional community college district
34 established pursuant to section 15-1409.

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

37 42-5032.01. Distribution of revenues for tourism and sports
38 authority

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

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

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

7 2. The retail, amusement and restaurant classifications at, or with
8 respect to, professional football contests that are held beginning July,
9 2001 in a stadium located on the campus of an institution under the
10 jurisdiction of the Arizona board of regents.

11 ~~C. Each month the state treasurer shall pay, from the amount~~
12 ~~designated as distribution base pursuant to section 42-5029, subsection D,~~
13 ~~the total amount of state transaction privilege tax revenues received from~~
14 ~~persons conducting business under the prime contracting classification at a~~
15 ~~multipurpose facility that is owned or operated by the tourism and sports~~
16 ~~authority pursuant to title 5, chapter 8 for deposit in the authority's~~
17 ~~construction account established by section 5-833.~~

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

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

23 42-5032.02. Distribution of revenues for city, town or county
24 infrastructure improvements related to
25 manufacturing facilities; definitions

26 A. Subject to subsection B of this section, from and after September
27 30, 2013 through September 30, 2023, each month the state treasurer shall pay
28 a city, town or county the amount determined under subsection C of this
29 section for the purpose of funding up to eighty per cent of the cost of
30 public infrastructure improvements for the benefit of a manufacturing
31 facility.

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

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

38 2. From and after June 30, 2014.

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

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

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

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

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

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

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

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

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

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

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

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

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

8 ~~7.~~ 6. State that the city, town or county agrees that any amounts
9 paid by the department to a ~~prime contractor as identified under paragraph 6~~
10 ~~of this subsection resulting from an audit adjustment or claim for credit or~~
11 ~~refund of taxes described in subsection C of this section~~ CITY, TOWN OR
12 COUNTY THAT EXCEED THE AMOUNT OF THE TRANSACTION PRIVILEGE TAX PAID ON THE
13 SALE OF MATERIALS USED IN THE CONSTRUCTION OF BUILDINGS OR OTHER ASSOCIATED
14 IMPROVEMENTS FOR THE BENEFIT OF THE MANUFACTURING FACILITY shall be recovered
15 by the department from the city, town or county by reducing the amount paid
16 to the city, town or county under section 42-5029 from monies designated as
17 distribution base in the month next succeeding the month in which the
18 adjustment or claim is paid.

19 ~~8.~~ 7. State that the city, town or county agrees that the department
20 will use the amounts subject to any distribution required under subsection A
21 of this section in calculating the maximum amount set by subsection C of this
22 section.

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

31 ~~10.~~ 8. Provide any other information deemed necessary by the
32 department.

33 G. EACH YEAR AND ON COMPLETION OF THE CONTRACT TO CONSTRUCT BUILDINGS
34 AND OTHER ASSOCIATED IMPROVEMENTS FOR THE BENEFIT OF A MANUFACTURING
35 FACILITY, THE MANUFACTURING FACILITY SHALL PROVIDE A RECONCILIATION OF THE
36 COST OF MATERIALS USED IN THE CONSTRUCTION OF THE BUILDINGS AND OTHER
37 ASSOCIATED IMPROVEMENTS, INCLUDING AMOUNTS REPRESENTING A REIMBURSEMENT OF
38 TRANSACTION PRIVILEGE TAXES PAID BY THE RETAILER.

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

42 1. A city, town or county has received monies that meet or exceed
43 eighty per cent of the cost of the public infrastructure improvements that
44 are necessary to support the activities related to the manufacturing facility

1 as described in the written agreement pursuant to subsection ~~E~~ F of this
2 section.

3 2. The total amount subject to any distribution required under
4 subsection A of this section has met the maximum amount set by subsection C
5 of this section.

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

7 1. "Associated improvement" includes any public infrastructure
8 improvement that is made for the benefit of the manufacturing facility
9 outside of the parcel or parcels of real property where the manufacturing
10 facility is located.

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

14 3. "Manufacturing facility":

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

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

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

28 ~~Manufacturing facility~~

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

31 4. "Population" means the population determined in the most recent
32 United States decennial census or the most recent special census as provided
33 in section 28-6532.

34 5. "Public infrastructure" means water facilities, wastewater
35 facilities and roads that are necessary to support the activities of the
36 manufacturing facility.

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

39 42-5039. Sourcing of certain transactions involving tangible
40 personal property; definitions

41 A. EXCEPT AS PROVIDED IN SECTION 42-5075, RETAIL SALES OF TANGIBLE
42 PERSONAL PROPERTY SHALL BE SOURCED AS FOLLOWS:

43 1. TO THE SELLER'S BUSINESS LOCATION IF THE SELLER RECEIVES THE ORDER
44 AT A BUSINESS LOCATION IN THIS STATE.

1 2. TO THE PURCHASER'S LOCATION IN THIS STATE IF THE SELLER RECEIVES
2 THE ORDER AT A BUSINESS LOCATION OUTSIDE THIS STATE.

3 B. FOR THE PURPOSES OF MUNICIPAL EXCISE TAXES, THE JURISDICTION WITH
4 THE RIGHT TO TAX A SALE OF TANGIBLE PERSONAL PROPERTY IS THE CITY OR TOWN
5 DESCRIBED AS FOLLOWS:

6 1. WHERE THE ORDER IS RECEIVED. AN ORDER IS RECEIVED WHEN ALL OF THE
7 INFORMATION NECESSARY TO ACCEPT THE ORDER HAS BEEN RECEIVED BY OR ON BEHALF
8 OF THE SELLER, REGARDLESS OF WHERE THE ORDER IS ACCEPTED OR APPROVED. THE
9 PLACE OF BUSINESS OF THE PURCHASER DOES NOT DETERMINE WHERE THE ORDER IS
10 RECEIVED.

11 2. IF PARAGRAPH 1 OF THIS SUBSECTION DOES NOT APPLY TO ANY CITY OR
12 TOWN, WHERE THE STOCK IS LOCATED FROM WHICH THE TANGIBLE PERSONAL PROPERTY IS
13 TAKEN.

14 3. IF PARAGRAPHS 1 AND 2 OF THIS SUBSECTION DO NOT APPLY TO ANY CITY
15 OR TOWN, WHERE THE TRANSFER OF TITLE OR POSSESSION OF THE TANGIBLE PERSONAL
16 PROPERTY OCCURRED.

17 C. THE GROSS RECEIPTS FROM LEASING OR RENTING TANGIBLE PERSONAL
18 PROPERTY SHALL BE SOURCED AS FOLLOWS:

19 1. TO THE LESSOR'S BUSINESS LOCATION IF THE LESSOR HAS A BUSINESS
20 LOCATION IN THIS STATE.

21 2. TO THE LESSEE'S ADDRESS IF THE LESSOR DOES NOT HAVE A BUSINESS
22 LOCATION IN THIS STATE. THE GROSS RECEIPTS ARE TAXABLE WHEN THE PROPERTY IS
23 SHIPPED, DELIVERED OR OTHERWISE BROUGHT INTO THIS STATE FOR USE IN THIS
24 STATE.

25 D. FOR THE PURPOSES OF THIS SECTION:

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

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

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

32 (a) THE ORDER IS RECEIVED.

33 (b) THE STOCK IS LOCATED FROM WHICH THE TANGIBLE PERSONAL PROPERTY IS
34 TAKEN.

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

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

38 42-5061. Retail classification; definitions

39 A. The retail classification is comprised of the business of selling
40 tangible personal property at retail. The tax base for the retail
41 classification is the gross proceeds of sales or gross income derived from
42 the business. The tax imposed on the retail classification does not apply to
43 the gross proceeds of sales or gross income from:

- 1 1. Professional or personal service occupations or businesses that
2 involve sales or transfers of tangible personal property only as
3 inconsequential elements.
- 4 2. Services rendered in addition to selling tangible personal property
5 at retail.
- 6 3. Sales of warranty or service contracts. The storage, use or
7 consumption of tangible personal property provided under the conditions of
8 such contracts is subject to tax under section 42-5156.
- 9 4. Sales of tangible personal property by any nonprofit organization
10 organized and operated exclusively for charitable purposes and recognized by
11 the United States internal revenue service under section 501(c)(3) of the
12 internal revenue code.
- 13 5. Sales to persons engaged in business classified under the
14 restaurant classification of articles used by human beings for food, drink or
15 condiment, whether simple, mixed or compounded.
- 16 6. Business activity that is properly included in any other business
17 classification that is taxable under this article.
- 18 7. The sale of stocks and bonds.
- 19 8. Drugs and medical oxygen, including delivery hose, mask or tent,
20 regulator and tank, on the prescription of a member of the medical, dental or
21 veterinarian profession who is licensed by law to administer such substances.
- 22 9. Prosthetic appliances as defined in section 23-501 prescribed or
23 recommended by a health professional who is licensed pursuant to title 32,
24 chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.
- 25 10. Insulin, insulin syringes and glucose test strips.
- 26 11. Prescription eyeglasses or contact lenses.
- 27 12. Hearing aids as defined in section 36-1901.
- 28 13. Durable medical equipment ~~which~~ **THAT** has a centers for medicare and
29 medicaid services common procedure code, is designated reimbursable by
30 medicare, is prescribed by a person who is licensed under title 32, chapter
31 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and
32 customarily used to serve a medical purpose, is generally not useful to a
33 person in the absence of illness or injury and is appropriate for use in the
34 home.
- 35 14. Sales **OF MOTOR VEHICLES** to nonresidents of this state for use
36 outside this state if the ~~vendor~~ **MOTOR VEHICLE DEALER** ships or delivers the
37 ~~tangible personal property~~ **MOTOR VEHICLE TO A DESTINATION** out of this state.
- 38 15. Food, as provided in and subject to the conditions of article 3 of
39 this chapter and section 42-5074.
- 40 16. Items purchased with United States department of agriculture food
41 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.
42 958) or food instruments issued under section 17 of the child nutrition act
43 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code
44 section 1786).

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

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

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

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

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

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

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

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

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

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

37 25. Tangible personal property sold to:

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

39 (b) A qualifying health care organization as defined in section
40 42-5001 if the tangible personal property is used by the organization solely
41 to provide health and medical related educational and charitable services.

42 (c) A qualifying health care organization as defined in section
43 42-5001 if the organization is dedicated to providing educational,
44 therapeutic, rehabilitative and family medical education training for blind,

1 visually impaired and multihandicapped children from the time of birth to age
2 twenty-one.

3 (d) A qualifying community health center as defined in section
4 42-5001.

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

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

16 26. Magazines or other periodicals or other publications by this state
17 to encourage tourist travel.

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

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

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

31 (b) TO BE INCORPORATED OR FABRICATED BY THE PERSON INTO A HIGHWAY,
32 STREET OR BRIDGE.

33 28. The sale of a motor vehicle to:

34 (a) A nonresident of this state if the purchaser's state of residence
35 does not allow a corresponding use tax exemption to the tax imposed by
36 article 1 of this chapter and if the nonresident has secured a special ninety
37 day nonresident registration permit for the vehicle as prescribed by sections
38 28-2154 and 28-2154.01.

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

41 29. Tangible personal property purchased in this state by a nonprofit
42 charitable organization that has qualified under section 501(c)(3) of the
43 United States internal revenue code and that engages in and uses such
44 property exclusively in programs for mentally or physically handicapped

1 persons if the programs are exclusively for training, job placement,
2 rehabilitation or testing.

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

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

14 32. Sales of tangible personal property by a nonprofit organization
15 that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6),
16 501(c)(7) or 501(c)(8) of the internal revenue code if the organization
17 sponsors or operates a rodeo featuring primarily farm and ranch animals and
18 no part of the organization's net earnings inures to the benefit of any
19 private shareholder or individual.

20 33. Sales of seeds, seedlings, roots, bulbs, cuttings and other
21 propagative material to persons who use those items to commercially produce
22 agricultural, horticultural, viticultural or floricultural crops in this
23 state.

24 34. Machinery, equipment, technology or related supplies that are only
25 useful to assist a person who is physically disabled as defined in section
26 46-191, has a developmental disability as defined in section 36-551 or has a
27 head injury as defined in section 41-3201 to be more independent and
28 functional.

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

32 ~~36.~~ 35. Sales of natural gas or liquefied petroleum gas used to propel
33 a motor vehicle.

34 ~~37.~~ 36. Paper machine clothing, such as forming fabrics and dryer
35 felts, sold to a paper manufacturer and directly used or consumed in paper
36 manufacturing.

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

1 paper, the time period shall begin with the date the first manufacturing,
2 processing or production equipment is placed in service.

3 ~~39.~~ 38. Sales of liquid, solid or gaseous chemicals used in
4 manufacturing, processing, fabricating, mining, refining, metallurgical
5 operations, research and development and, beginning on January 1, 1999,
6 printing, if using or consuming the chemicals, alone or as part of an
7 integrated system of chemicals, involves direct contact with the materials
8 from which the product is produced for the purpose of causing or permitting a
9 chemical or physical change to occur in the materials as part of the
10 production process. This paragraph does not include chemicals that are used
11 or consumed in activities such as packaging, storage or transportation but
12 does not affect any deduction for such chemicals that is otherwise provided
13 by this section. For the purposes of this paragraph, "printing" means a
14 commercial printing operation and includes job printing, engraving,
15 embossing, copying and bookbinding.

16 ~~40.~~ 39. Through December 31, 1994, personal property liquidation
17 transactions, conducted by a personal property liquidator. From and after
18 December 31, 1994, personal property liquidation transactions shall be
19 taxable under this section provided that nothing in this subsection shall be
20 construed to authorize the taxation of casual activities or transactions
21 under this chapter. For the purposes of this paragraph:

22 (a) "Personal property liquidation transaction" means a sale of
23 personal property made by a personal property liquidator acting solely on
24 behalf of the owner of the personal property sold at the dwelling of the
25 owner or on the death of any owner, on behalf of the surviving spouse, if
26 any, any devisee or heir or the personal representative of the estate of the
27 deceased, if one has been appointed.

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

30 ~~41.~~ 40. Sales of food, drink and condiment for consumption within the
31 premises of any prison, jail or other institution under the jurisdiction of
32 the state department of corrections, the department of public safety, the
33 department of juvenile corrections or a county sheriff.

34 ~~42.~~ 41. A motor vehicle and any repair and replacement parts and
35 tangible personal property becoming a part of such motor vehicle sold to a
36 motor carrier who is subject to a fee prescribed in title 28, chapter 16,
37 article 4 and who is engaged in the business of leasing or renting such
38 property.

39 ~~43.~~ 42. Livestock and poultry feed, salts, vitamins and other
40 additives for livestock or poultry consumption that are sold to persons who
41 are engaged in producing livestock, poultry, or livestock or poultry products
42 or who are engaged in feeding livestock or poultry commercially. For the
43 purposes of this paragraph, "poultry" includes ratites.

1 ~~44.~~ 43. Sales of implants used as growth promotants and injectable
2 medicines, not already exempt under paragraph 8 of this subsection, for
3 livestock or poultry owned by or in possession of persons who are engaged in
4 producing livestock, poultry, or livestock or poultry products or who are
5 engaged in feeding livestock or poultry commercially. For the purposes of
6 this paragraph, "poultry" includes ratites.

7 ~~45.~~ 44. Sales of motor vehicles at auction to nonresidents of this
8 state for use outside this state if the vehicles are shipped or delivered out
9 of this state, regardless of where title to the motor vehicles passes or its
10 free on board point.

11 ~~46.~~ 45. Tangible personal property sold to a person engaged in
12 business and subject to tax under the transient lodging classification if the
13 tangible personal property is a personal hygiene item or articles used by
14 human beings for food, drink or condiment, except alcoholic beverages, that
15 are furnished without additional charge to and intended to be consumed by the
16 transient during the transient's occupancy.

17 ~~47.~~ 46. Sales of alternative fuel, as defined in section 1-215, to a
18 used oil fuel burner who has received a permit to burn used oil or used oil
19 fuel under section 49-426 or 49-480.

20 ~~48.~~ 47. Sales of materials that are purchased by or for publicly
21 funded libraries including school district libraries, charter school
22 libraries, community college libraries, state university libraries or
23 federal, state, county or municipal libraries for use by the public as
24 follows:

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

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

27 ~~49.~~ 48. Tangible personal property sold to a commercial airline and
28 consisting of food, beverages and condiments and accessories used for serving
29 the food and beverages, if those items are to be provided without additional
30 charge to passengers for consumption in flight. For the purposes of this
31 paragraph, "commercial airline" means a person holding a federal certificate
32 of public convenience and necessity or foreign air carrier permit for air
33 transportation to transport persons, property or United States mail in
34 intrastate, interstate or foreign commerce.

35 ~~50.~~ 49. Sales of alternative fuel vehicles if the vehicle was
36 manufactured as a diesel fuel vehicle and converted to operate on alternative
37 fuel and equipment that is installed in a conventional diesel fuel motor
38 vehicle to convert the vehicle to operate on an alternative fuel, as defined
39 in section 1-215.

40 ~~51.~~ 50. Sales of any spirituous, vinous or malt liquor by a person
41 that is licensed in this state as a wholesaler by the department of liquor
42 licenses and control pursuant to title 4, chapter 2, article 1.

43 ~~52.~~ 51. Sales of tangible personal property to be incorporated or
44 installed as part of ~~environmental response or remediation activities under~~
45 ~~section 42-5075, subsection B, paragraph 6~~ SITE PREPARATION, CONSTRUCTING,

1 FURNISHING OR INSTALLING MACHINERY, EQUIPMENT OR OTHER TANGIBLE PERSONAL
2 PROPERTY, INCLUDING STRUCTURES NECESSARY TO PROTECT EXEMPT INCORPORATED
3 MATERIALS OR INSTALLED MACHINERY OR EQUIPMENT, AND TANGIBLE PERSONAL PROPERTY
4 INCORPORATED, TO PERFORM ONE OR MORE OF THE FOLLOWING ACTIONS IN RESPONSE TO
5 A RELEASE OR SUSPECTED RELEASE OF A HAZARDOUS SUBSTANCE, POLLUTANT OR
6 CONTAMINANT FROM A FACILITY TO THE ENVIRONMENT, UNLESS THE RELEASE WAS
7 AUTHORIZED BY A PERMIT ISSUED BY A GOVERNMENTAL AUTHORITY:

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

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

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

15 (d) PUMPING AND TREATMENT OR IN SITU TREATMENT OF CONTAMINATED
16 GROUNDWATER OR SURFACE WATER TO REDUCE THE CONCENTRATION OR TOXICITY OR A
17 CONTAMINANT.

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

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

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

33 ~~54-~~ 53. Through August 31, 2014, sales of Arizona centennial
34 medallions by the historical advisory commission.

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

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

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

1 ~~56-~~ 55. Sales of motor vehicle fuel and use fuel to a qualified
2 business under section 41-1516 for off-road use in harvesting, processing or
3 transporting qualifying forest products removed from qualifying projects as
4 defined in section 41-1516.

5 ~~57-~~ 56. Sales of repair parts installed in equipment used directly by
6 a qualified business under section 41-1516 in harvesting, processing or
7 transporting qualifying forest products removed from qualifying projects as
8 defined in section 41-1516.

9 ~~58-~~ 57. Sales or other transfers of renewable energy credits or any
10 other unit created to track energy derived from renewable energy resources.
11 For the purposes of this paragraph, "renewable energy credit" means a unit
12 created administratively by the corporation commission or governing body of a
13 public power utility to track kilowatt hours of electricity derived from a
14 renewable energy resource or the kilowatt hour equivalent of conventional
15 energy resources displaced by distributed renewable energy resources.

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

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

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

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

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

1 4. Machinery, equipment or transmission lines used directly in
2 producing or transmitting electrical power, but not including distribution.
3 Transformers and control equipment used at transmission substation sites
4 constitute equipment used in producing or transmitting electrical power.

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

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

12 7. Aircraft, navigational and communication instruments and other
13 accessories and related equipment sold to:

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

20 (b) Any foreign government.

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

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

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

34 10. Machinery or equipment used directly to drill for oil or gas or
35 used directly in the process of extracting oil or gas from the earth for
36 commercial purposes.

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

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

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

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

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

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

25 15. Tangible personal property that is used by either of the following
26 to receive, store, convert, produce, generate, decode, encode, control or
27 transmit telecommunications information:

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

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

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

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

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

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

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

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

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

21 18. Machinery or equipment, including related structural components,
22 that is employed in connection with manufacturing, processing, fabricating,
23 job printing, refining, mining, natural gas pipelines, metallurgical
24 operations, telecommunications, producing or transmitting electricity or
25 research and development and that is used directly to meet or exceed rules or
26 regulations adopted by the federal energy regulatory commission, the United
27 States environmental protection agency, the United States nuclear regulatory
28 commission, the Arizona department of environmental quality or a political
29 subdivision of this state to prevent, monitor, control or reduce land, water
30 or air pollution.

31 19. Machinery and equipment that are sold to a person engaged in the
32 commercial production of livestock, livestock products or agricultural,
33 horticultural, viticultural or floricultural crops or products in this state
34 and that are used directly and primarily to prevent, monitor, control or
35 reduce air, water or land pollution.

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

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

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

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

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

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

14 1. Expendable materials. For the purposes of this paragraph,
15 expendable materials do not include any of the categories of tangible
16 personal property specified in subsection B of this section regardless of the
17 cost or useful life of that property.

18 2. Janitorial equipment and hand tools.

19 3. Office equipment, furniture and supplies.

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

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

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

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

30 **8. MACHINERY AND EQUIPMENT OR OTHER TANGIBLE PERSONAL PROPERTY USED BY**
31 **A CONTRACTOR IN THE PERFORMANCE OF A CONTRACT.**

32 D. In addition to the deductions from the tax base prescribed by
33 subsection A of this section, there shall be deducted from the tax base the
34 gross proceeds of sales or gross income derived from sales of machinery,
35 equipment, materials and other tangible personal property used directly and
36 predominantly to construct a qualified environmental technology
37 manufacturing, producing or processing facility as described in section
38 41-1514.02. This subsection applies for ten full consecutive calendar or
39 fiscal years after the start of initial construction.

40 E. In computing the tax base, gross proceeds of sales or gross income
41 from retail sales of heavy trucks and trailers does not include any amount
42 attributable to federal excise taxes imposed by 26 United States Code section
43 4051.

44 F. In computing the tax base, gross proceeds of sales or gross income
45 from the sale of use fuel, as defined in section 28-5601, does not include

1 any amount attributable to federal excise taxes imposed by 26 United States
2 Code section 4091.

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

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

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

- 23 1. Transporting classification.
- 24 2. Utilities classification.
- 25 3. Telecommunications classification.
- 26 4. Pipeline classification.
- 27 5. Private car line classification.
- 28 6. Publication classification.
- 29 7. Job printing classification.
- 30 8. ~~Prime contracting~~ MANUFACTURED BUILDING DEALER classification.
- 31 ~~9. Owner builder sales classification.~~
- 32 ~~10.~~ 9. Restaurant classification.
- 33 10. HIGHWAY, STREET AND BRIDGE CONSTRUCTION CLASSIFICATION.

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

- 36 1. Sales made directly to the United States government or its
37 departments or agencies by a manufacturer, modifier, assembler or repairer.
- 38 2. Sales made directly to a manufacturer, modifier, assembler or
39 repairer if such sales are of any ingredient or component part of products
40 sold directly to the United States government or its departments or agencies
41 by the manufacturer, modifier, assembler or repairer.
- 42 3. Overhead materials or other tangible personal property that is used
43 in performing a contract between the United States government and a
44 manufacturer, modifier, assembler or repairer, including property used in
45 performing a subcontract with a government contractor who is a manufacturer,

1 modifier, assembler or repairer, to which title passes to the government
2 under the terms of the contract or subcontract.

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

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

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

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

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

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

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

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

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

39 Q. Retail sales of prepaid calling cards or prepaid authorization
40 numbers for telecommunications services, including sales of reauthorization
41 of a prepaid card or authorization number, are subject to tax under this
42 section.

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

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

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

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

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

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

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

30 U. In computing the tax base for the sale of a motor vehicle to a
31 nonresident of this state, if the purchaser's state of residence allows a
32 corresponding use tax exemption to the tax imposed by article 1 of this
33 chapter and the rate of the tax in the purchaser's state of residence is
34 lower than the rate prescribed in article 1 of this chapter or if the
35 purchaser's state of residence does not impose an excise tax, and the
36 nonresident has secured a special ninety day nonresident registration permit
37 for the vehicle as prescribed by sections 28-2154 and 28-2154.01, there shall
38 be deducted from the tax base a portion of the gross proceeds or gross income
39 from the sale so that the amount of transaction privilege tax that is paid in
40 this state is equal to the excise tax that is imposed by the purchaser's
41 state of residence on the nonexempt sale or use of the motor vehicle.

42 V. THE SALE OF TANGIBLE PERSONAL PROPERTY TO A CONTRACTOR, REGARDLESS
43 OF WHETHER IT WILL BE INCORPORATED INTO A BUILDING OR STRUCTURE, IS
44 CONSIDERED TO BE A SALE AT RETAIL AND IS SUBJECT TO TAXATION UNDER THIS
45 SECTION UNLESS THE CONTRACTOR PROVIDES TO THE RETAILER A CERTIFICATE THAT IS

1 SIGNED BY THE OWNER OF THE PROPERTY TO BE IMPROVED AND THAT STATES THAT THE
2 PERSONAL PROPERTY PURCHASED BY THE CONTRACTOR WILL BE USED FOR A PURPOSE
3 IDENTIFIED IN SUBSECTION A OR B OF THIS SECTION. IF A PERSON WHO IS IN THE
4 BUSINESS OF SELLING TANGIBLE PERSONAL PROPERTY AT RETAIL ALSO ENGAGES IN
5 BUSINESS AS A CONTRACTOR AND REMOVES TANGIBLE PERSONAL PROPERTY FROM RETAIL
6 STOCK FOR USE IN CONTRACTING ACTIVITIES, THE PURCHASE PRICE OF THAT PERSONAL
7 PROPERTY IS SUBJECT TO USE TAX UNDER SECTION 42-5155.

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

9 1. "Aircraft" includes:

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

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

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

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

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

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

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

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

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

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

43 6. "Subcontract" means an agreement between a contractor and any
44 person who is not an employee of the contractor for furnishing of supplies or
45 services that, in whole or in part, are necessary to the performance of one

1 or more government contracts, or under which any portion of the contractor's
2 obligation under one or more government contracts is performed, undertaken or
3 assumed and that includes provisions causing title to overhead materials or
4 other tangible personal property used in the performance of the subcontract
5 to pass to the government or that includes provisions incorporating such
6 title passing clauses in a government contract into the subcontract. **FOR THE
7 PURPOSES OF THIS PARAGRAPH, "CONTRACTOR" HAS ITS ORDINARY AND COMMON MEANING
8 AND DOES NOT HAVE THE MEANING PRESCRIBED BY SECTION 42-5001.**

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

11 **42-5071. Personal property rental classification**

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

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

18 2. Activities engaged in by the Arizona exposition and state fair
19 board or county fair commissions in connection with events sponsored by such
20 entities.

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

28 4. Operating coin-operated washing, drying and dry cleaning machines
29 or coin-operated car washing machines at establishments for the use of such
30 machines.

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

36 6. Leasing or renting aircraft, flight simulators or similar training
37 equipment to students or staff by nonprofit, accredited educational
38 institutions that offer associate or baccalaureate degrees in aviation or
39 aerospace related fields.

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

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

5 1. Reimbursements by the lessee to the lessor of a motor vehicle for
6 payments by the lessor of the applicable fees and taxes imposed by sections
7 28-2003, 28-2352, 28-2402, 28-2481 and 28-5801, title 28, chapter 15,
8 article 2 and article IX, section 11, Constitution of Arizona, to the extent
9 such amounts are separately identified as such fees and taxes and are billed
10 to the lessee.

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

14 (a) Section 42-5061, subsection A, paragraph 8, 9, 12, 13, 25, 29, ~~50~~
15 ~~49~~ or ~~55~~ 54.

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

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

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

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

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

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

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

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

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

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

39 E. Until December 31, 1988, leasing or renting animals for
40 recreational purposes is exempt from the tax imposed by this section.
41 Beginning January 1, 1989, the gross proceeds or gross income from leasing or
42 renting animals for recreational purposes is subject to taxation under this
43 section. Tax liabilities, penalties and interest paid for taxable periods
44 before January 1, 1989 shall not be refunded unless the taxpayer requesting

1 the refund provides proof satisfactory to the department that the monies paid
2 as taxes will be returned to the customer.

3 Sec. 16. Section 42-5072, Arizona Revised Statutes, is amended to
4 read:

5 42-5072. Mining classification; definition

6 A. The mining classification is comprised of the business of mining,
7 quarrying or producing for sale, profit or commercial use any
8 nonmetalliferous mineral product that has been mined, quarried or otherwise
9 extracted within the boundaries of this state described in article I, section
10 1, Constitution of Arizona.

11 B. The tax base for the mining classification is the gross proceeds of
12 sales or gross income derived from the business. The gross proceeds of sales
13 or gross income derived from sales described under section 42-5061,
14 subsection A, paragraph 27, SUBDIVISION (b) and subsection J, paragraph 2
15 shall be deducted from the tax base.

16 C. The tax base includes the value of the entire product mined,
17 quarried or produced for sale, profit or commercial use in this state,
18 regardless of the place of sale of the product or of the fact that deliveries
19 may be made to points without this state. If, however, the sale price of the
20 product includes freight, the sale price shall be reduced by the actual
21 freight paid by any person from the place of production to the place of
22 delivery.

23 D. In the case of a person engaged in business classified under the
24 mining classification all or part of whose income is derived from service or
25 manufacturing charges instead of from sales of the products manufactured or
26 handled, the tax base includes the gross income of the person derived from
27 the service or manufacturing charge.

28 E. If a person engaging in business classified under the mining
29 classification ships or transports all or part of a product out of this state
30 without making sale of the product or ships his product outside of this state
31 in an unfinished condition, the value of the product or article in the
32 condition or form in which it existed when transported out of this state and
33 before it enters interstate commerce is included in the tax base, and the
34 department shall prescribe equitable and uniform rules for ascertaining that
35 value. In determining the tax base, if the product or any part of the
36 product has been processed in this state and the proceeds of such processing
37 have been included in the tax base of the processor under this chapter, the
38 person may deduct from the value of the product when transported out of this
39 state the cost of such processing.

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

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

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

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

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

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

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

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

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

30 ~~3.~~ 2. The sales price of furniture, furnishings, fixtures, appliances
31 and attachments that are not incorporated as component parts of or attached
32 to a manufactured building or the setup site. The sale of such items may be
33 subject to the taxes imposed by article 1 of this chapter separately and
34 distinctly from the sale of the manufactured building.

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

1 ~~5. The gross proceeds of sales or gross income derived from a contract~~
2 ~~to construct a qualified environmental technology manufacturing, producing or~~
3 ~~processing facility, as described in section 41-1514.02, and from subsequent~~
4 ~~construction and installation contracts that begin within ten years after the~~
5 ~~start of initial construction. To qualify for this deduction, before~~
6 ~~beginning work under the contract, the prime contractor must obtain a letter~~
7 ~~of qualification from the department of revenue. This paragraph shall apply~~
8 ~~for ten full consecutive calendar or fiscal years after the start of initial~~
9 ~~construction.~~

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

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

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

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

27 ~~(d) Pumping and treatment or in situ treatment of contaminated~~
28 ~~groundwater or surface water to reduce the concentration or toxicity of a~~
29 ~~contaminant.~~

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

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

39 ~~7. The gross proceeds of sales or gross income that is derived from a~~
40 ~~contract entered into for the installation, assembly, repair or maintenance~~
41 ~~of machinery, equipment or other tangible personal property that is deducted~~
42 ~~from the tax base of the retail classification pursuant to section 42-5061,~~
43 ~~subsection B, or that is exempt from use tax pursuant to section 42-5159,~~
44 ~~subsection B, and that does not become a permanent attachment to a building,~~
45 ~~highway, road, railroad, excavation or manufactured building or other~~

1 ~~structure, project, development or improvement. If the ownership of the~~
2 ~~realty is separate from the ownership of the machinery, equipment or tangible~~
3 ~~personal property, the determination as to permanent attachment shall be made~~
4 ~~as if the ownership were the same. The deduction provided in this paragraph~~
5 ~~does not include gross proceeds of sales or gross income from that portion of~~
6 ~~any contracting activity that consists of the development of, or modification~~
7 ~~to, real property in order to facilitate the installation, assembly, repair,~~
8 ~~maintenance or removal of machinery, equipment or other tangible personal~~
9 ~~property that is deducted from the tax base of the retail classification~~
10 ~~pursuant to section 42-5061, subsection B or that is exempt from use tax~~
11 ~~pursuant to section 42-5159, subsection B. For the purposes of this~~
12 ~~paragraph, "permanent attachment" means at least one of the following:~~

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

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

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

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

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

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

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

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

26 ~~9. The gross proceeds of sales or gross income received from a~~
27 ~~contract for the construction of an environmentally controlled facility for~~
28 ~~the raising of poultry for the production of eggs and the sorting, cooling~~
29 ~~and packaging of eggs.~~

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

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

43 ~~12. For taxable periods beginning from and after June 30, 2001, the~~
44 ~~gross proceeds of sales or gross income derived from a contract entered into~~
45 ~~for the construction of a residential apartment housing facility that~~

1 ~~qualifies for a federal housing subsidy for low income persons over sixty two~~
2 ~~years of age and that is owned by a nonprofit charitable organization that~~
3 ~~has qualified under section 501(c)(3) of the internal revenue code.~~

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

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

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

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

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

27 ~~18. The gross proceeds of sales or gross income received from a~~
28 ~~contract for the construction of any building, or other structure, project,~~
29 ~~development or improvement owned by a qualified business under section~~
30 ~~41-1516 for harvesting or processing qualifying forest products removed from~~
31 ~~qualifying projects as defined in section 41-1516 if actual construction~~
32 ~~begins before January 1, 2024. To qualify for this deduction, the prime~~
33 ~~contractor must obtain a letter of qualification from the Arizona commerce~~
34 ~~authority before beginning work under the contract.~~

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

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

42 ~~(b) The attributable amount is equal to the total amount of~~
43 ~~development fees paid by the prime contractor or subcontractor, and the total~~
44 ~~development fees credited in exchange for the construction of, contribution~~
45 ~~to or dedication of real property for providing public infrastructure, public~~

1 ~~safety or other public services necessary to the development. The real~~
2 ~~property must be the subject of the development fees.~~

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

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

9 ~~1. A prime contractor may establish entitlement to the deduction by~~
10 ~~both:~~

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

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

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

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

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

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

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

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

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

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

40 ~~I. The gross proceeds of sales or gross income derived from a contract~~
41 ~~for lawn maintenance services are not subject to tax under this section if~~
42 ~~the contract does not include landscaping activities. Lawn maintenance~~
43 ~~service is a service pursuant to section 42-5061, subsection A, paragraph 1,~~
44 ~~and includes lawn mowing and edging, weeding, repairing sprinkler heads or~~
45 ~~drip irrigation heads, seasonal replacement of flowers, refreshing gravel,~~

1 ~~lawn de thatching, seeding winter lawns, leaf and debris collection and~~
2 ~~removal, tree or shrub pruning or clipping, garden and gravel raking and~~
3 ~~applying pesticides, as defined in section 3-361, and fertilizer materials,~~
4 ~~as defined in section 3-262.~~

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

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

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

24 ~~M.~~ C. The following apply ~~to~~ IN DETERMINING THE TAXABLE SITUS OF
25 SALES OF manufactured buildings:

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

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

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

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

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

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

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

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

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

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

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

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

29 ~~(e) Inspection to determine the dates of substantial completion or~~
30 ~~final completion.~~

31 ~~(f) Preparation of any manuals, warranties, as built drawings, spares~~
32 ~~or other items the prime contractor must furnish pursuant to the contract for~~
33 ~~modification work. For the purposes of this subdivision, "as built drawing"~~
34 ~~means a drawing that indicates field changes made to adapt to field~~
35 ~~conditions, field changes resulting from change orders or buried and~~
36 ~~concealed installation of piping, conduit and utility services.~~

37 ~~(g) Preparation of status reports after modification work has begun~~
38 ~~detailing the progress of work performed, including preparation of any of the~~
39 ~~following:~~

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

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

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

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

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

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

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

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

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

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

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

19 ~~(c) Preparing drawings and specifications for architectural program~~
20 ~~documents, schematic design documents, design development documents,~~
21 ~~modification work documents or documents that identify the scope of or~~
22 ~~materials for the project.~~

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

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

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

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

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

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

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

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

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

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

1 ~~(f) Reviewing and evaluating cost estimates and project documents to~~
2 ~~prepare recommendations on site use, site improvements, selection of~~
3 ~~materials, building systems and equipment, modification feasibility,~~
4 ~~availability of materials and labor, local modification activity as related~~
5 ~~to schedules and time requirements for modification work.~~

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

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

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

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

31 ~~2. If the original owner enters into an agreement separate from the~~
32 ~~contract for sale of the real property providing for amounts to be paid to~~
33 ~~the original owner for the modifications to be made in the period subsequent~~
34 ~~to the transfer of title to the property, the amounts are included in the~~
35 ~~original owner's gross proceeds of sale or gross income received for the~~
36 ~~modifications made subsequent to the transfer of title.~~

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

1 ~~4. The tax base of the original owner is computed in the same manner~~
2 ~~as a prime contractor under this section.~~
3 ~~P.~~ D. For the purposes of this section:
4 ~~1. "Contracting" means engaging in business as a contractor.~~
5 ~~2. "Contractor" is synonymous with the term "builder" and means any~~
6 ~~person or organization that undertakes to or offers to undertake to, or~~
7 ~~purports to have the capacity to undertake to, or submits a bid to, or does~~
8 ~~personally or by or through others, modify any building, highway, road,~~
9 ~~railroad, excavation, manufactured building or other structure, project,~~
10 ~~development or improvement, or to do any part of such a project, including~~
11 ~~the erection of scaffolding or other structure or works in connection with~~
12 ~~such a project, and includes subcontractors and specialty contractors. For~~
13 ~~all purposes of taxation or deduction, this definition shall govern without~~
14 ~~regard to whether or not such contractor is acting in fulfillment of a~~
15 ~~contract.~~
16 ~~4.~~ 1. "Manufactured building" means a manufactured home, mobile home
17 or factory-built building, as defined in section 41-2142.
18 ~~3.~~ 2. "Dealership of Manufactured buildings BUILDING DEALER" means a
19 dealer who either:
20 (a) Is licensed pursuant to title 41, chapter 16 and who sells
21 manufactured buildings to the final consumer.
22 (b) Supervises, performs or coordinates the excavation and completion
23 of site improvements, ~~OR THE~~ setup or moving of a manufactured building,
24 including the contracting, if any, with any subcontractor or specialty
25 contractor for the completion of the contract.
26 ~~5. "Modification" means construction, alteration, repair, addition,~~
27 ~~subtraction, improvement, movement, wreckage or demolition.~~
28 ~~6. "Modify" means to construct, alter, repair, add to, subtract from,~~
29 ~~improve, move, wreck or demolish.~~
30 ~~7. "Prime contracting" means engaging in business as a prime~~
31 ~~contractor.~~
32 ~~8. "Prime contractor" means a contractor who supervises, performs or~~
33 ~~coordinates the modification of any building, highway, road, railroad,~~
34 ~~excavation, manufactured building or other structure, project, development or~~
35 ~~improvement including the contracting, if any, with any subcontractors or~~
36 ~~specialty contractors and who is responsible for the completion of the~~
37 ~~contract. Except as provided in subsections E and O of this section, a~~
38 ~~person who owns real property, who engages one or more contractors to modify~~
39 ~~that real property and who does not itself modify that real property is not a~~
40 ~~prime contractor within the meaning of this paragraph regardless of the~~
41 ~~existence of a contract for sale or the subsequent sale of that real~~
42 ~~property.~~
43 ~~9.~~ 3. "Sale of a used manufactured building" does not include a lease
44 of a used manufactured building.

- 1 (a) ADMINISTRATION OR SUPERVISION OF ANY CONSTRUCTION, ALTERATION OR
2 REPAIR OF A HIGHWAY, STREET OR BRIDGE, INCLUDING TEAM MANAGEMENT AND
3 COORDINATION, SCHEDULING, COST CONTROLS, SUBMITTAL PROCESS MANAGEMENT, FIELD
4 MANAGEMENT, SAFETY PROGRAM, CLOSE-OUT PROCESS AND WARRANTY PERIOD SERVICES.
- 5 (b) ADMINISTRATION OR SUPERVISION OF ANY PUNCH LIST. FOR THE PURPOSES
6 OF THIS SUBDIVISION, "PUNCH LIST" MEANS MINOR ITEMS OF WORK PERFORMED AFTER
7 SUBSTANTIAL COMPLETION AND BEFORE FINAL COMPLETION OF THE PROJECT.
- 8 (c) ADMINISTRATION OR SUPERVISION OF ANY WORK PERFORMED PURSUANT TO
9 CHANGE ORDERS. FOR THE PURPOSES OF THIS SUBDIVISION, "CHANGE ORDER" MEANS A
10 WRITTEN INSTRUMENT ISSUED AFTER EXECUTION OF A CONTRACT FOR THE CONSTRUCTION
11 OF A HIGHWAY, STREET OR BRIDGE, PROVIDING FOR ALL OF THE FOLLOWING:
- 12 (i) THE SCOPE OF CHANGE IN THE WORK.
- 13 (ii) THE AMOUNT OF AN ADJUSTMENT, IF ANY, TO THE GUARANTEED MAXIMUM
14 PRICE AS SET IN THE CONTRACT FOR CONSTRUCTION OF THE HIGHWAY, STREET OR
15 BRIDGE. FOR THE PURPOSES OF THIS ITEM, "GUARANTEED MAXIMUM PRICE" MEANS THE
16 AMOUNT GUARANTEED TO BE THE MAXIMUM AMOUNT DUE TO A HIGHWAY, STREET OR BRIDGE
17 CONTRACTOR FOR THE PERFORMANCE OF THE CONSTRUCTION, ALTERATION OR REPAIR OF A
18 HIGHWAY, STREET OR BRIDGE.
- 19 (iii) THE EXTENT OF AN ADJUSTMENT, IF ANY, TO THE CONTRACT TIME OF
20 PERFORMANCE SET FORTH IN THE CONTRACT.
- 21 (d) ADMINISTRATION OR SUPERVISION OF ANY CONSTRUCTION, ALTERATION OR
22 REPAIR WORK PERFORMED PURSUANT TO CHANGE DIRECTIVES. FOR THE PURPOSES OF
23 THIS SUBDIVISION, "CHANGE DIRECTIVE" MEANS A WRITTEN ORDER DIRECTING A CHANGE
24 IN CONSTRUCTION, ALTERATION OR REPAIR WORK BEFORE AGREEMENT ON AN ADJUSTMENT
25 OF THE GUARANTEED MAXIMUM PRICE OR CONTRACT TIME.
- 26 (e) INSPECTION TO DETERMINE THE DATES OF SUBSTANTIAL COMPLETION OR
27 FINAL COMPLETION.
- 28 (f) PREPARATION OF ANY MANUALS, WARRANTIES, AS-BUILT DRAWINGS, SPARES
29 OR OTHER ITEMS THE HIGHWAY, STREET OR BRIDGE CONSTRUCTION CONTRACTOR MUST
30 FURNISH PURSUANT TO A CONTRACT FOR THE CONSTRUCTION, ALTERATION OR REPAIR OF
31 A HIGHWAY, STREET OR BRIDGE. FOR THE PURPOSES OF THIS SUBDIVISION, "AS-BUILT
32 DRAWING" MEANS A DRAWING THAT INDICATES FIELD CHANGES MADE TO ADAPT TO FIELD
33 CONDITIONS, FIELD CHANGES RESULTING FROM CHANGE ORDERS OR BURIED AND
34 CONCEALED INSTALLATION OF PIPING, CONDUIT AND UTILITY SERVICES.
- 35 (g) PREPARATION OF STATUS REPORTS AFTER THE CONSTRUCTION, ALTERATION
36 OR REPAIR WORK HAS BEGUN DETAILING THE PROGRESS OF WORK PERFORMED, INCLUDING
37 PREPARATION OF ANY OF THE FOLLOWING:
- 38 (i) MASTER SCHEDULE UPDATES.
- 39 (ii) CONSTRUCTION, ALTERATION OR REPAIR CASH FLOW PROJECTION DATES.
- 40 (iii) SITE REPORTS MADE ON A PERIODIC BASIS.
- 41 (iv) IDENTIFICATION OF DISCREPANCIES, CONFLICTS OR AMBIGUITIES IN
42 CONSTRUCTION, ALTERATION OR REPAIR WORK DOCUMENTS THAT REQUIRE RESOLUTION.
- 43 (v) IDENTIFICATION OF ANY HEALTH AND SAFETY ISSUES THAT HAVE ARISEN IN
44 CONNECTION WITH THE CONSTRUCTION, ALTERATION OR REPAIR WORK.

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

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

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

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

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

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

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

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

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

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

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

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

41 (iv) ANY BOND AND INSURANCE PREMIUMS.

42 (v) ANY APPLICABLE TAXES.

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

1 (f) REVIEWING AND EVALUATING COST ESTIMATES AND PROJECT DOCUMENTS TO
2 PREPARE RECOMMENDATIONS ON SITE USE, SITE IMPROVEMENTS, SELECTION OF
3 MATERIALS, BUILDING SYSTEMS AND EQUIPMENT, CONSTRUCTION, ALTERATION OR REPAIR
4 FEASIBILITY, AVAILABILITY OF MATERIALS AND LABOR, LOCAL CONSTRUCTION,
5 ALTERATION OR REPAIR ACTIVITY AS RELATED TO SCHEDULES AND TIME REQUIREMENTS
6 FOR CONSTRUCTION, ALTERATION OR REPAIR WORK.

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

9 3. "HIGHWAY, STREET OR BRIDGE CONTRACTOR" MEANS A CONTRACTOR WHO HOLDS
10 A CLASSIFICATION A LICENSE FROM THE REGISTRAR OF CONTRACTORS AND WHO
11 SUPERVISES, PERFORMS OR COORDINATES THE CONSTRUCTION, ALTERATION OR REPAIR OF
12 A HIGHWAY, STREET OR BRIDGE, INCLUDING THE CONTRACTING, IF ANY, WITH ANY
13 SUBCONTRACTORS.

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

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

21 42-5151. Definitions

22 In this article, unless the context otherwise requires:

23 1. "Ancillary services" means those services so designated in federal
24 energy regulatory commission order 888 adopted in 1996 that include the
25 services necessary to support the transmission of electricity from resources
26 to loads while maintaining reliable operation of the transmission system
27 according to good utility practice.

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

29 3. "CONTRACTOR" IS SYNONYMOUS WITH THE TERM "BUILDER" AND MEANS ANY
30 PERSON OR ORGANIZATION THAT UNDERTAKES TO OR OFFERS TO UNDERTAKE TO, OR
31 PURPORTS TO HAVE THE CAPACITY TO UNDERTAKE TO, OR SUBMITS A BID TO, OR DOES
32 PERSONALLY OR BY OR THROUGH OTHERS, MODIFY ANY BUILDING, HIGHWAY, ROAD,
33 RAILROAD, EXCAVATION, MANUFACTURED BUILDING OR OTHER STRUCTURE, PROJECT,
34 DEVELOPMENT OR IMPROVEMENT, OR TO DO ANY PART OF SUCH A PROJECT, INCLUDING
35 THE ERECTION OF SCAFFOLDING OR OTHER STRUCTURE OR WORKS IN CONNECTION WITH
36 SUCH A PROJECT, AND INCLUDES SUBCONTRACTORS AND SPECIALTY CONTRACTORS. FOR
37 ALL PURPOSES OF TAXATION OR DEDUCTION, THIS DEFINITION GOVERNS WITHOUT REGARD
38 TO WHETHER OR NOT THE CONTRACTOR IS ACTING IN FULFILLMENT OF A CONTRACT.

39 ~~2-~~ 4. "Electric distribution service" means distributing electricity
40 to retail electric customers through the use of electric distribution
41 facilities.

42 ~~3-~~ 5. "Electric generation service" means providing electricity for
43 sale to retail electric customers but excluding electric distribution or
44 transmission services.

1 ~~4.~~ 6. "Electric transmission service" means transmitting electricity
2 to retail electric customers or to electric distribution facilities so
3 classified by the federal energy regulatory commission or, to the extent
4 permitted by law, so classified by the Arizona corporation commission.

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

9 ~~6.~~ 8. "Electricity" means electric energy, electric capacity or
10 electric capacity and energy.

11 ~~7.~~ 9. "Electricity supplier" means a person, whether acting in a
12 principal, agent or other capacity, that offers to sell electricity to a
13 retail electric customer in this state.

14 ~~8.~~ 10. "Natural gas" means natural or artificial gas, and includes
15 methane and propane gas, the natural gas commodity, natural gas pipeline
16 capacity or natural gas commodity and pipeline capacity.

17 ~~9.~~ 11. "Natural gas utility services" means the business of selling
18 natural gas or providing natural gas transportation services or other
19 services related to providing natural gas.

20 ~~10.~~ 12. "Notice" means written notice served personally or by
21 certified mail and addressed to the last known address of the person to whom
22 such notice is given.

23 ~~11.~~ 13. "Other services" includes metering, meter reading services,
24 billing and collecting services.

25 ~~12.~~ 14. "Person" means an individual, firm, partnership, joint
26 venture, association, corporation, estate, trust, receiver or syndicate, this
27 state or a county, city, municipality, district or other political
28 subdivision or agency thereof.

29 ~~13.~~ 15. "Purchase" means any transfer, exchange or barter, conditional
30 or otherwise, in any manner or by any means, of tangible personal property
31 for a consideration, including transactions by which the possession of
32 property is transferred but the seller retains the title as security for
33 payment.

34 ~~14.~~ 16. "Purchase price" or "sales price" means the total amount for
35 which tangible personal property is sold, including any services that are a
36 part of the sale, valued in money, whether paid in money or otherwise, and
37 any amount for which credit is given to the purchaser by the seller without
38 any deduction on account of the cost of the property sold, materials used,
39 labor or services performed, interest charged, losses or other expenses, but
40 does not include:

41 (a) Discounts allowed and taken.

42 (b) Charges for labor or services in installing, remodeling or
43 repairing.

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

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

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

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

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

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

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

30 (b) A person who solicits orders for tangible personal property by
31 mail if the solicitations are substantial and recurring or if the retailer
32 benefits from any banking, financing, debt collection, telecommunication,
33 television shopping system, cable, optic, microwave or other communication
34 system or marketing activities occurring in this state or benefits from the
35 location in this state of authorized installation, servicing or repair
36 facilities.

37 ~~18.~~ 20. "Solar daylighting" means a device that is specifically
38 designed to capture and redirect the visible portion of the solar beam, while
39 controlling the infrared portion, for use in illuminating interior building
40 spaces in lieu of artificial lighting.

41 ~~19.~~ 21. "Solar energy device" means a system or series of mechanisms
42 designed primarily to provide heating, to provide cooling, to produce
43 electrical power, to produce mechanical power, to provide solar daylighting
44 or to provide any combination of the foregoing by means of collecting and
45 transferring solar generated energy into such uses by either active or

1 passive means, including wind generator systems that produce electricity.
2 Solar energy systems may also have the capability of storing solar energy for
3 future use. Passive systems shall clearly be designed as a solar energy
4 device, such as a trombe wall, and not merely as a part of a normal
5 structure, such as a window.

6 ~~20-~~ 22. "Storage" means keeping or retaining tangible personal
7 property purchased from a retailer for any purpose except sale in the regular
8 course of business or subsequent use solely outside this state.

9 ~~21-~~ 23. "Taxpayer" means any retailer or person storing, using or
10 consuming tangible personal property the storage, use or consumption of which
11 is subject to the tax imposed by this article when such tax was not paid to a
12 retailer.

13 ~~22-~~ 24. "Use or consumption" means the exercise of any right or power
14 over tangible personal property incidental to owning the property except
15 holding for sale or selling the property in the regular course of business.

16 ~~23-~~ 25. "Utility business" means a person that is engaged in the
17 business of providing electric utility services to retail electric customers
18 or natural gas utility services to retail natural gas customers.

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

21 42-5155. Levy of tax; tax rate; purchaser's liability

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

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

31 **C. THE PURCHASE OF TANGIBLE PERSONAL PROPERTY BY A CONTRACTOR,**
32 **REGARDLESS OF WHETHER IT WILL BE INCORPORATED INTO A BUILDING OR STRUCTURE,**
33 **IS CONSIDERED TO BE A PURCHASE AT RETAIL AND IS SUBJECT TO TAXATION UNDER**
34 **THIS SECTION UNLESS THE CONTRACTOR PROVIDES TO THE RETAILER A CERTIFICATE**
35 **THAT IS SIGNED BY THE OWNER OF THE PROPERTY TO BE IMPROVED AND THAT STATES**
36 **THAT THE PERSONAL PROPERTY PURCHASED BY THE CONTRACTOR WILL BE USED FOR A**
37 **PURPOSE IDENTIFIED IN SECTION 42-5159, SUBSECTION A OR B. IF A PERSON WHO IS**
38 **IN THE BUSINESS OF SELLING TANGIBLE PERSONAL PROPERTY AT RETAIL ALSO ENGAGES**
39 **IN BUSINESS AS A CONTRACTOR AND REMOVES TANGIBLE PERSONAL PROPERTY FROM**
40 **RETAIL STOCK FOR USE IN CONTRACTING ACTIVITIES, THE PURCHASE PRICE OF THAT**
41 **PERSONAL PROPERTY SHALL BE SUBJECT TO TAX UNDER SUBSECTION B OF THIS SECTION.**

42 ~~C-~~ D. The tax rate shall equal the rate of tax prescribed by section
43 42-5010, subsection A as applied to retailers and utility businesses
44 according to the respective classification under articles 1 and 2 of this
45 chapter for the same type of transaction or business activity.

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

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

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

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

24 42-5159. Exemptions

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

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

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

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

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

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

9 6. Tangible personal property brought into this state by an individual
10 who was a nonresident at the time the property was purchased for storage, use
11 or consumption by the individual if the first actual use or consumption of
12 the property was outside this state, unless the property is used in
13 conducting a business in this state.

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

20 8. Livestock, poultry, supplies, feed, salts, vitamins and other
21 additives for use or consumption in the businesses of farming, ranching and
22 feeding livestock or poultry, not including fertilizers, herbicides and
23 insecticides. For the purposes of this paragraph, "poultry" includes
24 ratites.

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

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

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

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

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

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

41 13. Tangible personal property purchased by:

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

1 (b) A hospital operated by this state or a political subdivision of
2 this state.

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

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

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

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

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

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

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

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

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

39 (i) A qualifying community health center as defined in section
40 42-5001.

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

44 (k) A person engaged in business under the transient lodging
45 classification if the property is a personal hygiene item or articles used by

1 human beings for food, drink or condiment, except alcoholic beverages, which
2 are furnished without additional charge to and intended to be consumed by the
3 transient during the transient's occupancy.

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

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

17 15. Tangible personal property sold by:

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

21 (b) A nonprofit organization that is exempt from taxation under
22 section 501(c)(3) 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 individual.

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

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

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

38 18. Prescription eyeglasses and contact lenses.

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

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

41 21. Durable medical equipment ~~which~~ THAT has a centers for medicare and
42 medicaid services common procedure code, is designated reimbursable by
43 medicare, is prescribed by a person who is licensed under title 32, chapter
44 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily

1 used to serve a medical purpose, is generally not useful to a person in the
2 absence of illness or injury and is appropriate for use in the home.

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

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

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

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

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

21 27. Lottery tickets or shares purchased pursuant to title 5, chapter
22 5.1, article 1.

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

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

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

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

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

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

45 (b) Public educational institutions.

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

4 33. Natural gas or liquefied petroleum gas used to propel a motor
5 vehicle.

6 34. Machinery, equipment, technology or related supplies that are only
7 useful to assist a person who is physically disabled as defined in section
8 46-191, has a developmental disability as defined in section 36-551 or has a
9 head injury as defined in section 41-3201 to be more independent and
10 functional.

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

24 36. Food, drink and condiment purchased for consumption within the
25 premises of any prison, jail or other institution under the jurisdiction of
26 the state department of corrections, the department of public safety, the
27 department of juvenile corrections or a county sheriff.

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

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

35 39. Overhead materials or other tangible personal property that is used
36 in performing a contract between the United States government and a
37 manufacturer, modifier, assembler or repairer, including property used in
38 performing a subcontract with a government contractor who is a manufacturer,
39 modifier, assembler or repairer, to which title passes to the government
40 under the terms of the contract or subcontract. For the purposes of this
41 paragraph:

42 (a) "Overhead materials" means tangible personal property, the gross
43 proceeds of sales or gross income derived from which would otherwise be
44 included in the retail classification, ~~and which are~~ THAT IS used or consumed
45 in the performance of a contract, the cost of which is charged to an overhead

1 expense account and allocated to various contracts based ~~upon~~ ON generally
2 accepted accounting principles and consistent with government contract
3 accounting standards.

4 (b) "Subcontract" means an agreement between a contractor and any
5 person who is not an employee of the contractor for furnishing of supplies or
6 services that, in whole or in part, are necessary to the performance of one
7 or more government contracts, or under which any portion of the contractor's
8 obligation under one or more government contracts is performed, undertaken or
9 assumed, and that includes provisions causing title to overhead materials or
10 other tangible personal property used in the performance of the subcontract
11 to pass to the government or that includes provisions incorporating such
12 title passing clauses in a government contract into the subcontract. **FOR THE
13 PURPOSES OF THIS SUBDIVISION, "CONTRACTOR" HAS ITS ORDINARY AND COMMON
14 MEANING AND DOES NOT HAVE THE MEANING PRESCRIBED IN SECTION 42-5151.**

15 40. Through December 31, 1994, tangible personal property sold pursuant
16 to a personal property liquidation transaction, as defined in section
17 42-5061. From and after December 31, 1994, tangible personal property sold
18 pursuant to a personal property liquidation transaction, as defined in
19 section 42-5061, if the gross proceeds of the sales were included in the
20 measure of the tax imposed by article 1 of this chapter or if the personal
21 property liquidation was a casual activity or transaction.

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

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

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

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

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

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

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

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

6 47. Tangible personal property purchased to be incorporated or
7 installed as part of ~~environmental response or remediation activities under~~
8 ~~section 42-5075, subsection B, paragraph 6~~ SITE PREPARATION, CONSTRUCTING,
9 FURNISHING OR INSTALLING MACHINERY, EQUIPMENT OR OTHER TANGIBLE PERSONAL
10 PROPERTY, INCLUDING STRUCTURES NECESSARY TO PROTECT EXEMPT INCORPORATED
11 MATERIALS OR INSTALLED MACHINERY OR EQUIPMENT, AND TANGIBLE PERSONAL PROPERTY
12 INCORPORATED, TO PERFORM ONE OR MORE OF THE FOLLOWING ACTIONS IN RESPONSE TO
13 A RELEASE OR SUSPECTED RELEASE OF A HAZARDOUS SUBSTANCE, POLLUTANT OR
14 CONTAMINANT FROM A FACILITY TO THE ENVIRONMENT, UNLESS THE RELEASE WAS
15 AUTHORIZED BY A PERMIT ISSUED BY A GOVERNMENTAL AUTHORITY:

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

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

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

23 (d) PUMPING AND TREATMENT OR IN SITU TREATMENT OF CONTAMINATED
24 GROUNDWATER OR SURFACE WATER TO REDUCE THE CONCENTRATION OR TOXICITY OR A
25 CONTAMINANT.

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

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

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

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

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

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

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

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

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

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

25 54. TANGIBLE PERSONAL PROPERTY PURCHASED BY A QUALIFIED BUSINESS UNDER
26 SECTION 41-1516 IF THE PROPERTY SOLD IS TO BE INCORPORATED OR FABRICATED INTO
27 A BUILDING, OR OTHER STRUCTURE, PROJECT, DEVELOPMENT OR IMPROVEMENT OWNED BY
28 THE QUALIFIED BUSINESS FOR HARVESTING OR PROCESSING QUALIFYING FOREST
29 PRODUCTS. TO QUALIFY FOR THIS EXEMPTION, THE QUALIFIED BUSINESS AT THE TIME
30 OF PURCHASE MUST PRESENT ITS CERTIFICATION APPROVED BY THE DEPARTMENT.

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

34 1. Machinery, or equipment, used directly in manufacturing,
35 processing, fabricating, job printing, refining or metallurgical operations.
36 The terms "manufacturing", "processing", "fabricating", "job printing",
37 "refining" and "metallurgical" as used in this paragraph refer to and include
38 those operations commonly understood within their ordinary meaning.
39 "Metallurgical operations" includes leaching, milling, precipitating,
40 smelting and refining. MANUFACTURING AND PROCESSING DO NOT INCLUDE ENGAGING
41 IN THE BUSINESS OF CONTRACTING.

42 2. Machinery, or equipment, used directly in the process of extracting
43 ores or minerals from the earth for commercial purposes, including equipment
44 required to prepare the materials for extraction and handling, loading or
45 transporting such extracted material to the surface. "Mining" includes

1 underground, surface and open pit operations for extracting ores and
2 minerals.

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

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

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

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

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

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

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

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

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

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

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

1 a governmentally adopted and controlled program to provide urban mass
2 transportation.

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

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

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

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

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

28 15. Tangible personal property that is used by either of the following
29 to receive, store, convert, produce, generate, decode, encode, control or
30 transmit telecommunications information:

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

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

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

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

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

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

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

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

22 17. Machinery and equipment that are used directly in the feeding of
23 poultry, the environmental control of housing for poultry, the movement of
24 eggs within a production and packaging facility or the sorting or cooling of
25 eggs. This exemption does not apply to vehicles used for transporting eggs.

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

36 19. Machinery and equipment that are used in the commercial production
37 of livestock, livestock products or agricultural, horticultural, viticultural
38 or floricultural crops or products in this state and that are used directly
39 and primarily to prevent, monitor, control or reduce air, water or land
40 pollution.

41 20. Machinery or equipment that enables a television station to
42 originate and broadcast or to receive and broadcast digital television
43 signals and that was purchased to facilitate compliance with the
44 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States
45 Code section 336) and the federal communications commission order issued

1 April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does
2 not exempt any of the following:

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

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

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

10 21. Qualifying equipment that is purchased from and after June 30, 2004
11 through June 30, 2024 by a qualified business under section 41-1516 for
12 harvesting or processing qualifying forest products removed from qualifying
13 projects as defined in section 41-1516. To qualify for this exemption, the
14 qualified business must obtain and present its certification from the Arizona
15 commerce authority at the time of purchase.

16 C. The exemptions provided by subsection B of this section do not
17 include:

18 1. Expendable materials. For the purposes of this paragraph,
19 expendable materials do not include any of the categories of tangible
20 personal property specified in subsection B of this section regardless of the
21 cost or useful life of that property.

22 2. Janitorial equipment and hand tools.

23 3. Office equipment, furniture and supplies.

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

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

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

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

34 8. MACHINERY AND EQUIPMENT OR TANGIBLE PERSONAL PROPERTY USED BY A
35 CONTRACTOR IN THE PERFORMANCE OF A CONTRACT.

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

38 1. Revenues received from sales of ancillary services, electric
39 distribution services, electric generation services, electric transmission
40 services and other services related to providing electricity to a retail
41 electric customer who is located outside this state for use outside this
42 state if the electricity is delivered to a point of sale outside this state.

43 2. Revenues received from providing electricity, including ancillary
44 services, electric distribution services, electric generation services,
45 electric transmission services and other services related to providing

1 electricity with respect to which the transaction privilege tax imposed under
2 section 42-5063 has been paid.

3 E. The tax levied by this article does not apply to the purchase of
4 solar energy devices from a retailer that is registered with the department
5 as a solar energy retailer or a solar energy contractor.

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

8 1. Fees charged by a municipally owned utility to persons constructing
9 residential, commercial or industrial developments or connecting residential,
10 commercial or industrial developments to a municipal utility system or
11 systems if the fees are segregated and used only for capital expansion,
12 system enlargement or debt service of the utility system or systems.

13 2. Reimbursement or contribution compensation to any person or persons
14 owning a utility system for property and equipment installed to provide
15 utility access to, on or across the land of an actual utility consumer if the
16 property and equipment become the property of the utility. This deduction
17 shall not exceed the value of such property and equipment.

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

19 1. "Aircraft" includes:

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

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

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

29 H. For the purposes of subsection D of this section, "ancillary
30 services", "electric distribution service", "electric generation service",
31 "electric transmission service" and "other services" have the same meanings
32 prescribed in section 42-5063.

33 Sec. 23. Section 42-5160, Arizona Revised Statutes, is amended to
34 read:

35 42-5160. Liability for tax

36 Any person who uses, stores or consumes any tangible personal property
37 ~~upon~~ ON which a tax is imposed by this article and ~~upon~~ ON which the tax has
38 not been collected by a registered retailer or utility business shall pay the
39 tax as provided by this article, but every retailer and utility business
40 maintaining a place of business in this state and making sales of tangible
41 personal property for storage, use or other consumption in this state shall
42 collect the tax from the purchaser or user unless the property is exempt
43 under this article or the purchaser or user pays the tax directly to the
44 department as provided by section 42-5167. In the case of a manufactured
45 building that is purchased from a dealer outside this state and brought into

1 this state, any person who is hired to set up the manufactured building and
2 who is licensed pursuant to title 41, chapter 16, article 4 shall collect the
3 tax from the owner and remit the tax with any tax that is due under the ~~prime~~
4 ~~contracting~~ MANUFACTURED BUILDING DEALER classification PURSUANT TO SECTION
5 42-5075.

6 Sec. 24. Section 42-6001, Arizona Revised Statutes, is amended to
7 read:

8 42-6001. Collection and administration of transaction privilege
9 tax and affiliated excise taxes; committee

10 A. The department ~~may~~ SHALL collect and administer any transaction
11 privilege and affiliated excise taxes, including use tax, severance tax, jet
12 fuel excise and use tax, and rental occupancy tax, imposed by any city or
13 town, and the department and any city or town ~~may~~ SHALL enter into
14 intergovernmental contracts or agreements to provide a uniform method of
15 administration, collection, audit and licensing of transaction privilege and
16 affiliated excise taxes imposed by the state or cities or towns pursuant to
17 title 11, chapter 7, article 3.

18 ~~B. The director may enter into agreements with cities and towns of~~
19 ~~this state that levy transaction privilege and affiliated excise taxes to~~
20 ~~provide for unified or coordinated licensing, collection and auditing~~
21 ~~programs for such taxes levied by cities and towns and taxes levied pursuant~~
22 ~~to chapter 5 of this title. Such cities and towns may enter into agreements~~
23 ~~with the department to provide for unified or coordinated licensing,~~
24 ~~collection and auditing programs for such transaction privilege and~~
25 ~~affiliated excise taxes levied by such cities and towns and for taxes levied~~
26 ~~pursuant to chapter 5 of this title.~~

27 ~~C. A city or town that does not enter into an agreement with the~~
28 ~~department for the collection of municipal transaction privilege and~~
29 ~~affiliated excise taxes shall report to the department on or before September~~
30 ~~1 of each year the total amount of those taxes collected by the city or town~~
31 ~~in the preceding fiscal year.~~

32 ~~D.~~ B. The director shall establish with ~~such~~ THE cities and towns a
33 uniform licensing, collection and audit committee to direct such unified or
34 coordinated functions.

35 ~~E. A taxpayer who is required to pay any municipal transaction~~
36 ~~privilege and affiliated excise taxes to a city or town that has not entered~~
37 ~~into an intergovernmental contract or agreement with the department of~~
38 ~~revenue under subsection B of this section to provide a coordinated method of~~
39 ~~collecting municipal transaction privilege and affiliated excise taxes may~~
40 ~~instead report and pay the required tax to that city or town through an~~
41 ~~online portal. The online portal shall be procured by the department of~~
42 ~~administration pursuant to a public-private partnership entered into pursuant~~
43 ~~to section 41-2559, shall include access to a single point of filing and~~
44 ~~paying the tax and shall provide security measures to protect taxpayer~~
45 ~~information. The taxpayer may be charged a fee to use the online portal.~~

1 C. THE GOVERNING BODY OF AN INCORPORATED CITY OR TOWN AND THE
2 DEPARTMENT MAY ENTER INTO AN AGREEMENT WHEREBY:

3 1. THE DEPARTMENT WILL FURNISH PART-TIME OR FULL-TIME PERSONNEL TO
4 PERFORM AUDIT SERVICES WITHIN THE BOUNDARIES OF THE CITY OR TOWN, AS PROVIDED
5 IN THE AGREEMENT.

6 2. THE INCORPORATED CITY OR TOWN THAT CONTRACTS FOR SERVICES PURSUANT
7 TO THIS SECTION WILL PAY TO THE DEPARTMENT THE AMOUNT AGREED TO BE PAID FOR
8 THESE SERVICES.

9 Sec. 25. Section 42-6002, Arizona Revised Statutes, is amended to
10 read:

11 42-6002. Procedures for levy, collection and enforcement
12 applicable to cities and towns

13 A. The procedures for levy, collection and enforcement of payment of
14 transaction privilege and affiliated excise taxes, including use tax,
15 severance tax, jet fuel excise and use tax, and rental occupancy tax, levied
16 by a city or town ~~by such city or town~~ shall be in the same manner as
17 authorized by chapter 5 of this title ~~unless otherwise provided by the~~
18 ~~ordinance of such city or town. The department, when acting on behalf of a~~
19 ~~city or town in levying and collecting transaction privilege and affiliated~~
20 ~~taxes for such city or town, shall utilize the procedures for levying,~~
21 ~~collecting and enforcing the payment of such taxes on behalf of the city or~~
22 ~~town.~~

23 B. A city or town shall not:

24 1. Employ auditors ~~on a contingent fee basis or enter into contingent~~
25 ~~fee contracts for auditing any transaction privilege or affiliated tax levied~~
26 ~~by the city or town.~~

27 2. Enter into contracts with a third party, other than this state ~~or a~~
28 ~~political subdivision of this state~~, for the collection, administration or
29 processing of transaction privilege or affiliated taxes levied by the city or
30 town. ~~This paragraph does not apply to a city or town that does not contract~~
31 ~~with the department for the collection, administration or processing of~~
32 ~~transaction privilege or affiliated taxes levied by the city or town and that~~
33 ~~enters into a contract with a third party solely for the collection of~~
34 ~~delinquent city or town transaction privilege or affiliated taxes for which a~~
35 ~~liability has been established.~~

36 Sec. 26. Section 42-6004, Arizona Revised Statutes, is amended to
37 read:

38 42-6004. Exemption from municipal tax

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

41 1. Exhibition events in this state sponsored, conducted or operated by
42 a nonprofit organization that is exempt from taxation under section
43 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the
44 organization is associated with a major league baseball team or a national

- 1 touring professional golfing association and no part of the organization's
2 net earnings inures to the benefit of any private shareholder or individual.
- 3 2. Interstate telecommunications services, which include that portion
4 of telecommunications services, such as subscriber line service, allocable by
5 federal law to interstate telecommunications service.
- 6 3. Sales of warranty or service contracts.
- 7 4. Sales of motor vehicles to nonresidents of this state for use
8 outside this state if the ~~vendor~~ MOTOR VEHICLE DEALER ships or delivers the
9 motor vehicle to a destination outside this state.
- 10 5. Interest on finance contracts.
- 11 6. Dealer documentation fees on the sales of motor vehicles.
- 12 7. Sales of food or other items purchased with United States
13 department of agriculture food stamp coupons issued under the food stamp act
14 of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section
15 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661,
16 section 4302; 42 United States Code section 1786) but may impose such a tax
17 on other sales of food. If a city, town or special taxing district exempts
18 sales of food from its tax or imposes a different transaction privilege rate
19 on the gross proceeds of sales or gross income from sales of food and nonfood
20 items, it shall use the definition of food prescribed by rule adopted by the
21 department pursuant to section 42-5106.
- 22 8. Sales of internet access services to the person's subscribers and
23 customers. For the purposes of this paragraph:
- 24 (a) "Internet" means the computer and telecommunications facilities
25 that comprise the interconnected worldwide network of networks that employ
26 the transmission control protocol or internet protocol, or any predecessor or
27 successor protocol, to communicate information of all kinds by wire or radio.
- 28 (b) "Internet access" means a service that enables users to access
29 content, information, electronic mail or other services over the internet.
30 Internet access does not include telecommunication services provided by a
31 common carrier.
- 32 9. The gross proceeds of sales or gross income retained by the Arizona
33 exposition and state fair board from ride ticket sales at the annual Arizona
34 state fair.
- 35 10. Through August 31, 2014, sales of Arizona centennial medallions by
36 the historical advisory commission.
- 37 11. The gross proceeds of sales or gross income derived from a
38 commercial lease in which a reciprocal insurer or a corporation leases real
39 property to an affiliated corporation. For the purposes of this paragraph:
- 40 (a) "Affiliated corporation" means a corporation that meets one of the
41 following conditions:
- 42 (i) The corporation owns or controls at least eighty per cent of the
43 lessor.
- 44 (ii) The corporation is at least eighty per cent owned or controlled
45 by the lessor.

1 (iii) The corporation is at least eighty per cent owned or controlled
2 by a corporation that also owns or controls at least eighty per cent of the
3 lessor.

4 (iv) The corporation is at least eighty per cent owned or controlled
5 by a corporation that is at least eighty per cent owned or controlled by a
6 reciprocal insurer.

7 (b) For the purposes of subdivision (a) of this paragraph, ownership
8 and control are determined by reference to the voting shares of a
9 corporation.

10 (c) "Reciprocal insurer" has the same meaning prescribed in section
11 20-762.

12 12. The gross proceeds of sales or gross income derived from a
13 commercial lease in which a corporation leases real property to a corporation
14 of which at least eighty per cent of the voting shares of each corporation
15 are owned by the same shareholders.

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

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

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

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

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

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

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

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

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

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

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

12 6. CONSTRUCTION CONTRACTING, OWNER BUILDER SALES OR SPECULATIVE
13 BUILDING. THE SALE OF TANGIBLE PERSONAL PROPERTY TO A CONTRACTOR, OWNER
14 BUILDER OR SPECULATIVE BUILDER, AS DEFINED IN THE MODEL CITY TAX CODE,
15 REGARDLESS OF WHETHER THE PROPERTY WILL BE INCORPORATED INTO A BUILDING OR
16 STRUCTURE, IS CONSIDERED TO BE A SALE AT RETAIL AND IS SUBJECT TO TAXATION
17 UNDER THE RETAIL SALES PROVISION OF THE MODEL CITY TAX CODE UNLESS THE
18 CONTRACTOR PROVIDES TO THE RETAILER A CERTIFICATE THAT IS SIGNED BY THE OWNER
19 OF THE PROPERTY TO BE IMPROVED AND THAT STATES THAT THE PERSONAL PROPERTY
20 PURCHASED BY THE CONTRACTOR WILL BE USED FOR A PURPOSE EXEMPT FROM THE RETAIL
21 CLASSIFICATION AS PRESCRIBED IN THE MODEL CITY TAX CODE. IF A PERSON WHO IS
22 IN THE BUSINESS OF SELLING TANGIBLE PERSONAL PROPERTY AT RETAIL ALSO ENGAGES
23 IN BUSINESS AS A CONTRACTOR, OWNER BUILDING OR SPECULATIVE BUILDER AND
24 REMOVES TANGIBLE PERSONAL PROPERTY FROM RETAIL STOCK FOR USE IN CONTRACTING,
25 OWNER BUILDER OR SPECULATIVE BUILDING ACTIVITIES, THE PURCHASE PRICE OF THAT
26 PERSONAL PROPERTY IS SUBJECT TO USE TAX.

27 7. SALES OF TANGIBLE PERSONAL PROPERTY TO A PERSON THAT IS SUBJECT TO
28 TAX BY REASON OF BEING ENGAGED IN BUSINESS CLASSIFIED UNDER THE HIGHWAY,
29 STREET AND BRIDGE CONSTRUCTION CLASSIFICATION UNDER SECTION 42-6020, OR TO A
30 SUBCONTRACTOR WORKING UNDER THE CONTROL OF A HIGHWAY, STREET OR BRIDGE
31 CONTRACTOR THAT IS SUBJECT TO TAX UNDER SECTION 42-6020, IF THE PROPERTY SOLD
32 IS TO BE INCORPORATED OR FABRICATED BY THE PERSON INTO A HIGHWAY, STREET OR
33 BRIDGE.

34 D. A city, town or other taxing jurisdiction shall not levy a
35 transaction privilege, sales, use, franchise or other similar tax or fee,
36 however denominated, in excess of one-tenth of one per cent of the value of
37 the entire product mined, smelted, extracted, refined, produced or prepared
38 for sale, profit or commercial use, on persons engaged in the business of
39 mineral processing, except to the extent that the tax is computed on the
40 gross proceeds or gross income from sales at retail.

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

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

1 2. The waste tire disposal fee imposed pursuant to section 44-1302.
2 F. A city or town shall not levy a use tax on the storage, use or
3 consumption of tangible personal property in the city or town by a school
4 district or charter school.

5 Sec. 27. Section 42-6005, Arizona Revised Statutes, is amended to
6 read:

7 42-6005. Unified audit committee; audits

8 A. The director shall establish a unified audit committee with cities
9 and towns. The committee shall coordinate uniform audit functions. The
10 committee shall publish uniform guidelines that interpret the model city tax
11 code and that apply to all cities and towns that have adopted the model city
12 tax code.

13 B. If the department intends to conduct an audit of a taxpayer, the
14 department shall notify the cities or towns in which the taxpayer conducts
15 business. ~~A city or town may accept the audit as a joint audit and may elect
16 to have a representative participate in the audit provided that no more than
17 two city or town representatives in total may participate. If a city or town
18 does not accept the audit as a joint audit, the city or town may not conduct
19 an audit of the taxpayer for forty-two months from the close of the last tax
20 period covered by the audit unless an exception applies to that taxpayer
21 pursuant to section 42-2059. An audit conducted by a city or town serves as
22 a joint audit for all cities and towns that have taxing jurisdiction.~~

23 C. A taxpayer that conducts business in more than one jurisdiction ~~may
24 allow a joint~~ IS SUBJECT TO A SINGLE audit for all taxing jurisdictions.
25 ~~A taxpayer that does not allow a joint audit for all taxing jurisdictions is
26 subject to an audit by another jurisdiction at any time. If a joint audit is
27 performed by a city or town, this section shall not be construed to prohibit
28 the department from conducting any audit that does not violate the provisions
29 of section 42-2059.~~

30 D. When the state statutes and model city tax code are the same and
31 where the department has issued written guidance, the department's
32 interpretation is binding on cities and towns.

33 Sec. 28. Title 42, chapter 6, Arizona Revised Statutes, is amended by
34 adding article 1.1, to read:

35 ARTICLE 1.1. MUNICIPAL CONTRACTING EXCISE TAX

36 42-6020. Highway, street and bridge construction; definitions

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

39 B. THE TAX BASE FOR THE HIGHWAY, STREET AND BRIDGE CONSTRUCTION
40 CLASSIFICATION IS SIXTY-FIVE PER CENT OF THE GROSS PROCEEDS OF SALES OR GROSS
41 INCOME DERIVED FROM THE BUSINESS. THE FOLLOWING AMOUNTS SHALL BE DEDUCTED
42 FROM THE GROSS PROCEEDS OF SALES OR GROSS INCOME BEFORE COMPUTING THE TAX
43 BASE:

44 1. THE GROSS PROCEEDS OF SALES OR GROSS INCOME RECEIVED FROM A
45 CONTRACT ENTERED INTO FOR THE CONSTRUCTION, ALTERATION, OR REPAIR OF ANY

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

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

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

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

26 D. FOR THE PURPOSES OF THIS SECTION:

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

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

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

37 (c) ADMINISTRATION OR SUPERVISION OF ANY WORK PERFORMED PURSUANT TO
38 CHANGE ORDERS. FOR THE PURPOSES OF THIS SUBDIVISION, "CHANGE ORDER" MEANS A
39 WRITTEN INSTRUMENT ISSUED AFTER EXECUTION OF A CONTRACT FOR THE CONSTRUCTION
40 OF A HIGHWAY, STREET OR BRIDGE, PROVIDING FOR ALL OF THE FOLLOWING:

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

42 (ii) THE AMOUNT OF AN ADJUSTMENT, IF ANY, TO THE GUARANTEED MAXIMUM
43 PRICE AS SET IN THE CONTRACT FOR CONSTRUCTION OF THE HIGHWAY, STREET OR
44 BRIDGE. FOR PURPOSES OF THIS ITEM, "GUARANTEED MAXIMUM PRICE" MEANS THE
45 AMOUNT GUARANTEED TO BE THE MAXIMUM AMOUNT DUE TO HIGHWAY, STREET OR BRIDGE

1 CONTRACTOR FOR THE PERFORMANCE OF THE CONSTRUCTION, ALTERATION OR REPAIR OF A
2 HIGHWAY, STREET OR BRIDGE.

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

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

10 (e) INSPECTION TO DETERMINE THE DATES OF SUBSTANTIAL COMPLETION OR
11 FINAL COMPLETION.

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

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

22 (i) MASTER SCHEDULE UPDATES.

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

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

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

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

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

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

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

39 2. "DESIGN PHASE SERVICES" MEANS SERVICES FOR DEVELOPING AND
40 COMPLETING A DESIGN FOR A PROJECT THAT ARE NOT CONSTRUCTION PHASE SERVICES,
41 INCLUDING THE FOLLOWING:

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

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

4 (c) PREPARING DRAWINGS AND SPECIFICATIONS FOR ARCHITECTURAL PROGRAM
5 DOCUMENTS, SCHEMATIC DESIGN DOCUMENTS, DESIGN DEVELOPMENT DOCUMENTS,
6 CONSTRUCTION, ALTERATION OR REPAIR DOCUMENTS OR DOCUMENTS THAT IDENTIFY THE
7 SCOPE OF OR MATERIALS FOR THE PROJECT.

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

11 (e) PREPARING PRELIMINARY ESTIMATES OF COSTS OF CONSTRUCTION,
12 ALTERATION OR REPAIR WORK BEFORE COMPLETION OF THE FINAL DESIGN OF THE
13 PROJECT, INCLUDING AN ESTIMATE OR SCHEDULE OF VALUES FOR ANY OF THE
14 FOLLOWING:

15 (i) LABOR, MATERIALS, MACHINERY AND EQUIPMENT, TOOLS, WATER, HEAT,
16 UTILITIES, TRANSPORTATION AND OTHER FACILITIES AND SERVICES USED IN THE
17 EXECUTION AND COMPLETION OF CONSTRUCTION, ALTERATION OR REPAIR WORK,
18 REGARDLESS OF WHETHER THEY ARE TEMPORARY OR PERMANENT OR WHETHER THEY ARE
19 INCORPORATED IN THE CONSTRUCTION, ALTERATION OR REPAIR.

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

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

25 (iv) ANY BOND AND INSURANCE PREMIUMS.

26 (v) ANY APPLICABLE TAXES.

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

30 (f) REVIEWING AND EVALUATING COST ESTIMATES AND PROJECT DOCUMENTS TO
31 PREPARE RECOMMENDATIONS ON SITE USE, SITE IMPROVEMENTS, SELECTION OF
32 MATERIALS, BUILDING SYSTEMS AND EQUIPMENT, CONSTRUCTION, ALTERATION OR REPAIR
33 FEASIBILITY, AVAILABILITY OF MATERIALS AND LABOR, LOCAL CONSTRUCTION,
34 ALTERATION OR REPAIR ACTIVITY AS RELATED TO SCHEDULES AND TIME REQUIREMENTS
35 FOR CONSTRUCTION, ALTERATION OR REPAIR WORK.

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

38 3. "HIGHWAY, STREET OR BRIDGE CONTRACTOR" MEANS A CONTRACTOR WHO HOLDS
39 A CLASSIFICATION A LICENSE FROM THE REGISTRAR OF CONTRACTORS AND WHO
40 SUPERVISES, PERFORMS OR COORDINATES THE CONSTRUCTION, ALTERATION OR REPAIR OF
41 A HIGHWAY, STREET OR BRIDGE, INCLUDING THE CONTRACTING, IF ANY, WITH ANY
42 SUBCONTRACTORS.

43 4. "PROFESSIONAL SERVICES" MEANS ARCHITECT SERVICES, ASSAYER SERVICES,
44 ENGINEER SERVICES, GEOLOGIST SERVICES, LAND SURVEYING SERVICES OR LANDSCAPE
45 ARCHITECT SERVICES THAT ARE WITHIN THE SCOPE OF THOSE SERVICES AS PROVIDED IN

1 TITLE 32, CHAPTER 1 AND FOR WHICH GROSS PROCEEDS OF SALES OR GROSS INCOME HAS
2 NOT OTHERWISE BEEN DEDUCTED UNDER SUBSECTION B, PARAGRAPH 3 OF THIS SECTION.

3 42-6021. Residential and commercial contracting classification:
4 definitions

5 A. THE RESIDENTIAL AND COMMERCIAL CONTRACTING CLASSIFICATION IS
6 COMPRISED OF THE BUSINESS OF RESIDENTIAL AND COMMERCIAL CONTRACTING.

7 B. THE TAX BASE FOR THE RESIDENTIAL AND COMMERCIAL CONTRACTING
8 CLASSIFICATION IS SIXTY-FIVE PER CENT OF THE GROSS PROCEEDS OF SALES OR GROSS
9 INCOME DERIVED FROM THE BUSINESS. THE FOLLOWING AMOUNTS SHALL BE DEDUCTED
10 FROM THE GROSS PROCEEDS OF SALES OR GROSS INCOME BEFORE COMPUTING THE TAX
11 BASE:

12 1. THE SALES PRICE OF LAND, WHICH SHALL NOT EXCEED THE FAIR MARKET
13 VALUE.

14 2. SALES AND INSTALLATION OF GROUNDWATER MEASURING DEVICES REQUIRED
15 UNDER SECTION 45-604 AND GROUNDWATER MONITORING WELLS REQUIRED BY LAW,
16 INCLUDING MONITORING WELLS INSTALLED FOR ACQUIRING INFORMATION FOR A PERMIT
17 REQUIRED BY LAW.

18 3. THE GROSS PROCEEDS OF SALES OR GROSS INCOME RECEIVED FROM A
19 CONTRACT ENTERED INTO FOR THE CONSTRUCTION, ALTERATION, REPAIR, ADDITION,
20 SUBTRACTION, IMPROVEMENT, MOVEMENT, WRECKING OR DEMOLITION OF ANY BUILDING,
21 RAILROAD, EXCAVATION, OR OTHER STRUCTURE, PROJECT, DEVELOPMENT OR IMPROVEMENT
22 LOCATED IN A MILITARY REUSE ZONE FOR PROVIDING AVIATION OR AEROSPACE SERVICES
23 OR FOR A MANUFACTURER, ASSEMBLER OR FABRICATOR OF AVIATION OR AEROSPACE
24 PRODUCTS WITHIN AN ACTIVE MILITARY REUSE ZONE AFTER THE ZONE IS INITIALLY
25 ESTABLISHED OR RENEWED UNDER SECTION 41-1531. TO BE ELIGIBLE TO QUALIFY FOR
26 THIS DEDUCTION, BEFORE BEGINNING WORK UNDER THE CONTRACT, THE PRIME
27 CONTRACTOR MUST HAVE APPLIED FOR A LETTER OF QUALIFICATION FROM THE
28 DEPARTMENT OF REVENUE.

29 4. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A CONTRACT
30 TO CONSTRUCT A QUALIFIED ENVIRONMENTAL TECHNOLOGY MANUFACTURING, PRODUCING OR
31 PROCESSING FACILITY, AS DESCRIBED IN SECTION 41-1514.02, AND FROM SUBSEQUENT
32 CONSTRUCTION AND INSTALLATION CONTRACTS THAT BEGIN WITHIN TEN YEARS AFTER THE
33 START OF INITIAL CONSTRUCTION. TO QUALIFY FOR THIS DEDUCTION, BEFORE
34 BEGINNING WORK UNDER THE CONTRACT, THE CONTRACTOR MUST OBTAIN A LETTER OF
35 QUALIFICATION FROM THE DEPARTMENT OF REVENUE. THIS PARAGRAPH SHALL APPLY FOR
36 TEN FULL CONSECUTIVE CALENDAR OR FISCAL YEARS AFTER THE START OF INITIAL
37 CONSTRUCTION.

38 5. THE GROSS PROCEEDS OF SALES OR GROSS INCOME FROM A CONTRACT TO
39 PROVIDE FOR ONE OR MORE OF THE FOLLOWING ACTIONS, OR A CONTRACT FOR SITE
40 PREPARATION, CONSTRUCTING, FURNISHING OR INSTALLING MACHINERY, EQUIPMENT OR
41 OTHER TANGIBLE PERSONAL PROPERTY, INCLUDING STRUCTURES NECESSARY TO PROTECT
42 EXEMPT INCORPORATED MATERIALS OR INSTALLED MACHINERY OR EQUIPMENT, AND
43 TANGIBLE PERSONAL PROPERTY INCORPORATED INTO THE PROJECT, TO PERFORM ONE OR
44 MORE OF THE FOLLOWING ACTIONS IN RESPONSE TO A RELEASE OR SUSPECTED RELEASE
45 OF A HAZARDOUS SUBSTANCE, POLLUTANT OR CONTAMINANT FROM A FACILITY TO THE

1 ENVIRONMENT, UNLESS THE RELEASE WAS AUTHORIZED BY A PERMIT ISSUED BY A
2 GOVERNMENTAL AUTHORITY:

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

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

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

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

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

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

22 6. THE GROSS PROCEEDS OF SALES OR GROSS INCOME THAT IS DERIVED FROM A
23 CONTRACT ENTERED INTO FOR THE INSTALLATION, ASSEMBLY, REPAIR OR MAINTENANCE
24 OF MACHINERY, EQUIPMENT OR OTHER TANGIBLE PERSONAL PROPERTY THAT IS DEDUCTED
25 FROM THE TAX BASE OF THE RETAIL CLASSIFICATION PURSUANT TO SECTION 42-5061,
26 SUBSECTION B, OR THAT IS EXEMPT FROM USE TAX PURSUANT TO SECTION 42-5159,
27 SUBSECTION B, AND THAT DOES NOT BECOME A PERMANENT ATTACHMENT TO A BUILDING,
28 HIGHWAY, ROAD, RAILROAD, EXCAVATION OR MANUFACTURED BUILDING OR OTHER
29 STRUCTURE, PROJECT, DEVELOPMENT OR IMPROVEMENT. IF THE OWNERSHIP OF THE
30 REALTY IS SEPARATE FROM THE OWNERSHIP OF THE MACHINERY, EQUIPMENT OR TANGIBLE
31 PERSONAL PROPERTY, THE DETERMINATION AS TO PERMANENT ATTACHMENT SHALL BE MADE
32 AS IF THE OWNERSHIP WERE THE SAME. THE DEDUCTION PROVIDED IN THIS PARAGRAPH
33 DOES NOT INCLUDE GROSS PROCEEDS OF SALES OR GROSS INCOME FROM THAT PORTION OF
34 ANY CONTRACTING ACTIVITY THAT CONSISTS OF THE DEVELOPMENT OF, OR MODIFICATION
35 TO, REAL PROPERTY IN ORDER TO FACILITATE THE INSTALLATION, ASSEMBLY, REPAIR,
36 MAINTENANCE OR REMOVAL OF MACHINERY, EQUIPMENT OR OTHER TANGIBLE PERSONAL
37 PROPERTY THAT IS DEDUCTED FROM THE TAX BASE OF THE RETAIL CLASSIFICATION
38 PURSUANT TO SECTION 42-5061, SUBSECTION B OR THAT IS EXEMPT FROM USE TAX
39 PURSUANT TO SECTION 42-5159, SUBSECTION B. FOR THE PURPOSES OF THIS
40 PARAGRAPH, "PERMANENT ATTACHMENT" MEANS AT LEAST ONE OF THE FOLLOWING:

41 (a) TO BE INCORPORATED INTO REAL PROPERTY.

42 (b) TO BECOME SO AFFIXED TO REAL PROPERTY THAT IT BECOMES A PART OF
43 THE REAL PROPERTY.

44 (c) TO BE SO ATTACHED TO REAL PROPERTY THAT REMOVAL WOULD CAUSE
45 SUBSTANTIAL DAMAGE TO THE REAL PROPERTY FROM WHICH IT IS REMOVED.

1 7. THE GROSS PROCEEDS OF SALES OR GROSS INCOME ATTRIBUTABLE TO THE
2 PURCHASE OF MACHINERY, EQUIPMENT OR OTHER TANGIBLE PERSONAL PROPERTY THAT IS
3 EXEMPT FROM OR DEDUCTIBLE FROM TRANSACTION PRIVILEGE AND USE TAX UNDER:

- 4 (a) SECTION 42-5061, SUBSECTION A, PARAGRAPH 25 OR 29.
5 (b) SECTION 42-5061, SUBSECTION B.
6 (c) SECTION 42-5159, SUBSECTION A, PARAGRAPH 13, SUBDIVISION (a), (b),
7 (c), (d), (e), (f), (i), (j) OR (l).
8 (d) SECTION 42-5159, SUBSECTION B.

9 8. THE GROSS PROCEEDS OF SALES OR GROSS INCOME RECEIVED FROM A
10 CONTRACT FOR THE CONSTRUCTION OF AN ENVIRONMENTALLY CONTROLLED FACILITY FOR
11 THE RAISING OF POULTRY FOR THE PRODUCTION OF EGGS AND THE SORTING, COOLING
12 AND PACKAGING OF EGGS.

13 9. THE GROSS PROCEEDS OF SALES OR GROSS INCOME THAT IS DERIVED FROM A
14 CONTRACT ENTERED INTO WITH A PERSON WHO IS ENGAGED IN THE COMMERCIAL
15 PRODUCTION OF LIVESTOCK, LIVESTOCK PRODUCTS OR AGRICULTURAL, HORTICULTURAL,
16 VITICULTURAL OR FLORICULTURAL CROPS OR PRODUCTS IN THIS STATE FOR THE
17 CONSTRUCTION, ALTERATION, REPAIR, IMPROVEMENT, MOVEMENT, WRECKING OR
18 DEMOLITION OR ADDITION TO OR SUBTRACTION FROM ANY BUILDING, HIGHWAY, ROAD,
19 EXCAVATION, MANUFACTURED BUILDING OR OTHER STRUCTURE, PROJECT, DEVELOPMENT OR
20 IMPROVEMENT USED DIRECTLY AND PRIMARILY TO PREVENT, MONITOR, CONTROL OR
21 REDUCE AIR, WATER OR LAND POLLUTION.

22 10. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM THE
23 INSTALLATION, ASSEMBLY, REPAIR OR MAINTENANCE OF CLEAN ROOMS THAT ARE
24 DEDUCTED FROM THE TAX BASE OF THE RETAIL CLASSIFICATION PURSUANT TO SECTION
25 42-5061, SUBSECTION B, PARAGRAPH 16.

26 11. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A CONTRACT
27 ENTERED INTO FOR THE CONSTRUCTION OF A RESIDENTIAL APARTMENT HOUSING FACILITY
28 THAT QUALIFIES FOR A FEDERAL HOUSING SUBSIDY FOR LOW INCOME PERSONS OVER
29 SIXTY-TWO YEARS OF AGE AND THAT IS OWNED BY A NONPROFIT CHARITABLE
30 ORGANIZATION THAT HAS QUALIFIED UNDER SECTION 501(c)(3) OF THE INTERNAL
31 REVENUE CODE.

32 12. FOR TAXABLE PERIODS BEGINNING FROM AND AFTER DECEMBER 31, 1996 AND
33 ENDING BEFORE JANUARY 1, 2017, THE GROSS PROCEEDS OF SALES OR GROSS INCOME
34 DERIVED FROM A CONTRACT TO PROVIDE AND INSTALL A SOLAR ENERGY DEVICE. THE
35 CONTRACTOR SHALL REGISTER WITH THE DEPARTMENT AS A SOLAR ENERGY CONTRACTOR.
36 BY REGISTERING, THE CONTRACTOR ACKNOWLEDGES THAT IT WILL MAKE ITS BOOKS AND
37 RECORDS RELATING TO SALES OF SOLAR ENERGY DEVICES AVAILABLE TO THE DEPARTMENT
38 FOR EXAMINATION.

39 13. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A CONTRACT
40 ENTERED INTO FOR THE CONSTRUCTION OF A LAUNCH SITE, AS DEFINED IN 14 CODE OF
41 FEDERAL REGULATIONS SECTION 401.5.

42 14. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A CONTRACT
43 ENTERED INTO FOR THE CONSTRUCTION OF A DOMESTIC VIOLENCE SHELTER THAT IS
44 OWNED AND OPERATED BY A NONPROFIT CHARITABLE ORGANIZATION THAT HAS QUALIFIED
45 UNDER SECTION 501(c)(3) OF THE INTERNAL REVENUE CODE.

1 15. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM CONTRACTS
2 TO PERFORM POSTCONSTRUCTION TREATMENT OF REAL PROPERTY FOR TERMITE AND
3 GENERAL PEST CONTROL, INCLUDING WOOD-DESTROYING ORGANISMS.

4 16. THE GROSS PROCEEDS OF SALES OR GROSS INCOME RECEIVED FROM CONTRACTS
5 ENTERED INTO BEFORE JULY 1, 2006 FOR CONSTRUCTING A STATE UNIVERSITY RESEARCH
6 INFRASTRUCTURE PROJECT IF THE PROJECT HAS BEEN REVIEWED BY THE JOINT
7 COMMITTEE ON CAPITAL REVIEW BEFORE THE UNIVERSITY ENTERS INTO THE
8 CONSTRUCTION CONTRACT FOR THE PROJECT. FOR THE PURPOSES OF THIS PARAGRAPH,
9 "RESEARCH INFRASTRUCTURE" HAS THE SAME MEANING PRESCRIBED IN SECTION 15-1670.

10 17. THE GROSS PROCEEDS OF SALES OR GROSS INCOME RECEIVED FROM A
11 CONTRACT FOR THE CONSTRUCTION OF ANY BUILDING, RAILROAD OR OTHER STRUCTURE,
12 PROJECT, DEVELOPMENT OR IMPROVEMENT OWNED BY A QUALIFIED BUSINESS UNDER
13 SECTION 41-1516 FOR HARVESTING OR PROCESSING QUALIFYING FOREST PRODUCTS
14 REMOVED FROM QUALIFYING PROJECTS AS DEFINED IN SECTION 41-1516 IF ACTUAL
15 CONSTRUCTION BEGINS BEFORE JANUARY 1, 2024. TO QUALIFY FOR THIS DEDUCTION,
16 THE RESIDENTIAL OR COMMERCIAL CONTRACTOR MUST OBTAIN A LETTER OF
17 QUALIFICATION FROM THE ARIZONA COMMERCE AUTHORITY BEFORE BEGINNING WORK UNDER
18 THE CONTRACT.

19 18. ANY AMOUNT OF THE GROSS PROCEEDS OF SALES OR GROSS INCOME
20 ATTRIBUTABLE TO DEVELOPMENT FEES THAT ARE INCURRED IN RELATION TO A CONTRACT
21 FOR CONSTRUCTION, DEVELOPMENT OR IMPROVEMENT OF REAL PROPERTY AND THAT ARE
22 PAID BY A RESIDENTIAL OR COMMERCIAL CONTRACTOR OR SUBCONTRACTOR. FOR THE
23 PURPOSES OF THIS PARAGRAPH:

24 (a) THE ATTRIBUTABLE AMOUNT SHALL NOT EXCEED THE VALUE OF THE
25 DEVELOPMENT FEES ACTUALLY IMPOSED.

26 (b) THE ATTRIBUTABLE AMOUNT IS EQUAL TO THE TOTAL AMOUNT OF
27 DEVELOPMENT FEES PAID BY THE RESIDENTIAL OR COMMERCIAL CONTRACTOR OR
28 SUBCONTRACTOR, AND THE TOTAL DEVELOPMENT FEES CREDITED IN EXCHANGE FOR THE
29 CONSTRUCTION OF, CONTRIBUTION TO OR DEDICATION OF REAL PROPERTY FOR PROVIDING
30 PUBLIC INFRASTRUCTURE, PUBLIC SAFETY OR OTHER PUBLIC SERVICES NECESSARY TO
31 THE DEVELOPMENT. THE REAL PROPERTY MUST BE THE SUBJECT OF THE DEVELOPMENT
32 FEES.

33 (c) "DEVELOPMENT FEES" MEANS FEES IMPOSED TO OFFSET CAPITAL COSTS OF
34 PROVIDING PUBLIC INFRASTRUCTURE, PUBLIC SAFETY OR OTHER PUBLIC SERVICES TO A
35 DEVELOPMENT AND AUTHORIZED PURSUANT TO SECTION 9-463.05, SECTION 11-1102 OR
36 TITLE 48 REGARDLESS OF THE JURISDICTION TO WHICH THE FEES ARE PAID.

37 C. ENTITLEMENT TO THE DEDUCTION PURSUANT TO SUBSECTION B, PARAGRAPH 6
38 OF THIS SECTION IS SUBJECT TO THE FOLLOWING PROVISIONS:

39 1. A RESIDENTIAL OR COMMERCIAL CONTRACTOR MAY ESTABLISH ENTITLEMENT TO
40 THE DEDUCTION BY BOTH:

41 (a) MARKING THE INVOICE FOR THE TRANSACTION TO INDICATE THAT THE GROSS
42 PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM THE TRANSACTION WAS DEDUCTED
43 FROM THE BASE.

1 (b) OBTAINING A CERTIFICATE EXECUTED BY THE CUSTOMER INDICATING THE
2 NAME AND ADDRESS OF THE CUSTOMER, THE PRECISE NATURE OF THE BUSINESS OF THE
3 CUSTOMER, THE PURPOSE FOR WHICH THE PURCHASE WAS MADE, THE NECESSARY FACTS TO
4 ESTABLISH THE DEDUCTIBILITY OF THE PROPERTY UNDER SECTION 42-5061, SUBSECTION
5 B, AND A CERTIFICATION THAT THE PERSON EXECUTING THE CERTIFICATE IS
6 AUTHORIZED TO DO SO ON BEHALF OF THE PURCHASER. THE CERTIFICATE MAY BE
7 DISREGARDED IF THE RESIDENTIAL OR COMMERCIAL CONTRACTOR HAS REASON TO BELIEVE
8 THAT THE INFORMATION CONTAINED IN THE CERTIFICATE IS NOT ACCURATE OR
9 COMPLETE.

10 2. A PERSON WHO DOES NOT COMPLY WITH PARAGRAPH 1 OF THIS SUBSECTION
11 MAY ESTABLISH ENTITLEMENT TO THE DEDUCTION BY PRESENTING FACTS NECESSARY TO
12 SUPPORT THE ENTITLEMENT, BUT THE BURDEN OF PROOF IS ON THAT PERSON.

13 3. THE DEPARTMENT MAY PRESCRIBE A FORM FOR THE CERTIFICATE DESCRIBED
14 IN PARAGRAPH 1, SUBDIVISION (b) OF THIS SUBSECTION. THE DEPARTMENT MAY ALSO
15 ADOPT RULES THAT DESCRIBE THE TRANSACTIONS WITH RESPECT TO WHICH A PERSON IS
16 NOT ENTITLED TO RELY SOLELY ON THE INFORMATION CONTAINED IN THE CERTIFICATE
17 PROVIDED IN PARAGRAPH 1, SUBDIVISION (b) OF THIS SUBSECTION BUT MUST INSTEAD
18 OBTAIN SUCH ADDITIONAL INFORMATION AS REQUIRED IN ORDER TO BE ENTITLED TO THE
19 DEDUCTION.

20 4. IF A RESIDENTIAL OR COMMERCIAL CONTRACTOR IS ENTITLED TO A
21 DEDUCTION BY COMPLYING WITH PARAGRAPH 1 OF THIS SUBSECTION, THE DEPARTMENT
22 MAY REQUIRE THE CUSTOMER WHO CAUSED THE EXECUTION OF THE CERTIFICATE TO
23 ESTABLISH THE ACCURACY AND COMPLETENESS OF THE INFORMATION REQUIRED TO BE
24 CONTAINED IN THE CERTIFICATE THAT WOULD ENTITLE THE RESIDENTIAL OR COMMERCIAL
25 CONTRACTOR TO THE DEDUCTION. IF THE CUSTOMER CANNOT ESTABLISH THE ACCURACY
26 AND COMPLETENESS OF THE INFORMATION, THE CUSTOMER IS LIABLE IN AN AMOUNT
27 EQUAL TO ANY TAX, PENALTY AND INTEREST THAT THE RESIDENTIAL OR COMMERCIAL
28 CONTRACTOR WOULD HAVE BEEN REQUIRED TO PAY UNDER ARTICLE 1 OF THIS CHAPTER IF
29 THE RESIDENTIAL OR COMMERCIAL CONTRACTOR HAD NOT COMPLIED WITH PARAGRAPH 1 OF
30 THIS SUBSECTION.

31 D. SUBCONTRACTORS OR OTHERS WHO PERFORM SERVICES IN RESPECT TO ANY
32 IMPROVEMENT, BUILDING, RAILROAD, EXCAVATION OR OTHER STRUCTURE, PROJECT,
33 DEVELOPMENT OR IMPROVEMENT ARE NOT SUBJECT TO TAX IF THEY CAN DEMONSTRATE
34 THAT THE JOB WAS WITHIN THE CONTROL OF A RESIDENTIAL OR COMMERCIAL CONTRACTOR
35 OR CONTRACTORS AND THAT THE RESIDENTIAL OR COMMERCIAL CONTRACTOR IS LIABLE
36 FOR THE TAX ON THE GROSS INCOME, GROSS PROCEEDS OF SALES OR GROSS RECEIPTS
37 ATTRIBUTABLE TO THE JOB AND FROM WHICH THE SUBCONTRACTORS OR OTHERS WERE
38 PAID.

39 E. AMOUNTS RECEIVED BY A CONTRACTOR FOR A PROJECT ARE EXCLUDED FROM
40 THE CONTRACTOR'S GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM THE
41 BUSINESS IF THE PERSON WHO HIRED THE CONTRACTOR EXECUTES AND PROVIDES A
42 CERTIFICATE TO THE CONTRACTOR STATING THAT THE PERSON PROVIDING THE
43 CERTIFICATE IS A RESIDENTIAL OR COMMERCIAL CONTRACTOR AND IS LIABLE FOR THE
44 TAX UNDER THIS ARTICLE. THE DEPARTMENT SHALL PRESCRIBE THE FORM OF THE
45 CERTIFICATE. IF THE CONTRACTOR HAS REASON TO BELIEVE THAT THE INFORMATION

1 CONTAINED ON THE CERTIFICATE IS ERRONEOUS OR INCOMPLETE, THE DEPARTMENT MAY
2 DISREGARD THE CERTIFICATE. IF THE PERSON WHO PROVIDES THE CERTIFICATE IS NOT
3 LIABLE FOR THE TAX AS A RESIDENTIAL OR COMMERCIAL CONTRACTOR, THAT PERSON IS
4 NEVERTHELESS DEEMED TO BE THE RESIDENTIAL OR COMMERCIAL CONTRACTOR IN LIEU OF
5 THE CONTRACTOR AND IS SUBJECT TO THE TAX UNDER THIS SECTION ON THE GROSS
6 RECEIPTS OR GROSS PROCEEDS RECEIVED BY THE CONTRACTOR.

7 F. EVERY PERSON ENGAGING OR CONTINUING IN THIS STATE IN THE BUSINESS
8 OF RESIDENTIAL OR COMMERCIAL CONTRACTING SHALL PRESENT TO THE CUSTOMER OF
9 SUCH RESIDENTIAL OR COMMERCIAL CONTRACTING A WRITTEN RECEIPT OF THE GROSS
10 INCOME OR GROSS PROCEEDS OF SALES FROM SUCH ACTIVITY AND SHALL SEPARATELY
11 STATE THE TAXES TO BE PAID PURSUANT TO THIS SECTION.

12 G. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A CONTRACT
13 FOR LAWN MAINTENANCE SERVICES ARE NOT SUBJECT TO TAX UNDER THIS SECTION IF
14 THE CONTRACT DOES NOT INCLUDE LANDSCAPING ACTIVITIES. LAWN MAINTENANCE
15 SERVICE IS A SERVICE PURSUANT TO SECTION 42-5061, SUBSECTION A, PARAGRAPH 1,
16 AND INCLUDES LAWN MOWING AND EDGING, WEEDING, REPAIRING SPRINKLER HEADS OR
17 DRIP IRRIGATION HEADS, SEASONAL REPLACEMENT OF FLOWERS, REFRESHING GRAVEL,
18 LAWN DETHATCHING, SEEDING WINTER LAWNS, LEAF AND DEBRIS COLLECTION AND
19 REMOVAL, TREE OR SHRUB PRUNING OR CLIPPING, GARDEN AND GRAVEL RAKING AND
20 APPLYING PESTICIDES, AS DEFINED IN SECTION 3-361, AND FERTILIZER MATERIALS,
21 AS DEFINED IN SECTION 3-262.

22 H. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM
23 LANDSCAPING ACTIVITIES ARE SUBJECT TO TAX UNDER THIS SECTION. LANDSCAPING
24 INCLUDES INSTALLING LAWNS, GRADING OR LEVELING GROUND, INSTALLING GRAVEL OR
25 BOULDERS, PLANTING TREES AND OTHER PLANTS, FELLING TREES, REMOVING OR
26 MULCHING TREE STUMPS, REMOVING OTHER IMBEDDED PLANTS, BUILDING OR MODIFYING
27 IRRIGATION BERMS, REPAIRING SPRINKLER OR WATERING SYSTEMS, INSTALLING
28 RAILROAD TIES AND INSTALLING UNDERGROUND SPRINKLER OR WATERING SYSTEMS.

29 I. THE PORTION OF GROSS PROCEEDS OF SALES OR GROSS INCOME ATTRIBUTABLE
30 TO THE ACTUAL DIRECT COSTS OF PROVIDING ARCHITECTURAL OR ENGINEERING SERVICES
31 THAT ARE INCORPORATED IN A CONTRACT IS NOT SUBJECT TO TAX UNDER THIS SECTION.
32 FOR THE PURPOSES OF THIS SUBSECTION, "DIRECT COSTS" MEANS THE PORTION OF THE
33 ACTUAL COSTS THAT ARE DIRECTLY EXPENDED IN PROVIDING ARCHITECTURAL OR
34 ENGINEERING SERVICES.

35 J. OPERATING A LANDFILL OR A SOLID WASTE DISPOSAL FACILITY IS NOT
36 SUBJECT TO TAXATION UNDER THIS SECTION, INCLUDING FILLING, COMPACTING AND
37 CREATING VEHICLE ACCESS TO AND FROM CELL SITES WITHIN THE LANDFILL.
38 CONSTRUCTING ROADS TO A LANDFILL OR SOLID WASTE DISPOSAL FACILITY AND
39 CONSTRUCTING CELLS WITHIN A LANDFILL OR SOLID WASTE DISPOSAL FACILITY MAY BE
40 DEEMED PRIME CONTRACTING UNDER THIS SECTION.

41 K. THE GROSS PROCEEDS OF SALES OR GROSS INCOME ATTRIBUTABLE TO A
42 SEPARATE, WRITTEN DESIGN PHASE SERVICES CONTRACT OR PROFESSIONAL SERVICES
43 CONTRACT, EXECUTED BEFORE MODIFICATION BEGINS, IS NOT SUBJECT TO TAX UNDER
44 THIS SECTION, REGARDLESS OF WHETHER THE SERVICES ARE PROVIDED SEQUENTIAL TO
45 OR CONCURRENT WITH RESIDENTIAL OR COMMERCIAL CONTRACTING ACTIVITIES THAT ARE

1 SUBJECT TO TAX UNDER THIS SECTION. THIS SUBSECTION DOES NOT INCLUDE THE
2 GROSS PROCEEDS OF SALES OR GROSS INCOME ATTRIBUTABLE TO CONSTRUCTION PHASE
3 SERVICES. FOR THE PURPOSES OF THIS SUBSECTION:

4 1. "CONSTRUCTION PHASE SERVICES" MEANS SERVICES FOR THE EXECUTION AND
5 COMPLETION OF ANY MODIFICATION, INCLUDING THE FOLLOWING:

6 (a) ADMINISTRATION OR SUPERVISION OF ANY MODIFICATION PERFORMED ON THE
7 PROJECT, INCLUDING TEAM MANAGEMENT AND COORDINATION, SCHEDULING, COST
8 CONTROLS, SUBMITTAL PROCESS MANAGEMENT, FIELD MANAGEMENT, SAFETY PROGRAM,
9 CLOSE-OUT PROCESS AND WARRANTY PERIOD SERVICES.

10 (b) ADMINISTRATION OR SUPERVISION OF ANY MODIFICATION PERFORMED
11 PURSUANT TO A PUNCH LIST. FOR THE PURPOSES OF THIS SUBDIVISION, "PUNCH LIST"
12 MEANS MINOR ITEMS OF MODIFICATION WORK PERFORMED AFTER SUBSTANTIAL COMPLETION
13 AND BEFORE FINAL COMPLETION OF THE PROJECT.

14 (c) ADMINISTRATION OR SUPERVISION OF ANY MODIFICATION PERFORMED
15 PURSUANT TO CHANGE ORDERS. FOR THE PURPOSES OF THIS SUBDIVISION, "CHANGE
16 ORDER" MEANS A WRITTEN INSTRUMENT ISSUED AFTER EXECUTION OF A CONTRACT FOR
17 MODIFICATION WORK, PROVIDING FOR ALL OF THE FOLLOWING:

18 (i) THE SCOPE OF A CHANGE IN THE MODIFICATION WORK, CONTRACT FOR
19 MODIFICATION WORK OR OTHER CONTRACT DOCUMENTS.

20 (ii) THE AMOUNT OF AN ADJUSTMENT, IF ANY, TO THE GUARANTEED MAXIMUM
21 PRICE AS SET IN THE CONTRACT FOR MODIFICATION WORK. FOR THE PURPOSES OF THIS
22 ITEM, "GUARANTEED MAXIMUM PRICE" MEANS THE AMOUNT GUARANTEED TO BE THE
23 MAXIMUM AMOUNT DUE TO A RESIDENTIAL OR COMMERCIAL CONTRACTOR FOR THE
24 PERFORMANCE OF ALL MODIFICATION WORK FOR THE PROJECT.

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

27 (d) ADMINISTRATION OR SUPERVISION OF ANY MODIFICATION PERFORMED
28 PURSUANT TO CHANGE DIRECTIVES. FOR THE PURPOSES OF THIS SUBDIVISION, "CHANGE
29 DIRECTIVE" MEANS A WRITTEN ORDER DIRECTING A CHANGE IN MODIFICATION WORK
30 BEFORE AGREEMENT ON AN ADJUSTMENT OF THE GUARANTEED MAXIMUM PRICE OR CONTRACT
31 TIME.

32 (e) INSPECTION TO DETERMINE THE DATES OF SUBSTANTIAL COMPLETION OR
33 FINAL COMPLETION.

34 (f) PREPARATION OF ANY MANUALS, WARRANTIES, AS-BUILT DRAWINGS, SPARES
35 OR OTHER ITEMS THE RESIDENTIAL OR COMMERCIAL CONTRACTOR MUST FURNISH PURSUANT
36 TO THE CONTRACT FOR MODIFICATION WORK. FOR THE PURPOSES OF THIS SUBDIVISION,
37 "AS-BUILT DRAWING" MEANS A DRAWING THAT INDICATES FIELD CHANGES MADE TO ADAPT
38 TO FIELD CONDITIONS, FIELD CHANGES RESULTING FROM CHANGE ORDERS OR BURIED AND
39 CONCEALED INSTALLATION OF PIPING, CONDUIT AND UTILITY SERVICES.

40 (g) PREPARATION OF STATUS REPORTS AFTER MODIFICATION WORK HAS BEGUN
41 DETAILING THE PROGRESS OF WORK PERFORMED, INCLUDING PREPARATION OF ANY OF THE
42 FOLLOWING:

43 (i) ASTER SCHEDULE UPDATES.

44 (ii) MODIFICATION WORK CASH FLOW PROJECTION UPDATES.

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

1 (iv) IDENTIFICATION OF DISCREPANCIES, CONFLICTS OR AMBIGUITIES IN
2 MODIFICATION WORK DOCUMENTS THAT REQUIRE RESOLUTION.

3 (v) IDENTIFICATION OF ANY HEALTH AND SAFETY ISSUES THAT HAVE ARISEN IN
4 CONNECTION WITH THE MODIFICATION WORK.

5 (h) PREPARATION OF DAILY LOGS OF MODIFICATION WORK, INCLUDING
6 DOCUMENTATION OF PERSONNEL, WEATHER CONDITIONS AND ON-SITE OCCURRENCES.

7 (i) PREPARATION OF ANY SUBMITTALS OR SHOP DRAWINGS USED BY THE
8 RESIDENTIAL OR COMMERCIAL CONTRACTOR TO ILLUSTRATE DETAILS OF THE
9 MODIFICATION WORK PERFORMED.

10 (j) ADMINISTRATION OR SUPERVISION OF ANY OTHER ACTIVITIES FOR WHICH A
11 RESIDENTIAL OR COMMERCIAL CONTRACTOR RECEIVES A CERTIFICATE FOR PAYMENT OR
12 CERTIFICATE FOR FINAL PAYMENT BASED ON THE PROGRESS OF MODIFICATION WORK
13 PERFORMED ON THE PROJECT.

14 2. "DESIGN PHASE SERVICES" MEANS SERVICES FOR DEVELOPING AND
15 COMPLETING A DESIGN FOR A PROJECT THAT ARE NOT CONSTRUCTION PHASE SERVICES,
16 INCLUDING THE FOLLOWING:

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

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

23 (c) PREPARING DRAWINGS AND SPECIFICATIONS FOR ARCHITECTURAL PROGRAM
24 DOCUMENTS, SCHEMATIC DESIGN DOCUMENTS, DESIGN DEVELOPMENT DOCUMENTS,
25 MODIFICATION WORK DOCUMENTS OR DOCUMENTS THAT IDENTIFY THE SCOPE OF OR
26 MATERIALS FOR THE PROJECT.

27 (d) PREPARING AN INITIAL SCHEDULE FOR THE PROJECT, EXCLUDING THE
28 PREPARATION OF UPDATES TO THE MASTER SCHEDULE AFTER MODIFICATION WORK HAS
29 BEGUN.

30 (e) PREPARING PRELIMINARY ESTIMATES OF COSTS OF MODIFICATION WORK
31 BEFORE COMPLETION OF THE FINAL DESIGN OF THE PROJECT, INCLUDING AN ESTIMATE
32 OR SCHEDULE OF VALUES FOR ANY OF THE FOLLOWING:

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

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

39 (iii) THE COST OF ANY EQUIPMENT OF THE OWNER OF THE REAL PROPERTY TO
40 BE ASSIGNED BY THE OWNER TO THE RESIDENTIAL OR COMMERCIAL CONTRACTOR.

41 (iv) THE COST OF ANY LABOR FOR INSTALLATION OF EQUIPMENT SEPARATELY
42 PROVIDED BY THE OWNER OF THE REAL PROPERTY THAT HAS BEEN DESIGNED, SPECIFIED,
43 SELECTED OR SPECIFICALLY PROVIDED FOR IN ANY DESIGN DOCUMENT FOR THE PROJECT.

44 (v) ANY FEE PAID BY THE OWNER OF THE REAL PROPERTY TO THE RESIDENTIAL
45 OR COMMERCIAL CONTRACTOR PURSUANT TO THE CONTRACT FOR MODIFICATION WORK.

- 1 (vi) ANY BOND AND INSURANCE PREMIUMS.
- 2 (vii) ANY APPLICABLE TAXES.
- 3 (viii) ANY CONTINGENCY FEES FOR THE RESIDENTIAL OR COMMERCIAL
- 4 CONTRACTOR THAT MAY BE USED BEFORE FINAL COMPLETION OF THE PROJECT.
- 5 (f) REVIEWING AND EVALUATING COST ESTIMATES AND PROJECT DOCUMENTS TO
- 6 PREPARE RECOMMENDATIONS ON SITE USE, SITE IMPROVEMENTS, SELECTION OF
- 7 MATERIALS, BUILDING SYSTEMS AND EQUIPMENT, MODIFICATION FEASIBILITY,
- 8 AVAILABILITY OF MATERIALS AND LABOR, LOCAL MODIFICATION ACTIVITY AS RELATED
- 9 TO SCHEDULES AND TIME REQUIREMENTS FOR MODIFICATION WORK.
- 10 (g) PREPARING THE PLAN AND PROCEDURES FOR SELECTION OF SUBCONTRACTORS,
- 11 INCLUDING ANY PREQUALIFICATION OF SUBCONTRACTOR CANDIDATES.
- 12 3. "PROFESSIONAL SERVICES" MEANS ARCHITECT SERVICES, ASSAYER SERVICES,
- 13 ENGINEER SERVICES, GEOLOGIST SERVICES, LAND SURVEYING SERVICES OR LANDSCAPE
- 14 ARCHITECT SERVICES THAT ARE WITHIN THE SCOPE OF THOSE SERVICES AS PROVIDED IN
- 15 TITLE 32, CHAPTER 1 AND FOR WHICH GROSS PROCEEDS OF SALES OR GROSS INCOME HAS
- 16 NOT OTHERWISE BEEN DEDUCTED UNDER SUBSECTION K OF THIS SECTION.
- 17 L. NOTWITHSTANDING SUBSECTION M, PARAGRAPH 6 OF THIS SECTION, A PERSON
- 18 OWNING REAL PROPERTY WHO ENTERS INTO A CONTRACT FOR SALE OF THE REAL
- 19 PROPERTY, WHO IS RESPONSIBLE TO THE NEW OWNER OF THE PROPERTY FOR
- 20 MODIFICATIONS MADE TO THE PROPERTY IN THE PERIOD SUBSEQUENT TO THE TRANSFER
- 21 OF TITLE AND WHO RECEIVES A CONSIDERATION FOR THE MODIFICATIONS IS CONSIDERED
- 22 A RESIDENTIAL OR COMMERCIAL CONTRACTOR SOLELY FOR PURPOSES OF TAXING THE
- 23 GROSS PROCEEDS OF SALE OR GROSS INCOME RECEIVED FOR THE MODIFICATIONS MADE
- 24 SUBSEQUENT TO THE TRANSFER OF TITLE. THE ORIGINAL OWNER'S GROSS PROCEEDS OF
- 25 SALE OR GROSS INCOME RECEIVED FOR THE MODIFICATIONS SHALL BE DETERMINED
- 26 ACCORDING TO THE FOLLOWING METHODOLOGY:
- 27 1. IF ANY PART OF THE CONTRACT FOR SALE OF THE PROPERTY SPECIFIES
- 28 AMOUNTS TO BE PAID TO THE ORIGINAL OWNER FOR THE MODIFICATIONS TO BE MADE IN
- 29 THE PERIOD SUBSEQUENT TO THE TRANSFER OF TITLE, THE AMOUNTS ARE INCLUDED IN
- 30 THE ORIGINAL OWNER'S GROSS PROCEEDS OF SALE OR GROSS INCOME UNDER THIS
- 31 SECTION. PROCEEDS FROM THE SALE OF THE PROPERTY THAT ARE RECEIVED AFTER
- 32 TRANSFER OF TITLE AND THAT ARE UNRELATED TO THE MODIFICATIONS MADE SUBSEQUENT
- 33 TO THE TRANSFER OF TITLE ARE NOT CONSIDERED GROSS PROCEEDS OF SALE OR GROSS
- 34 INCOME FROM THE MODIFICATIONS.
- 35 2. IF THE ORIGINAL OWNER ENTERS INTO AN AGREEMENT SEPARATE FROM THE
- 36 CONTRACT FOR SALE OF THE REAL PROPERTY PROVIDING FOR AMOUNTS TO BE PAID TO
- 37 THE ORIGINAL OWNER FOR THE MODIFICATIONS TO BE MADE IN THE PERIOD SUBSEQUENT
- 38 TO THE TRANSFER OF TITLE TO THE PROPERTY, THE AMOUNTS ARE INCLUDED IN THE
- 39 ORIGINAL OWNER'S GROSS PROCEEDS OF SALE OR GROSS INCOME RECEIVED FOR THE
- 40 MODIFICATIONS MADE SUBSEQUENT TO THE TRANSFER OF TITLE.
- 41 3. IF THE ORIGINAL OWNER IS RESPONSIBLE TO THE NEW OWNER FOR
- 42 MODIFICATIONS MADE TO THE PROPERTY IN THE PERIOD SUBSEQUENT TO THE TRANSFER
- 43 OF TITLE AND DERIVES ANY GROSS PROCEEDS OF SALE OR GROSS INCOME FROM THE
- 44 PROJECT SUBSEQUENT TO THE TRANSFER OF TITLE OTHER THAN A DELAYED DISBURSEMENT
- 45 FROM ESCROW UNRELATED TO THE MODIFICATIONS, IT IS PRESUMED THAT THE AMOUNTS

1 ARE RECEIVED FOR THE MODIFICATIONS MADE SUBSEQUENT TO THE TRANSFER OF TITLE
2 UNLESS THE CONTRARY IS ESTABLISHED BY THE OWNER THROUGH ITS BOOKS, RECORDS
3 AND PAPERS KEPT IN THE REGULAR COURSE OF BUSINESS.

4 4. THE TAX BASE OF THE ORIGINAL OWNER IS COMPUTED IN THE SAME MANNER
5 AS A RESIDENTIAL OR COMMERCIAL CONTRACTOR UNDER THIS SECTION.

6 M. FOR THE PURPOSES OF THIS SECTION:

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

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

19 3. "MODIFICATION" MEANS CONSTRUCTION, ALTERATION, REPAIR, ADDITION,
20 SUBTRACTION, IMPROVEMENT, MOVEMENT, WRECKAGE OR DEMOLITION.

21 4. "MODIFY" MEANS TO CONSTRUCT, ALTER, REPAIR, ADD TO, SUBTRACT FROM,
22 IMPROVE, MOVE, WRECK OR DEMOLISH.

23 5. "RESIDENTIAL OR COMMERCIAL CONTRACTING" MEANS ENGAGING IN BUSINESS
24 AS A RESIDENTIAL OR COMMERCIAL CONTRACTOR.

25 6. "RESIDENTIAL OR COMMERCIAL CONTRACTOR" MEANS A CONTRACTOR WHO HOLDS
26 A RESIDENTIAL OR COMMERCIAL CONTRACTING CLASSIFICATION LICENSE FROM THE
27 ARIZONA REGISTRAR AND WHO SUPERVISES, PERFORMS OR COORDINATES THE
28 MODIFICATION OF ANY BUILDING, RAILROAD, EXCAVATION, OR OTHER STRUCTURE,
29 PROJECT, DEVELOPMENT OR IMPROVEMENT INCLUDING THE CONTRACTING, IF ANY, WITH
30 ANY SUBCONTRACTORS OR SPECIALTY CONTRACTORS AND WHO IS RESPONSIBLE FOR THE
31 COMPLETION OF THE CONTRACT. EXCEPT AS PROVIDED IN SUBSECTIONS E AND L OF
32 THIS SECTION, A PERSON WHO OWNS REAL PROPERTY, WHO ENGAGES ONE OR MORE
33 CONTRACTORS TO MODIFY THAT REAL PROPERTY AND WHO DOES NOT ITSELF MODIFY THAT
34 REAL PROPERTY IS NOT A RESIDENTIAL OR COMMERCIAL CONTRACTOR WITHIN THE
35 MEANING OF THIS PARAGRAPH REGARDLESS OF THE EXISTENCE OF A CONTRACT FOR SALE
36 OR THE SUBSEQUENT SALE OF THAT REAL PROPERTY.

37 Sec. 29. Section 42-6102, Arizona Revised Statutes, is amended to
38 read:

39 42-6102. Administration

40 A. Unless the context otherwise requires, chapter 5, article 1 of this
41 title governs the administration of the taxes imposed by this article, except
42 that:

43 1. A separate license is not required for the taxes imposed by this
44 article, and the taxes due under this article shall be included, reported and
45 paid with the transaction privilege tax.

1 2. A separate bond is not required of employees of the department in
2 administering this article.

3 3. The taxes imposed by this article may be included without
4 segregation in any notice and lien filed for unpaid transaction privilege
5 taxes.

6 B. The taxes imposed pursuant to this article do not apply to the
7 gross proceeds of sales or gross income derived pursuant to contracts entered
8 into before the date of the election to authorize the tax by ~~prime~~
9 ~~contractors and owner builders~~ HIGHWAY, STREET AND BRIDGE CONSTRUCTION
10 CONTRACTORS who are classified under ~~sections 42-5075 and 42-5076~~ SECTION
11 42-5078 unless the contract contains a provision which entitles the
12 contractor to recover the amount of the tax from a purchaser. In order to
13 qualify for this exemption the contractor shall provide sufficient
14 documentation, in a manner and form prescribed by the department, to verify
15 that a contract was entered into before the date of the election to authorize
16 the tax.

17 Sec. 30. Section 42-6105, Arizona Revised Statutes, is amended to
18 read:

19 42-6105. County transportation excise tax; counties with
20 population of one million two hundred thousand or
21 more persons

22 A. If approved by the qualified electors voting at a countywide
23 election, a county with a population of one million two hundred thousand or
24 more persons shall levy and the department shall collect a tax as provided by
25 this section, in addition to all other taxes.

26 B. The tax shall be levied and collected:

27 1. At a rate of not more than ten per cent of the transaction
28 privilege tax rate prescribed by section 42-5010, subsection A applying, as
29 of January 1, 1990, to each person engaging or continuing in the county in a
30 business taxed under chapter 5, article 1 of this title.

31 2. ~~In the case of persons subject to the tax imposed under section~~
32 ~~42-5352, subsection A,~~ At a rate of not more than ~~.305 cents per gallon of~~
33 ~~jet fuel sold~~ TEN PER CENT OF THE RATE PRESCRIBED BY SECTION 42-5352,
34 SUBSECTION A.

35 3. On the use or consumption of electricity or natural gas by retail
36 electric or natural gas customers in the county who are subject to use tax
37 under section 42-5155, at a rate equal to the transaction privilege tax rate
38 under paragraph 1 of this subsection applying to persons engaging or
39 continuing in the county in the utilities transaction privilege tax
40 classification.

41 C. The tax levied under this section shall be in effect for a term of
42 twenty years.

43 D. The net revenues collected under this section shall be distributed
44 and deposited as follows for use consistent with the regional transportation
45 plan adopted under title 28, chapter 17, article 1:

1 1. 56.2 per cent to the regional area road fund pursuant to section
2 28-6303 for freeways and other routes in the state highway system, including
3 capital expense and maintenance.

4 2. 10.5 per cent to the regional area road fund pursuant to section
5 28-6303 for major arterial streets and intersection improvements, including
6 capital expense and implementation studies.

7 3. 33.3 per cent to the public transportation fund pursuant to section
8 48-5103 for:

9 (a) Capital costs, maintenance and operation of public transportation
10 classifications.

11 (b) Capital costs and utility relocation costs associated with a light
12 rail public transit system.

13 Sec. 31. Section 42-6106, Arizona Revised Statutes, is amended to
14 read:

15 42-6106. County transportation excise tax

16 A. If approved by the qualified electors voting at a countywide
17 election, the regional transportation authority in any county shall levy and
18 the department shall collect a transportation excise tax up to the rate
19 authorized by this section in addition to all other taxes.

20 B. The tax shall be levied and collected:

21 1. At a rate of not more than ten per cent of the transaction
22 privilege tax rate prescribed by section 42-5010, subsection A in effect on
23 January 1, 1990 to each person engaging or continuing in the county in a
24 business taxed under chapter 5, article 1 of this title.

25 2. ~~In the case of persons subject to the tax imposed under section~~
26 ~~42-5352, subsection A,~~ At a rate of not more than ~~.305 cents per gallon of~~
27 ~~jet fuel sold~~ TEN PER CENT OF THE RATE PRESCRIBED BY SECTION 42-5352,
28 SUBSECTION A.

29 3. On the use or consumption of electricity or natural gas by retail
30 electric or natural gas customers in the county who are subject to use tax
31 under section 42-5155, at a rate equal to the transaction privilege tax rate
32 under paragraph 1 applying to persons engaging or continuing in the county in
33 the utilities transaction privilege tax classification.

34 C. Any subsequent reduction in the transaction privilege tax rate
35 prescribed by chapter 5, article 1 of this title shall not reduce the tax
36 that is approved and collected as prescribed in this section. The department
37 shall collect the tax at a variable rate if the variable rate is specified in
38 the ballot proposition. The department shall collect the tax at a modified
39 rate if approved by a majority of the qualified electors voting.

40 D. The net revenues collected under this section:

41 1. In counties with a population exceeding four hundred thousand
42 persons, shall be deposited in the regional transportation fund pursuant to
43 section 48-5307.

1 2. In counties with a population of four hundred thousand or fewer
2 persons, shall be deposited in the public transportation authority fund
3 pursuant to section 28-9142 or the regional transportation fund pursuant to
4 section 48-5307 or shall be allocated between both funds.

5 E. The tax shall be levied under this section beginning January 1 or
6 July 1, whichever date occurs first after approval by the voters, and may be
7 in effect for a period of not more than twenty years.

8 Sec. 32. Section 42-6107, Arizona Revised Statutes, is amended to
9 read:

10 42-6107. County transportation excise tax for roads

11 A. If a majority of the qualified electors voting at a countywide
12 special election, or a majority of the qualified electors voting on the
13 ballot proposition at a general election, approves the transportation excise
14 tax, the county shall levy and the department shall collect a tax:

15 1. At a rate of not more than ten per cent of the transaction
16 privilege tax rate as prescribed by section 42-5010, subsection A applying,
17 as of January 1, 1990, to each person engaging or continuing in the county in
18 a business taxed under chapter 5, article 1 of this title.

19 2. ~~In the case of persons subject to the tax imposed under section~~
20 ~~42-5352, subsection A,~~ At a rate of not more than ~~.305 cents per gallon of~~
21 ~~jet fuel sold~~ TEN PER CENT OF THE RATE PRESCRIBED BY SECTION 42-5352,
22 SUBSECTION A.

23 3. On the use or consumption of electricity or natural gas by retail
24 electric or natural gas customers in the county who are subject to use tax
25 under section 42-5155, at a rate equal to the transaction privilege tax rate
26 under paragraph 1 applying to persons engaging or continuing in the county in
27 the utilities transaction privilege tax classification. If a majority of the
28 qualified electors in the county approved the transportation excise tax under
29 this section before 1998, a tax under this paragraph may be approved by
30 resolution adopted by a majority of the board of supervisors.

31 B. The net revenues collected under this section within a county shall
32 be deposited in the county's regional area road fund pursuant to title 28,
33 chapter 17, article 3.

34 C. The tax shall be levied under this section beginning January 1 or
35 July 1, whichever date occurs first after approval by the voters, and may be
36 in effect for a period of not more than twenty years.

37 Sec. 33. Title 42, chapter 6, article 3, Arizona Revised Statutes, is
38 amended by adding section 42-6113, to read:

39 42-6113. County use tax

40 A. IF A COUNTY LEVIES ONE OR MORE EXCISE TAXES PURSUANT TO THIS
41 ARTICLE ON THE EFFECTIVE DATE OF THIS SECTION AND IF APPROVED BY THE
42 QUALIFIED ELECTORS VOTING AT A COUNTY-WIDE ELECTION, A COUNTY MAY LEVY AND,
43 IF LEVIED, THE DEPARTMENT SHALL COLLECT AN EXCISE TAX ON THE STORAGE, USE OR
44 CONSUMPTION IN THE COUNTY OF TANGIBLE PERSONAL PROPERTY PURCHASED FROM A
45 RETAILER, AS A PERCENTAGE OF THE SALES PRICE. THE TAX LEVIED PURSUANT TO

1 THIS SUBSECTION SHALL BE AT A RATE EQUAL TO THE SUM OF THE RATES OF ALL THE
2 EXCISE TAXES LEVIED BY THE COUNTY ON THE EFFECTIVE DATE OF THIS SECTION.

3 B. IF, AFTER THE EFFECTIVE DATE OF THIS SECTION, A COUNTY SEEKS TO
4 LEVY AN EXCISE TAX PURSUANT TO THIS ARTICLE, THE COUNTY SHALL INCLUDE IN THE
5 LEVY AN EXCISE TAX AT THE SAME RATE ON THE STORAGE, USE OR CONSUMPTION IN THE
6 COUNTY OF TANGIBLE PERSONAL PROPERTY PURCHASED FROM A RETAILER.

7 Sec. 34. Section 43-1072.01, Arizona Revised Statutes, is amended to
8 read:

9 43-1072.01. Credit for increased excise taxes paid

10 A. Subject to the conditions prescribed by this section and if
11 approved by the qualified electors voting at a statewide general election,
12 for ~~tax~~ TAXABLE years beginning from and after December 31, 2000 a credit is
13 allowed against the taxes imposed by this chapter for a taxable year for a
14 taxpayer who is not claimed as a dependent by any other taxpayer and whose
15 federal adjusted gross income is:

- 16 1. Twenty-five thousand dollars or less for a married couple or a
17 single person who is a head of a household.
- 18 2. Twelve thousand five hundred dollars or less for a single person or
19 a married person filing separately.

20 B. The credit is considered to be in mitigation of increased tax
21 rates pursuant to section 42-5010, subsection G and section 42-5155,
22 subsection ~~D~~ E.

23 C. The amount of the credit shall not exceed twenty-five dollars for
24 each person who is a resident of this state and for whom a personal or
25 dependent exemption is allowed with respect to the taxpayer pursuant to
26 section 43-1023, subsection B, paragraph 1 and section 43-1043, but not more
27 than one hundred dollars for all persons in the taxpayer's household, as
28 defined in section 43-1072.

29 D. If the allowable amount of the credit exceeds the income taxes
30 otherwise due on the claimant's income, the amount of the claim not used as
31 an offset against income taxes shall be paid in the same manner as a refund
32 granted under section 42-1118. Refunds made pursuant to this subsection are
33 subject to setoff under section 42-1122.

34 E. The department shall make available suitable forms with
35 instructions for claimants. Claimants who certify on the prescribed form
36 that they have no income tax liability for the taxable year and who do not
37 meet the filing requirements of section 43-301 are not required to file an
38 individual income tax return. The claim shall be in a form prescribed by the
39 department.

40 F. For taxable years beginning from and after December 31, 2002, a
41 person who is sentenced for at least sixty days of the taxable year to the
42 custody of the federal bureau of prisons, the state department of corrections
43 or a county jail is not eligible to claim a credit pursuant to this section.

1 Sec. 35. Section 44-1263, Arizona Revised Statutes, is amended to
2 read:

3 44-1263. Inability to conform motor vehicle to express
4 warranty; replacement of vehicle or refund of
5 monies; affirmative defenses; tax refund

6 A. If the manufacturer, its agents or its authorized dealers are
7 unable to conform the motor vehicle to any applicable express warranty by
8 repairing or correcting any defect or condition ~~which~~ THAT substantially
9 impairs the use and value of the motor vehicle to the consumer after a
10 reasonable number of attempts, the manufacturer shall replace the motor
11 vehicle with a new motor vehicle or accept return of the motor vehicle from
12 the consumer and refund to the consumer the full purchase price, including
13 all collateral charges, less a reasonable allowance for the consumer's use of
14 the vehicle. The manufacturer shall make refunds to the consumer and
15 lienholder, if any, as their interests appear. A reasonable allowance for
16 use is that amount directly attributable to use by the consumer before his
17 first written report of the nonconformity to the manufacturer, agent or
18 dealer and during any subsequent period when the vehicle is not out of
19 service by reason of repair.

20 B. It is an affirmative defense to any claim under this article that
21 either:

22 1. An alleged nonconformity does not substantially impair the use and
23 market value of the motor vehicle.

24 2. A nonconformity is the result of abuse, neglect or unauthorized
25 modifications or alterations of the motor vehicle.

26 C. In the case of taxes paid pursuant to title 42, chapter 5, if the
27 manufacturer:

28 1. Accepts return of a motor vehicle from a consumer without replacing
29 the motor vehicle, the manufacturer shall refund the amount of tax attributed
30 to the sale of the vehicle to that consumer.

31 2. Replaces a motor vehicle with a new motor vehicle of lesser value,
32 the manufacturer shall refund the difference between the original amount of
33 tax attributed to the sale of that vehicle and the amount of tax attributed
34 to the sale of the replacement vehicle, excluding the value of the motor
35 vehicle being replaced.

36 3. Replaces a motor vehicle with a new motor vehicle of greater value,
37 the manufacturer shall calculate the gross proceeds of sales pursuant to
38 section 42-5001, paragraph ~~6~~ 8.

39 D. Pursuant to section 42-1118, subsection F, the manufacturer may
40 apply to the department of revenue for a refund for the amount of tax that
41 the manufacturer properly refunds to the consumer.

1 Sec. 36. Section 48-4022, Arizona Revised Statutes, is amended to
2 read:

3 48-4022. Excise tax

4 A. The board of directors of a district in a county having a
5 population of less than one million five hundred thousand persons according
6 to the most recent United States decennial or special census may by
7 resolution order the approval of a district excise tax to be placed on the
8 ballot of an election pursuant to section 48-4021. If a majority of the
9 qualified electors voting at the election approves the county jail district
10 excise tax, the board of directors may by resolution levy, and if levied, the
11 department of revenue shall collect, a tax beginning January 1 or July 1,
12 whichever date first occurs at least three months after the district
13 resolution approving the tax levy. The tax rate shall be a percentage of the
14 excise tax rate prescribed by section 42-5010, subsection A applying to each
15 person engaging or continuing in the district in a business taxed under title
16 42, chapter 5, article 1 and section 42-5352, subsection A, not to exceed:

17 1. Ten per cent of each rate prescribed by section 42-5010, subsection
18 A and section 42-5352, subsection A, in counties having a population of five
19 hundred thousand persons or less.

20 2. Five per cent of each rate prescribed by section 42-5010,
21 subsection A and section 42-5352, subsection A, in counties having a
22 population of more than five hundred thousand persons but less than one
23 million five hundred thousand persons.

24 B. If a district levies an excise tax under subsection A of this
25 section, the board of directors, by resolution, ~~may~~ SHALL also levy, and if
26 levied, the department of revenue shall collect, a use tax on ~~each retail~~
27 ~~electric or natural gas customer using or consuming electricity or natural~~
28 ~~gas in the district and subject to use tax pursuant to section 42-5155. The~~
29 ~~use tax levied pursuant to this subsection shall be applied as a percentage~~
30 ~~of the use tax rate imposed by title 42, chapter 5, article 4 equal to the~~
31 ~~percentage determined under subsection A, paragraph 1 or 2 of this section,~~
32 ~~as applicable.~~ THE STORAGE, USE OR CONSUMPTION IN THE COUNTY OF TANGIBLE
33 PERSONAL PROPERTY PURCHASED FROM A RETAILER OR UTILITY BUSINESS, AS A
34 PERCENTAGE OF THE SALES PRICE. THE TAX LEVIED PURSUANT TO THIS PARAGRAPH
35 SHALL BE AT A RATE EQUAL TO THE EXCISE TAX RATE UNDER SUBSECTION A OF THIS
36 SECTION APPLYING TO RETAILERS AND UTILITY BUSINESSES ACCORDING TO THE
37 RESPECTIVE CLASSIFICATION UNDER TITLE 42, CHAPTER 5, ARTICLES 1 AND 2 FOR THE
38 SAME TYPE OF TRANSACTION OR BUSINESS ACTIVITY.

39 C. The tax applies in both incorporated and unincorporated areas of
40 the county.

41 D. At the end of each month the state treasurer shall transmit the net
42 revenues collected pursuant to this section to the district treasurer who
43 shall deposit the revenues in the county jail district general fund.

1 E. Unless the context otherwise requires:

2 1. Section 42-6102 governs the administration of the tax imposed
3 pursuant to subsection A of this section.

4 2. Title 42, chapter 5, article 4 governs the administration of the
5 use tax imposed pursuant to subsection B OR F of this section.

6 F. IF A DISTRICT LEVIES AN EXCISE TAX PURSUANT TO SUBSECTION A OF THIS
7 SECTION ON THE EFFECTIVE DATE OF THE AMENDMENT OF THIS SECTION AND IF
8 APPROVED BY THE QUALIFIED ELECTORS VOTING AT A DISTRICT-WIDE ELECTION, A
9 DISTRICT MAY LEVY AND, IF LEVIED, THE DEPARTMENT SHALL COLLECT AN EXCISE TAX
10 ON THE STORAGE, USE OR CONSUMPTION IN THE COUNTY OF TANGIBLE PERSONAL
11 PROPERTY PURCHASED FROM A RETAILER, AS A PERCENTAGE OF THE SALES PRICE. THE
12 TAX LEVIED PURSUANT TO THIS SUBSECTION SHALL BE AT A RATE EQUAL TO THE RATE
13 OF THE EXCISE TAX LEVIED PURSUANT TO SUBSECTION A OF THIS SECTION.

14 Sec. 37. Section 48-5805, Arizona Revised Statutes, is amended to
15 read:

16 48-5805. Transaction privilege tax; property tax

17 A. The board of directors of the district by resolution may levy, and
18 if levied, the department of revenue shall collect, a transaction privilege
19 tax pursuant to this section to be used and spent for the purposes described
20 in section 48-5804. The board shall set the rate of the tax at not more than
21 two per cent of the tax rate that applies to each business in the district
22 that is subject to taxation under title 42, chapter 5, article 1. The board
23 shall levy the tax on each person engaging in the district in a business
24 taxed under title 42, chapter 5, article 1.

25 B. Each month the state treasurer shall remit to the district
26 treasurer the net revenues collected under ~~subsection~~ SUBSECTIONS A, D AND E
27 of this section during the second preceding month. The district treasurer
28 shall deposit the monies in the public health services district's accounts
29 and shall account for all expenditures.

30 C. In lieu of a transaction privilege tax pursuant to subsection A of
31 this section, the board by resolution may levy in the same manner and at the
32 same time as other county secondary property taxes are levied a public health
33 services district tax. The tax shall not exceed twenty-five cents per one
34 hundred dollars of assessed valuation and shall be levied on all property in
35 the county and on all property within incorporated cities and towns in the
36 county. The district shall deposit all monies collected pursuant to this
37 subsection in a separate account and shall account for all expenditures.

38 D. IF A DISTRICT LEVIES AN EXCISE TAX UNDER SUBSECTION A OF THIS
39 SECTION, THE BOARD OF DIRECTORS, BY RESOLUTION, SHALL ALSO LEVY, AND IF
40 LEVIED, THE DEPARTMENT OF REVENUE SHALL COLLECT, A USE TAX ON THE STORAGE,
41 USE OR CONSUMPTION IN THE COUNTY OF TANGIBLE PERSONAL PROPERTY PURCHASED FROM
42 A RETAILER, AS A PERCENTAGE OF THE SALES PRICE. THE TAX LEVIED PURSUANT TO
43 THIS SUBSECTION SHALL BE AT A RATE EQUAL TO THE EXCISE TAX RATE UNDER
44 SUBSECTION A OF THIS SECTION APPLYING TO RETAILERS ACCORDING TO THE

1 RESPECTIVE CLASSIFICATION UNDER TITLE 42, CHAPTER 5, ARTICLES 1 AND 2 FOR THE
2 SAME TYPE OF TRANSACTION OR BUSINESS ACTIVITY.

3 E. IF A DISTRICT LEVIES AN EXCISE TAX PURSUANT TO SUBSECTION A OF THIS
4 SECTION ON THE EFFECTIVE DATE OF THE AMENDMENT OF THIS SECTION AND IF
5 APPROVED BY THE QUALIFIED ELECTORS VOTING AT A DISTRICT-WIDE ELECTION, A
6 DISTRICT MAY LEVY AND, IF LEVIED, THE DEPARTMENT SHALL COLLECT AN EXCISE TAX
7 ON THE STORAGE, USE OR CONSUMPTION IN THE COUNTY OF TANGIBLE PERSONAL
8 PROPERTY PURCHASED FROM A RETAILER, AS A PERCENTAGE OF THE SALES PRICE. THE
9 TAX LEVIED PURSUANT TO THIS SUBSECTION SHALL BE AT A RATE EQUAL TO THE RATE
10 OF THE EXCISE TAX LEVIED PURSUANT TO SUBSECTION A OF THIS SECTION.

11 Sec. 38. Section 49-290, Arizona Revised Statutes, is amended to read:
12 49-290. Exemption from permit requirements; definition

13 A. Notwithstanding any other statute, a person who performs a remedial
14 action or a portion of a remedial action that has been approved by the
15 department if that action or portion is conducted in compliance with this
16 article is not subject to any requirement to obtain any permit or approval
17 that may otherwise be required by the department.

18 B. Except as prescribed in subsection D of this section, a person who
19 conducts a portion of a remedial action, where that portion is entirely on
20 site and is conducted in compliance with this article, may be exempted from a
21 requirement to obtain any other state or local permit or approval, other than
22 any requirement of title 45, at the written request of the person conducting
23 the remedial action. The written request shall identify the specific permit
24 to be exempted and the reasons the exemption is requested. The permit may be
25 exempted if the director finds both of the following:

26 1. The requirement does not arise out of any permit or regulatory
27 program that is required pursuant to the laws of the United States.

28 2. The requirement presents a substantial impediment to effective
29 performance of the remedial action selected by the department.

30 C. The director may waive any regulatory requirement adopted pursuant
31 to this title with respect to a site or portion of a site as part of a record
32 of decision adopted pursuant to section 49-287.04 for that site or portion of
33 a site if the regulatory requirement conflicts with the implementation of the
34 selected remedy, provided that the waiver does not result in adverse impacts
35 to public health or the environment. No waiver may be granted under this
36 subsection if it is prohibited by federal law or if the waiver would
37 jeopardize the continued delegation to the state of authority to implement a
38 federal environmental program.

39 D. Discharge of wastewater to off-site publicly owned treatment works
40 and sewer systems does not constitute an activity conducted entirely on site
41 for purposes of subsection B of this section.

42 E. The director shall give written notice of any request for exemption
43 made pursuant to subsection B of this section to the remedial action
44 coordinator designated pursuant to subsection G of this section by the
45 governmental entity whose permit requirements are the subject of the

1 request. Before making any finding pursuant to subsection B of this section,
2 the director or the director's designee shall meet and confer with the
3 remedial action coordinator and the person conducting the remedial action to
4 identify alternatives to exemption.

5 F. Any finding made by the director pursuant to subsection B of this
6 section shall be in writing. The governmental entity whose permit
7 requirement is preempted as a result of such finding is not liable for
8 property damage, personal injury damage or violations of state or local law
9 resulting from the exemption. The director shall notify the affected
10 governmental entity of any finding made pursuant to subsection B of this
11 section. A finding of the director made pursuant to subsection B of this
12 section is a final administrative decision as defined in section 41-1092 and
13 is subject to judicial review pursuant to title 12, chapter 7, article 6.

14 G. Each city, town and county shall designate a remedial action
15 coordinator who shall have responsibility for monitoring and facilitating any
16 remedial actions conducted within its jurisdiction. The designated remedial
17 action coordinator shall:

18 1. Regularly consult, as needed, with the department and the person
19 conducting a remedial action throughout the duration of the remedial action.

20 2. Expedite the processing and issuance of permits, approvals or other
21 authorizations required by the governmental entity represented by the
22 remedial action coordinator, to facilitate the prompt conduct of a remedial
23 action.

24 3. Provide information to the department and the person conducting the
25 remedial action regarding applicable requirements of the governmental entity
26 represented by the remedial action coordinator and the potential for waiver
27 of such requirements.

~~28 H. In order to encourage remediation activities under this article and
29 to conserve the fund, neither this state nor any county that imposes an
30 excise or similar tax that is levied at a rate applied as a percentage of the
31 rates on each business class subject to the tax imposed by title 42, chapter
32 5, article 1 may impose a tax on the sale or purchase of tangible personal
33 property incorporated or fabricated into any real property, structure,
34 project, development or improvement under a contract specified in section
35 42-5075, subsection B, paragraph 6.~~

36 ~~I.~~ H. For THE purposes of this section, "on site" means the areal
37 extent of contamination and all suitable areas in close proximity to the
38 contamination that are reasonably necessary for implementation of the
39 remedial action.

40 Sec. 39. Preexisting contracts; tax

41 A. This act does not apply to or affect the tax liability with respect
42 to contracts that were entered into before January 1, 2015 by a person who
43 engaged in business under the prime contracting classification pursuant to
44 section 42-5075, Arizona Revised Statutes, or the construction contracting,

1 owner builder or speculative builder classification pursuant to section 415,
2 416 or 417 of the model city tax code.

3 B. Notwithstanding section 42-5075, Arizona Revised Statutes, as
4 amended by this act, the tax imposed by title 42, chapter 5, article 1,
5 Arizona Revised Statutes, is levied and shall be collected at a rate of five
6 and six-tenths per cent of the tax base, as determined pursuant to section
7 42-5075, Arizona Revised Statutes, as in effect on December 31, 2014, derived
8 pursuant to contracts entered into before January 1, 2015 by prime
9 contractors who were subject to tax under section 42-5075, Arizona Revised
10 Statutes, before January 1, 2015.

11 C. Prime contractors shall maintain and provide to the department of
12 revenue on request documentation regarding payments received in satisfaction
13 of contracts that are subject to taxation under this section.

14 D. Twenty per cent of the tax revenues collected pursuant to this
15 section is designated as distribution base for purposes of section 42-5029,
16 Arizona Revised Statutes.

17 E. Notwithstanding section 42-6004, Arizona Revised Statutes, as
18 amended by this act, the municipal privilege tax imposed by an incorporated
19 city or town is levied and shall be collected at the rate in effect on
20 December 31, 2014, as determined pursuant to the model city tax code, derived
21 pursuant to contracts entered into before January 1, 2015 by construction
22 contractors, owner builders and speculative builders that were subject to tax
23 under section 415, 416 or 417 of the model city tax code, before January 1,
24 2015, unless the contract does not contain a provision that entitles the
25 taxpayer to recover the amount of the tax. The taxpayer is required to
26 provide sufficient documentation to the department of revenue.

27 F. The taxes imposed pursuant to title 42, chapter 6, article 3,
28 Arizona Revised Statutes, apply to the tax base, as determined pursuant to
29 sections 42-5075 and 42-5076, Arizona Revised Statutes, as in effect on
30 December 31, 2014, derived pursuant to contracts entered into after the date
31 of the election to authorize the tax and before January 1, 2015 by prime
32 contractors and owner builders who engaged in business pursuant to sections
33 42-5075 and 42-5076, Arizona Revised Statutes. Contracts entered into before
34 the date of the election to authorize the tax by prime contractors and owner
35 builders who engaged in business pursuant to sections 42-5075 and 42-5076,
36 Arizona Revised Statutes, are taxable pursuant to title 42, chapter 6,
37 article 3, Arizona Revised Statutes, on the tax base, as determined pursuant
38 to sections 42-5075 and 42-5076, Arizona Revised Statutes, as in effect on
39 December 31, 2014, unless the contract does not contain a provision that
40 entitles the taxpayer to recover the amount of the tax from a purchaser. The
41 taxpayer is required to provide sufficient documentation to the department of
42 revenue.

43 G. Unless the context otherwise requires, title 42, chapter 5, article
44 1, Arizona Revised Statutes, governs the administration of the tax imposed by
45 this section.

1 Sec. 40. Preexisting tax exempt contracts

2 A. From and after December 31, 2014, the sale of tangible personal
3 property to a contractor for incorporation or fabrication, pursuant to a
4 contract entered into before January 1, 2015, into any project that was
5 subject to a deduction under section 42-5075, subsection B, Arizona Revised
6 Statutes, as in effect on December 31, 2014, is not subject to tax under
7 section 42-5061, Arizona Revised Statutes.

8 B. From and after December 31, 2014, the sale of tangible personal
9 property to a construction contractor, owner builder or speculative builder
10 for incorporation or fabrication pursuant to a contract entered into before
11 January 1, 2015, into any project that was subject to a deduction under
12 section 415.b, 416.c.1 or 2, or 417.c.1 or 2 of the model city tax code, as
13 in effect on December 31, 2014, is not subject to tax under section 460 of
14 the model city tax code.

15 Sec. 41. Use tax

16 A. Tangible personal property that was purchased before January 1,
17 2015 by a person who engaged in business under the prime contracting
18 classification or who performed contracting services within the control of a
19 prime contractor pursuant to section 42-5075, Arizona Revised Statutes, and
20 that was not incorporated into a project for which the contract was entered
21 into before January 1, 2015 is subject to use taxation pursuant to section
22 42-5155, Arizona Revised Statutes.

23 B. Tangible personal property that was purchased before January 1,
24 2015 by a person who engaged in business under the construction contracting,
25 owner builder or speculative builder classification or who performed
26 contracting services within the control of a construction contractor, owner
27 builder or speculative builder pursuant to section 415, 416 or 417 of the
28 model city tax code and that was not incorporated into a project for which
29 the contract was entered into before January 1, 2015 is subject to use
30 taxation under the model city tax code.

31 Sec. 42. Department of revenue; emergency rule making

32 The department of revenue may adopt emergency rules pursuant to section
33 41-1026, Arizona Revised Statutes, as necessary to administer this act.

34 Sec. 43. City and town auditors

35 Notwithstanding section 42-6001, Arizona Revised Statutes, as amended
36 by this act, for the period beginning January 1, 2015 and ending December 31,
37 2015, the department shall enter into an agreement with the governing body of
38 an incorporated city or town to furnish part-time or full-time personnel to
39 perform audit services within the boundaries of the city or town. The
40 incorporated city or town shall pay to the department the amount agreed to be
41 paid.

42 Sec. 44. Rate limitation

43 An incorporated city or town shall not impose a municipal contracting
44 excise tax rate higher than the rate imposed on construction contracting,
45 speculative builder or owner-builder, as in effect on December 31, 2012.

1 Sec. 45. Effective dates

2 A. Sections 42-5039 and 42-6113, Arizona Revised Statutes, as added by
3 this act, and sections 42-6105, 42-6106, 42-6107, 48-4022 and 48-5805,
4 Arizona Revised Statutes, as amended by this act, are effective from and
5 after December 31, 2013.

6 B. Sections 42-5078, 42-6020 and 42-6021, Arizona Revised Statutes, as
7 added by this act and sections 41-1516, 41-1532, 42-1004, 42-1103, 42-5001,
8 42-5006, 42-5009, 42-5010, 42-5029, 42-5032.01, 42-5032.02, 42-5061, 42-5071,
9 42-5072, 42-5075, 42-5151, 42-5155, 42-5159, 42-5160, 42-6001, 42-6002,
10 42-6004, 42-6005, 42-6102, 43-1072.01, 44-1263 and 49-290, Arizona Revised
11 Statutes, as amended by this act, are effective from and after December
12 31, 2014.