COMMITTEE ON APPROPRIATIONS

SENATE AMENDMENTS TO H.B. 2111

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:
2               "Section 1. Section 41-1516, Arizona Revised Statutes, is amended to read:
3                     41-1516. Healthy forest enterprise incentives; definitions
4                     A. The Arizona commerce authority shall:
5                         1. Implement a program to encourage counties, cities and towns to provide local incentives to economic enterprises that promote forest health in this state.
6                         2. Identify and certify to the department of revenue the names of and relevant information relating to qualified businesses for the purposes of available state tax incentives for economic enterprises that promote forest health in this state.
7                     B. To qualify for state tax incentives pursuant to this section, a business:
8                         1. Must be primarily engaged in a qualifying project. The business shall submit to the authority evidence that it is engaged in a qualifying project as follows:
9                             (a) The business operation must enhance or sustain forest health, sustain or recover watershed or improve public safety.
10                            (b) If the qualifying forest product is on federal land, the business shall submit a letter from the federal agency administering the land, or official records or documents produced in connection with the project, stating that the business is primarily engaged in the business of harvesting or processing qualifying forest products for commercial use as follows:
11                               (i) At least seventy per cent of the harvested or processed products, measured by weight, must be qualifying forest products.
12                               (ii) At least seventy-five per cent of the qualifying forest products, measured by weight, must be harvested from sources in this state.
(c) If the qualifying forest product is not on federal land, the business shall submit a letter from the state forester stating that the business is primarily engaged in the business of harvesting or processing qualifying forest products for commercial use as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Apply to the authority.

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Inspect the facilities at the site.
2. Obtain factual data and records pertinent to and required by law to be kept for purposes of tax incentives.
3. Otherwise ascertain compliance with law and the terms of the memorandum of understanding.

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

1. Within thirty days after a formal request from the authority or the department of revenue the business fails or refuses to provide the information or access for inspections required by this section.
2. The business no longer meets the terms and conditions required for qualification for the applicable tax incentives.

c. K. For the purposes of this section:

1. "Forest health" means the degree to which the integrity of the forest is sustained, including reducing the risk of catastrophic wildfire and destructive insect infestation, benefiting wildland habitats, watersheds and communities.
2. "Harvesting" means all operations relating to felling or otherwise removing trees and other forest plant growth and preparing them for transport for subsequent processing.
3. "Processing" means:
   (a) Any change in the physical structure of qualifying forest products removed from a qualifying project into a marketable commercial product or component of a product that has commercial value to a consumer or purchaser and that is ready to be used with or without further altering its form.
   (b) Burning qualifying forest products in the process of commercial electrical generation or commercial thermal energy production for heating or cooling, regardless of the physical structure of the forest product before burning.
4. "Qualifying equipment" means equipment used directly in harvesting or processing qualifying forest products removed from a qualifying project. Qualifying equipment does not include self-propelled vehicles required to be licensed by this state, but may include other licensed vehicles as provided by this paragraph. Qualifying equipment includes:

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

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

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

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

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

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

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

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

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

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

5. "Qualifying forest products" means dead standing and fallen timber, and forest thinnings associated with the harvest of small diameter timber, slash, wood chips, peelings, brush and other woody vegetation, removed from federal, state and other public forest land and from private forest land.
6. "Qualifying project" means harvesting, transporting or processing qualifying forest products as required for certification pursuant to this section.

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

41-1532. Tax incentives; conditions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

B. The department may:

1. With the approval of the attorney general:
   (a) Abate any balance owed by a taxpayer if the balance is
   uncollectible. Related liens, if any, are extinguished on abatement.
   (b) Abate all or part of the unpaid portion of any tax if the director
determines that the administration and collection costs involved would exceed
the amount of the tax.

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

(a) Shall be used to meet publication and distribution expenses.
(b) Are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

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

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

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

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

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

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

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

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

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

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

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

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

42-5001. Definitions

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

1. “Business” includes all activities or acts, personal or corporate, engaged in or caused to be engaged in with the object of gain, benefit or advantage, either directly or indirectly, but does not include either:
   (a) Casual activities or sales.
   (b) The transfer of electricity from a solar photovoltaic generation system to an electric utility distribution system.

2. “CONTRACTING” MEANS ENGAGING IN BUSINESS AS A CONTRACTOR.

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

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

5. “Engaging”, when used with reference to engaging or continuing in business, includes the exercise of corporate or franchise powers.

6. “Gross income” means the gross receipts of a taxpayer derived from trade, business, commerce or sales and the value proceeding or accruing from the sale of tangible personal property or service, or both, and without any deduction on account of losses.

7. “Gross proceeds of sales” means the value proceeding or accruing from the sale of tangible personal property without any deduction on account of the cost of property sold, expense of any kind or losses, but cash discounts allowed and taken on sales are not included as gross income.
6. "Gross income" and "gross proceeds of sales" do not include goods, wares or merchandise, or value thereof, returned by customers if the sale price is refunded either in cash or by credit, nor the value of merchandise traded in on the purchase of new merchandise when the trade-in allowance is deducted from the sales price of the new merchandise before completion of the sale.

7. "Gross receipts" means the total amount of the sale, lease or rental price, as the case may be, of the retail sales of retailers, including any services that are a part of the sales, valued in money, whether received in money or otherwise, including all receipts, cash, credits and property of every kind or nature, and any amount for which credit is allowed by the seller to the purchaser without any deduction from the amount on account of the cost of the property sold, materials used, labor or service performed, interest paid, losses or any other expense. Gross receipts do not include cash discounts allowed and taken nor the sale price of property returned by customers if the full sale price is refunded either in cash or by credit.

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

9. "Qualifying community health center":
   (a) Means an entity that is recognized as nonprofit under section 501(c)(3) of the United States internal revenue code, that is a community-based, primary care clinic that has a community-based board of directors and that is either:
      (i) The sole provider of primary care in the community.
      (ii) A nonhospital affiliated clinic that is located in a federally designated medically underserved area in this state.
   (b) Includes clinics that are being constructed as qualifying community health centers.

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

13. "Qualifying hospital" means any of the following:
   (a) A licensed hospital which is organized and operated exclusively for charitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.
   (b) A licensed nursing care institution or a licensed residential care institution or a residential care facility operated in conjunction with a licensed nursing care institution or a licensed kidney dialysis center, which provides medical services, nursing services or health related services and is not used or held for profit.
   (c) A hospital, nursing care institution or residential care institution which is operated by the federal government, this state or a political subdivision of this state.
   (d) A facility that is under construction and that on completion will be a facility under subdivision (a), (b) or (c) of this paragraph.

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

15. "Sale" means any transfer of title or possession, or both, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatever, including consignment transactions and auctions, of tangible personal property or other activities taxable under this chapter, for a consideration, and includes:
   (a) Any transaction by which the possession of property is transferred but the seller retains the title as security for the payment of the price.
   (b) Fabricating tangible personal property for consumers who furnish either directly or indirectly the materials used in the fabrication work.
(c) Furnishing, preparing or serving for a consideration any tangible personal property consumed on the premises of the person furnishing, preparing or serving the tangible personal property.

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

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

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

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

18. "Taxpayer" means any person who is liable for any tax which is imposed by this article.

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

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

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

A. Notwithstanding section 42-1102, the department shall require a surety bond for each taxpayer who is required to be licensed under title 32, chapter 10 or who is regulated under title 41, chapter 16, article 2, if the taxpayer's principal place of business is outside this state or if the taxpayer has conducted business in this state for less than one year. The department shall prescribe the form of the bond. The bond shall be maintained for a period of at least two years.
B. The bond, duly executed by the applicant as principal and with a corporation duly authorized to execute and write bonds in this state as surety, shall be payable to this state and conditioned on the payment of all transaction privilege taxes incurred and imposed on the taxpayer by this state and its political subdivisions. The bond shall be in such amount, but not less than two thousand dollars, as will assure the payment of the transaction privilege taxes which may reasonably be expected to be incurred by the licensed establishment for a period of one hundred fifty days.

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

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

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

Sec. 7. Repeal

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

Sec. 8. Section 42-5009, Arizona Revised Statutes, is amended to read:

42-5009. Certificates establishing deductions; liability for making false certificate

A. A person who conducts any business classified under article 2 of this chapter may establish entitlement to the allowable deductions from the tax base of that business by both:
1. Marking the invoice for the transaction to indicate that the gross proceeds of sales or gross income derived from the transaction was deducted from the tax base.

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

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

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

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

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

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

H. The department shall prescribe forms for certificates used to establish the satisfaction of the criteria necessary to qualify the sale of a motor vehicle for the deductions described in section 42-5061, subsection A, paragraph 14, paragraph 28, subdivision (a) and paragraph 45 44 and subsection U. To establish entitlement to these deductions, a motor vehicle dealer shall retain:

1. A valid certificate as prescribed by this subsection completed by the purchaser and obtained prior to the issuance of the nonresident registration permit authorized by section 28-2154.
2. A copy of the nonresident registration permit authorized by section 28-2154.
3. A legible copy of a current valid driver license issued to the purchaser by another state or foreign country that indicates an address outside of this state. For the sale of a motor vehicle to a nonresident entity, the entity's representative must have a current valid driver license issued by the same jurisdiction as that in which the entity is located.
4. For the purposes of the deduction provided by section 42-5061, subsection A, paragraph 14, a certificate documenting the delivery of the motor vehicle to an out-of-state location.

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

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

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

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

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

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

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

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

42-5010. Rates; distribution base

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

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

   (a) Transporting classification.

   (b) Utilities classification.
(c) Telecommunications classification.
(d) Pipeline classification.
(e) Private car line classification.
(f) Publication classification.
(g) Job printing classification.
(h) **Prime contracting** MANUFACTURED BUILDING DEALER classification.
(i) Owner builder sales classification.
(j) Amusement classification.
(k) Restaurant classification.
(l) Personal property rental classification.
(m) Retail classification.

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

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

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

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

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

D. Thirty-two per cent of the tax revenues collected from persons on account of engaging in business under the business classification listed in subsection A, paragraph 3 of this section is designated as distribution base for purposes of section 42-5029.
E. Fifty-three and one-third per cent of the tax revenues collected from persons on account of engaging in business under the business classification listed in subsection A, paragraph 4 of this section is designated as distribution base for purposes of section 42-5029.

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

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

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

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

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

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

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

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

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

42-5029. Remission and distribution of monies; definition
A. The department shall deposit, pursuant to sections 35-146 and
35-147, all revenues collected under this article and articles 4, 5 and 8 of
this chapter pursuant to section 42-1116, separately accounting for:
1. Payments of estimated tax under section 42-5014, subsection D.
2. Revenues collected pursuant to section 42-5070.
3. Revenues collected under this article and article 5 of this chapter
from and after June 30, 2000 from sources located on Indian reservations in
this state.
4. Revenues collected pursuant to section 42-5010, subsection G and
section 42-5155, subsection D–E.
B. The department shall credit payments of estimated tax to an
estimated tax clearing account and each month shall transfer all monies in
the estimated tax clearing account to a fund designated as the transaction
privilege and severance tax clearing account. The department shall credit
all other payments to the transaction privilege and severance tax clearing account, separately accounting for the monies designated as distribution base under sections 42-5010, 42-5164, 42-5205 and 42-5353. Each month the department shall report to the state treasurer the amount of monies collected pursuant to this article and articles 4, 5 and 8 of this chapter.

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

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

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

2. Pay 38.08 per cent to the counties in this state by averaging the following proportions:
   (a) The proportion that the population of each county bears to the total state population.
   (b) The proportion that the distribution base monies collected during the calendar month in each county under this article, section 42-5164, subsection B, section 42-5205, subsection B and section 42-5353 bear to the total distribution base monies collected under this article, section 42-5164, subsection B, section 42-5205, subsection B and section 42-5353 throughout the state for the calendar month.

3. Pay an additional 2.43 per cent to the counties in this state as follows:
   (a) Average the following proportions:
      (i) The proportion that the assessed valuation used to determine secondary property taxes of each county, after deducting that part of the assessed valuation that is exempt from taxation at the beginning of the month for which the amount is to be paid, bears to the total assessed valuations used to determine secondary property taxes of all the counties after deducting that portion of the assessed valuations that is exempt from taxation at the beginning of the month for which the amount is to be paid. Property of a city or town that is not within or contiguous to the municipal corporate boundaries and from which water is or may be withdrawn or diverted and transported for use on other property is considered to be taxable
property in the county for purposes of determining assessed valuation in the county under this item.

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

(b) If the proportion computed under subdivision (a) of this paragraph for any county is greater than the proportion computed under paragraph 2 of this subsection, the department shall compute the difference between the amount distributed to that county under paragraph 2 of this subsection and the amount that would have been distributed under paragraph 2 of this subsection using the proportion computed under subdivision (a) of this paragraph and shall pay that difference to the county from the amount available for distribution under this paragraph. Any monies remaining after all payments under this subdivision shall be distributed among the counties according to the proportions computed under paragraph 2 of this subsection.

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

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

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

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

E. If approved by the qualified electors voting at a statewide general election, all monies collected pursuant to section 42-5010, subsection G and section 42-5155, subsection D—E shall be distributed each fiscal year pursuant to this subsection. The monies distributed pursuant to this subsection are in addition to any other appropriation, transfer or other allocation of public or private monies from any other source and shall not
Senate Amendments to H.B. 2111

Supplant, replace or cause a reduction in other school district, charter school, university or community college funding sources. The monies shall be distributed as follows:

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

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

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

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

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

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

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

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

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

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

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

(a) Forty per cent shall be allocated for teacher compensation based on performance.
Senate Amendments to H.B. 2111

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

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

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

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

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

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

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

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

L. For the purposes of this section, "community college district" means a community college district that is established pursuant to sections 15-1402 and 15-1403 and that is a political subdivision of this state and, unless otherwise specified, includes a community college district established pursuant to section 15-1402.01 and a provisional community college district established pursuant to section 15-1409.
Sec. 11. Section 42-5032.01, Arizona Revised Statutes, is amended to read:

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

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

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

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

2. The retail, amusement and restaurant classifications at, or with respect to, professional football contests that are held beginning July 1, 2001 in a stadium located on the campus of an institution under the jurisdiction of the Arizona board of regents.

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

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

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

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

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

B. The state treasurer shall not make any payments under subsection C of this section until both of the following apply:
   1. Twenty-five per cent of the capital investment that is certified under subsection D of this section and that constitutes construction phase services, as defined in section 42-5075, CONTRACTING ACTIVITY has been made by the manufacturing facility.
   2. From and after June 30, 2014.

C. The amount to be paid to a city, town or county under subsection A of this section is the total amount of state transaction privilege tax revenues collected under section 42-5010, subsection A from persons conducting business under section 42-5075 derived from FOR SALES OF MATERIALS USED IN contracts to construct buildings and associated improvements for the benefit of a manufacturing facility. THE AMOUNT TO BE DISTRIBUTED EACH MONTH SHALL BE PAID IN EQUAL INSTALLMENTS OVER THE LIFE OF THE CONTRACT TO CONSTRUCT BUILDINGS AND ASSOCIATED IMPROVEMENTS FOR THE BENEFIT OF THE MANUFACTURING FACILITY. The total amount paid to all cities, towns and counties under this subsection shall not exceed a maximum of fifty million dollars.

D. Before the commencement of the construction of buildings and associated improvements for the benefit of a manufacturing facility that will require a city, town or county to make infrastructure improvements, the manufacturing facility shall file a sworn certification with the Arizona commerce authority, and submit a copy of this sworn certification to the applicable city, town or county, that the manufacturing facility agrees to PROVIDE A COPY OF THE CONSTRUCTION CONTRACT SHOWING THE COST OF THE MATERIALS TO BE USED IN THE CONSTRUCTION OF BUILDINGS AND ASSOCIATED IMPROVEMENTS FOR THE MANUFACTURING FACILITY AND TO either:
   1. Make at least five hundred million dollars in capital investment if the manufacturing facility is located in a county that has a population of eight hundred thousand persons or more.
   2. Make at least fifty million dollars in capital investment if the manufacturing facility is located in a county that has a population of less than eight hundred thousand persons.
E. The certification under subsection D of this section shall contain a sworn statement or certification, signed by an officer of the manufacturing facility under penalty of perjury, that the information contained is true and correct according to the best belief and knowledge of the person submitting the information to the department after a reasonable investigation of the facts.

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

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

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

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

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

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

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

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

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

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

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

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

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

1. A city, town or county has received monies that meet or exceed
eighty per cent of the cost of the public infrastructure improvements that
are necessary to support the activities related to the manufacturing facility
as described in the written agreement pursuant to subsection F of this
section.
2. The total amount subject to any distribution required under subsection A of this section has met the maximum amount set by subsection C of this section.

H. I. For the purposes of this section:

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

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

3. "Manufacturing facility":
   (a) Means an establishment THAT IS engaged in the mechanical, physical or chemical transformation or fabrication of materials, substances or components into new products in this state, and that is classified within sections 31 through 33 inclusive of the 2007 edition of the north American industry classification system as published by the national technical information service of the United States department of commerce and the establishment THAT agrees to either:
      (ii) Make at least five hundred million dollars in capital investment if the manufacturing facility is located in a county that has a population of eight hundred thousand persons or more.
       (b) ii) Make at least fifty million dollars in capital investment if the manufacturing facility is located in a county that has a population of less than eight hundred thousand persons.

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

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

5. "Public infrastructure" means water facilities, wastewater facilities and roads that are necessary to support the activities of the manufacturing facility.
Sec. 13. Title 42, chapter 5, article 1, Arizona Revised Statutes, is amended by adding section 42-5039, to read:

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

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

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

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

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

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

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

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

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

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

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

D. FOR THE PURPOSES OF THIS SECTION:

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

2. "LESSOR'S BUSINESS LOCATION" MEANS THE BUSINESS ADDRESS THAT APPEARS ON THE LESSOR'S TRANSACTION PRIVILEGE TAX LICENSE.
3. “SELLER’S BUSINESS LOCATION” MEANS THE LOCATION WHERE ANY OF THE FOLLOWING OCCURS:
   
   (a) THE ORDER IS RECEIVED.
   
   (b) THE STOCK IS LOCATED FROM WHICH THE TANGIBLE PERSONAL PROPERTY IS TAKEN.
   
   (c) THE TRANSFER OF TITLE OR POSSESSION OCCURS.

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

42-5061. Retail classification; definitions

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

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

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

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

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

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

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

7. The sale of stocks and bonds.

8. Drugs and medical oxygen, including delivery hose, mask or tent, regulator and tank, on the prescription of a member of the medical, dental or veterinarian profession who is licensed by law to administer such substances.
9. Prosthetic appliances as defined in section 23-501 prescribed or recommended by a health professional who is licensed pursuant to title 32, chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.

10. Insulin, insulin syringes and glucose test strips.

11. Prescription eyeglasses or contact lenses.

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

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

14. Sales of MOTOR VEHICLES to nonresidents of this state for use outside this state if the vendor ships or delivers the MOTOR VEHICLE TO A DESTINATION out of this state.

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


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

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

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

20. Lottery tickets or shares pursuant to title 5, chapter 5.1, article 1.
21. The sale of precious metal bullion and monetized bullion to the ultimate consumer, but the sale of coins or other forms of money for manufacture into jewelry or works of art is subject to the tax. For the purposes of this paragraph:

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

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

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

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

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

25. Tangible personal property sold to:

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

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

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

(d) A qualifying community health center as defined in section 42-5001.
(e) A nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that regularly serves meals to the needy and indigent on a continuing basis at no cost.

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

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

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

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

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

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

28. The sale of a motor vehicle to:

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

(b) An enrolled member of an Indian tribe who resides on the Indian reservation established for that tribe.
29. Tangible personal property purchased in this state by a nonprofit charitable organization that has qualified under section 501(c)(3) of the United States internal revenue code and that engages in and uses such property exclusively in programs for mentally or physically handicapped persons if the programs are exclusively for training, job placement, rehabilitation or testing.

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

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

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

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

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

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

36. Sales of natural gas or liquefied petroleum gas used to propel a motor vehicle.
36. Paper machine clothing, such as forming fabrics and dryer felts, sold to a paper manufacturer and directly used or consumed in paper manufacturing.

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

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

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

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

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

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

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

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

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

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

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

46. Sales of alternative fuel, as defined in section 1-215, to a used oil fuel burner who has received a permit to burn used oil or used oil fuel under section 49-426 or 49-480.
48. Sales of materials that are purchased by or for publicly funded libraries including school district libraries, charter school libraries, community college libraries, state university libraries or federal, state, county or municipal libraries for use by the public as follows:

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

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

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

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

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

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

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

(b) EXCAVATION, REMOVAL AND TRANSPORTATION OF CONTAMINATED SOIL AND ITS TREATMENT OR DISPOSAL.
(c) TREATMENT OF CONTAMINATED SOIL BY VAPOR EXTRACTION, CHEMICAL OR PHYSICAL STABILIZATION, SOIL WASHING OR BIOLOGICAL TREATMENT TO REDUCE THE CONCENTRATION, TOXICITY OR MOBILITY OF A CONTAMINANT.

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

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

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

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


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

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

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

55. Sales of motor vehicle fuel and use fuel to a qualified business under section 41-1516 for off-road use in harvesting, processing or transporting qualifying forest products removed from qualifying projects as defined in section 41-1516.
57. Sales of repair parts installed in equipment used directly by a qualified business under section 41-1516 in harvesting, processing or transporting qualifying forest products removed from qualifying projects as defined in section 41-1516.

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

58. Tangible personal property sold to a qualified business under section 41-1516 if the property sold is to be incorporated or fabricated into a building, or other structure, project, development or improvement owned by the qualified business for harvesting or processing qualifying forest products. To qualify for this deduction, the qualified business at the time of purchase must present its certification approved by the department.

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

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

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

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

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

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

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

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

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

   (b) Any foreign government.

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

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

9. Railroad rolling stock, rails, ties and signal control equipment used directly to transport persons or property.
10. Machinery or equipment used directly to drill for oil or gas or used directly in the process of extracting oil or gas from the earth for commercial purposes.

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


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

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

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

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

to receive, store, convert, produce, generate, decode, encode, control or

transmit telecommunications information:

(a) Any direct broadcast satellite television or data transmission

service that operates pursuant to 47 Code of Federal Regulations part 25.

(b) Any satellite television or data transmission facility, if both of

the following conditions are met:

(i) Over two-thirds of the transmissions, measured in megabytes,

transmitted by the facility during the test period were transmitted to or on

behalf of one or more direct broadcast satellite television or data

transmission services that operate pursuant to 47 Code of Federal Regulations

part 25.

(ii) Over two-thirds of the transmissions, measured in megabytes,

transmitted by or on behalf of those direct broadcast television or data

transmission services during the test period were transmitted by the facility

to or on behalf of those services.

For the purposes of subdivision (b) of this paragraph, "test period" means

the three hundred sixty-five day period beginning on the later of the date on

which the tangible personal property is purchased or the date on which the

direct broadcast satellite television or data transmission service first

transmits information to its customers.

16. Clean rooms that are used for manufacturing, processing,

fabrication or research and development, as defined in paragraph 14 of this

subsection, of semiconductor products. For the purposes of this paragraph,

"clean room" means all property that comprises or creates an environment

where humidity, temperature, particulate matter and contamination are

precisely controlled within specified parameters, without regard to whether

the property is actually contained within that environment or whether any of

the property is affixed to or incorporated into real property. Clean room:

(a) Includes the integrated systems, fixtures, piping, movable

partitions, lighting and all property that is necessary or adapted to reduce

contamination or to control airflow, temperature, humidity, chemical purity

or other environmental conditions or manufacturing tolerances, as well as the

production machinery and equipment operating in conjunction with the clean

room environment.

(b) Does not include the building or other permanent, nonremovable

component of the building that houses the clean room environment.
17. Machinery and equipment used directly in the feeding of poultry, the environmental control of housing for poultry, the movement of eggs within a production and packaging facility or the sorting or cooling of eggs. This exemption does not apply to vehicles used for transporting eggs.

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

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

20. Machinery or equipment that enables a television station to originate and broadcast or to receive and broadcast digital television signals and that was purchased to facilitate compliance with the telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States Code section 336) and the federal communications commission order issued April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does not exempt any of the following:
   (a) Repair or replacement parts purchased for the machinery or equipment described in this paragraph.
   (b) Machinery or equipment purchased to replace machinery or equipment for which an exemption was previously claimed and taken under this paragraph.
   (c) Any machinery or equipment purchased after the television station has ceased analog broadcasting, or purchased after November 1, 2009, whichever occurs first.

21. Qualifying equipment that is purchased from and after June 30, 2004 through June 30, 2024 by a qualified business under section 41-1516 for harvesting or processing qualifying forest products removed from qualifying projects as defined in section 41-1516. To qualify for this deduction, the
Senate Amendments to H.B. 2111

qualified business at the time of purchase must present its certification approved by the department.

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

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

2. Janitorial equipment and hand tools.

3. Office equipment, furniture and supplies.

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

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

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

7. Motors and pumps used in drip irrigation systems.

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

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

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

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

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

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

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

1. Transporting classification.
2. Utilities classification.
3. Telecommunications classification.
4. Pipeline classification.
5. Private car line classification.
6. Publication classification.
7. Job printing classification.
8. **Prime contracting MANUFACTURED BUILDING DEALER** classification.
9. **Owner builder sales** classification.
10. **Restaurant** classification.

10. **HIGHWAY, STREET AND BRIDGE CONSTRUCTION CLASSIFICATION.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

S. If a seller is entitled to a deduction pursuant to subsection B, paragraph 15, subdivision (b) of this section, the department may require the purchaser to establish that the requirements of subsection B, paragraph 15, subdivision (b) of this section have been satisfied. If the purchaser cannot establish that the requirements of subsection B, paragraph 15, subdivision (b) of this section have been satisfied, the purchaser is liable in an amount equal to any tax, penalty and interest which the seller would have been required to pay under article 1 of this chapter if the seller had not made a deduction pursuant to subsection B, paragraph 15, subdivision (b) of this section. Payment of the amount under this subsection exempts the purchaser from liability for any tax imposed under article 4 of this chapter and related to the tangible personal property purchased. The amount shall be treated as transaction privilege tax to the purchaser and as tax revenues collected from the seller to designate the distribution base pursuant to section 42-5029.
T. For the purposes of section 42-5032.01, the department shall separately account for revenues collected under the retail classification from businesses selling tangible personal property at retail:

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

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

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

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

W. For the purposes of this section:

1. "Aircraft" includes:

(a) An airplane flight simulator that is approved by the federal aviation administration for use as a phase II or higher flight simulator under appendix H, 14 Code of Federal Regulations part 121.
(b) Tangible personal property that is permanently affixed or attached
as a component part of an aircraft that is owned or operated by a
certificated or licensed carrier of persons or property.

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

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

W. X. For the purposes of subsection J of this section:
1. "Assembler" means a person who unites or combines products, wares
or articles of manufacture so as to produce a change in form or substance
without changing or altering the component parts.

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

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

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

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

6. "Subcontract" means an agreement between a contractor and any
person who is not an employee of the contractor for furnishing of supplies or
services that, in whole or in part, are necessary to the performance of one
or more government contracts, or under which any portion of the contractor's
obligation under one or more government contracts is performed, undertaken or
assumed and that includes provisions causing title to overhead materials or
other tangible personal property used in the performance of the subcontract
Senate Amendments to H.B. 2111

to pass to the government or that includes provisions incorporating such
title passing clauses in a government contract into the subcontract. FOR THE
PURPOSES OF THIS PARAGRAPH, "CONTRACTOR" HAS ITS ORDINARY AND COMMON MEANING
AND DOES NOT HAVE THE MEANING PRESCRIBED BY SECTION 42-5001.
Sec. 15. Section 42-5071, Arizona Revised Statutes, is amended to
read:

42-5071. Personal property rental classification
A. The personal property rental classification is comprised of the
business of leasing or renting tangible personal property for a
consideration. The tax does not apply to:
1. Leasing or renting films, tapes or slides used by theaters or
movies, which are engaged in business under the amusement classification, or
used by television stations or radio stations.
2. Activities engaged in by the Arizona exposition and state fair
board or county fair commissions in connection with events sponsored by such
entities.
3. Leasing or renting tangible personal property by a parent
corporation to a subsidiary corporation or by a subsidiary corporation to
another subsidiary of the same parent corporation if taxes were paid under
this chapter on the gross proceeds or gross income accruing from the initial
sale of the tangible personal property. For the purposes of this paragraph,
"subsidiary" means a corporation of which at least eighty per cent of the
voting shares are owned by the parent corporation.
4. Operating coin-operated washing, drying and dry cleaning machines
or coin-operated car washing machines at establishments for the use of such
machines.
5. Leasing or renting tangible personal property for incorporation
into or comprising any part of a qualified environmental technology facility
as described in section 41-1514.02. This paragraph shall apply for ten full
consecutive calendar or fiscal years following the initial lease or rental by
each qualified environmental technology manufacturer, producer or processor.
6. Leasing or renting aircraft, flight simulators or similar training
equipment to students or staff by nonprofit, accredited educational
institutions that offer associate or baccalaureate degrees in aviation or
aerospace related fields.
7. Leasing or renting photographs, transparencies or other creative works used by this state on internet websites, in magazines or in other publications that encourage tourism.

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

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

2. Leases or rentals of tangible personal property which, if it had been purchased instead of leased or rented by the lessee, would have been exempt under:
   (a) Section 42-5061, subsection A, paragraph 8, 9, 12, 13, 25, 29, 49 or 55.
   (b) Section 42-5061, subsection B, except that a lease or rental of new machinery or equipment is not exempt pursuant to:
      (i) Section 42-5061, subsection B, paragraph 13 if the lease is for less than two years.
      (ii) Section 42-5061, subsection B, paragraph 21.
   (c) Section 42-5061, subsection J, paragraph 1.
   (d) Section 42-5061, subsection N.

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

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

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

C. Sales of tangible personal property to be leased or rented to a person engaged in a business classified under the personal property rental classification are deemed to be resale sales.
Senate Amendments to H.B. 2111

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

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

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

42-5072. Mining classification; definition

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

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

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

D. In the case of a person engaged in business classified under the mining classification all or part of whose income is derived from service or manufacturing charges instead of from sales of the products manufactured or handled, the tax base includes the gross income of the person derived from the service or manufacturing charge.
E. If a person engaging in business classified under the mining classification ships or transports all or part of a product out of this state without making sale of the product or ships his product outside of this state in an unfinished condition, the value of the product or article in the condition or form in which it existed when transported out of this state and before it enters interstate commerce is included in the tax base, and the department shall prescribe equitable and uniform rules for ascertaining that value. In determining the tax base, if the product or any part of the product has been processed in this state and the proceeds of such processing have been included in the tax base of the processor under this chapter, the person may deduct from the value of the product when transported out of this state the cost of such processing.

F. A person who conducts a business classified under the mining classification may be deemed also to be engaged in business classified under the retail classification to the extent the person's activities comprise business under the retail classification if the tax is paid at the rate imposed on the retail classification by section 42-5010. If the transaction is not subject to taxation under the retail classification, the transaction shall be included in the tax base under this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7. The gross proceeds of sales or gross income that is derived from a
contract entered into for the installation, assembly, repair or maintenance
of machinery, equipment or other tangible personal property that is deducted
from the tax base of the retail classification pursuant to section 42-5061,
subsection B, or that is exempt from use tax pursuant to section 42-5159,
subsection B, and that does not become a permanent attachment to a building,
highway, road, railroad, excavation or manufactured building or other
structure, project, development or improvement. If the ownership of the
realty is separate from the ownership of the machinery, equipment or tangible
personal property, the determination as to permanent attachment shall be made
as if the ownership were the same. The deduction provided in this paragraph
Senate Amendments to H.B. 2111

does not include gross proceeds of sales or gross income from that portion of any contracting activity that consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of machinery, equipment or other tangible personal property that is deducted from the tax base of the retail classification pursuant to section 42-5061, subsection B or that is exempt from use tax pursuant to section 42-5159, subsection B. For the purposes of this paragraph, "permanent attachment" means at least one of the following:

(a) To be incorporated into real property.
(b) To become so affixed to real property that it becomes a part of the real property.
(c) To be so attached to real property that removal would cause substantial damage to the real property from which it is removed.

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

(a) Section 42-5061, subsection A, paragraph 25 or 29.
(b) Section 42-5061, subsection B.
(c) Section 42-5159, subsection A, paragraph 13, subdivision (a), (b), (c), (d), (e), (f), (i), (j) or (l).
(d) Section 42-5159, subsection B.

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

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

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

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

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

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

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

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

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

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

19. Any amount of the gross proceeds of sales or gross income attributable to development fees that are incurred in relation to a contract for construction, development or improvement of real property and that are paid by a prime contractor or subcontractor. For the purposes of this paragraph:
   (a) The attributable amount shall not exceed the value of the development fees actually imposed.
   (b) The attributable amount is equal to the total amount of development fees paid by the prime contractor or subcontractor, and the total development fees credited in exchange for the construction of, contribution to or dedication of real property for providing public infrastructure, public safety or other public services necessary to the development. The real property must be the subject of the development fees.
   (c) “Development fees” means fees imposed to offset capital costs of providing public infrastructure, public safety or other public services to a development and authorized pursuant to section 9-463.05, section 11-1102 or title 48 regardless of the jurisdiction to which the fees are paid.

C. Entitlement to the deduction pursuant to subsection B, paragraph 7 of this section is subject to the following provisions:
   1. A prime contractor may establish entitlement to the deduction by both:
      (a) Marking the invoice for the transaction to indicate that the gross proceeds of sales or gross income derived from the transaction was deducted from the base.
      (b) Obtaining a certificate executed by the purchaser indicating the name and address of the purchaser, the precise nature of the business of the purchaser, the purpose for which the purchase was made, the necessary facts to establish the deductibility of the property under section 42-5061, subsection B, and a certification that the person executing the certificate is authorized to do so on behalf of the purchaser. The certificate may be disregarded if the prime contractor has reason to believe that the information contained in the certificate is not accurate or complete.
   2. A person who does not comply with paragraph 1 of this subsection may establish entitlement to the deduction by presenting facts necessary to support the entitlement, but the burden of proof is on that person.
3. The department may prescribe a form for the certificate described in paragraph 1, subdivision (b) of this subsection. The department may also adopt rules that describe the transactions with respect to which a person is not entitled to rely solely on the information contained in the certificate provided in paragraph 1, subdivision (b) of this subsection but must instead obtain such additional information as required in order to be entitled to the deduction.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

N. The gross proceeds of sales or gross income attributable to a
separate, written design phase services contract or professional services
contract, executed before modification begins, is not subject to tax under
this section, regardless of whether the services are provided sequential to
or concurrent with prime contracting activities that are subject to tax under
this section. This subsection does not include the gross proceeds of sales
or gross income attributable to construction phase services. For the
purposes of this subsection:
1. "Construction phase services" means services for the execution and completion of any modification, including the following:

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

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

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

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

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

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

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

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

   (f) Preparation of any manuals, warranties, as-built drawings, spares or other items the prime contractor must furnish pursuant to the contract for modification work. For the purposes of this subdivision, "as-built drawing" means a drawing that indicates field changes made to adapt to field conditions, field changes resulting from change orders or buried and concealed installation of piping, conduit and utility services.
Senate Amendments to H.B. 2111

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

(i) Master schedule updates.
(ii) Modification work cash flow projection updates.
(iii) Site reports made on a periodic basis.
(iv) Identification of discrepancies, conflicts or ambiguities in modification work documents that require resolution.
(v) Identification of any health and safety issues that have arisen in connection with the modification work.

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

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

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

2. “Design phase services” means services for developing and completing a design for a project that are not construction phase services, including the following:

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

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

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

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

(e) Preparing preliminary estimates of costs of modification work before completion of the final design of the project, including an estimate or schedule of values for any of the following:
(i) Labor, materials, machinery and equipment, tools, water, heat, utilities, transportation and other facilities and services used in the execution and completion of modification work, regardless of whether they are temporary or permanent or whether they are incorporated in the modifications.

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

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

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

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

(vi) Any bond and insurance premiums.

(vii) Any applicable taxes.

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

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

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

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

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

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

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

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

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

P. D. For the purposes of this section:

1. “Contracting” means engaging in business as a contractor.

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

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

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

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

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

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

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

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

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

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

Sec. 18. Repeal

Section 42-5076, Arizona Revised Statutes, is repealed from and after
December 31, 2014.
Sec. 19. Title 42, chapter 5, article 2, Arizona Revised Statutes, is amended by adding section 42-5078, to read:

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

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

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

1. THE GROSS PROCEEDS OF SALES OR GROSS INCOME RECEIVED FROM A CONTRACT ENTERED INTO FOR THE CONSTRUCTION, ALTERATION OR REPAIR OF ANY HIGHWAY, STREET OR BRIDGE LOCATED WITHIN AN ACTIVE MILITARY REUSE ZONE AFTER THE ZONE IS INITIALLY ESTABLISHED OR RENEWED UNDER SECTION 41-1531. TO BE ELIGIBLE TO QUALIFY FOR THIS DEDUCTION, BEFORE BEGINNING WORK UNDER THE CONTRACT, THE HIGHWAY, STREET OR BRIDGE CONTRACTOR MUST HAVE APPLIED FOR A LETTER OF QUALIFICATION FROM THE DEPARTMENT OF REVENUE.

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

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

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

D. FOR THE PURPOSES OF THIS SECTION:

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

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

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

   (c) ADMINISTRATION OR SUPERVISION OF ANY WORK PERFORMED PURSUANT TO
CHANGE ORDERS. FOR THE PURPOSES OF THIS SUBDIVISION, "CHANGE ORDER" MEANS A
WRITTEN INSTRUMENT ISSUED AFTER EXECUTION OF A CONTRACT FOR THE CONSTRUCTION
OF A HIGHWAY, STREET OR BRIDGE, PROVIDING FOR ALL OF THE FOLLOWING:

      (i) THE SCOPE OF CHANGE IN THE WORK.

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

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

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

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

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

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

(i) MASTER SCHEDULE UPDATES.
(ii) CONSTRUCTION, ALTERATION OR REPAIR CASH FLOW PROJECTION DATES.
(iii) SITE REPORTS MADE ON A PERIODIC BASIS.
(iv) IDENTIFICATION OF DISCREPANCIES, CONFLICTS OR AMBIGUITIES IN
CONSTRUCTION, ALTERATION OR REPAIR WORK DOCUMENTS THAT REQUIRE RESOLUTION.
(v) IDENTIFICATION OF ANY HEALTH AND SAFETY ISSUES THAT HAVE ARISEN IN
CONNECTION WITH THE CONSTRUCTION, ALTERATION OR REPAIR WORK.
(h) PREPARATION OF DAILY LOGS OF CONSTRUCTION, ALTERATION OR REPAIR
WORK, INCLUDING DOCUMENTATION OF PERSONNEL, WEATHER CONDITIONS AND ON-SITE
OCURRENCES.

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

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

2. “DESIGN PHASE SERVICES” MEANS SERVICES FOR DEVELOPING AND
COMPLETING A DESIGN FOR A PROJECT THAT ARE NOT CONSTRUCTION PHASE SERVICES,
INCLUDING THE FOLLOWING:

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

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

(c) PREPARING DRAWINGS AND SPECIFICATIONS FOR ARCHITECTURAL PROGRAM
DOCUMENTS, SCHEMATIC DESIGN DOCUMENTS, DESIGN DEVELOPMENT DOCUMENTS,
CONSTRUCTION, ALTERATION OR REPAIR DOCUMENTS OR DOCUMENTS THAT IDENTIFY THE
SCOPE OF OR MATERIALS FOR THE PROJECT.
(d) Preparing an initial schedule for the project, excluding the preparation of updates to the master schedule after construction, alteration or repair work has begun.

(e) Preparing preliminary estimates of costs of construction, alteration or repair work before completion of the final design of the project, including an estimate or schedule of values for any of the following:
   (i) Labor, materials, machinery and equipment, tools, water, heat, utilities, transportation and other facilities and services used in the execution and completion of construction, alteration or repair work, regardless of whether they are temporary or permanent or whether they are incorporated in the construction, alteration or repair.
   (ii) The cost of labor and materials to be furnished by the owner of the property.
   (iii) Any fee paid by the owner of the real property to the highway, street or bridge construction contractor pursuant to the contract for construction, alteration or repair work.
   (iv) Any bond and insurance premiums.
   (v) Any applicable taxes.
   (vi) Any contingency fees for the highway, street or bridge construction contractor that may be used before final completion of the project.

(f) Reviewing and evaluating cost estimates and project documents to prepare recommendations on site use, site improvements, selection of materials, building systems and equipment, construction, alteration or repair feasibility, availability of materials and labor, local construction, alteration or repair activity as related to schedules and time requirements for construction, alteration or repair work.

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

3. “Highway, street or bridge contractor” means a contractor who holds a classification a license from the Registrar of Contractors and who supervises, performs or coordinates the construction, alteration or repair of a highway, street or bridge, including the contracting, if any, with any subcontractors.

4. “Professional services” means architect services, assayer services, engineer services, geologist services, land surveying services or landscape...
ARCHITECT SERVICES THAT ARE WITHIN THE SCOPE OF THOSE SERVICES AS PROVIDED IN
TITLE 32, CHAPTER 1 AND FOR WHICH GROSS PROCEEDS OF SALES OR GROSS INCOME HAS
NOT OTHERWISE BEEN DEDUCTED UNDER SUBSECTION B, PARAGRAPH 3 OF THIS SECTION.
Sec. 20. Section 42-5151, Arizona Revised Statutes, is amended to read:

42-5151. Definitions
In this article, unless the context otherwise requires:
1. "Ancillary services" means those services so designated in federal
energy regulatory commission order 888 adopted in 1996 that include the
services necessary to support the transmission of electricity from resources
to loads while maintaining reliable operation of the transmission system
according to good utility practice.
2. "CONTRACTING" MEANS ENGAGING IN BUSINESS AS A CONTRACTOR.
3. "CONTRACTOR" IS SYNONYMOUS WITH THE TERM "BUILDER" AND MEANS ANY
PERSON OR ORGANIZATION THAT UNDERTAKES TO OR OFFERS TO UNDERTAKE TO, OR
PURPORTS TO HAVE THE CAPACITY TO UNDERTAKE TO, OR SUBMITS A BID TO, OR DOES
PERSONALLY OR BY OR THROUGH OTHERS, MODIFY ANY BUILDING, HIGHWAY, ROAD,
RAILROAD, EXCAVATION, MANUFACTURED BUILDING OR OTHER STRUCTURE, PROJECT,
development or improvement, or to do any part of such a project, including
the erection of scaffolding or other structure or works in connection with
such a project, and includes subcontractors and specialty contractors. For
all purposes of taxation or deduction, this definition governs without regard
to whether or not the contractor is acting in fulfillment of a contract.
4. "Electric distribution service" means distributing electricity
to retail electric customers through the use of electric distribution
facilities.
5. "Electric generation service" means providing electricity for
sale to retail electric customers but excluding electric distribution or
transmission services.
6. "Electric transmission service" means transmitting electricity
to retail electric customers or to electric distribution facilities so
classified by the federal energy regulatory commission or, to the extent
permitted by law, so classified by the Arizona corporation commission.
7. "Electric utility services" means the business of providing
electric ancillary services, electric distribution services, electric
generation services, electric transmission services and other services
related to providing electricity.
8. "Electricity" means electric energy, electric capacity or electric capacity and energy.

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

10. "Natural gas" means natural or artificial gas, and includes methane and propane gas, the natural gas commodity, natural gas pipeline capacity or natural gas commodity and pipeline capacity.

11. "Natural gas utility services" means the business of selling natural gas or providing natural gas transportation services or other services related to providing natural gas.

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

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

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

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

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

   (a) Discounts allowed and taken.

   (b) Charges for labor or services in installing, remodeling or repairing.
(c) Freight costs billed to and collected from a purchaser by a retailer for tangible personal property which, on the order of the retailer, is shipped directly from a manufacturer or wholesaler to the purchaser.

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

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

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

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

17. "Retailer" includes:

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

(b) A person who solicits orders for tangible personal property by mail if the solicitations are substantial and recurring or if the retailer benefits from any banking, financing, debt collection, telecommunication, television shopping system, cable, optic, microwave or other communication system or marketing activities occurring in this state or benefits from the location in this state of authorized installation, servicing or repair facilities.
20. "Solar daylighting" means a device that is specifically designed to capture and redirect the visible portion of the solar beam, while controlling the infrared portion, for use in illuminating interior building spaces in lieu of artificial lighting.

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

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

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

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

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

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

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

A. There is levied and imposed an excise tax on the storage, use or consumption in this state of tangible personal property purchased from a retailer or utility business, as a percentage of the sales price. A manufactured building purchased outside this state and set up in this state is subject to tax under this section and in this case the RATE IS A percentage of sixty-five per cent of the sales price.
B. The tax imposed by this section applies to any purchaser which THAT purchased tangible personal property for resale but subsequently uses or consumes the property.

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

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

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

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

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

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

42-5159. Exemptions

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

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

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

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

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

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

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

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

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

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

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

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

12. Materials that are purchased by or for publicly funded libraries
including school district libraries, charter school libraries, community
college libraries, state university libraries or federal, state, county or
municipal libraries for use by the public as follows:
   (a) Printed or photographic materials, beginning August 7, 1985.
   (b) Electronic or digital media materials, beginning July 17, 1994.

13. Tangible personal property purchased by:
   (a) A hospital organized and operated exclusively for charitable
purposes, no part of the net earnings of which inures to the benefit of any
private shareholder or individual.
   (b) A hospital operated by this state or a political subdivision of
this state.
   (c) A licensed nursing care institution or a licensed residential care
institution or a residential care facility operated in conjunction with a
licensed nursing care institution or a licensed kidney dialysis center, which provides medical services, nursing services or health related services and is not used or held for profit.

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

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

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

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

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

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

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

(i) A qualifying community health center as defined in section 42-5001.
(j) A nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that regularly serves meals to the needy and indigent on a continuing basis at no cost.

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

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

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

15. Tangible personal property sold by:

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

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

(c) A nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the organization sponsors or operates a rodeo featuring primarily farm and ranch animals and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.
16. Drugs and medical oxygen, including delivery hose, mask or tent, regulator and tank, on the prescription of a member of the medical, dental or veterinarian profession who is licensed by law to administer such substances.

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

18. Prescription eyeglasses and contact lenses.

19. Insulin, insulin syringes and glucose test strips.

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

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

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


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

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

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

27. Lottery tickets or shares purchased pursuant to title 5, chapter 5.1, article 1.
28. Textbooks, sold by a bookstore, that are required by any state university or community college.

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

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

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

32. Motor vehicles that are removed from inventory by a motor vehicle dealer as defined in section 28-4301 and that are provided to:
   (a) Charitable or educational institutions that are exempt from taxation under section 501(c)(3) of the internal revenue code.
   (b) Public educational institutions.
   (c) State universities or affiliated organizations of a state university if no part of the organization’s net earnings inures to the benefit of any private shareholder or individual.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45. Gas diverted from a pipeline, by a person engaged in the business of:
(a) Operating a natural or artificial gas pipeline, and used or consumed for the sole purpose of fueling compressor equipment that pressurizes the pipeline.

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

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

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

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

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

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

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

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

THIS PARAGRAPH DOES NOT INCLUDE ASBESTOS REMOVAL OR THE CONSTRUCTION OR USE OF ANCILLARY STRUCTURES SUCH AS MAINTENANCE SHEDS, OFFICES OR STORAGE FACILITIES FOR UNATTACHED EQUIPMENT, POLLUTION CONTROL EQUIPMENT, FACILITIES OR OTHER CONTROL ITEMS REQUIRED OR TO BE USED BY A PERSON TO PREVENT OR CONTROL CONTAMINATION BEFORE IT REACHES THE ENVIRONMENT.
48. Tangible personal property sold by a nonprofit organization that is exempt from taxation under section 501(c)(6) of the internal revenue code if the organization produces, organizes or promotes cultural or civic related festivals or events and no part of the organization’s net earnings inures to the benefit of any private shareholder or individual.

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

50. Application services that are designed to assess or test student learning or to promote curriculum design or enhancement purchased by or for any school district, charter school, community college or state university. For the purposes of this paragraph:
   (a) "Application services" means software applications provided remotely using hypertext transfer protocol or another network protocol.
   (b) "Curriculum design or enhancement" means planning, implementing or reporting on courses of study, lessons, assignments or other learning activities.

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

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

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

54. Tangible personal property purchased by a qualified business under section 41-1516 if the property sold is to be incorporated or fabricated into a building, or other structure, project, development or improvement owned by
THE QUALIFIED BUSINESS FOR HARVESTING OR PROCESSING QUALIFYING FOREST PRODUCTS. TO QUALIFY FOR THIS EXEMPTION, THE QUALIFIED BUSINESS AT THE TIME OF PURCHASE MUST PRESENT ITS CERTIFICATION APPROVED BY THE DEPARTMENT.

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

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

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

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

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

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

6. Pipes or valves four inches in diameter or larger used to transport oil, natural gas, artificial gas, water or coal slurry, including compressor units, regulators, machinery and equipment, fittings, seals and any other part that is used in operating the pipes or valves.
7. Aircraft, navigational and communication instruments and other accessories and related equipment sold to:
   (a) A person holding a federal certificate of public convenience and necessity, a supplemental air carrier certificate under federal aviation regulations (14 Code of Federal Regulations part 121) or a foreign air carrier permit for air transportation for use as or in conjunction with or becoming a part of aircraft to be used to transport persons, property or United States mail in intrastate, interstate or foreign commerce.
   (b) Any foreign government, or sold to persons who are not residents of this state and who will not use such property in this state other than in removing such property from this state.

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

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

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

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


13. New machinery and equipment consisting of tractors, tractor-drawn implements, self-powered implements, machinery and equipment necessary for extracting milk, and machinery and equipment necessary for cooling milk and livestock, and drip irrigation lines not already exempt under paragraph 6 of this subsection and that are used for commercial production of agricultural, horticultural, viticultural and floricultural crops and products in this state. For the purposes of this paragraph:
(a) "New machinery and equipment" means machinery or equipment which has never been sold at retail except pursuant to leases or rentals which do not total two years or more.

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

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

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

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

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

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

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

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

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

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

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

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

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

19. Machinery and equipment that are used in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state and that are used directly and primarily to prevent, monitor, control or reduce air, water or land pollution.
20. Machinery or equipment that enables a television station to originate and broadcast or to receive and broadcast digital television signals and that was purchased to facilitate compliance with the telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States Code section 336) and the federal communications commission order issued April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does not exempt any of the following:

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

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

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

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

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

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

2. Janitorial equipment and hand tools.

3. Office equipment, furniture and supplies.

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

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

6. Shops, buildings, docks, depots and all other materials of whatever kind or character not specifically included as exempt.
7. Motors and pumps used in drip irrigation systems.

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

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

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

2. Revenues received from providing electricity, including ancillary services, electric distribution services, electric generation services, electric transmission services and other services related to providing electricity with respect to which the transaction privilege tax imposed under section 42-5063 has been paid.

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

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

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

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

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

1. "Aircraft" includes:

   (a) An airplane flight simulator that is approved by the federal aviation administration for use as a phase II or higher flight simulator under appendix H, 14 Code of Federal Regulations part 121.
Senate Amendments to H.B. 2111

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

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

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

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

42-5160. Liability for tax

Any person who uses, stores or consumes any tangible personal property upon which a tax is imposed by this article and upon which the tax has not been collected by a registered retailer or utility business shall pay the tax as provided by this article, but every retailer and utility business maintaining a place of business in this state and making sales of tangible personal property for storage, use or other consumption in this state shall collect the tax from the purchaser or user unless the property is exempt under this article or the purchaser or user pays the tax directly to the department as provided by section 42-5167. In the case of a manufactured building that is purchased from a dealer outside this state and brought into this state, any person who is hired to set up the manufactured building and who is licensed pursuant to title 41, chapter 16, article 4 shall collect the tax from the owner and remit the tax with any tax that is due under the prime contracting MANUFACTURED BUILDING DEALER classification PURSUANT TO SECTION 42-5075.

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

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

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

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

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

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

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

C. The governing body of an incorporated city or town and the department may enter into an agreement whereby:

1. The department will furnish part-time or full-time personnel to perform audit services within the boundaries of the city or town, as provided in the agreement.
2. THE INCORPORATED CITY OR TOWN THAT CONTRACTS FOR SERVICES PURSUANT TO THIS SECTION WILL PAY TO THE DEPARTMENT THE AMOUNT AGREED TO BE PAID FOR THESE SERVICES.

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

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

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

B. A city or town shall not:

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

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

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

42-6004. Exemption from municipal tax

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

1. Exhibition events in this state sponsored, conducted or operated by a nonprofit organization that is exempt from taxation under section
501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is associated with a major league baseball team or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

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

3. Sales of warranty or service contracts.

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

5. Interest on finance contracts.

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

7. Sales of food or other items purchased with United States department of agriculture food stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code section 1786) but may impose such a tax on other sales of food. If a city, town or special taxing district exempts sales of food from its tax or imposes a different transaction privilege rate on the gross proceeds of sales or gross income from sales of food and nonfood items, it shall use the definition of food prescribed by rule adopted by the department pursuant to section 42-5106.

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

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

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

9. The gross proceeds of sales or gross income retained by the Arizona exposition and state fair board from ride ticket sales at the annual Arizona state fair.
10. Through August 31, 2014, sales of Arizona centennial medallions by
the historical advisory commission.

11. The gross proceeds of sales or gross income derived from a
commercial lease in which a reciprocal insurer or a corporation leases real
property to an affiliated corporation. For the purposes of this paragraph:
(a) "Affiliated corporation" means a corporation that meets one of the
following conditions:
   (i) The corporation owns or controls at least eighty per cent of the
       lessor.
   (ii) The corporation is at least eighty per cent owned or controlled
        by the lessor.
   (iii) The corporation is at least eighty per cent owned or controlled
        by a corporation that also owns or controls at least eighty per cent of the
        lessor.
   (iv) The corporation is at least eighty per cent owned or controlled
        by a corporation that is at least eighty per cent owned or controlled by a
        reciprocal insurer.
   (b) For the purposes of subdivision (a) of this paragraph, ownership
       and control are determined by reference to the voting shares of a
       corporation.
   (c) "Reciprocal insurer" has the same meaning prescribed in section
       20-762.

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

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

C. A city, town or other taxing jurisdiction shall not levy a
transaction privilege, sales, gross receipts, use, franchise or other similar
tax or fee, however denominated, on gross proceeds of sales or gross income
derived from any of the following:
   1. A motor carrier's use on the public highways in this state if the
      motor carrier is subject to a fee prescribed in title 28, chapter 16,
      article 4.
2. Leasing, renting or licensing a motor vehicle subject to and upon which the fee has been paid under title 28, chapter 16, article 4.

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

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

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

6. Any amount attributable to development fees that are incurred in relation to the construction, development or improvement of real property and paid by the taxpayer as defined in the model city tax code or by a contractor providing services to the taxpayer. For the purposes of this paragraph:
   (a) The attributable amount shall not exceed the value of the development fees actually imposed.
   (b) The attributable amount is equal to the total amount of development fees paid by the taxpayer or by a contractor providing services to the taxpayer and the total development fees credited in exchange for the construction of, contribution to or dedication of real property for providing public infrastructure, public safety or other public services necessary to the development. The real property must be the subject of the development fees.
   (c) "Development fees" means fees imposed to offset capital costs of providing public infrastructure, public safety or other public services to a development and authorized pursuant to section 9-463.05, section 11-1102 or title 48 regardless of the jurisdiction to which the fees are paid.

6. CONSTRUCTION CONTRACTING, OWNER BUILDER SALES OR SPECULATIVE BUILDING. THE SALE OF TANGIBLE PERSONAL PROPERTY TO A CONTRACTOR, OWNER BUILDER OR SPECULATIVE BUILDER, AS DEFINED IN THE MODEL CITY TAX CODE, REGARDLESS OF WHETHER THE PROPERTY WILL BE INCORPORATED INTO A BUILDING OR STRUCTURE, IS CONSIDERED TO BE A SALE AT RETAIL AND IS SUBJECT TO TAXATION UNDER THE RETAIL SALES PROVISION OF THE MODEL CITY TAX CODE UNLESS THE CONTRACTOR PROVIDES TO THE RETAILER A CERTIFICATE THAT IS SIGNED BY THE OWNER
Senate Amendments to H.B. 2111

OF THE PROPERTY TO BE IMPROVED AND THAT STATES THAT THE PERSONAL PROPERTY PURCHASED BY THE CONTRACTOR WILL BE USED FOR A PURPOSE EXEMPT FROM THE RETAIL CLASSIFICATION AS PRESCRIBED IN THE MODEL CITY TAX CODE. IF A PERSON WHO IS IN THE BUSINESS OF SELLING TANGIBLE PERSONAL PROPERTY AT RETAIL ALSO ENGAGES IN BUSINESS AS A CONTRACTOR, OWNER BUILDING OR SPECULATIVE BUILDER AND REMOVES TANGIBLE PERSONAL PROPERTY FROM RETAIL STOCK FOR USE IN CONTRACTING, OWNER BUILDING OR SPECULATIVE BUILDING ACTIVITIES, THE PURCHASE PRICE OF THAT PERSONAL PROPERTY IS SUBJECT TO USE TAX.

7. SALES OF TANGIBLE PERSONAL PROPERTY TO A PERSON THAT IS SUBJECT TO TAX BY REASON OF BEING ENGAGED IN BUSINESS CLASSIFIED UNDER THE HIGHWAY, STREET AND BRIDGE CONSTRUCTION CLASSIFICATION UNDER SECTION 42-6020, OR TO A SUBCONTRACTOR WORKING UNDER THE CONTROL OF A HIGHWAY, STREET OR BRIDGE CONTRACTOR THAT IS SUBJECT TO TAX UNDER SECTION 42-6020, IF THE PROPERTY SOLD IS TO BE INCORPORATED OR FABRICATED BY THE PERSON INTO A HIGHWAY, STREET OR BRIDGE.

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

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

1. A manufacturer's cash rebate on the sales price of a motor vehicle if the buyer assigns the buyer's right in the rebate to the retailer.
2. The waste tire disposal fee imposed pursuant to section 44-1302.

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

Sec. 27. Section 42-6005, Arizona Revised Statutes, is amended to read:

42-6005. Unified audit committee; audits

A. The director shall establish a unified audit committee with cities and towns. The committee shall coordinate uniform audit functions. The committee shall publish uniform guidelines that interpret the model city tax
code and that apply to all cities and towns that have adopted the model city
tax code.

B. If the department intends to conduct an audit of a taxpayer, the
department shall notify the cities or towns in which the taxpayer conducts
business. A city or town may accept the audit as a joint audit and may elect
to have a representative participate in the audit provided that no more than
two city or town representatives in total may participate. If a city or town
does not accept the audit as a joint audit, the city or town may not conduct
an audit of the taxpayer for forty-two months from the close of the last tax
period covered by the audit unless an exception applies to that taxpayer
pursuant to section 42-2059. An audit conducted by a city or town serves as
a joint audit for all cities and towns that have taxing jurisdiction.

C. A taxpayer that conducts business in more than one jurisdiction may
allow a joint audit for all taxing jurisdictions. A taxpayer that does not allow a joint audit for all taxing jurisdictions is
subject to an audit by another jurisdiction at any time. If a joint audit is
performed by a city or town, this section shall not be construed to prohibit
the department from conducting any audit that does not violate the provisions
of section 42-2059.

D. When the state statutes and model city tax code are the same and
where the department has issued written guidance, the department's
interpretation is binding on cities and towns.

Sec. 28. Title 42, chapter 6, Arizona Revised Statutes, is amended by
adding article 1.1, to read:

ARTICLE 1.1. MUNICIPAL CONTRACTING EXCISE TAX

42-6020. Highway, street and bridge construction; definitions

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

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

1. THE GROSS PROCEEDS OF SALES OR GROSS INCOME RECEIVED FROM A
CONTRACT ENTERED INTO FOR THE CONSTRUCTION, ALTERATION, OR REPAIR OF ANY
HIGHWAY, STREET OR BRIDGE LOCATED WITHIN AN ACTIVE MILITARY REUSE ZONE AFTER
THE ZONE IS INITIALLY ESTABLISHED OR RENEWED UNDER SECTION 41-1531. TO BE
ELIGIBLE TO QUALIFY FOR THIS DEDUCTION, BEFORE BEGINNING WORK UNDER THE
CONTRACT, THE HIGHWAY, STREET OR BRIDGE CONTRACTOR MUST HAVE APPLIED FOR A
LETTER OF QUALIFICATION FROM THE DEPARTMENT OF REVENUE.

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

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

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

D. FOR THE PURPOSES OF THIS SECTION:
1. "CONSTRUCTION PHASE SERVICES" MEANS SERVICES FOR THE EXECUTION AND
COMPLETION OF ANY CONSTRUCTION, ALTERATION OR REPAIR OF A HIGHWAY, STREET OR
BRIDGE, INCLUDING THE FOLLOWING:
   (a) ADMINISTRATION OR SUPERVISION OF ANY CONSTRUCTION, ALTERATION OR
REPAIR OF A HIGHWAY, STREET OR BRIDGE, INCLUDING TEAM MANAGEMENT AND
COORDINATION, SCHEDULING, COST CONTROLS, SUBMITTAL PROCESS MANAGEMENT, FIELD
MANAGEMENT, SAFETY PROGRAM, CLOSE-OUT PROCESS AND WARRANTY PERIOD SERVICES.
   (b) ADMINISTRATION OR SUPERVISION OF ANY PUNCH LIST. FOR THE PURPOSES
OF THIS SUBDIVISION, "PUNCH LIST" MEANS MINOR ITEMS OF WORK PERFORMED AFTER
SUBSTANTIAL COMPLETION AND BEFORE FINAL COMPLETION OF THE PROJECT.
   (c) ADMINISTRATION OR SUPERVISION OF ANY WORK PERFORMED PURSUANT TO
CHANGE ORDERS. FOR THE PURPOSES OF THIS SUBDIVISION, "CHANGE ORDER" MEANS A
WRITTEN INSTRUMENT ISSUED AFTER EXECUTION OF A CONTRACT FOR THE CONSTRUCTION
OF A HIGHWAY, STREET OR BRIDGE, PROVIDING FOR ALL OF THE FOLLOWING:

(i) THE SCOPE OF CHANGE IN THE WORK.

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

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

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

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

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

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

(i) MASTER SCHEDULE UPDATES.

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

(iii) SITE REPORTS MADE ON A PERIODIC BASIS.

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

(v) IDENTIFICATION OF ANY HEALTH AND SAFETY ISSUES THAT HAVE ARisen IN
CONNECTION WITH THE CONSTRUCTION, ALTERATION OR REPAIR WORK.
(h) Preparation of daily logs of construction, alteration or repair work, including documentation of personnel, weather conditions and on-site occurrences.

(i) Preparation of any submittals or shop drawings used by the highway, street and bridge construction contractor to illustrate details of the construction, alteration or repair work.

(j) Administration or supervision of any other activities for which a highway, street or bridge construction contractor receives a certificate of payment or certificate for final payment based on the progress of construction, alteration or repair work performed on the project.

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

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

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

(c) Preparing drawings and specifications for architectural program documents, schematic design documents, design development documents, construction, alteration or repair documents or documents that identify the scope of or materials for the project.

(d) Preparing an initial schedule for the project, excluding the preparation of updates to the master schedule after construction, alteration or repair work has begun.

(e) Preparing preliminary estimates of costs of construction, alteration or repair work before completion of the final design of the project, including an estimate or schedule of values for any of the following:

(i) Labor, materials, machinery and equipment, tools, water, heat, utilities, transportation and other facilities and services used in the execution and completion of construction, alteration or repair work, regardless of whether they are temporary or permanent or whether they are incorporated in the construction, alteration or repair.

(ii) The cost of labor and materials to be furnished by the owner of the property.
(iii) any fee paid by the owner of the real property to the highway, street or bridge construction contractor pursuant to the contract for construction, alteration or repair work.

(iv) any bond and insurance premiums.

(v) any applicable taxes.

(vi) any contingency fees for the highway, street or bridge construction contractor that may be used before final completion of the project.

(f) reviewing and evaluating cost estimates and project documents to prepare recommendations on site use, site improvements, selection of materials, building systems and equipment, construction, alteration or repair feasibility, availability of materials and labor, local construction, alteration or repair activity as related to schedules and time requirements for construction, alteration or repair work.

(g) preparing the plan and procedures for selection of subcontractors, including any prequalifications of subcontractor candidates.

3. "highway, street or bridge contractor" means a contractor who holds a classification a license from the registrar of contractors and who supervises, performs or coordinates the construction, alteration or repair of a highway, street or bridge, including the contracting, if any, with any subcontractors.

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

42-6021. Residential and commercial contracting classification; definitions

a. the residential and commercial contracting classification is comprised of the business of residential and commercial contracting.

b. the tax base for the residential and commercial contracting classification is sixty-five percent of the gross proceeds of sales or gross income derived from the business. the following amounts shall be deducted from the gross proceeds of sales or gross income before computing the tax base:

1. the sales price of land, which shall not exceed the fair market value.
2. SALES AND INSTALLATION OF GROUNDWATER MEASURING DEVICES REQUIRED UNDER SECTION 45-604 AND GROUNDWATER MONITORING WELLS REQUIRED BY LAW, INCLUDING MONITORING WELLS INSTALLED FOR ACQUIRING INFORMATION FOR A PERMIT REQUIRED BY LAW.

3. THE GROSS PROCEEDS OF SALES OR GROSS INCOME RECEIVED FROM A CONTRACT ENTERED INTO FOR THE CONSTRUCTION, ALTERATION, REPAIR, ADDITION, SUBTRACTION, IMPROVEMENT, MOVEMENT, WRECKING OR DEMOLITION OF ANY BUILDING, RAILROAD, EXCAVATION, OR OTHER STRUCTURE, PROJECT, DEVELOPMENT OR IMPROVEMENT LOCATED IN A MILITARY REUSE ZONE FOR PROVIDING AVIATION OR AEROSPACE SERVICES OR FOR A MANUFACTURER, ASSEMBLER OR FABRICATOR OF AVIATION OR AEROSPACE PRODUCTS WITHIN AN ACTIVE MILITARY REUSE ZONE AFTER THE ZONE IS INITIALLY ESTABLISHED OR RENEWED UNDER SECTION 41-1531. TO BE ELIGIBLE TO QUALIFY FOR THIS DEDUCTION, BEFORE BEGINNING WORK UNDER THE CONTRACT, THE PRIME CONTRACTOR MUST HAVE APPLIED FOR A LETTER OF QUALIFICATION FROM THE DEPARTMENT OF REVENUE.

4. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A CONTRACT TO CONSTRUCT A QUALIFIED ENVIRONMENTAL TECHNOLOGY MANUFACTURING, PRODUCING OR PROCESSING FACILITY, AS DESCRIBED IN SECTION 41-1514.02, AND FROM SUBSEQUENT CONSTRUCTION AND INSTALLATION CONTRACTS THAT BEGIN WITHIN TEN YEARS AFTER THE START OF INITIAL CONSTRUCTION. TO QUALIFY FOR THIS DEDUCTION, BEFORE BEGINNING WORK UNDER THE CONTRACT, THE CONTRACTOR MUST OBTAIN A LETTER OF QUALIFICATION FROM THE DEPARTMENT OF REVENUE. THIS PARAGRAPH SHALL APPLY FOR TEN FULL CONSECUTIVE CALENDAR OR FISCAL YEARS AFTER THE START OF INITIAL CONSTRUCTION.

5. THE GROSS PROCEEDS OF SALES OR GROSS INCOME FROM A CONTRACT TO PROVIDE FOR ONE OR MORE OF THE FOLLOWING ACTIONS, OR A CONTRACT FOR SITE PREPARATION, CONSTRUCTING, FURNISHING OR INSTALLING MACHINERY, EQUIPMENT OR OTHER TANGIBLE PERSONAL PROPERTY, INCLUDING STRUCTURES NECESSARY TO PROTECT EXEMPT INCORPORATED MATERIALS OR INSTALLED MACHINERY OR EQUIPMENT, AND TANGIBLE PERSONAL PROPERTY INCORPORATED INTO THE PROJECT, TO PERFORM ONE OR MORE OF THE FOLLOWING ACTIONS IN RESPONSE TO A RELEASE OR SUSPECTED RELEASE OF A HAZARDOUS SUBSTANCE, POLLUTANT OR CONTAMINANT FROM A FACILITY TO THE ENVIRONMENT, UNLESS THE RELEASE WAS AUTHORIZED BY A PERMIT ISSUED BY A GOVERNMENTAL AUTHORITY:

   (a) ACTIONS TO MONITOR, ASSESS AND EVALUATE SUCH A RELEASE OR A SUSPECTED RELEASE.
(b) EXCAVATION, REMOVAL AND TRANSPORTATION OF CONTAMINATED SOIL AND
ITS TREATMENT OR DISPOSAL.
(c) TREATMENT OF CONTAMINATED SOIL BY VAPOR EXTRACTION, CHEMICAL OR
PHYSICAL STABILIZATION, SOIL WASHING OR BIOLOGICAL TREATMENT TO REDUCE THE
CONCENTRATION, TOXICITY OR MOBILITY OF A CONTAMINANT.
(d) PUMPING AND TREATMENT OR IN SITU TREATMENT OF CONTAMINATED
GROUNDWATER OR SURFACE WATER TO REDUCE THE CONCENTRATION OR TOXICITY OF A
CONTAMINANT.
(e) THE INSTALLATION OF STRUCTURES, SUCH AS CUTOFF WALLS OR CAPS, TO
CONTAIN CONTAMINANTS PRESENT IN GROUNDWATER OR SOIL AND PREVENT THEM FROM
REACHING A LOCATION WHERE THEY COULD ThreatEN HUMAN HEALTH OR WELFARE OR THE
ENVIRONMENT.
THIS PARAGRAPH DOES NOT INCLUDE ASBESTOS REMOVAL OR THE CONSTRUCTION OR USE
OF ANCILLARY STRUCTURES SUCH AS MAINTENANCE SHEDS, OFFICES OR STORAGE
FACILITIES FOR UNATTACHED EQUIPMENT, POLLUTION CONTROL EQUIPMENT, FACILITIES
OR OTHER CONTROL ITEMS REQUIRED OR TO BE USED BY A PERSON TO PREVENT OR
CONTROL CONTAMINATION BEFORE IT REACHES THE ENVIRONMENT.
6. THE GROSS PROCEEDS OF SALES OR GROSS INCOME THAT IS DERIVED FROM A
CONTRACT ENTERED INTO FOR THE INSTALLATION, ASSEMBLY, REPAIR OR MAINTENANCE
OF MACHINERY, EQUIPMENT OR OTHER TANGIBLE PERSONAL PROPERTY THAT IS DEDUCTED
FROM THE TAX BASE OF THE RETAIL CLASSIFICATION PURSUANT TO SECTION 42-5061,
SUBSECTION B, OR THAT IS EXEMPT FROM USE TAX PURSUANT TO SECTION 42-5159,
SUBSECTION B, AND THAT DOES NOT BECOME A PERMANENT ATTACHMENT TO A BUILDING,
HIGHWAY, ROAD, RAILROAD, EXCAVATION OR MANUFACTURED BUILDING OR OTHER
STRUCTURE, PROJECT, DEVELOPMENT OR IMPROVEMENT. IF THE OWNERSHIP OF THE
REALTY IS SEPARATE FROM THE OWNERSHIP OF THE MACHINERY, EQUIPMENT OR TANGIBLE
PERSONAL PROPERTY, THE DETERMINATION AS TO PERMANENT ATTACHMENT SHALL BE MADE
AS IF THE OWNERSHIP WERE THE SAME. THE DEDUCTION PROVIDED IN THIS PARAGRAPH
DOES NOT INCLUDE GROSS PROCEEDS OF SALES OR GROSS INCOME FROM THAT PORTION OF
ANY CONTRACTING ACTIVITY THAT CONSISTS OF THE DEVELOPMENT OF, OR MODIFICATION
TO, REAL PROPERTY IN ORDER TO FACILITATE THE INSTALLATION, ASSEMBLY, REPAIR,
MAINTENANCE OR REMOVAL OF MACHINERY, EQUIPMENT OR OTHER TANGIBLE PERSONAL
PROPERTY THAT IS DEDUCTED FROM THE TAX BASE OF THE RETAIL CLASSIFICATION
PURSUANT TO SECTION 42-5061, SUBSECTION B OR THAT IS EXEMPT FROM USE TAX
PURSUANT TO SECTION 42-5159, SUBSECTION B. FOR THE PURPOSES OF THIS
PARAGRAPH, "PERMANENT ATTACHMENT" MEANS AT LEAST ONE OF THE FOLLOWING:
Senate Amendments to H.B. 2111

(a) TO BE INCORPORATED INTO REAL PROPERTY.
(b) TO BECOME SO AFFIXED TO REAL PROPERTY THAT IT BECOMES A PART OF
THE REAL PROPERTY.
(c) TO BE SO ATTACHED TO REAL PROPERTY THAT REMOVAL WOULD CAUSE
SUBSTANTIAL DAMAGE TO THE REAL PROPERTY FROM WHICH IT IS REMOVED.

7. THE GROSS PROCEEDS OF SALES OR GROSS INCOME ATTRIBUTABLE TO THE
PURCHASE OF MACHINERY, EQUIPMENT OR OTHER TANGIBLE PERSONAL PROPERTY THAT IS
EXEMPT FROM OR DEDUCTIBLE FROM TRANSACTION PRIVILEGE AND USE TAX UNDER:
(a) SECTION 42-5061, SUBSECTION A, PARAGRAPH 25 OR 29.
(b) SECTION 42-5061, SUBSECTION B.
(c) SECTION 42-5159, SUBSECTION A, PARAGRAPH 13, SUBDIVISION (a), (b),
(c), (d), (e), (f), (i), (j) OR (l).
(d) SECTION 42-5159, SUBSECTION B.

8. THE GROSS PROCEEDS OF SALES OR GROSS INCOME RECEIVED FROM A
CONTRACT FOR THE CONSTRUCTION OF AN ENVIRONMENTALLY CONTROLLED FACILITY FOR
THE RAISING OF POULTRY FOR THE PRODUCTION OF EGGS AND THE SORTING, COOLING
AND PACKAGING OF EGGS.

9. THE GROSS PROCEEDS OF SALES OR GROSS INCOME THAT IS DERIVED FROM A
CONTRACT ENTERED INTO WITH A PERSON WHO IS ENGAGED IN THE COMMERCIAL
PRODUCTION OF LIVESTOCK, LIVESTOCK PRODUCTS OR AGRICULTURAL, HORTICULTURAL,
VITICULTURAL OR FLORICULTURAL CROPS OR PRODUCTS IN THIS STATE FOR THE
CONSTRUCTION, ALTERATION, REPAIR, IMPROVEMENT, MOVEMENT, WRECKING OR
DEMOLITION OR ADDITION TO OR SUBTRACTION FROM ANY BUILDING, HIGHWAY, ROAD,
EXCAVATION, MANUFACTURED BUILDING OR OTHER STRUCTURE, PROJECT, DEVELOPMENT OR
IMPROVEMENT USED DIRECTLY AND PRIMARILY TO PREVENT, MONITOR, CONTROL OR
REDUCE AIR, WATER OR LAND POLLUTION.

10. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM THE
INSTALLATION, ASSEMBLY, REPAIR OR MAINTENANCE OF CLEAN ROOMS THAT ARE
DEDUCTED FROM THE TAX BASE OF THE RETAIL CLASSIFICATION PURSUANT TO SECTION
42-5061, SUBSECTION B, PARAGRAPH 16.

11. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A CONTRACT
ENTERED INTO FOR THE CONSTRUCTION OF A RESIDENTIAL APARTMENT HOUSING FACILITY
THAT QUALIFIES FOR A FEDERAL HOUSING SUBSIDY FOR LOW INCOME PERSONS OVER
SIXTY-TWO YEARS OF AGE AND THAT IS OWNED BY A NONPROFIT CHARITABLE
ORGANIZATION THAT HAS QUALIFIED UNDER SECTION 501(c)(3) OF THE INTERNAL
REVENUE CODE.
12. For taxable periods beginning from and after December 31, 1996 and ending before January 1, 2017, the gross proceeds of sales or gross income derived from a contract to provide and install a solar energy device. The contractor shall register with the department as a solar energy contractor. By registering, the contractor acknowledges that it will make its books and records relating to sales of solar energy devices available to the department for examination.

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

14. The gross proceeds of sales or gross income derived from a contract entered into for the construction of a domestic violence shelter that is owned and operated by a nonprofit charitable organization that has qualified under Section 501(c)(3) of the Internal Revenue Code.

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

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

17. The gross proceeds of sales or gross income received from a contract for the construction of any building, railroad or other structure, project, development or improvement owned by a qualified business under Section 41-1516 for harvesting or processing qualifying forest products removed from qualifying projects as defined in Section 41-1516 if actual construction begins before January 1, 2024. To qualify for this deduction, the residential or commercial contractor must obtain a letter of qualification from the Arizona Commerce Authority before beginning work under the contract.

18. Any amount of the gross proceeds of sales or gross income attributable to development fees that are incurred in relation to a contract for construction, development or improvement of real property and that are paid by a residential or commercial contractor or subcontractor. For the purposes of this paragraph:
Senate Amendments to H.B. 2111

(a) THE ATTRIBUTABLE AMOUNT SHALL NOT EXCEED THE VALUE OF THE DEVELOPMENT FEES ACTUALLY IMPOSED.

(b) THE ATTRIBUTABLE AMOUNT IS EQUAL TO THE TOTAL AMOUNT OF DEVELOPMENT FEES PAID BY THE RESIDENTIAL OR COMMERCIAL CONTRACTOR OR SUBCONTRACTOR, AND THE TOTAL DEVELOPMENT FEES CREDITED IN EXCHANGE FOR THE CONSTRUCTION OF, CONTRIBUTION TO OR DEDICATION OF REAL PROPERTY FOR PROVIDING PUBLIC INFRASTRUCTURE, PUBLIC SAFETY OR OTHER PUBLIC SERVICES NECESSARY TO THE DEVELOPMENT. THE REAL PROPERTY MUST BE THE SUBJECT OF THE DEVELOPMENT FEES.

(c) "DEVELOPMENT FEES" MEANS FEES IMPOSED TO OFFSET CAPITAL COSTS OF PROVIDING PUBLIC INFRASTRUCTURE, PUBLIC SAFETY OR OTHER PUBLIC SERVICES TO A DEVELOPMENT AND AUTHORIZED PURSUANT TO SECTION 9-463.05, SECTION 11-1102 OR TITLE 48 REGARDLESS OF THE JURISDICTION TO WHICH THE FEES ARE PAID.

C. ENTITLEMENT TO THE DEDUCTION PURSUANT TO SUBSECTION B, PARAGRAPH 6 OF THIS SECTION IS SUBJECT TO THE FOLLOWING PROVISIONS:

1. A RESIDENTIAL OR COMMERCIAL CONTRACTOR MAY ESTABLISH ENTITLEMENT TO THE DEDUCTION BY BOTH:

   (a) MARKING THE INVOICE FOR THE TRANSACTION TO INDICATE THAT THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM THE TRANSACTION WAS DEDUCTED FROM THE BASE.


   2. A PERSON WHO DOES NOT COMPLY WITH PARAGRAPH 1 OF THIS SUBSECTION MAY ESTABLISH ENTITLEMENT TO THE DEDUCTION BY PRESENTING FACTS NECESSARY TO SUPPORT THE ENTITLEMENT, BUT THE BURDEN OF PROOF IS ON THAT PERSON.

   3. THE DEPARTMENT MAY PRESCRIBE A FORM FOR THE CERTIFICATE DESCRIBED IN PARAGRAPH 1, SUBDIVISION (b) OF THIS SUBSECTION. THE DEPARTMENT MAY ALSO ADOPT RULES THAT DESCRIBE THE TRANSACTIONS WITH RESPECT TO WHICH A PERSON IS NOT ENTITLED TO RELY SOLELY ON THE INFORMATION CONTAINED IN THE CERTIFICATE PROVIDED IN PARAGRAPH 1, SUBDIVISION (b) OF THIS SUBSECTION BUT MUST INSTEAD
Senate Amendments to H.B. 2111

1. Obtain such additional information as required in order to be entitled to the deduction.

4. If a residential or commercial contractor is entitled to a deduction by complying with paragraph 1 of this subsection, the department may require the customer who caused the execution of the certificate to establish the accuracy and completeness of the information required to be contained in the certificate that would entitle the residential or commercial contractor to the deduction. If the customer cannot establish the accuracy and completeness of the information, the customer is liable in an amount equal to any tax, penalty and interest that the residential or commercial contractor would have been required to pay under article 1 of this chapter if the residential or commercial contractor had not complied with paragraph 1 of this subsection.

D. Subcontractors or others who perform services in respect to any improvement, building, railroad, excavation or other structure, project, development or improvement are not subject to tax if they can demonstrate that the job was within the control of a residential or commercial contractor or contractors and that the residential or commercial contractor is liable for the tax on the gross income, gross proceeds of sales or gross receipts attributable to the job and from which the subcontractors or others were paid.

E. Amounts received by a contractor for a project are excluded from the contractor's gross proceeds of sales or gross income derived from the business if the person who hired the contractor executes and provides a certificate to the contractor stating that the person providing the certificate is a residential or commercial contractor and is liable for the tax under this article. The department shall prescribe the form of the certificate. If the contractor has reason to believe that the information contained on the certificate is erroneous or incomplete, the department may disregard the certificate. If the person who provides the certificate is not liable for the tax as a residential or commercial contractor, that person is nevertheless deemed to be the residential or commercial contractor in lieu of the contractor and is subject to the tax under this section on the gross receipts or gross proceeds received by the contractor.

F. Every person engaging or continuing in this state in the business of residential or commercial contracting shall present to the customer of such residential or commercial contracting a written receipt of the gross
INCOME OR GROSS PROCEEDS OF SALES FROM SUCH ACTIVITY AND SHALL SEPARATELY STATE THE TAXES TO BE PAID PURSUANT TO THIS SECTION.

G. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A CONTRACT FOR LAWN MAINTENANCE SERVICES ARE NOT SUBJECT TO TAX UNDER THIS SECTION IF THE CONTRACT DOES NOT INCLUDE LANDSCAPING ACTIVITIES. LAWN MAINTENANCE SERVICE IS A SERVICE PURSUANT TO SECTION 42-5061, SUBSECTION A, PARAGRAPH 1, AND INCLUDES LAWN MOWING AND EDGING, WEEDING, REPAIRING SPRINKLER HEADS OR DRIP IRRIGATION HEADS, SEASONAL REPLACEMENT OF FLOWERS, REFRESHING GRAVEL, LAWNS DETHATCHING, SEEDING WINTER LAWNS, LEAF AND DEBRIS COLLECTION AND REMOVAL, TREE OR SHRUB PRUNING OR CLIPPING, GARDEN AND GRAVEL RAKING AND APPLYING PESTICIDES, AS DEFINED IN SECTION 3-361, AND FERTILIZER MATERIALS, AS DEFINED IN SECTION 3-262.

H. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM LANDSCAPING ACTIVITIES ARE SUBJECT TO TAX UNDER THIS SECTION. LANDSCAPING INCLUDES INSTALLING LAWNS, GRADING OR LEVELING GROUND, INSTALLING GRAVEL OR BOULDERS, PLANTING TREES AND OTHER PLANTS, FELLING TREES, REMOVING OR MULCHING TREE STUMPS, REMOVING OTHER IMBEDDED PLANTS, BUILDING OR MODIFYING IRRIGATION BERMS, REPAIRING SPRINKLER OR WATERING SYSTEMS, INSTALLING RAILROAD TIES AND INSTALLING UNDERGROUND SPRINKLER OR WATERING SYSTEMS.

I. THE PORTION OF GROSS PROCEEDS OF SALES OR GROSS INCOME ATTRIBUTABLE TO THE ACTUAL DIRECT COSTS OF PROVIDING ARCHITECTURAL OR ENGINEERING SERVICES THAT ARE INCORPORATED IN A CONTRACT IS NOT SUBJECT TO TAX UNDER THIS SECTION. FOR THE PURPOSES OF THIS SUBSECTION, "DIRECT COSTS" MEANS THE PORTION OF THE ACTUAL COSTS THAT ARE DIRECTLY EXPENDED IN PROVIDING ARCHITECTURAL OR ENGINEERING SERVICES.

J. OPERATING A LANDFILL OR A SOLID WASTE DISPOSAL FACILITY IS NOT SUBJECT TO TAXATION UNDER THIS SECTION, INCLUDING FILLING, COMPACTING AND CREATING VEHICLE ACCESS TO AND FROM CELL SITES WITHIN THE LANDFILL. CONSTRUCTING ROADS TO A LANDFILL OR SOLID WASTE DISPOSAL FACILITY AND CONSTRUCTING CELLS WITHIN A LANDFILL OR SOLID WASTE DISPOSAL FACILITY MAY BE DEEMED PRIME CONTRACTING UNDER THIS SECTION.

K. THE GROSS PROCEEDS OF SALES OR GROSS INCOME ATTRIBUTABLE TO A SEPARATE, WRITTEN DESIGN PHASE SERVICES CONTRACT OR PROFESSIONAL SERVICES CONTRACT, EXECUTED BEFORE MODIFICATION BEGINS, IS NOT SUBJECT TO TAX UNDER THIS SECTION, REGARDLESS OF WHETHER THE SERVICES ARE PROVIDED SEQUENTIAL TO OR CONCURRENT WITH RESIDENTIAL OR COMMERCIAL CONTRACTING ACTIVITIES THAT ARE SUBJECT TO TAX UNDER THIS SECTION. THIS SUBSECTION DOES NOT INCLUDE THE
GROSS PROCEEDS OF SALES OR GROSS INCOME ATTRIBUTABLE TO CONSTRUCTION PHASE SERVICES. FOR THE PURPOSES OF THIS SUBSECTION:

1. "CONSTRUCTION PHASE SERVICES" MEANS SERVICES FOR THE EXECUTION AND COMPLETION OF ANY MODIFICATION, INCLUDING THE FOLLOWING:

(a) ADMINISTRATION OR SUPERVISION OF ANY MODIFICATION PERFORMED ON THE PROJECT, INCLUDING TEAM MANAGEMENT AND COORDINATION, SCHEDULING, COST CONTROLS, SUBMITTAL PROCESS MANAGEMENT, FIELD MANAGEMENT, SAFETY PROGRAM, CLOSE-OUT PROCESS AND WARRANTY PERIOD SERVICES.

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

(c) ADMINISTRATION OR SUPERVISION OF ANY MODIFICATION PERFORMED PURSUANT TO CHANGE ORDERS. FOR THE PURPOSES OF THIS SUBDIVISION, "CHANGE ORDER" MEANS A WRITTEN INSTRUMENT ISSUED AFTER EXECUTION OF A CONTRACT FOR MODIFICATION WORK, PROVIDING FOR ALL OF THE FOLLOWING:

(i) THE SCOPE OF A CHANGE IN THE MODIFICATION WORK, CONTRACT FOR MODIFICATION WORK OR OTHER CONTRACT DOCUMENTS.

(ii) THE AMOUNT OF AN ADJUSTMENT, IF ANY, TO THE GUARANTEED MAXIMUM PRICE AS SET IN THE CONTRACT FOR MODIFICATION WORK. FOR THE PURPOSES OF THIS ITEM, "GUARANTEED MAXIMUM PRICE" MEANS THE AMOUNT GUARANTEED TO BE THE MAXIMUM AMOUNT DUE TO A RESIDENTIAL OR COMMERCIAL CONTRACTOR FOR THE PERFORMANCE OF ALL MODIFICATION WORK FOR THE PROJECT.

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

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

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

(f) PREPARATION OF ANY MANUALS, WARRANTIES, AS-BUILT DRAWINGS, SPARES OR OTHER ITEMS THE RESIDENTIAL OR COMMERCIAL CONTRACTOR MUST FURNISH PURSUANT TO THE CONTRACT FOR MODIFICATION WORK. FOR THE PURPOSES OF THIS SUBDIVISION, "AS-BUILT DRAWING" MEANS A DRAWING THAT INDICATES FIELD CHANGES MADE TO ADAPT
TO FIELD CONDITIONS, FIELD CHANGES RESULTING FROM CHANGE ORDERS OR BURIED AND CONCEALED INSTALLATION OF PIPING, CONDUIT AND UTILITY SERVICES.

(g) PREPARATION OF STATUS REPORTS AFTER MODIFICATION WORK HAS BEGUN DETAILING THE PROGRESS OF WORK PERFORMED, INCLUDING PREPARATION OF ANY OF THE FOLLOWING:

(i) ASTER SCHEDULE UPDATES.
(ii) MODIFICATION WORK CASH FLOW PROJECTION UPDATES.
(iii) SITE REPORTS MADE ON A PERIODIC BASIS.
(iv) IDENTIFICATION OF DISCREPANCIES, CONFLICTS OR AMBIGUITIES IN MODIFICATION WORK DOCUMENTS THAT REQUIRE RESOLUTION.
(v) IDENTIFICATION OF ANY HEALTH AND SAFETY ISSUES THAT HAVE ARisen IN CONNECTION WITH THE MODIFICATION WORK.

(h) PREPARATION OF DAILY LOGS OF MODIFICATION WORK, INCLUDING DOCUMENTATION OF PERSONNEL, WEATHER CONDITIONS AND ON-SITE OCCURRENCES.

(i) PREPARATION OF ANY SUBMITTALS OR SHOP DRAWINGS USED BY THE RESIDENTIAL OR COMMERCIAL CONTRACTOR TO ILLUSTRATE DETAILS OF THE MODIFICATION WORK PERFORMED.

(j) ADMINISTRATION OR SUPERVISION OF ANY OTHER ACTIVITIES FOR WHICH A RESIDENTIAL OR COMMERCIAL CONTRACTOR RECEIVES A CERTIFICATE FOR PAYMENT OR CERTIFICATE FOR FINAL PAYMENT BASED ON THE PROGRESS OF MODIFICATION WORK PERFORMED ON THE PROJECT.

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

(a) EVALUATING SURVEYS, REPORTS, TEST RESULTS OR ANY OTHER INFORMATION ON-SITE CONDITIONS FOR THE PROJECT, INCLUDING PHYSICAL CHARACTERISTICS, LEGAL LIMITATIONS AND UTILITY LOCATIONS FOR THE SITE.
(b) EVALUATING ANY CRITERIA OR PROGRAMMING OBJECTIVES FOR THE PROJECT TO ASCERTAIN REQUIREMENTS FOR THE PROJECT, SUCH AS PHYSICAL REQUIREMENTS AFFECTING COST OR PROJECTED UTILIZATION OF THE PROJECT.
(c) PREPARING DRAWINGS AND SPECIFICATIONS FOR ARCHITECTURAL PROGRAM DOCUMENTS, SCHEMATIC DESIGN DOCUMENTS, DESIGN DEVELOPMENT DOCUMENTS, MODIFICATION WORK DOCUMENTS OR DOCUMENTS THAT IDENTIFY THE SCOPE OF OR MATERIALS FOR THE PROJECT.
(d) PREPARING AN INITIAL SCHEDULE FOR THE PROJECT, EXCLUDING THE PREPARATION OF UPDATES TO THE MASTER SCHEDULE AFTER MODIFICATION WORK HAS BEGUN.
(e) PREPARING PRELIMINARY ESTIMATES OF COSTS OF MODIFICATION WORK BEFORE COMPLETION OF THE FINAL DESIGN OF THE PROJECT, INCLUDING AN ESTIMATE OR SCHEDULE OF VALUES FOR ANY OF THE FOLLOWING:

(i) LABOR, MATERIALS, MACHINERY AND EQUIPMENT, TOOLS, WATER, HEAT, UTILITIES, TRANSPORTATION AND OTHER FACILITIES AND SERVICES USED IN THE EXECUTION AND COMPLETION OF MODIFICATION WORK, REGARDLESS OF WHETHER THEY ARE TEMPORARY OR PERMANENT OR WHETHER THEY ARE INCORPORATED IN THE MODIFICATIONS.

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

(iii) THE COST OF ANY EQUIPMENT OF THE OWNER OF THE REAL PROPERTY TO BE ASSIGNED BY THE OWNER TO THE RESIDENTIAL OR COMMERCIAL CONTRACTOR.

(iv) THE COST OF ANY LABOR FOR INSTALLATION OF EQUIPMENT SEPARATELY PROVIDED BY THE OWNER OF THE REAL PROPERTY THAT HAS BEEN DESIGNED, SPECIFIED, SELECTED OR SPECIFICALLY PROVIDED FOR IN ANY DESIGN DOCUMENT FOR THE PROJECT.

(v) ANY FEE PAID BY THE OWNER OF THE REAL PROPERTY TO THE RESIDENTIAL OR COMMERCIAL CONTRACTOR PURSUANT TO THE CONTRACT FOR MODIFICATION WORK.

(vi) ANY BOND AND INSURANCE PREMIUMS.

(vii) ANY APPLICABLE TAXES.

(viii) ANY CONTINGENCY FEES FOR THE RESIDENTIAL OR COMMERCIAL CONTRACTOR THAT MAY BE USED BEFORE FINAL COMPLETION OF THE PROJECT.

(f) REVIEWING AND EVALUATING COST ESTIMATES AND PROJECT DOCUMENTS TO PREPARE RECOMMENDATIONS ON SITE USE, SITE IMPROVEMENTS, SELECTION OF MATERIALS, BUILDING SYSTEMS AND EQUIPMENT, MODIFICATION FEASIBILITY, AVAILABILITY OF MATERIALS AND LABOR, LOCAL MODIFICATION ACTIVITY AS RELATED TO SCHEDULES AND TIME REQUIREMENTS FOR MODIFICATION WORK.

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

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

L. NOTWITHSTANDING SUBSECTION M, PARAGRAPH 6 OF THIS SECTION, A PERSON OWNING REAL PROPERTY WHO ENTERS INTO A CONTRACT FOR SALE OF THE REAL PROPERTY, WHO IS RESPONSIBLE TO THE NEW OWNER OF THE PROPERTY FOR MODIFICATIONS MADE TO THE PROPERTY IN THE PERIOD SUBSEQUENT TO THE TRANSFER OF TITLE AND WHO RECEIVES A CONSIDERATION FOR THE MODIFICATIONS IS CONSIDERED
A residential or commercial contractor solely for purposes of taxing the gross proceeds of sale or gross income received for the modifications made subsequent to the transfer of title. The original owner's gross proceeds of sale or gross income received for the modifications shall be determined according to the following methodology:

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

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

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

4. The tax base of the original owner is computed in the same manner as a residential or commercial contractor under this section.

M. For the purposes of this section:

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

2. "Contractor" is synonymous with the term "builder" and means any person or organization that undertakes to or offers to undertake to, or purports to have the capacity to undertake to, or submits a bid to, or does personally or by or through others, modify any building, highway, road, railroad, excavation, manufactured building or other structure, project, development or improvement, or to do any part of such a project, including
THE ERECTION OF SCAFFOLDING OR OTHER STRUCTURE OR WORKS IN CONNECTION WITH
SUCH A PROJECT, AND INCLUDES SUBCONTRACTORS AND SPECIALTY CONTRACTORS. FOR
ALL PURPOSES OF TAXATION OR DEDUCTION, THIS DEFINITION SHALL GOVERN WITHOUT
REGARD TO WHETHER OR NOT SUCH CONTRACTOR IS ACTING IN FULFILLMENT OF A
CONTRACT.

3. "MODIFICATION" MEANS CONSTRUCTION, ALTERATION, REPAIR, ADDITION,
SUBTRACTION, IMPROVEMENT, MOVEMENT, WRECKAGE OR DEMOLITION.

4. "MODIFY" MEANS TO CONSTRUCT, ALTER, REPAIR, ADD TO, SUBTRACT FROM,
IMPROVE, MOVE, WRECK OR DEMOLISH.

5. "RESIDENTIAL OR COMMERCIAL CONTRACTING" MEANS ENGAGING IN BUSINESS
AS A RESIDENTIAL OR COMMERCIAL CONTRACTOR.

6. "RESIDENTIAL OR COMMERCIAL CONTRACTOR" MEANS A CONTRACTOR WHO HOLDS
A RESIDENTIAL OR COMMERCIAL CONTRACTING CLASSIFICATION LICENSE FROM THE
ARIZONA REGISTRAR AND WHO SUPERVISES, PERFORMS OR COORDINATES THE
MODIFICATION OF ANY BUILDING, RAILROAD, EXCAVATION, OR OTHER STRUCTURE,
PROJECT, DEVELOPMENT OR IMPROVEMENT INCLUDING THE CONTRACTING, IF ANY, WITH
ANY SUBCONTRACTORS OR SPECIALTY CONTRACTORS AND WHO IS RESPONSIBLE FOR THE
COMPLETION OF THE CONTRACT. EXCEPT AS PROVIDED IN SUBSECTIONS E AND L OF
THIS SECTION, A PERSON WHO OWNS REAL PROPERTY, WHO ENGAGES ONE OR MORE
CONTRACTORS TO MODIFY THAT REAL PROPERTY AND WHO DOES NOT ITSELF MODIFY THAT
REAL PROPERTY IS NOT A RESIDENTIAL OR COMMERCIAL CONTRACTOR WITHIN THE
MEANING OF THIS PARAGRAPH REGARDLESS OF THE EXISTENCE OF A CONTRACT FOR SALE
OR THE SUBSEQUENT SALE OF THAT REAL PROPERTY.

Sec. 29. Section 42-6102, Arizona Revised Statutes, is amended to
read:

42-6102. Administration

A. Unless the context otherwise requires, chapter 5, article 1 of this
title governs the administration of the taxes imposed by this article, except
that:

1. A separate license is not required for the taxes imposed by this
article, and the taxes due under this article shall be included, reported and
paid with the transaction privilege tax.

2. A separate bond is not required of employees of the department in
administering this article.

3. The taxes imposed by this article may be included without
segregation in any notice and lien filed for unpaid transaction privilege
taxes.
B. The taxes imposed pursuant to this article do not apply to the gross proceeds of sales or gross income derived pursuant to contracts entered into before the date of the election to authorize the tax by prime contractors and owner builders HIGHWAY, STREET AND BRIDGE CONSTRUCTION CONTRACTORS who are classified under sections 42-5075 and 42-5076 SECTION 42-5078 unless the contract contains a provision which entitles the contractor to recover the amount of the tax from a purchaser. In order to qualify for this exemption the contractor shall provide sufficient documentation, in a manner and form prescribed by the department, to verify that a contract was entered into before the date of the election to authorize the tax.

Sec. 30. Section 42-6105, Arizona Revised Statutes, is amended to read:

42-6105. County transportation excise tax; counties with population of one million two hundred thousand or more persons

A. If approved by the qualified electors voting at a countywide election, a county with a population of one million two hundred thousand or more persons shall levy and the department shall collect a tax as provided by this section, in addition to all other taxes.

B. The tax shall be levied and collected:

1. At a rate of not more than ten per cent of the transaction privilege tax rate prescribed by section 42-5010, subsection A applying, as of January 1, 1990, to each person engaging or continuing in the county in a business taxed under chapter 5, article 1 of this title.

2. In the case of persons subject to the tax imposed under section 42-5352, subsection A, At a rate of not more than .305 cents per gallon of jet fuel sold TEN PER CENT OF THE RATE PRESCRIBED BY SECTION 42-5352, SUBSECTION A.

3. On the use or consumption of electricity or natural gas by retail electric or natural gas customers in the county who are subject to use tax under section 42-5155, at a rate equal to the transaction privilege tax rate under paragraph 1 of this subsection applying to persons engaging or continuing in the county in the utilities transaction privilege tax classification.

C. The tax levied under this section shall be in effect for a term of twenty years.
D. The net revenues collected under this section shall be distributed and deposited as follows for use consistent with the regional transportation plan adopted under title 28, chapter 17, article 1:

1. 56.2 per cent to the regional area road fund pursuant to section 28-6303 for freeways and other routes in the state highway system, including capital expense and maintenance.

2. 10.5 per cent to the regional area road fund pursuant to section 28-6303 for major arterial streets and intersection improvements, including capital expense and implementation studies.

3. 33.3 per cent to the public transportation fund pursuant to section 48-5103 for:
   (a) Capital costs, maintenance and operation of public transportation classifications.
   (b) Capital costs and utility relocation costs associated with a light rail public transit system.

Sec. 31. Section 42-6106, Arizona Revised Statutes, is amended to read:

42-6106. County transportation excise tax
A. If approved by the qualified electors voting at a countywide election, the regional transportation authority in any county shall levy and the department shall collect a transportation excise tax up to the rate authorized by this section in addition to all other taxes.

B. The tax shall be levied and collected:

1. At a rate of not more than ten per cent of the transaction privilege tax rate prescribed by section 42-5010, subsection A in effect on January 1, 1990 to each person engaging or continuing in the county in a business taxed under chapter 5, article 1 of this title.

2. In the case of persons subject to the tax imposed under section 42-5352, subsection A, at a rate of not more than .305 cents per gallon of jet fuel sold TEN PER CENT OF THE RATE PRESCRIBED BY SECTION 42-5352, SUBSECTION A.

3. On the use or consumption of electricity or natural gas by retail electric or natural gas customers in the county who are subject to use tax under section 42-5155, at a rate equal to the transaction privilege tax rate under paragraph 1 applying to persons engaging or continuing in the county in the utilities transaction privilege tax classification.
C. Any subsequent reduction in the transaction privilege tax rate prescribed by chapter 5, article 1 of this title shall not reduce the tax that is approved and collected as prescribed in this section. The department shall collect the tax at a variable rate if the variable rate is specified in the ballot proposition. The department shall collect the tax at a modified rate if approved by a majority of the qualified electors voting.

D. The net revenues collected under this section:

1. In counties with a population exceeding four hundred thousand persons, shall be deposited in the regional transportation fund pursuant to section 48-5307.

2. In counties with a population of four hundred thousand or fewer persons, shall be deposited in the public transportation authority fund pursuant to section 28-9142 or the regional transportation fund pursuant to section 48-5307 or shall be allocated between both funds.

E. The tax shall be levied under this section beginning January 1 or July 1, whichever date occurs first after approval by the voters, and may be in effect for a period of not more than twenty years.

Sec. 32. Section 42-6107, Arizona Revised Statutes, is amended to read:

42-6107. County transportation excise tax for roads

A. If a majority of the qualified electors voting at a countywide special election, or a majority of the qualified electors voting on the ballot proposition at a general election, approves the transportation excise tax, the county shall levy and the department shall collect a tax:

1. At a rate of not more than ten per cent of the transaction privilege tax rate as prescribed by section 42-5010, subsection A applying, as of January 1, 1990, to each person engaging or continuing in the county in a business taxed under chapter 5, article 1 of this title.

2. In the case of persons subject to the tax imposed under section 42-5352, subsection A, at a rate of not more than .305 cents per gallon of jet fuel sold TEN PER CENT OF THE RATE PRESCRIBED BY SECTION 42-5352, SUBSECTION A.

3. On the use or consumption of electricity or natural gas by retail electric or natural gas customers in the county who are subject to use tax under section 42-5155, at a rate equal to the transaction privilege tax rate under paragraph 1 applying to persons engaging or continuing in the county in the utilities transaction privilege tax classification. If a majority of the
qualified electors in the county approved the transportation excise tax under this section before 1998, a tax under this paragraph may be approved by resolution adopted by a majority of the board of supervisors.

B. The net revenues collected under this section within a county shall be deposited in the county's regional area road fund pursuant to title 28, chapter 17, article 3.

C. The tax shall be levied under this section beginning January 1 or July 1, whichever date occurs first after approval by the voters, and may be in effect for a period of not more than twenty years.

Sec. 33. Title 42, chapter 6, article 3, Arizona Revised Statutes, is amended by adding section 42-6113, to read:

42-6113. County use tax

A. If a county levies one or more excise taxes pursuant to this article on the effective date of this section and if approved by the qualified electors voting at a county-wide election, a county may levy and, if levied, the department shall collect an excise tax on the storage, use or consumption in the county of tangible personal property purchased from a retailer, as a percentage of the sales price. The tax levied pursuant to this subsection shall be at a rate equal to the sum of the rates of all the excise taxes levied by the county on the effective date of this section.

B. If, after the effective date of this section, a county seeks to levy an excise tax pursuant to this article, the county shall include in the levy an excise tax at the same rate on the storage, use or consumption in the county of tangible personal property purchased from a retailer.

Sec. 34. Section 43-1072.01, Arizona Revised Statutes, is amended to read:

43-1072.01. Credit for increased excise taxes paid

A. Subject to the conditions prescribed by this section and if approved by the qualified electors voting at a statewide general election, for tax taxable years beginning from and after December 31, 2000 a credit is allowed against the taxes imposed by this chapter for a taxable year for a taxpayer who is not claimed as a dependent by any other taxpayer and whose federal adjusted gross income is:

1. Twenty-five thousand dollars or less for a married couple or a single person who is a head of a household.

2. Twelve thousand five hundred dollars or less for a single person or a married person filing separately.
B. The credit is considered to be in mitigation of increased tax rates pursuant to section 42-5010, subsection G and section 42-5155, subsection D–E.

C. The amount of the credit shall not exceed twenty-five dollars for each person who is a resident of this state and for whom a personal or dependent exemption is allowed with respect to the taxpayer pursuant to section 43-1023, subsection B, paragraph 1 and section 43-1043, but not more than one hundred dollars for all persons in the taxpayer's household, as defined in section 43-1072.

D. If the allowable amount of the credit exceeds the income taxes otherwise due on the claimant's income, the amount of the claim not used as an offset against income taxes shall be paid in the same manner as a refund granted under section 42-1118. Refunds made pursuant to this subsection are subject to setoff under section 42-1122.

E. The department shall make available suitable forms with instructions for claimants. Claimants who certify on the prescribed form that they have no income tax liability for the taxable year and who do not meet the filing requirements of section 43-301 are not required to file an individual income tax return. The claim shall be in a form prescribed by the department.

F. For taxable years beginning from and after December 31, 2002, a person who is sentenced for at least sixty days of the taxable year to the custody of the federal bureau of prisons, the state department of corrections or a county jail is not eligible to claim a credit pursuant to this section.

Sec. 35. Section 44-1263, Arizona Revised Statutes, is amended to read:

44-1263. Inability to conform motor vehicle to express warranty; replacement of vehicle or refund of monies; affirmative defenses; tax refund

A. If the manufacturer, its agents or its authorized dealers are unable to conform the motor vehicle to any applicable express warranty by repairing or correcting any defect or condition which substantially impairs the use and value of the motor vehicle to the consumer after a reasonable number of attempts, the manufacturer shall replace the motor vehicle with a new motor vehicle or accept return of the motor vehicle from the consumer and refund to the consumer the full purchase price, including all collateral charges, less a reasonable allowance for the consumer's use of
the vehicle. The manufacturer shall make refunds to the consumer and
liенholder, if any, as their interests appear. A reasonable allowance for
use is that amount directly attributable to use by the consumer before his
first written report of the nonconformity to the manufacturer, agent or
dealer and during any subsequent period when the vehicle is not out of
service by reason of repair.

B. It is an affirmative defense to any claim under this article that
either:

1. An alleged nonconformity does not substantially impair the use and
market value of the motor vehicle.

2. A nonconformity is the result of abuse, neglect or unauthorized
modifications or alterations of the motor vehicle.

C. In the case of taxes paid pursuant to title 42, chapter 5, if the
manufacturer:

1. Accepts return of a motor vehicle from a consumer without replacing
the motor vehicle, the manufacturer shall refund the amount of tax attributed
to the sale of the vehicle to that consumer.

2. Replaces a motor vehicle with a new motor vehicle of lesser value,
the manufacturer shall refund the difference between the original amount of
tax attributed to the sale of that vehicle and the amount of tax attributed
to the sale of the replacement vehicle, excluding the value of the motor
vehicle being replaced.

3. Replaces a motor vehicle with a new motor vehicle of greater value,
the manufacturer shall calculate the gross proceeds of sales pursuant to
section 42-5001, paragraph 6–8.

D. Pursuant to section 42-1118, subsection F, the manufacturer may
apply to the department of revenue for a refund for the amount of tax that
the manufacturer properly refunds to the consumer.

Sec. 36. Section 48-4022, Arizona Revised Statutes, is amended to
read:

48-4022. Excise tax

A. The board of directors of a district in a county having a
population of less than one million five hundred thousand persons according
to the most recent United States decennial or special census may by
resolution order the approval of a district excise tax to be placed on the
ballot of an election pursuant to section 48-4021. If a majority of the
qualified electors voting at the election approves the county jail district
excise tax, the board of directors may by resolution levy, and if levied, the
department of revenue shall collect, a tax beginning January 1 or July 1,
whichever date first occurs at least three months after the district
resolution approving the tax levy. The tax rate shall be a percentage of the
excise tax rate prescribed by section 42-5010, subsection A applying to each
person engaging or continuing in the district in a business taxed under title
42, chapter 5, article 1 and section 42-5352, subsection A, not to exceed:

1. Ten per cent of each rate prescribed by section 42-5010, subsection
A and section 42-5352, subsection A, in counties having a population of five
hundred thousand persons or less.

2. Five per cent of each rate prescribed by section 42-5010, subsection
A and section 42-5352, subsection A, in counties having a population of more than five hundred thousand persons but less than one
million five hundred thousand persons.

B. If a district levies an excise tax under subsection A of this
section, the board of directors, by resolution, **shall** also levy, and if
levied, the department of revenue shall collect, a use tax on each retail
electric or natural gas customer using or consuming electricity or natural
gas in the district and subject to use tax pursuant to section 42-5155. The
use tax levied pursuant to this subsection shall be applied as a percentage
of the use tax rate imposed by title 42, chapter 5, article 4 equal to the
percentage determined under subsection A, paragraph 1 or 2 of this section,
as applicable. THE STORAGE, USE OR CONSUMPTION IN THE COUNTY OF TANGIBLE
PERSONAL PROPERTY PURCHASED FROM A RETAILER OR UTILITY BUSINESS, AS A
PERCENTAGE OF THE SALES PRICE. THE TAX LEVIED PURSUANT TO THIS PARAGRAPH
SHALL BE AT A RATE EQUAL TO THE EXCISE TAX RATE UNDER SUBSECTION A OF THIS
SECTION APPLYING TO RETAILERS AND UTILITY BUSINESSES ACCORDING TO THE
RESPECTIVE CLASSIFICATION UNDER TITLE 42, CHAPTER 5, ARTICLES 1 AND 2 FOR THE
SAME TYPE OF TRANSACTION OR BUSINESS ACTIVITY.

C. The tax applies in both incorporated and unincorporated areas of
the county.

D. At the end of each month the state treasurer shall transmit the net
revenues collected pursuant to this section to the district treasurer who
shall deposit the revenues in the county jail district general fund.
E. Unless the context otherwise requires:

1. Section 42-6102 governs the administration of the tax imposed pursuant to subsection A of this section.

2. Title 42, chapter 5, article 4 governs the administration of the use tax imposed pursuant to subsection B or F of this section.

F. IF A DISTRICT LEVIES AN EXCISE TAX PURSUANT TO SUBSECTION A OF THIS SECTION ON THE EFFECTIVE DATE OF THE AMENDMENT OF THIS SECTION AND IF APPROVED BY THE QUALIFIED ELECTORS VOTING AT A DISTRICT-WIDE ELECTION, A DISTRICT MAY LEVY AND, IF LEVIED, THE DEPARTMENT SHALL COLLECT AN EXCISE TAX ON THE STORAGE, USE OR CONSUMPTION IN THE COUNTY OF TANGIBLE PERSONAL PROPERTY PURCHASED FROM A RETAILER, AS A PERCENTAGE OF THE SALES PRICE. THE TAX LEVIED PURSUANT TO THIS SUBSECTION SHALL BE AT A RATE EQUAL TO THE RATE OF THE EXCISE TAX LEVIED PURSUANT TO SUBSECTION A OF THIS SECTION.

Sec. 37. Section 48-5805, Arizona Revised Statutes, is amended to read:

48-5805. Transaction privilege tax; property tax

A. The board of directors of the district by resolution may levy, and if levied, the department of revenue shall collect, a transaction privilege tax pursuant to this section to be used and spent for the purposes described in section 48-5804. The board shall set the rate of the tax at not more than two per cent of the tax rate that applies to each business in the district that is subject to taxation under title 42, chapter 5, article 1. The board shall levy the tax on each person engaging in the district in a business taxed under title 42, chapter 5, article 1.

B. Each month the state treasurer shall remit to the district treasurer the net revenues collected under subsections A, D AND E of this section during the second preceding month. The district treasurer shall deposit the monies in the public health services district's accounts and shall account for all expenditures.

C. In lieu of a transaction privilege tax pursuant to subsection A of this section, the board by resolution may levy in the same manner and at the same time as other county secondary property taxes are levied a public health services district tax. The tax shall not exceed twenty-five cents per one hundred dollars of assessed valuation and shall be levied on all property in the county and on all property within incorporated cities and towns in the county. The district shall deposit all monies collected pursuant to this subsection in a separate account and shall account for all expenditures.
D. If a district levies an excise tax under subsection A of this section, the board of directors, by resolution, shall also levy, and if levied, the department of revenue shall collect, a use tax on the storage, use or consumption in the county of tangible personal property purchased from a retailer, as a percentage of the sales price. The tax levied pursuant to this subsection shall be at a rate equal to the excise tax rate under subsection A of this section applying to retailers according to the respective classification under Title 42, Chapter 5, Articles 1 and 2 for the same type of transaction or business activity.

E. If a district levies an excise tax pursuant to subsection A of this section on the effective date of the amendment of this section and if approved by the qualified electors voting at a district-wide election, a district may levy and, if levied, the department shall collect an excise tax on the storage, use or consumption in the county of tangible personal property purchased from a retailer, as a percentage of the sales price. The tax levied pursuant to this subsection shall be at a rate equal to the rate of the excise tax levied pursuant to subsection A of this section.

Sec. 38. Section 49-290, Arizona Revised Statutes, is amended to read:

49-290. Exemption from permit requirements; definition

A. Notwithstanding any other statute, a person who performs a remedial action or a portion of a remedial action that has been approved by the department if that action or portion is conducted in compliance with this article is not subject to any requirement to obtain any permit or approval that may otherwise be required by the department.

B. Except as prescribed in subsection D of this section, a person who conducts a portion of a remedial action, where that portion is entirely on site and is conducted in compliance with this article, may be exempted from a requirement to obtain any other state or local permit or approval, other than any requirement of title 45, at the written request of the person conducting the remedial action. The written request shall identify the specific permit to be exempted and the reasons the exemption is requested. The permit may be exempted if the director finds both of the following:

1. The requirement does not arise out of any permit or regulatory program that is required pursuant to the laws of the United States.

2. The requirement presents a substantial impediment to effective performance of the remedial action selected by the department.
C. The director may waive any regulatory requirement adopted pursuant to this title with respect to a site or portion of a site as part of a record of decision adopted pursuant to section 49-287.04 for that site or portion of a site if the regulatory requirement conflicts with the implementation of the selected remedy, provided that the waiver does not result in adverse impacts to public health or the environment. No waiver may be granted under this subsection if it is prohibited by federal law or if the waiver would jeopardize the continued delegation to the state of authority to implement a federal environmental program.

D. Discharge of wastewater to off-site publicly owned treatment works and sewer systems does not constitute an activity conducted entirely on site for purposes of subsection B of this section.

E. The director shall give written notice of any request for exemption made pursuant to subsection B of this section to the remedial action coordinator designated pursuant to subsection G of this section by the governmental entity whose permit requirements are the subject of the request. Before making any finding pursuant to subsection B of this section, the director or the director's designee shall meet and confer with the remedial action coordinator and the person conducting the remedial action to identify alternatives to exemption.

F. Any finding made by the director pursuant to subsection B of this section shall be in writing. The governmental entity whose permit requirement is preempted as a result of such finding is not liable for property damage, personal injury damage or violations of state or local law resulting from the exemption. The director shall notify the affected governmental entity of any finding made pursuant to subsection B of this section. A finding of the director made pursuant to subsection B of this section is a final administrative decision as defined in section 41-1092 and is subject to judicial review pursuant to title 12, chapter 7, article 6.

G. Each city, town and county shall designate a remedial action coordinator who shall have responsibility for monitoring and facilitating any remedial actions conducted within its jurisdiction. The designated remedial action coordinator shall:

1. Regularly consult, as needed, with the department and the person conducting a remedial action throughout the duration of the remedial action.

2. Expedite the processing and issuance of permits, approvals or other authorizations required by the governmental entity represented by the
remedial action coordinator, to facilitate the prompt conduct of a remedial action.

3. Provide information to the department and the person conducting the remedial action regarding applicable requirements of the governmental entity represented by the remedial action coordinator and the potential for waiver of such requirements.

H. In order to encourage remediation activities under this article and to conserve the fund, neither this state nor any county that imposes an excise or similar tax that is levied at a rate applied as a percentage of the rates on each business class subject to the tax imposed by title 42, chapter 5, article 1 may impose a tax on the sale or purchase of tangible personal property incorporated or fabricated into any real property, structure, project, development or improvement under a contract specified in section 42-5075, subsection B, paragraph 6.

I. For the purposes of this section, "on site" means the areal extent of contamination and all suitable areas in close proximity to the contamination that are reasonably necessary for implementation of the remedial action.

Sec. 39. Preexisting contracts; tax

A. This act does not apply to or affect the tax liability with respect to contracts that were entered into before January 1, 2015 by a person who engaged in business under the prime contracting classification pursuant to section 42-5075, Arizona Revised Statutes, or the construction contracting, owner builder or speculative builder classification pursuant to section 415, 416 or 417 of the model city tax code.

B. Notwithstanding section 42-5075, Arizona Revised Statutes, as amended by this act, the tax imposed by title 42, chapter 5, article 1, Arizona Revised Statutes, is levied and shall be collected at a rate of five and six-tenths per cent of the tax base, as determined pursuant to section 42-5075, Arizona Revised Statutes, as in effect on December 31, 2014, derived pursuant to contracts entered into before January 1, 2015 by prime contractors who were subject to tax under section 42-5075, Arizona Revised Statutes, before January 1, 2015.

C. Prime contractors shall maintain and provide to the department of revenue on request documentation regarding payments received in satisfaction of contracts that are subject to taxation under this section.
D. Twenty per cent of the tax revenues collected pursuant to this section is designated as distribution base for purposes of section 42-5029, Arizona Revised Statutes.

E. Notwithstanding section 42-6004, Arizona Revised Statutes, as amended by this act, the municipal privilege tax imposed by an incorporated city or town is levied and shall be collected at the rate in effect on December 31, 2014, as determined pursuant to the model city tax code, derived pursuant to contracts entered into before January 1, 2015 by construction contractors, owner builders and speculative builders that were subject to tax under section 415, 416 or 417 of the model city tax code, before January 1, 2015, unless the contract does not contain a provision that entitles the taxpayer to recover the amount of the tax. The taxpayer is required to provide sufficient documentation to the department of revenue.

F. The taxes imposed pursuant to title 42, chapter 6, article 3, Arizona Revised Statutes, apply to the tax base, as determined pursuant to sections 42-5075 and 42-5076, Arizona Revised Statutes, as in effect on December 31, 2014, derived pursuant to contracts entered into after the date of the election to authorize the tax and before January 1, 2015 by prime contractors and owner builders who engaged in business pursuant to sections 42-5075 and 42-5076, Arizona Revised Statutes. Contracts entered into before the date of the election to authorize the tax by prime contractors and owner builders who engaged in business pursuant to sections 42-5075 and 42-5076, Arizona Revised Statutes, are taxable pursuant to title 42, chapter 6, article 3, Arizona Revised Statutes, on the tax base, as determined pursuant to sections 42-5075 and 42-5076, Arizona Revised Statutes, as in effect on December 31, 2014, unless the contract does not contain a provision that entitles the taxpayer to recover the amount of the tax from a purchaser. The taxpayer is required to provide sufficient documentation to the department of revenue.

G. Unless the context otherwise requires, title 42, chapter 5, article 1, Arizona Revised Statutes, governs the administration of the tax imposed by this section.

Sec. 40. Preexisting tax exempt contracts

A. From and after December 31, 2014, the sale of tangible personal property to a contractor for incorporation or fabrication, pursuant to a contract entered into before January 1, 2015, into any project that was subject to a deduction under section 42-5075, subsection B, Arizona Revised Statutes, is exempt from the tax imposed by this section.
Senate Amendments to H.B. 2111

Statutes, as in effect on December 31, 2014, is not subject to tax under section 42-5061, Arizona Revised Statutes.

B. From and after December 31, 2014, the sale of tangible personal property to a construction contractor, owner builder or speculative builder for incorporation or fabrication pursuant to a contract entered into before January 1, 2015, into any project that was subject to a deduction under section 415.b, 416.c.1 or 2, or 417.c.1 or 2 of the model city tax code, as in effect on December 31, 2014, is not subject to tax under section 460 of the model city tax code.

Sec. 41. **Use tax**

A. Tangible personal property that was purchased before January 1, 2015 by a person who engaged in business under the prime contracting classification or who performed contracting services within the control of a prime contractor pursuant to section 42-5075, Arizona Revised Statutes, and that was not incorporated into a project for which the contract was entered into before January 1, 2015 is subject to use taxation pursuant to section 42-5155, Arizona Revised Statutes.

B. Tangible personal property that was purchased before January 1, 2015 by a person who engaged in business under the construction contracting, owner builder or speculative builder classification or who performed contracting services within the control of a construction contractor, owner builder or speculative builder pursuant to section 415, 416 or 417 of the model city tax code and that was not incorporated into a project for which the contract was entered into before January 1, 2015 is subject to use taxation under the model city tax code.

Sec. 42. **Department of revenue; emergency rule making**

The department of revenue may adopt emergency rules pursuant to section 41-1026, Arizona Revised Statutes, as necessary to administer this act.

Sec. 43. **City and town auditors**

Notwithstanding section 42-6001, Arizona Revised Statutes, as amended by this act, for the period beginning January 1, 2015 and ending December 31, 2015, the department shall enter into an agreement with the governing body of an incorporated city or town to furnish part-time or full-time personnel to perform audit services within the boundaries of the city or town. The incorporated city or town shall pay to the department the amount agreed to be paid.
Sec. 44. **Rate limitation**

An incorporated city or town shall not impose a municipal contracting excise tax rate higher than the rate imposed on construction contracting, speculative builder or owner-builder, as in effect on December 31, 2012.

Sec. 45. **Effective dates**

A. Sections 42-5039 and 42-6113, Arizona Revised Statutes, as added by this act, and sections 42-6105, 42-6106, 42-6107, 48-4022 and 48-5805, Arizona Revised Statutes, as amended by this act, are effective from and after December 31, 2013.

B. Sections 42-5078, 42-6020 and 42-6021, Arizona Revised Statutes, as added by this act and sections 41-1516, 41-1532, 42-1004, 42-1103, 42-5001, 42-5006, 42-5009, 42-5010, 42-5029, 42-5032.01, 42-5032.02, 42-5061, 42-5071, 42-5072, 42-5075, 42-5151, 42-5155, 42-5159, 42-5160, 42-6001, 42-6002, 42-6004, 42-6005, 42-6102, 43-1072.01, 44-1263 and 49-290, Arizona Revised Statutes, as amended by this act, are effective from and after December 31, 2014."

Amend title to conform