

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
3 read:

4 41-1516. Healthy forest enterprise incentives; definitions

5 A. The Arizona commerce authority shall:

6 1. Implement a program to encourage counties, cities and towns to
7 provide local incentives to economic enterprises that promote forest health
8 in this state.

9 2. Identify and certify to the department of revenue the names of and
10 relevant information relating to qualified businesses for the purposes of
11 available state tax incentives for economic enterprises that promote forest
12 health in this state.

13 B. To qualify for state tax incentives pursuant to this section, a
14 business:

15 1. Must be primarily engaged in a qualifying project. The business
16 shall submit to the authority evidence that it is engaged in a qualifying
17 project as follows:

18 (a) The business operation must enhance or sustain forest health,
19 sustain or recover watershed or improve public safety.

20 (b) If the qualifying forest product is on federal land, the business
21 shall submit a letter from the federal agency administering the land, or
22 official records or documents produced in connection with the project,
23 stating that the business is primarily engaged in the business of harvesting
24 or processing qualifying forest products for commercial use as follows:

25 (i) At least seventy per cent of the harvested or processed products,
26 measured by weight, must be qualifying forest products.

27 (ii) At least seventy-five per cent of the qualifying forest products,
28 measured by weight, must be harvested from sources in this state.

1 (c) If the qualifying forest product is not on federal land, the
2 business shall submit a letter from the state forester stating that the
3 business is primarily engaged in the business of harvesting or processing
4 qualifying forest products for commercial use as follows:

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

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

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

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

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

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

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

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

36 (c) Provisions considered necessary by the authority to ensure the
37 competency and responsibility of businesses that qualify under this section,

1 including registration or other accreditation with trade and professional
2 organizations and compliance with best management and operational practices
3 used by governmental agencies in awarding forestry contracts.

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

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

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

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

30 1. Apply to the authority.

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

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

36 ~~E.~~ D. Certification under this section is valid for sixty calendar
37 months from the date of issuance. A business must apply for recertification

1 at least thirty days before the current certification expires. The
2 application for recertification shall be in a form prescribed by the
3 authority and shall confirm that the business is continuing in a qualifying
4 project and is in compliance with all requirements prescribed for
5 certification.

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

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

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

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

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

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

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

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

35 2. The number of new full-time employees hired in qualified employment
36 positions in this state in the preceding calendar year and reported for tax
37 credit purposes.

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

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

8 1. Inspect the facilities at the site.

9 2. Obtain factual data and records pertinent to and required by law to
10 be kept for purposes of tax incentives.

11 3. Otherwise ascertain compliance with law and the terms of the
12 memorandum of understanding.

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

15 1. Within thirty days after a formal request from the authority or the
16 department of revenue the business fails or refuses to provide the
17 information or access for inspections required by this section.

18 2. The business no longer meets the terms and conditions required for
19 qualification for the applicable tax incentives.

20 ~~K.~~ K. For the purposes of this section:

21 1. "Forest health" means the degree to which the integrity of the
22 forest is sustained, including reducing the risk of catastrophic wildfire and
23 destructive insect infestation, benefiting wildland habitats, watersheds and
24 communities.

25 2. "Harvesting" means all operations relating to felling or otherwise
26 removing trees and other forest plant growth and preparing them for transport
27 for subsequent processing.

28 3. "Processing" means:

29 (a) Any change in the physical structure of qualifying forest products
30 removed from a qualifying project into a marketable commercial product or
31 component of a product that has commercial value to a consumer or purchaser
32 and that is ready to be used with or without further altering its form.

33 (b) Burning qualifying forest products in the process of commercial
34 electrical generation or commercial thermal energy production for heating or
35 cooling, regardless of the physical structure of the forest product before
36 burning.

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

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

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

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

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

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

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

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

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

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

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

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

1 6. "Qualifying project" means harvesting, transporting or processing
2 qualifying forest products as required for certification pursuant to this
3 section.

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

5 41-1532. Tax incentives; conditions

6 ~~A. A prime contractor may qualify for an exemption from transaction~~
7 ~~privilege tax with respect to activities in a military reuse zone as~~
8 ~~provided, and subject to the terms and conditions prescribed, by section~~
9 ~~42-5075, subsection B, paragraph 4.~~

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

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

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

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

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

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

35 ~~C.~~ B. Taxable property in a military reuse zone that is devoted to
36 providing aviation or aerospace services or to manufacturing, assembling or
37 fabricating aviation or aerospace products qualifies for assessment as class

1 six property as provided, and subject to the terms and conditions prescribed,
2 by sections 42-12006 and 42-15006.

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

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

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

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

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

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

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

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

33 42-1004. General powers and duties of the department; res
34 judicata; remedies; enforcement; special collections
35 account

36 A. The department shall administer and enforce this title, title 43
37 and other laws assigned to it and has all the powers and duties prescribed by

1 law for such purposes. In all proceedings prescribed by law the department
2 may act on behalf of this state. In addition, the department shall:

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

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

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

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

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

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

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

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

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

29 B. The department may:

30 1. With the approval of the attorney general:

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

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

36 2. Offer publications relating to the administration of state taxes
37 for sale at a price equal to the pro rata cost of publication and

1 distribution. Monies received from the sale of publications shall be placed
2 in a revenue publications revolving fund. Monies in the fund:

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

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

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

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

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

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

30 F. A special collections account is established in the state general
31 fund. All monies collected pursuant to contracts authorized by subsection B,
32 paragraph 3 of this section shall be deposited in the special collections
33 account. The department shall pay from the account all fees and court costs
34 provided for in the contracts authorized under subsection B, paragraph 3 of
35 this section. The department shall allocate the remainder of the amounts
36 collected under subsection B, paragraph 3 of this section to the state or the
37 political subdivision in the proportion that the monies would have been

1 distributed pursuant to chapter 5 of this title or section 43-206,
2 respectively.

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

4 42-1103. Enjoining delinquent taxpayer from engaging or
5 continuing in business

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

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

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

33 D. The court shall not issue a temporary restraining order or
34 injunction under this section against any person who has furnished security
35 pursuant to section 42-1102, ~~OR~~ 42-5006 ~~or 42-5007~~. On a showing to the
36 court by any person against whom a temporary restraining order or injunction
37 has issued under this section that the person has furnished such security,

1 the court shall dissolve or set aside the temporary restraining order or
2 injunction.

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

4 42-5001. Definitions

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

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

10 (a) Casual activities or sales.

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

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

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

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

28 ~~3.~~ 5. "Engaging", when used with reference to engaging or continuing
29 in business, includes the exercise of corporate or franchise powers.

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

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

1 ~~6.~~ 8. "Gross income" and "gross proceeds of sales" do not include
2 goods, wares or merchandise, or value thereof, returned by customers if the
3 sale price is refunded either in cash or by credit, nor the value of
4 merchandise traded in on the purchase of new merchandise when the trade-in
5 allowance is deducted from the sales price of the new merchandise before
6 completion of the sale.

7 ~~7.~~ 9. "Gross receipts" means the total amount of the sale, lease or
8 rental price, as the case may be, of the retail sales of retailers, including
9 any services that are a part of the sales, valued in money, whether received
10 in money or otherwise, including all receipts, cash, credits and property of
11 every kind or nature, and any amount for which credit is allowed by the
12 seller to the purchaser without any deduction from the amount on account of
13 the cost of the property sold, materials used, labor or service performed,
14 interest paid, losses or any other expense. Gross receipts do not include
15 cash discounts allowed and taken nor the sale price of property returned by
16 customers if the full sale price is refunded either in cash or by credit.

17 ~~8.~~ 10. "Person" or "company" includes an individual, firm,
18 partnership, joint venture, association, corporation, estate or trust, this
19 state, any county, city, town, district, other than a school district, or
20 other political subdivision and any other group or combination acting as a
21 unit, and the plural as well as the singular number.

22 ~~9.~~ 11. "Qualifying community health center":

23 (a) Means an entity that is recognized as nonprofit under section
24 501(c)(3) of the United States internal revenue code, that is a
25 community-based, primary care clinic that has a community-based board of
26 directors and that is either:

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

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

30 (b) Includes clinics that are being constructed as qualifying
31 community health centers.

32 ~~10.~~ 12. "Qualifying health care organization" means an entity that is
33 recognized as nonprofit under section 501(c) of the United States internal
34 revenue code and that uses, saves or invests at least eighty per cent of all
35 monies that it receives from all sources each year only for health and
36 medical related educational and charitable services, as documented by annual
37 financial audits prepared by an independent certified public accountant,

1 performed according to generally accepted auditing standards and filed
2 annually with the department. Monies that are used, saved or invested to
3 lease, purchase or construct a facility for health and medical related
4 education and charitable services are included in the eighty per cent
5 requirement.

6 ~~11-~~ 13. "Qualifying hospital" means any of the following:

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

10 (b) A licensed nursing care institution or a licensed residential care
11 institution or a residential care facility operated in conjunction with a
12 licensed nursing care institution or a licensed kidney dialysis center, which
13 provides medical services, nursing services or health related services and is
14 not used or held for profit.

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

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

20 ~~12-~~ 14. "Retailer" includes every person engaged in the business
21 classified under the retail classification pursuant to section 42-5061 and,
22 when in the opinion of the department it is necessary for the efficient
23 administration of this article, includes dealers, distributors, supervisors,
24 employers and salesmen, representatives, peddlers or canvassers as the agents
25 of the dealers, distributors, supervisors or employers under whom they
26 operate or from whom they obtain the tangible personal property sold by them,
27 whether in making sales on their own behalf or on behalf of the dealers,
28 distributors, supervisors or employers.

29 ~~13-~~ 15. "Sale" means any transfer of title or possession, or both,
30 exchange, barter, lease or rental, conditional or otherwise, in any manner or
31 by any means whatever, including consignment transactions and auctions, of
32 tangible personal property or other activities taxable under this chapter,
33 for a consideration, and includes:

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

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

1 (c) Furnishing, preparing or serving for a consideration any tangible
2 personal property consumed on the premises of the person furnishing,
3 preparing or serving the tangible personal property.

4 ~~14.~~ 16. "Solar daylighting" means a device that is specifically
5 designed to capture and redirect the visible portion of the solar beam, while
6 controlling the infrared portion, for use in illuminating interior building
7 spaces in lieu of artificial lighting.

8 ~~15.~~ 17. "Solar energy device" means a system or series of mechanisms
9 designed primarily to provide heating, to provide cooling, to produce
10 electrical power, to produce mechanical power, to provide solar daylighting
11 or to provide any combination of the foregoing by means of collecting and
12 transferring solar generated energy into such uses either by active or
13 passive means, including wind generator systems that produce electricity.
14 Solar energy systems may also have the capability of storing solar energy for
15 future use. Passive systems shall clearly be designed as a solar energy
16 device, such as a trombe wall, and not merely as a part of a normal
17 structure, such as a window.

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

21 ~~17.~~ 19. "Tax year" or "taxable year" means either the calendar year or
22 the taxpayer's fiscal year, if permission is obtained from the department to
23 use a fiscal year as the tax period instead of the calendar year.

24 ~~18.~~ 20. "Taxpayer" means any person who is liable for any tax ~~which~~
25 THAT is imposed by this article.

26 ~~19.~~ 21. "Wholesaler" or "jobber" means any person who sells tangible
27 personal property for resale and not for consumption by the purchaser.

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

29 ~~42-5006.~~ Taxpayer bonds; out of state licensed contractors and
30 manufactured building dealers

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

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

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

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

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

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

1 E. If a seller is entitled to a deduction by complying with subsection
2 B of this section, the department may require the purchaser to establish the
3 accuracy and completeness of the information provided to the seller that
4 entitled the seller to the deduction. If the purchaser cannot establish the
5 accuracy and completeness of the information, the purchaser is liable in an
6 amount equal to any tax, penalty and interest that the seller would have been
7 required to pay under this article if the seller had not complied with
8 subsection B of this section. Payment of the amount under this subsection
9 exempts the purchaser from liability for any tax imposed under article 4 of
10 this chapter. The amount shall be treated as tax revenues collected from the
11 seller in order to designate the distribution base for purposes of section
12 42-5029.

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

30 G. If a seller claims a deduction under section 42-5061, subsection A,
31 paragraph 25 and establishes entitlement to the deduction with an exemption
32 letter that the purchaser received from the department and the exemption
33 letter was based on a contingent event, the department may require the
34 purchaser that received the exemption letter to establish the satisfaction of
35 the contingent event within a reasonable time. If the purchaser cannot
36 establish the satisfaction of the event, the purchaser is liable in an amount
37 equal to any tax, penalty and interest that the seller would have been

1 required to pay under this article if the seller had not been furnished the
2 exemption letter. Payment of the amount under this subsection exempts the
3 purchaser from liability for any tax imposed under article 4 of this chapter.
4 The amount shall be treated as tax revenues collected from the seller in
5 order to designate the distribution base for purposes of section 42-5029.
6 For the purposes of this subsection, "reasonable time" means a time
7 limitation that the department determines and that does not exceed the time
8 limitations pursuant to section 42-1104.

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

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

18 2. A copy of the nonresident registration permit authorized by section
19 28-2154.

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

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

28 I. Notwithstanding subsection A, paragraph 2 of this section, if a
29 motor vehicle dealer has established entitlement to a deduction by complying
30 with subsection H of this section, the department may require the purchaser
31 who executed the certificate to establish the accuracy and completeness of
32 the information contained in the certificate that entitled the motor vehicle
33 dealer to the deduction. If the purchaser cannot establish the accuracy and
34 completeness of the information, the purchaser is liable in an amount equal
35 to any tax, penalty and interest that the motor vehicle dealer would have
36 been required to pay under this article and under articles IV and V of the
37 model city tax code as defined in section 42-6051. Payment of the amount

1 under this subsection exempts the purchaser from liability for any tax
2 imposed under article 4 of this chapter and any tax imposed under article VI
3 of the model city tax code as defined in section 42-6051. The amount shall
4 be treated as tax revenues collected from the motor vehicle dealer in order
5 to designate the distribution base for purposes of section 42-5029.

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

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

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

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

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

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

29 Sec. 9. Section 42-5010, Arizona Revised Statutes, is amended to read:
30 42-5010. Rates; distribution base

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

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

36 (a) Transporting classification.

37 (b) Utilities classification.

- 1 (c) Telecommunications classification.
- 2 (d) Pipeline classification.
- 3 (e) Private car line classification.
- 4 (f) Publication classification.
- 5 (g) Job printing classification.
- 6 (h) ~~Prime contracting~~ MANUFACTURED BUILDING DEALER classification.
- 7 ~~(i) Owner builder sales classification.~~
- 8 ~~(j)~~ (i) Amusement classification.
- 9 ~~(k)~~ (j) Restaurant classification.
- 10 ~~(l)~~ (k) Personal property rental classification.
- 11 ~~(m)~~ (l) Retail classification.
- 12 (m) HIGHWAY, STREET OR BRIDGE CONSTRUCTION CLASSIFICATION.

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

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

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

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

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

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

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

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

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

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

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

34 1. Any increase in the rate of tax that is levied by this article or
35 article 2 of this chapter enacted by the legislature or by a vote of the
36 people does not apply for a period of one hundred twenty days from the date
37 of the tax rate increase to the gross proceeds of sales or gross income from

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

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

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

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

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

23 42-5029. Remission and distribution of monies; definition

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

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

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

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

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

34 B. The department shall credit payments of estimated tax to an
35 estimated tax clearing account and each month shall transfer all monies in
36 the estimated tax clearing account to a fund designated as the transaction
37 privilege and severance tax clearing account. The department shall credit

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

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

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

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

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

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

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

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

27 (a) Average the following proportions:

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

1 property in the county for purposes of determining assessed valuation in the
2 county under this item.

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

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

19 4. After any distributions required by sections 42-5030, 42-5030.01,
20 42-5031, 42-5032, 42-5032.01 and 42-5032.02, and after making any transfer to
21 the water quality assurance revolving fund as required by section 49-282,
22 subsection B, credit the remainder of the monies designated as distribution
23 base to the state general fund. From this amount the legislature shall
24 annually appropriate to:

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

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

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

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

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

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

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

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

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

36 5. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
37 subsection, one-twelfth of the following amounts shall be transferred each

1 month to the department of education for the increased cost of basic state
2 aid under section 15-971 due to added school days and associated teacher
3 salary increases enacted in 2000:

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

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

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

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

8 (e) In fiscal year 2005-2006 and each fiscal year thereafter,
9 \$86,280,500.

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

17 7. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
18 subsection, no more than seven million dollars may be appropriated by the
19 legislature each fiscal year to the department of education to be used for
20 accountability purposes as described in section 15-241 and title 15, chapter
21 9, article 8.

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

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

30 10. After the payment of monies pursuant to paragraphs 1 through 9 of
31 this subsection, the remaining monies collected during the preceding month
32 shall be transferred to the classroom site fund established by section
33 15-977. The monies shall be allocated as follows in the manner prescribed by
34 section 15-977:

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

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

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

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

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

26 H. On receiving a certificate of default from the greater Arizona
27 development authority pursuant to section 41-2257 or 41-2258 and to the
28 extent not otherwise expressly prohibited by law, the state treasurer shall
29 withhold from the next succeeding distribution of monies pursuant to this
30 section due to the defaulting political subdivision the amount specified in
31 the certificate of default and immediately deposit the amount withheld in the
32 greater Arizona development authority revolving fund. The state treasurer
33 shall continue to withhold and deposit the monies until the greater Arizona
34 development authority certifies to the state treasurer that the default has
35 been cured. In no event may the state treasurer withhold any amount that the
36 defaulting political subdivision certifies to the state treasurer and the
37 authority as being necessary to make any required deposits then due for the

1 payment of principal and interest on bonds of the political subdivision that
2 were issued before the date of the loan repayment agreement or bonds and that
3 have been secured by a pledge of distributions made pursuant to this section.

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

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

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

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

1 section for the purpose of funding up to eighty per cent of the cost of
2 public infrastructure improvements for the benefit of a manufacturing
3 facility.

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

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

10 2. From and after June 30, 2014.

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

22 D. Before the commencement of the construction of buildings and
23 associated improvements for the benefit of a manufacturing facility that will
24 require a city, town or county to make infrastructure improvements, the
25 manufacturing facility shall file a sworn certification with the Arizona
26 commerce authority, and submit a copy of this sworn certification to the
27 applicable city, town or county, that the manufacturing facility agrees to
28 PROVIDE A COPY OF THE CONSTRUCTION CONTRACT SHOWING THE COST OF THE MATERIALS
29 TO BE USED IN THE CONSTRUCTION OF BUILDINGS AND ASSOCIATED IMPROVEMENTS FOR
30 THE MANUFACTURING FACILITY AND TO either:

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

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

1 E. The certification under subsection D of this section shall contain
2 a sworn statement or certification, signed by an officer of the manufacturing
3 facility under penalty of perjury, that the information contained is true and
4 correct according to the best belief and knowledge of the person submitting
5 the information to the department after a reasonable investigation of the
6 facts.

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

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

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

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

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

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

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

34 ~~7.~~ 6. State that the city, town or county agrees that any amounts
35 paid by the department to a ~~prime contractor as identified under paragraph 6~~
36 ~~of this subsection resulting from an audit adjustment or claim for credit or~~
37 ~~refund of taxes described in subsection C of this section~~ **CITY, TOWN OR**

1 COUNTY THAT EXCEED THE AMOUNT OF THE TRANSACTION PRIVILEGE TAX PAID ON THE
2 SALE OF MATERIALS USED IN THE CONSTRUCTION OF BUILDINGS OR OTHER ASSOCIATED
3 IMPROVEMENTS FOR THE BENEFIT OF THE MANUFACTURING FACILITY shall be recovered
4 by the department from the city, town or county by reducing the amount paid
5 to the city, town or county under section 42-5029 from monies designated as
6 distribution base in the month next succeeding the month in which the
7 adjustment or claim is paid.

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

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

20 ~~10.~~ 8. Provide any other information deemed necessary by the
21 department.

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

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

31 1. A city, town or county has received monies that meet or exceed
32 eighty per cent of the cost of the public infrastructure improvements that
33 are necessary to support the activities related to the manufacturing facility
34 as described in the written agreement pursuant to subsection ~~E~~ F of this
35 section.

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

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

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

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

12 3. "Manufacturing facility":

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

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

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

26 ~~Manufacturing facility~~

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

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

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

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

3 (a) THE ORDER IS RECEIVED.

4 (b) THE STOCK IS LOCATED FROM WHICH THE TANGIBLE PERSONAL PROPERTY IS
5 TAKEN.

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

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

9 42-5061. Retail classification: definitions

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

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

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

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

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

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

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

32 7. The sale of stocks and bonds.

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

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

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

5 11. Prescription eyeglasses or contact lenses.

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

7 13. Durable medical equipment ~~which~~ THAT has a centers for medicare and
8 medicaid services common procedure code, is designated reimbursable by
9 medicare, is prescribed by a person who is licensed under title 32, chapter
10 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and
11 customarily used to serve a medical purpose, is generally not useful to a
12 person in the absence of illness or injury and is appropriate for use in the
13 home.

14 14. Sales OF MOTOR VEHICLES to nonresidents of this state for use
15 outside this state if the ~~vendor~~ MOTOR VEHICLE DEALER ships or delivers the
16 ~~tangible personal property~~ MOTOR VEHICLE TO A DESTINATION out of this state.

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

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

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

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

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

35 20. Lottery tickets or shares pursuant to title 5, chapter 5.1,
36 article 1.

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

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

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

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

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

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

24 25. Tangible personal property sold to:

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

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

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

34 (d) A qualifying community health center as defined in section
35 42-5001.

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

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

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

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

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

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

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

29 28. The sale of a motor vehicle to:

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

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

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

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

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

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

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

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

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

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

1 ~~37.~~ 36. Paper machine clothing, such as forming fabrics and dryer
2 felts, sold to a paper manufacturer and directly used or consumed in paper
3 manufacturing.

4 ~~38.~~ 37. Coal, petroleum, coke, natural gas, virgin fuel oil and
5 electricity sold to a qualified environmental technology manufacturer,
6 producer or processor as defined in section 41-1514.02 and directly used or
7 consumed in the generation or provision of on-site power or energy solely for
8 environmental technology manufacturing, producing or processing or
9 environmental protection. This paragraph shall apply for twenty full
10 consecutive calendar or fiscal years from the date the first paper
11 manufacturing machine is placed in service. In the case of an environmental
12 technology manufacturer, producer or processor who does not manufacture
13 paper, the time period shall begin with the date the first manufacturing,
14 processing or production equipment is placed in service.

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

28 ~~40.~~ 39. Through December 31, 1994, personal property liquidation
29 transactions, conducted by a personal property liquidator. From and after
30 December 31, 1994, personal property liquidation transactions shall be
31 taxable under this section provided that nothing in this subsection shall be
32 construed to authorize the taxation of casual activities or transactions
33 under this chapter. For the purposes of this paragraph:

34 (a) "Personal property liquidation transaction" means a sale of
35 personal property made by a personal property liquidator acting solely on
36 behalf of the owner of the personal property sold at the dwelling of the
37 owner or on the death of any owner, on behalf of the surviving spouse, if

1 any, any devisee or heir or the personal representative of the estate of the
2 deceased, if one has been appointed.

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

5 ~~41.~~ 40. Sales of food, drink and condiment for consumption within the
6 premises of any prison, jail or other institution under the jurisdiction of
7 the state department of corrections, the department of public safety, the
8 department of juvenile corrections or a county sheriff.

9 ~~42.~~ 41. A motor vehicle and any repair and replacement parts and
10 tangible personal property becoming a part of such motor vehicle sold to a
11 motor carrier who is subject to a fee prescribed in title 28, chapter 16,
12 article 4 and who is engaged in the business of leasing or renting such
13 property.

14 ~~43.~~ 42. Livestock and poultry feed, salts, vitamins and other
15 additives for livestock or poultry consumption that are sold to persons who
16 are engaged in producing livestock, poultry, or livestock or poultry products
17 or who are engaged in feeding livestock or poultry commercially. For the
18 purposes of this paragraph, "poultry" includes ratites.

19 ~~44.~~ 43. Sales of implants used as growth promotants and injectable
20 medicines, not already exempt under paragraph 8 of this subsection, for
21 livestock or poultry owned by or in possession of persons who are engaged in
22 producing livestock, poultry, or livestock or poultry products or who are
23 engaged in feeding livestock or poultry commercially. For the purposes of
24 this paragraph, "poultry" includes ratites.

25 ~~45.~~ 44. Sales of motor vehicles at auction to nonresidents of this
26 state for use outside this state if the vehicles are shipped or delivered out
27 of this state, regardless of where title to the motor vehicles passes or its
28 free on board point.

29 ~~46.~~ 45. Tangible personal property sold to a person engaged in
30 business and subject to tax under the transient lodging classification if the
31 tangible personal property is a personal hygiene item or articles used by
32 human beings for food, drink or condiment, except alcoholic beverages, that
33 are furnished without additional charge to and intended to be consumed by the
34 transient during the transient's occupancy.

35 ~~47.~~ 46. Sales of alternative fuel, as defined in section 1-215, to a
36 used oil fuel burner who has received a permit to burn used oil or used oil
37 fuel under section 49-426 or 49-480.

1 ~~48.~~ 47. Sales of materials that are purchased by or for publicly
2 funded libraries including school district libraries, charter school
3 libraries, community college libraries, state university libraries or
4 federal, state, county or municipal libraries for use by the public as
5 follows:

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

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

8 ~~49.~~ 48. Tangible personal property sold to a commercial airline and
9 consisting of food, beverages and condiments and accessories used for serving
10 the food and beverages, if those items are to be provided without additional
11 charge to passengers for consumption in flight. For the purposes of this
12 paragraph, "commercial airline" means a person holding a federal certificate
13 of public convenience and necessity or foreign air carrier permit for air
14 transportation to transport persons, property or United States mail in
15 intrastate, interstate or foreign commerce.

16 ~~50.~~ 49. Sales of alternative fuel vehicles if the vehicle was
17 manufactured as a diesel fuel vehicle and converted to operate on alternative
18 fuel and equipment that is installed in a conventional diesel fuel motor
19 vehicle to convert the vehicle to operate on an alternative fuel, as defined
20 in section 1-215.

21 ~~51.~~ 50. Sales of any spirituous, vinous or malt liquor by a person
22 that is licensed in this state as a wholesaler by the department of liquor
23 licenses and control pursuant to title 4, chapter 2, article 1.

24 ~~52.~~ 51. Sales of tangible personal property to be incorporated or
25 installed as part of ~~environmental response or remediation activities under~~
26 ~~section 42-5075, subsection B, paragraph 6~~ SITE PREPARATION, CONSTRUCTING,
27 FURNISHING OR INSTALLING MACHINERY, EQUIPMENT OR OTHER TANGIBLE PERSONAL
28 PROPERTY, INCLUDING STRUCTURES NECESSARY TO PROTECT EXEMPT INCORPORATED
29 MATERIALS OR INSTALLED MACHINERY OR EQUIPMENT, AND TANGIBLE PERSONAL PROPERTY
30 INCORPORATED, TO PERFORM ONE OR MORE OF THE FOLLOWING ACTIONS IN RESPONSE TO
31 A RELEASE OR SUSPECTED RELEASE OF A HAZARDOUS SUBSTANCE, POLLUTANT OR
32 CONTAMINANT FROM A FACILITY TO THE ENVIRONMENT, UNLESS THE RELEASE WAS
33 AUTHORIZED BY A PERMIT ISSUED BY A GOVERNMENTAL AUTHORITY:

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

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

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

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

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

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

16 ~~53.~~ 52. Sales of tangible personal property by a nonprofit
17 organization that is exempt from taxation under section 501(c)(6) of the
18 internal revenue code if the organization produces, organizes or promotes
19 cultural or civic related festivals or events and no part of the
20 organization's net earnings inures to the benefit of any private shareholder
21 or individual.

22 ~~54.~~ 53. Through August 31, 2014, sales of Arizona centennial
23 medallions by the historical advisory commission.

24 ~~55.~~ 54. Application services that are designed to assess or test
25 student learning or to promote curriculum design or enhancement purchased by
26 or for any school district, charter school, community college or state
27 university. For the purposes of this paragraph:

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

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

33 ~~56.~~ 55. Sales of motor vehicle fuel and use fuel to a qualified
34 business under section 41-1516 for off-road use in harvesting, processing or
35 transporting qualifying forest products removed from qualifying projects as
36 defined in section 41-1516.

1 ~~57.~~ 56. Sales of repair parts installed in equipment used directly by
2 a qualified business under section 41-1516 in harvesting, processing or
3 transporting qualifying forest products removed from qualifying projects as
4 defined in section 41-1516.

5 ~~58.~~ 57. Sales or other transfers of renewable energy credits or any
6 other unit created to track energy derived from renewable energy resources.
7 For the purposes of this paragraph, "renewable energy credit" means a unit
8 created administratively by the corporation commission or governing body of a
9 public power utility to track kilowatt hours of electricity derived from a
10 renewable energy resource or the kilowatt hour equivalent of conventional
11 energy resources displaced by distributed renewable energy resources.

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

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

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

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

35 3. Tangible personal property sold to persons engaged in business
36 classified under the telecommunications classification and consisting of
37 central office switching equipment, switchboards, private branch exchange

1 equipment, microwave radio equipment and carrier equipment including optical
2 fiber, coaxial cable and other transmission media ~~which~~ THAT are components
3 of carrier systems.

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

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

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

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

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

23 (b) Any foreign government.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 2. Janitorial equipment and hand tools.

10 3. Office equipment, furniture and supplies.

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

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

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

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

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

23 D. In addition to the deductions from the tax base prescribed by
24 subsection A of this section, there shall be deducted from the tax base the
25 gross proceeds of sales or gross income derived from sales of machinery,
26 equipment, materials and other tangible personal property used directly and
27 predominantly to construct a qualified environmental technology
28 manufacturing, producing or processing facility as described in section
29 41-1514.02. This subsection applies for ten full consecutive calendar or
30 fiscal years after the start of initial construction.

31 E. In computing the tax base, gross proceeds of sales or gross income
32 from retail sales of heavy trucks and trailers does not include any amount
33 attributable to federal excise taxes imposed by 26 United States Code section
34 4051.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 O. In computing the tax base in the case of the sale or transfer of
36 wireless telecommunications equipment as an inducement to a customer to enter
37 into or continue a contract for telecommunications services that are taxable

1 under section 42-5064, gross proceeds of sales or gross income does not
2 include any sales commissions or other compensation received by the retailer
3 as a result of the customer entering into or continuing a contract for the
4 telecommunications services.

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

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

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

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

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

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

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

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

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

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

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

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

33 1. "Aircraft" includes:

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

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

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

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

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

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

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

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

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

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

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

1 to pass to the government or that includes provisions incorporating such
2 title passing clauses in a government contract into the subcontract. FOR THE
3 PURPOSES OF THIS PARAGRAPH, "CONTRACTOR" HAS ITS ORDINARY AND COMMON MEANING
4 AND DOES NOT HAVE THE MEANING PRESCRIBED BY SECTION 42-5001.

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

7 42-5071. Personal property rental classification

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

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

14 2. Activities engaged in by the Arizona exposition and state fair
15 board or county fair commissions in connection with events sponsored by such
16 entities.

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

24 4. Operating coin-operated washing, drying and dry cleaning machines
25 or coin-operated car washing machines at establishments for the use of such
26 machines.

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

32 6. Leasing or renting aircraft, flight simulators or similar training
33 equipment to students or staff by nonprofit, accredited educational
34 institutions that offer associate or baccalaureate degrees in aviation or
35 aerospace related fields.

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

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

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

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

17 (a) Section 42-5061, subsection A, paragraph 8, 9, 12, 13, 25, 29, ~~50~~
18 ~~49~~ or ~~55~~ 54.

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

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

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

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

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

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

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

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

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

1 D. In computing the tax base, the gross proceeds of sales or gross
2 income from the lease or rental of a motor vehicle does not include any
3 amount attributable to the car rental surcharge under section 28-5810 or
4 48-4234.

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

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

15 42-5072. Mining classification; definition

16 A. The mining classification is comprised of the business of mining,
17 quarrying or producing for sale, profit or commercial use any
18 nonmetalliferous mineral product that has been mined, quarried or otherwise
19 extracted within the boundaries of this state described in article I, section
20 1, Constitution of Arizona.

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

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

33 D. In the case of a person engaged in business classified under the
34 mining classification all or part of whose income is derived from service or
35 manufacturing charges instead of from sales of the products manufactured or
36 handled, the tax base includes the gross income of the person derived from
37 the service or manufacturing charge.

1 E. If a person engaging in business classified under the mining
2 classification ships or transports all or part of a product out of this state
3 without making sale of the product or ships his product outside of this state
4 in an unfinished condition, the value of the product or article in the
5 condition or form in which it existed when transported out of this state and
6 before it enters interstate commerce is included in the tax base, and the
7 department shall prescribe equitable and uniform rules for ascertaining that
8 value. In determining the tax base, if the product or any part of the
9 product has been processed in this state and the proceeds of such processing
10 have been included in the tax base of the processor under this chapter, the
11 person may deduct from the value of the product when transported out of this
12 state the cost of such processing.

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

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

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

26 42-5075. Manufactured building dealer classification;
27 exemptions; definitions

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

36 B. The tax base for the ~~prime contracting~~ MANUFACTURED BUILDING DEALER
37 classification is sixty-five per cent of the gross proceeds of sales or gross

1 income derived from the business. The following amounts shall be deducted
2 from the gross proceeds of sales or gross income before computing the tax
3 base:

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

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

10 ~~3.~~ 2. The sales price of furniture, furnishings, fixtures, appliances
11 and attachments that are not incorporated as component parts of or attached
12 to a manufactured building or the setup site. The sale of such items may be
13 subject to the taxes imposed by article 1 of this chapter separately and
14 distinctly from the sale of the manufactured building.

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

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

35 ~~6. The gross proceeds of sales or gross income from a contract to~~
36 ~~provide for one or more of the following actions, or a contract for site~~
37 ~~preparation, constructing, furnishing or installing machinery, equipment or~~

1 ~~other tangible personal property, including structures necessary to protect~~
2 ~~exempt incorporated materials or installed machinery or equipment, and~~
3 ~~tangible personal property incorporated into the project, to perform one or~~
4 ~~more of the following actions in response to a release or suspected release~~
5 ~~of a hazardous substance, pollutant or contaminant from a facility to the~~
6 ~~environment, unless the release was authorized by a permit issued by a~~
7 ~~governmental authority:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 ~~11. The gross proceeds of sales or gross income that is derived from~~
36 ~~the installation, assembly, repair or maintenance of clean rooms that are~~

1 ~~deducted from the tax base of the retail classification pursuant to section~~
2 ~~42-5061, subsection B, paragraph 16.~~

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

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

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

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

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

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

32 ~~18. The gross proceeds of sales or gross income received from a~~
33 ~~contract for the construction of any building, or other structure, project,~~
34 ~~development or improvement owned by a qualified business under section~~
35 ~~41-1516 for harvesting or processing qualifying forest products removed from~~
36 ~~qualifying projects as defined in section 41-1516 if actual construction~~
37 ~~begins before January 1, 2024. To qualify for this deduction, the prime~~

1 ~~contractor must obtain a letter of qualification from the Arizona commerce~~
2 ~~authority before beginning work under the contract.~~

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

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

10 ~~(b) The attributable amount is equal to the total amount of~~
11 ~~development fees paid by the prime contractor or subcontractor, and the total~~
12 ~~development fees credited in exchange for the construction of, contribution~~
13 ~~to or dedication of real property for providing public infrastructure, public~~
14 ~~safety or other public services necessary to the development. The real~~
15 ~~property must be the subject of the development fees.~~

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

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

22 ~~1. A prime contractor may establish entitlement to the deduction by~~
23 ~~both:~~

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

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

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

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

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

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

30 ~~E. Amounts received by a contractor for a project are excluded from~~
31 ~~the contractor's gross proceeds of sales or gross income derived from the~~
32 ~~business if the person who hired the contractor executes and provides a~~
33 ~~certificate to the contractor stating that the person providing the~~
34 ~~certificate is a prime contractor and is liable for the tax under article 1~~
35 ~~of this chapter. The department shall prescribe the form of the certificate.~~
36 ~~If the contractor has reason to believe that the information contained on the~~
37 ~~certificate is erroneous or incomplete, the department may disregard the~~

1 ~~certificate. If the person who provides the certificate is not liable for~~
2 ~~the tax as a prime contractor, that person is nevertheless deemed to be the~~
3 ~~prime contractor in lieu of the contractor and is subject to the tax under~~
4 ~~this section on the gross receipts or gross proceeds received by the~~
5 ~~contractor.~~

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

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

17 ~~H. For the purposes of section 42-5032.02, from and after September~~
18 ~~30, 2013, the department shall separately account for revenues reported and~~
19 ~~collected under the prime contracting classification from any prime~~
20 ~~contractor engaged in the construction of any buildings and associated~~
21 ~~improvements that are for the benefit of a manufacturing facility. For the~~
22 ~~purposes of this subsection, "associated improvements" and "manufacturing~~
23 ~~facility" have the same meanings prescribed in section 42-5032.02.~~

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

34 ~~J. The gross proceeds of sales or gross income derived from~~
35 ~~landscaping activities are subject to tax under this section. Landscaping~~
36 ~~includes installing lawns, grading or leveling ground, installing gravel or~~
37 ~~boulders, planting trees and other plants, felling trees, removing or~~

1 ~~mulching tree stumps, removing other imbedded plants, building or modifying~~
2 ~~irrigation berms, repairing sprinkler or watering systems, installing~~
3 ~~railroad ties and installing underground sprinkler or watering systems.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 ~~0. Notwithstanding subsection P, paragraph 8 of this section, a person~~
32 ~~owning real property who enters into a contract for sale of the real~~
33 ~~property, who is responsible to the new owner of the property for~~
34 ~~modifications made to the property in the period subsequent to the transfer~~
35 ~~of title and who receives a consideration for the modifications is considered~~
36 ~~a prime contractor solely for purposes of taxing the gross proceeds of sale~~
37 ~~or gross income received for the modifications made subsequent to the~~

1 ~~transfer of title. The original owner's gross proceeds of sale or gross~~
2 ~~income received for the modifications shall be determined according to the~~
3 ~~following methodology:~~

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

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

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

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

28 ~~P. D. For the purposes of this section:~~

29 ~~1. "Contracting" means engaging in business as a contractor.~~

30 ~~2. "Contractor" is synonymous with the term "builder" and means any~~
31 ~~person or organization that undertakes to or offers to undertake to, or~~
32 ~~purports to have the capacity to undertake to, or submits a bid to, or does~~
33 ~~personally or by or through others, modify any building, highway, road,~~
34 ~~railroad, excavation, manufactured building or other structure, project,~~
35 ~~development or improvement, or to do any part of such a project, including~~
36 ~~the erection of scaffolding or other structure or works in connection with~~
37 ~~such a project, and includes subcontractors and specialty contractors. For~~

1 ~~all purposes of taxation or deduction, this definition shall govern without~~
2 ~~regard to whether or not such contractor is acting in fulfillment of a~~
3 ~~contract.~~

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

6 ~~3.~~ 2. ~~"Dealership of Manufactured buildings~~ BUILDING DEALER" means a
7 dealer who either:

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

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

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

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

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

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

31 ~~9.~~ 3. "Sale of a used manufactured building" does not include a lease
32 of a used manufactured building.

33 Sec. 18. Repeal

34 Section 42-5076, Arizona Revised Statutes, is repealed from and after
35 December 31, 2014.

1 OF SALES OR GROSS RECEIPTS ATTRIBUTABLE TO THE JOB AND FROM WHICH THE
2 SUBCONTRACTORS WERE PAID.

3 D. FOR THE PURPOSES OF THIS SECTION:

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

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

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

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

18 (i) THE SCOPE OF CHANGE IN THE WORK.

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

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

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

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

34 (f) PREPARATION OF ANY MANUALS, WARRANTIES, AS-BUILT DRAWINGS, SPARES
35 OR OTHER ITEMS THE HIGHWAY, STREET OR BRIDGE CONSTRUCTION CONTRACTOR MUST
36 FURNISH PURSUANT TO A CONTRACT FOR THE CONSTRUCTION, ALTERATION OR REPAIR OF
37 A HIGHWAY, STREET OR BRIDGE. FOR THE PURPOSES OF THIS SUBDIVISION, "AS-BUILT

1 DRAWING" MEANS A DRAWING THAT INDICATES FIELD CHANGES MADE TO ADAPT TO FIELD
2 CONDITIONS, FIELD CHANGES RESULTING FROM CHANGE ORDERS OR BURIED AND
3 CONCEALED INSTALLATION OF PIPING, CONDUIT AND UTILITY SERVICES.

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

7 (i) MASTER SCHEDULE UPDATES.

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

9 (iii) SITE REPORTS MADE ON A PERIODIC BASIS.

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

12 (v) IDENTIFICATION OF ANY HEALTH AND SAFETY ISSUES THAT HAVE ARISEN IN
13 CONNECTION WITH THE CONSTRUCTION, ALTERATION OR REPAIR WORK.

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

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

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

24 2. "DESIGN PHASE SERVICES" MEANS SERVICES FOR DEVELOPING AND
25 COMPLETING A DESIGN FOR A PROJECT THAT ARE NOT CONSTRUCTION PHASE SERVICES,
26 INCLUDING THE FOLLOWING:

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

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

33 (c) PREPARING DRAWINGS AND SPECIFICATIONS FOR ARCHITECTURAL PROGRAM
34 DOCUMENTS, SCHEMATIC DESIGN DOCUMENTS, DESIGN DEVELOPMENT DOCUMENTS,
35 CONSTRUCTION, ALTERATION OR REPAIR DOCUMENTS OR DOCUMENTS THAT IDENTIFY THE
36 SCOPE OF OR MATERIALS FOR THE PROJECT.

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

4 (e) PREPARING PRELIMINARY ESTIMATES OF COSTS OF CONSTRUCTION,
5 ALTERATION OR REPAIR WORK BEFORE COMPLETION OF THE FINAL DESIGN OF THE
6 PROJECT, INCLUDING AN ESTIMATE OR SCHEDULE OF VALUES FOR ANY OF THE
7 FOLLOWING:

8 (i) LABOR, MATERIALS, MACHINERY AND EQUIPMENT, TOOLS, WATER, HEAT,
9 UTILITIES, TRANSPORTATION AND OTHER FACILITIES AND SERVICES USED IN THE
10 EXECUTION AND COMPLETION OF CONSTRUCTION, ALTERATION OR REPAIR WORK,
11 REGARDLESS OF WHETHER THEY ARE TEMPORARY OR PERMANENT OR WHETHER THEY ARE
12 INCORPORATED IN THE CONSTRUCTION, ALTERATION OR REPAIR.

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

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

18 (iv) ANY BOND AND INSURANCE PREMIUMS.

19 (v) ANY APPLICABLE TAXES.

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

23 (f) REVIEWING AND EVALUATING COST ESTIMATES AND PROJECT DOCUMENTS TO
24 PREPARE RECOMMENDATIONS ON SITE USE, SITE IMPROVEMENTS, SELECTION OF
25 MATERIALS, BUILDING SYSTEMS AND EQUIPMENT, CONSTRUCTION, ALTERATION OR REPAIR
26 FEASIBILITY, AVAILABILITY OF MATERIALS AND LABOR, LOCAL CONSTRUCTION,
27 ALTERATION OR REPAIR ACTIVITY AS RELATED TO SCHEDULES AND TIME REQUIREMENTS
28 FOR CONSTRUCTION, ALTERATION OR REPAIR WORK.

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

31 3. "HIGHWAY, STREET OR BRIDGE CONTRACTOR" MEANS A CONTRACTOR WHO HOLDS
32 A CLASSIFICATION A LICENSE FROM THE REGISTRAR OF CONTRACTORS AND WHO
33 SUPERVISES, PERFORMS OR COORDINATES THE CONSTRUCTION, ALTERATION OR REPAIR OF
34 A HIGHWAY, STREET OR BRIDGE, INCLUDING THE CONTRACTING, IF ANY, WITH ANY
35 SUBCONTRACTORS.

36 4. "PROFESSIONAL SERVICES" MEANS ARCHITECT SERVICES, ASSAYER SERVICES,
37 ENGINEER SERVICES, GEOLOGIST SERVICES, LAND SURVEYING SERVICES OR LANDSCAPE

1 ARCHITECT SERVICES THAT ARE WITHIN THE SCOPE OF THOSE SERVICES AS PROVIDED IN
2 TITLE 32, CHAPTER 1 AND FOR WHICH GROSS PROCEEDS OF SALES OR GROSS INCOME HAS
3 NOT OTHERWISE BEEN DEDUCTED UNDER SUBSECTION B, PARAGRAPH 3 OF THIS SECTION.

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

6 42-5151. Definitions

7 In this article, unless the context otherwise requires:

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

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

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

24 ~~2.~~ 4. "Electric distribution service" means distributing electricity
25 to retail electric customers through the use of electric distribution
26 facilities.

27 ~~3.~~ 5. "Electric generation service" means providing electricity for
28 sale to retail electric customers but excluding electric distribution or
29 transmission services.

30 ~~4.~~ 6. "Electric transmission service" means transmitting electricity
31 to retail electric customers or to electric distribution facilities so
32 classified by the federal energy regulatory commission or, to the extent
33 permitted by law, so classified by the Arizona corporation commission.

34 ~~5.~~ 7. "Electric utility services" means the business of providing
35 electric ancillary services, electric distribution services, electric
36 generation services, electric transmission services and other services
37 related to providing electricity.

1 ~~6.~~ 8. "Electricity" means electric energy, electric capacity or
2 electric capacity and energy.

3 ~~7.~~ 9. "Electricity supplier" means a person, whether acting in a
4 principal, agent or other capacity, that offers to sell electricity to a
5 retail electric customer in this state.

6 ~~8.~~ 10. "Natural gas" means natural or artificial gas, and includes
7 methane and propane gas, the natural gas commodity, natural gas pipeline
8 capacity or natural gas commodity and pipeline capacity.

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

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

15 ~~11.~~ 13. "Other services" includes metering, meter reading services,
16 billing and collecting services.

17 ~~12.~~ 14. "Person" means an individual, firm, partnership, joint
18 venture, association, corporation, estate, trust, receiver or syndicate, this
19 state or a county, city, municipality, district or other political
20 subdivision or agency thereof.

21 ~~13.~~ 15. "Purchase" means any transfer, exchange or barter, conditional
22 or otherwise, in any manner or by any means, of tangible personal property
23 for a consideration, including transactions by which the possession of
24 property is transferred but the seller retains the title as security for
25 payment.

26 ~~14.~~ 16. "Purchase price" or "sales price" means the total amount for
27 which tangible personal property is sold, including any services that are a
28 part of the sale, valued in money, whether paid in money or otherwise, and
29 any amount for which credit is given to the purchaser by the seller without
30 any deduction on account of the cost of the property sold, materials used,
31 labor or services performed, interest charged, losses or other expenses, but
32 does not include:

33 (a) Discounts allowed and taken.

34 (b) Charges for labor or services in installing, remodeling or
35 repairing.

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

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

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

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

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

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

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

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

1 ~~18.~~ 20. "Solar daylighting" means a device that is specifically
2 designed to capture and redirect the visible portion of the solar beam, while
3 controlling the infrared portion, for use in illuminating interior building
4 spaces in lieu of artificial lighting.

5 ~~19.~~ 21. "Solar energy device" means a system or series of mechanisms
6 designed primarily to provide heating, to provide cooling, to produce
7 electrical power, to produce mechanical power, to provide solar daylighting
8 or to provide any combination of the foregoing by means of collecting and
9 transferring solar generated energy into such uses by either active or
10 passive means, including wind generator systems that produce electricity.
11 Solar energy systems may also have the capability of storing solar energy for
12 future use. Passive systems shall clearly be designed as a solar energy
13 device, such as a trombe wall, and not merely as a part of a normal
14 structure, such as a window.

15 ~~20.~~ 22. "Storage" means keeping or retaining tangible personal
16 property purchased from a retailer for any purpose except sale in the regular
17 course of business or subsequent use solely outside this state.

18 ~~21.~~ 23. "Taxpayer" means any retailer or person storing, using or
19 consuming tangible personal property the storage, use or consumption of which
20 is subject to the tax imposed by this article when such tax was not paid to a
21 retailer.

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

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

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

30 42-5155. Levy of tax; tax rate; purchaser's liability

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

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

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

15 ~~E.~~ D. The tax rate shall equal the rate of tax prescribed by section
16 42-5010, subsection A as applied to retailers and utility businesses
17 according to the respective classification under articles 1 and 2 of this
18 chapter for the same type of transaction or business activity.

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

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

32 ~~F.~~ G. A receipt from a retailer or utility business that maintains a
33 place of business in this state or from a retailer or utility business that
34 is authorized by the department to collect the tax, under such rules as it
35 may prescribe, and that is for the purposes of this article regarded as a
36 retailer or utility business maintaining a place of business in this state,
37 given to the purchaser as provided in section 42-5161 is sufficient to

1 relieve the purchaser from further liability for the tax to which the receipt
2 refers.

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

5 42-5159. Exemptions

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

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

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

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

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

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

34 6. Tangible personal property brought into this state by an individual
35 who was a nonresident at the time the property was purchased for storage, use
36 or consumption by the individual if the first actual use or consumption of

1 the property was outside this state, unless the property is used in
2 conducting a business in this state.

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

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

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

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

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

24 12. Materials that are purchased by or for publicly funded libraries
25 including school district libraries, charter school libraries, community
26 college libraries, state university libraries or federal, state, county or
27 municipal libraries for use by the public as follows:

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

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

30 13. Tangible personal property purchased by:

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

34 (b) A hospital operated by this state or a political subdivision of
35 this state.

36 (c) A licensed nursing care institution or a licensed residential care
37 institution or a residential care facility operated in conjunction with a

1 licensed nursing care institution or a licensed kidney dialysis center, which
2 provides medical services, nursing services or health related services and is
3 not used or held for profit.

4 (d) A qualifying health care organization, as defined in section
5 42-5001, if the tangible personal property is used by the organization solely
6 to provide health and medical related educational and charitable services.

7 (e) A qualifying health care organization as defined in section
8 42-5001 if the organization is dedicated to providing educational,
9 therapeutic, rehabilitative and family medical education training for blind,
10 visually impaired and multihandicapped children from the time of birth to age
11 twenty-one.

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

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

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

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

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

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

35 (i) A qualifying community health center as defined in section
36 42-5001.

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

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

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

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

22 15. Tangible personal property sold by:

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

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

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

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

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

8 18. Prescription eyeglasses and contact lenses.

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

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

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

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

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

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

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

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

35 27. Lottery tickets or shares purchased pursuant to title 5, chapter
36 5.1, article 1.

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

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

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

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

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

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

23 (b) Public educational institutions.

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

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

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

34 35. Liquid, solid or gaseous chemicals used in manufacturing,
35 processing, fabricating, mining, refining, metallurgical operations, research
36 and development and, beginning on January 1, 1999, printing, if using or
37 consuming the chemicals, alone or as part of an integrated system of

1 chemicals, involves direct contact with the materials from which the product
2 is produced for the purpose of causing or permitting a chemical or physical
3 change to occur in the materials as part of the production process. This
4 paragraph does not include chemicals that are used or consumed in activities
5 such as packaging, storage or transportation but does not affect any
6 exemption for such chemicals that is otherwise provided by this section. For
7 the purposes of this paragraph, "printing" means a commercial printing
8 operation and includes job printing, engraving, embossing, copying and
9 bookbinding.

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

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

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

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

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

35 (b) "Subcontract" means an agreement between a contractor and any
36 person who is not an employee of the contractor for furnishing of supplies or
37 services that, in whole or in part, are necessary to the performance of one

1 or more government contracts, or under which any portion of the contractor's
2 obligation under one or more government contracts is performed, undertaken or
3 assumed, and that includes provisions causing title to overhead materials or
4 other tangible personal property used in the performance of the subcontract
5 to pass to the government or that includes provisions incorporating such
6 title passing clauses in a government contract into the subcontract. FOR THE
7 PURPOSES OF THIS SUBDIVISION, "CONTRACTOR" HAS ITS ORDINARY AND COMMON
8 MEANING AND DOES NOT HAVE THE MEANING PRESCRIBED IN SECTION 42-5151.

9 40. Through December 31, 1994, tangible personal property sold pursuant
10 to a personal property liquidation transaction, as defined in section
11 42-5061. From and after December 31, 1994, tangible personal property sold
12 pursuant to a personal property liquidation transaction, as defined in
13 section 42-5061, if the gross proceeds of the sales were included in the
14 measure of the tax imposed by article 1 of this chapter or if the personal
15 property liquidation was a casual activity or transaction.

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

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

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

30 44. Alternative fuel vehicles if the vehicle was manufactured as a
31 diesel fuel vehicle and converted to operate on alternative fuel and
32 equipment that is installed in a conventional diesel fuel motor vehicle to
33 convert the vehicle to operate on an alternative fuel, as defined in section
34 1-215.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 54. TANGIBLE PERSONAL PROPERTY PURCHASED BY A QUALIFIED BUSINESS UNDER
36 SECTION 41-1516 IF THE PROPERTY SOLD IS TO BE INCORPORATED OR FABRICATED INTO
37 A BUILDING, OR OTHER STRUCTURE, PROJECT, DEVELOPMENT OR IMPROVEMENT OWNED BY

1 THE QUALIFIED BUSINESS FOR HARVESTING OR PROCESSING QUALIFYING FOREST
2 PRODUCTS. TO QUALIFY FOR THIS EXEMPTION, THE QUALIFIED BUSINESS AT THE TIME
3 OF PURCHASE MUST PRESENT ITS CERTIFICATION APPROVED BY THE DEPARTMENT.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 For the purposes of subdivision (b) of this paragraph, "test period" means
35 the three hundred sixty-five day period beginning on the later of the date on
36 which the tangible personal property is purchased or the date on which the

1 direct broadcast satellite television or data transmission service first
2 transmits information to its customers.

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

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

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

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

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

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

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

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

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

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

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

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

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

27 2. Janitorial equipment and hand tools.

28 3. Office equipment, furniture and supplies.

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

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

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

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

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

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

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

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

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

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

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

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

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

32 1. "Aircraft" includes:

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

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

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

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

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

13 42-5160. Liability for tax

14 Any person who uses, stores or consumes any tangible personal property
15 ~~upon~~ ON which a tax is imposed by this article and ~~upon~~ ON which the tax has
16 not been collected by a registered retailer or utility business shall pay the
17 tax as provided by this article, but every retailer and utility business
18 maintaining a place of business in this state and making sales of tangible
19 personal property for storage, use or other consumption in this state shall
20 collect the tax from the purchaser or user unless the property is exempt
21 under this article or the purchaser or user pays the tax directly to the
22 department as provided by section 42-5167. In the case of a manufactured
23 building that is purchased from a dealer outside this state and brought into
24 this state, any person who is hired to set up the manufactured building and
25 who is licensed pursuant to title 41, chapter 16, article 4 shall collect the
26 tax from the owner and remit the tax with any tax that is due under the ~~prime~~
27 ~~contracting~~ MANUFACTURED BUILDING DEALER classification PURSUANT TO SECTION
28 42-5075.

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

31 42-6001. Collection and administration of transaction privilege
32 tax and affiliated excise taxes; committee

33 A. The department ~~may~~ SHALL collect and administer any transaction
34 privilege and affiliated excise taxes, including use tax, severance tax, jet
35 fuel excise and use tax, and rental occupancy tax, imposed by any city or
36 town, and the department and any city or town ~~may~~ SHALL enter into
37 intergovernmental contracts or agreements to provide a uniform method of

1 administration, collection, audit and licensing of transaction privilege and
2 affiliated excise taxes imposed by the state or cities or towns pursuant to
3 title 11, chapter 7, article 3.

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

13 ~~C. A city or town that does not enter into an agreement with the
14 department for the collection of municipal transaction privilege and
15 affiliated excise taxes shall report to the department on or before September
16 1 of each year the total amount of those taxes collected by the city or town
17 in the preceding fiscal year.~~

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

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

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

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

1 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the
2 organization is associated with a major league baseball team or a national
3 touring professional golfing association and no part of the organization's
4 net earnings inures to the benefit of any private shareholder or individual.

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

8 3. Sales of warranty or service contracts.

9 4. Sales of motor vehicles to nonresidents of this state for use
10 outside this state if the ~~vendor~~ MOTOR VEHICLE DEALER ships or delivers the
11 motor vehicle to a destination outside this state.

12 5. Interest on finance contracts.

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

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

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

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

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

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

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

3 11. The gross proceeds of sales or gross income derived from a
4 commercial lease in which a reciprocal insurer or a corporation leases real
5 property to an affiliated corporation. For the purposes of this paragraph:

6 (a) "Affiliated corporation" means a corporation that meets one of the
7 following conditions:

8 (i) The corporation owns or controls at least eighty per cent of the
9 lessor.

10 (ii) The corporation is at least eighty per cent owned or controlled
11 by the lessor.

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

15 (iv) The corporation is at least eighty per cent owned or controlled
16 by a corporation that is at least eighty per cent owned or controlled by a
17 reciprocal insurer.

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

21 (c) "Reciprocal insurer" has the same meaning prescribed in section
22 20-762.

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

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

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

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

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

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

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

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

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

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

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

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

31 6. CONSTRUCTION CONTRACTING, OWNER BUILDER SALES OR SPECULATIVE
32 BUILDING. THE SALE OF TANGIBLE PERSONAL PROPERTY TO A CONTRACTOR, OWNER
33 BUILDER OR SPECULATIVE BUILDER, AS DEFINED IN THE MODEL CITY TAX CODE,
34 REGARDLESS OF WHETHER THE PROPERTY WILL BE INCORPORATED INTO A BUILDING OR
35 STRUCTURE, IS CONSIDERED TO BE A SALE AT RETAIL AND IS SUBJECT TO TAXATION
36 UNDER THE RETAIL SALES PROVISION OF THE MODEL CITY TAX CODE UNLESS THE
37 CONTRACTOR PROVIDES TO THE RETAILER A CERTIFICATE THAT IS SIGNED BY THE OWNER

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

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

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

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

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

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

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

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

34 42-6005. Unified audit committee; audits

35 A. The director shall establish a unified audit committee with cities
36 and towns. The committee shall coordinate uniform audit functions. The
37 committee shall publish uniform guidelines that interpret the model city tax

1 code and that apply to all cities and towns that have adopted the model city
2 tax code.

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

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

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

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

25 ARTICLE 1.1. MUNICIPAL CONTRACTING EXCISE TAX

26 42-6020. Highway, street and bridge construction; definitions

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

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

34 1. THE GROSS PROCEEDS OF SALES OR GROSS INCOME RECEIVED FROM A
35 CONTRACT ENTERED INTO FOR THE CONSTRUCTION, ALTERATION, OR REPAIR OF ANY
36 HIGHWAY, STREET OR BRIDGE LOCATED WITHIN AN ACTIVE MILITARY REUSE ZONE AFTER
37 THE ZONE IS INITIALLY ESTABLISHED OR RENEWED UNDER SECTION 41-1531. TO BE

1 ELIGIBLE TO QUALIFY FOR THIS DEDUCTION, BEFORE BEGINNING WORK UNDER THE
2 CONTRACT, THE HIGHWAY, STREET OR BRIDGE CONTRACTOR MUST HAVE APPLIED FOR A
3 LETTER OF QUALIFICATION FROM THE DEPARTMENT OF REVENUE.

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

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

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

24 D. FOR THE PURPOSES OF THIS SECTION:

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

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

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

35 (c) ADMINISTRATION OR SUPERVISION OF ANY WORK PERFORMED PURSUANT TO
36 CHANGE ORDERS. FOR THE PURPOSES OF THIS SUBDIVISION, "CHANGE ORDER" MEANS A

1 WRITTEN INSTRUMENT ISSUED AFTER EXECUTION OF A CONTRACT FOR THE CONSTRUCTION
2 OF A HIGHWAY, STREET OR BRIDGE, PROVIDING FOR ALL OF THE FOLLOWING:

3 (i) THE SCOPE OF CHANGE IN THE WORK.

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

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

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

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

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

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

29 (i) MASTER SCHEDULE UPDATES.

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

31 (iii) SITE REPORTS MADE ON A PERIODIC BASIS.

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

34 (v) IDENTIFICATION OF ANY HEALTH AND SAFETY ISSUES THAT HAVE ARISEN IN
35 CONNECTION WITH THE CONSTRUCTION, ALTERATION OR REPAIR WORK.

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

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

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

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

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

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

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

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

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

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

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

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

4 (iv) ANY BOND AND INSURANCE PREMIUMS.

5 (v) ANY APPLICABLE TAXES.

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

9 (f) REVIEWING AND EVALUATING COST ESTIMATES AND PROJECT DOCUMENTS TO
10 PREPARE RECOMMENDATIONS ON SITE USE, SITE IMPROVEMENTS, SELECTION OF
11 MATERIALS, BUILDING SYSTEMS AND EQUIPMENT, CONSTRUCTION, ALTERATION OR REPAIR
12 FEASIBILITY, AVAILABILITY OF MATERIALS AND LABOR, LOCAL CONSTRUCTION,
13 ALTERATION OR REPAIR ACTIVITY AS RELATED TO SCHEDULES AND TIME REQUIREMENTS
14 FOR CONSTRUCTION, ALTERATION OR REPAIR WORK.

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

17 3. "HIGHWAY, STREET OR BRIDGE CONTRACTOR" MEANS A CONTRACTOR WHO HOLDS
18 A CLASSIFICATION A LICENSE FROM THE REGISTRAR OF CONTRACTORS AND WHO
19 SUPERVISES, PERFORMS OR COORDINATES THE CONSTRUCTION, ALTERATION OR REPAIR OF
20 A HIGHWAY, STREET OR BRIDGE, INCLUDING THE CONTRACTING, IF ANY, WITH ANY
21 SUBCONTRACTORS.

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

27 42-6021. Residential and commercial contracting classification:
28 definitions

29 A. THE RESIDENTIAL AND COMMERCIAL CONTRACTING CLASSIFICATION IS
30 COMPRISED OF THE BUSINESS OF RESIDENTIAL AND COMMERCIAL CONTRACTING.

31 B. THE TAX BASE FOR THE RESIDENTIAL AND COMMERCIAL CONTRACTING
32 CLASSIFICATION IS SIXTY-FIVE PER CENT OF THE GROSS PROCEEDS OF SALES OR GROSS
33 INCOME DERIVED FROM THE BUSINESS. THE FOLLOWING AMOUNTS SHALL BE DEDUCTED
34 FROM THE GROSS PROCEEDS OF SALES OR GROSS INCOME BEFORE COMPUTING THE TAX
35 BASE:

36 1. THE SALES PRICE OF LAND, WHICH SHALL NOT EXCEED THE FAIR MARKET
37 VALUE.

1 2. SALES AND INSTALLATION OF GROUNDWATER MEASURING DEVICES REQUIRED
2 UNDER SECTION 45-604 AND GROUNDWATER MONITORING WELLS REQUIRED BY LAW,
3 INCLUDING MONITORING WELLS INSTALLED FOR ACQUIRING INFORMATION FOR A PERMIT
4 REQUIRED BY LAW.

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

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

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

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

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

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

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

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

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

18 6. THE GROSS PROCEEDS OF SALES OR GROSS INCOME THAT IS DERIVED FROM A
19 CONTRACT ENTERED INTO FOR THE INSTALLATION, ASSEMBLY, REPAIR OR MAINTENANCE
20 OF MACHINERY, EQUIPMENT OR OTHER TANGIBLE PERSONAL PROPERTY THAT IS DEDUCTED
21 FROM THE TAX BASE OF THE RETAIL CLASSIFICATION PURSUANT TO SECTION 42-5061,
22 SUBSECTION B, OR THAT IS EXEMPT FROM USE TAX PURSUANT TO SECTION 42-5159,
23 SUBSECTION B, AND THAT DOES NOT BECOME A PERMANENT ATTACHMENT TO A BUILDING,
24 HIGHWAY, ROAD, RAILROAD, EXCAVATION OR MANUFACTURED BUILDING OR OTHER
25 STRUCTURE, PROJECT, DEVELOPMENT OR IMPROVEMENT. IF THE OWNERSHIP OF THE
26 REALTY IS SEPARATE FROM THE OWNERSHIP OF THE MACHINERY, EQUIPMENT OR TANGIBLE
27 PERSONAL PROPERTY, THE DETERMINATION AS TO PERMANENT ATTACHMENT SHALL BE MADE
28 AS IF THE OWNERSHIP WERE THE SAME. THE DEDUCTION PROVIDED IN THIS PARAGRAPH
29 DOES NOT INCLUDE GROSS PROCEEDS OF SALES OR GROSS INCOME FROM THAT PORTION OF
30 ANY CONTRACTING ACTIVITY THAT CONSISTS OF THE DEVELOPMENT OF, OR MODIFICATION
31 TO, REAL PROPERTY IN ORDER TO FACILITATE THE INSTALLATION, ASSEMBLY, REPAIR,
32 MAINTENANCE OR REMOVAL OF MACHINERY, EQUIPMENT OR OTHER TANGIBLE PERSONAL
33 PROPERTY THAT IS DEDUCTED FROM THE TAX BASE OF THE RETAIL CLASSIFICATION
34 PURSUANT TO SECTION 42-5061, SUBSECTION B OR THAT IS EXEMPT FROM USE TAX
35 PURSUANT TO SECTION 42-5159, SUBSECTION B. FOR THE PURPOSES OF THIS
36 PARAGRAPH, "PERMANENT ATTACHMENT" MEANS AT LEAST ONE OF THE FOLLOWING:

1 (a) TO BE INCORPORATED INTO REAL PROPERTY.

2 (b) TO BECOME SO AFFIXED TO REAL PROPERTY THAT IT BECOMES A PART OF
3 THE REAL PROPERTY.

4 (c) TO BE SO ATTACHED TO REAL PROPERTY THAT REMOVAL WOULD CAUSE
5 SUBSTANTIAL DAMAGE TO THE REAL PROPERTY FROM WHICH IT IS REMOVED.

6 7. THE GROSS PROCEEDS OF SALES OR GROSS INCOME ATTRIBUTABLE TO THE
7 PURCHASE OF MACHINERY, EQUIPMENT OR OTHER TANGIBLE PERSONAL PROPERTY THAT IS
8 EXEMPT FROM OR DEDUCTIBLE FROM TRANSACTION PRIVILEGE AND USE TAX UNDER:

9 (a) SECTION 42-5061, SUBSECTION A, PARAGRAPH 25 OR 29.

10 (b) SECTION 42-5061, SUBSECTION B.

11 (c) SECTION 42-5159, SUBSECTION A, PARAGRAPH 13, SUBDIVISION (a), (b),
12 (c), (d), (e), (f), (i), (j) OR (l).

13 (d) SECTION 42-5159, SUBSECTION B.

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

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

27 10. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM THE
28 INSTALLATION, ASSEMBLY, REPAIR OR MAINTENANCE OF CLEAN ROOMS THAT ARE
29 DEDUCTED FROM THE TAX BASE OF THE RETAIL CLASSIFICATION PURSUANT TO SECTION
30 42-5061, SUBSECTION B, PARAGRAPH 16.

31 11. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A CONTRACT
32 ENTERED INTO FOR THE CONSTRUCTION OF A RESIDENTIAL APARTMENT HOUSING FACILITY
33 THAT QUALIFIES FOR A FEDERAL HOUSING SUBSIDY FOR LOW INCOME PERSONS OVER
34 SIXTY-TWO YEARS OF AGE AND THAT IS OWNED BY A NONPROFIT CHARITABLE
35 ORGANIZATION THAT HAS QUALIFIED UNDER SECTION 501(c)(3) OF THE INTERNAL
36 REVENUE CODE.

1 12. FOR TAXABLE PERIODS BEGINNING FROM AND AFTER DECEMBER 31, 1996 AND
2 ENDING BEFORE JANUARY 1, 2017, THE GROSS PROCEEDS OF SALES OR GROSS INCOME
3 DERIVED FROM A CONTRACT TO PROVIDE AND INSTALL A SOLAR ENERGY DEVICE. THE
4 CONTRACTOR SHALL REGISTER WITH THE DEPARTMENT AS A SOLAR ENERGY CONTRACTOR.
5 BY REGISTERING, THE CONTRACTOR ACKNOWLEDGES THAT IT WILL MAKE ITS BOOKS AND
6 RECORDS RELATING TO SALES OF SOLAR ENERGY DEVICES AVAILABLE TO THE DEPARTMENT
7 FOR EXAMINATION.

8 13. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A CONTRACT
9 ENTERED INTO FOR THE CONSTRUCTION OF A LAUNCH SITE, AS DEFINED IN 14 CODE OF
10 FEDERAL REGULATIONS SECTION 401.5.

11 14. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A CONTRACT
12 ENTERED INTO FOR THE CONSTRUCTION OF A DOMESTIC VIOLENCE SHELTER THAT IS
13 OWNED AND OPERATED BY A NONPROFIT CHARITABLE ORGANIZATION THAT HAS QUALIFIED
14 UNDER SECTION 501(c)(3) OF THE INTERNAL REVENUE CODE.

15 15. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM CONTRACTS
16 TO PERFORM POSTCONSTRUCTION TREATMENT OF REAL PROPERTY FOR TERMITE AND
17 GENERAL PEST CONTROL, INCLUDING WOOD-DESTROYING ORGANISMS.

18 16. THE GROSS PROCEEDS OF SALES OR GROSS INCOME RECEIVED FROM CONTRACTS
19 ENTERED INTO BEFORE JULY 1, 2006 FOR CONSTRUCTING A STATE UNIVERSITY RESEARCH
20 INFRASTRUCTURE PROJECT IF THE PROJECT HAS BEEN REVIEWED BY THE JOINT
21 COMMITTEE ON CAPITAL REVIEW BEFORE THE UNIVERSITY ENTERS INTO THE
22 CONSTRUCTION CONTRACT FOR THE PROJECT. FOR THE PURPOSES OF THIS PARAGRAPH,
23 "RESEARCH INFRASTRUCTURE" HAS THE SAME MEANING PRESCRIBED IN SECTION 15-1670.

24 17. THE GROSS PROCEEDS OF SALES OR GROSS INCOME RECEIVED FROM A
25 CONTRACT FOR THE CONSTRUCTION OF ANY BUILDING, RAILROAD OR OTHER STRUCTURE,
26 PROJECT, DEVELOPMENT OR IMPROVEMENT OWNED BY A QUALIFIED BUSINESS UNDER
27 SECTION 41-1516 FOR HARVESTING OR PROCESSING QUALIFYING FOREST PRODUCTS
28 REMOVED FROM QUALIFYING PROJECTS AS DEFINED IN SECTION 41-1516 IF ACTUAL
29 CONSTRUCTION BEGINS BEFORE JANUARY 1, 2024. TO QUALIFY FOR THIS DEDUCTION,
30 THE RESIDENTIAL OR COMMERCIAL CONTRACTOR MUST OBTAIN A LETTER OF
31 QUALIFICATION FROM THE ARIZONA COMMERCE AUTHORITY BEFORE BEGINNING WORK UNDER
32 THE CONTRACT.

33 18. ANY AMOUNT OF THE GROSS PROCEEDS OF SALES OR GROSS INCOME
34 ATTRIBUTABLE TO DEVELOPMENT FEES THAT ARE INCURRED IN RELATION TO A CONTRACT
35 FOR CONSTRUCTION, DEVELOPMENT OR IMPROVEMENT OF REAL PROPERTY AND THAT ARE
36 PAID BY A RESIDENTIAL OR COMMERCIAL CONTRACTOR OR SUBCONTRACTOR. FOR THE
37 PURPOSES OF THIS PARAGRAPH:

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

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

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

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

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

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

21 (b) OBTAINING A CERTIFICATE EXECUTED BY THE CUSTOMER INDICATING THE
22 NAME AND ADDRESS OF THE CUSTOMER, THE PRECISE NATURE OF THE BUSINESS OF THE
23 CUSTOMER, THE PURPOSE FOR WHICH THE PURCHASE WAS MADE, THE NECESSARY FACTS TO
24 ESTABLISH THE DEDUCTIBILITY OF THE PROPERTY UNDER SECTION 42-5061, SUBSECTION
25 B, AND A CERTIFICATION THAT THE PERSON EXECUTING THE CERTIFICATE IS
26 AUTHORIZED TO DO SO ON BEHALF OF THE PURCHASER. THE CERTIFICATE MAY BE
27 DISREGARDED IF THE RESIDENTIAL OR COMMERCIAL CONTRACTOR HAS REASON TO BELIEVE
28 THAT THE INFORMATION CONTAINED IN THE CERTIFICATE IS NOT ACCURATE OR
29 COMPLETE.

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

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

1 OBTAIN SUCH ADDITIONAL INFORMATION AS REQUIRED IN ORDER TO BE ENTITLED TO THE
2 DEDUCTION.

3 4. IF A RESIDENTIAL OR COMMERCIAL CONTRACTOR IS ENTITLED TO A
4 DEDUCTION BY COMPLYING WITH PARAGRAPH 1 OF THIS SUBSECTION, THE DEPARTMENT
5 MAY REQUIRE THE CUSTOMER WHO CAUSED THE EXECUTION OF THE CERTIFICATE TO
6 ESTABLISH THE ACCURACY AND COMPLETENESS OF THE INFORMATION REQUIRED TO BE
7 CONTAINED IN THE CERTIFICATE THAT WOULD ENTITLE THE RESIDENTIAL OR COMMERCIAL
8 CONTRACTOR TO THE DEDUCTION. IF THE CUSTOMER CANNOT ESTABLISH THE ACCURACY
9 AND COMPLETENESS OF THE INFORMATION, THE CUSTOMER IS LIABLE IN AN AMOUNT
10 EQUAL TO ANY TAX, PENALTY AND INTEREST THAT THE RESIDENTIAL OR COMMERCIAL
11 CONTRACTOR WOULD HAVE BEEN REQUIRED TO PAY UNDER ARTICLE 1 OF THIS CHAPTER IF
12 THE RESIDENTIAL OR COMMERCIAL CONTRACTOR HAD NOT COMPLIED WITH PARAGRAPH 1 OF
13 THIS SUBSECTION.

14 D. SUBCONTRACTORS OR OTHERS WHO PERFORM SERVICES IN RESPECT TO ANY
15 IMPROVEMENT, BUILDING, RAILROAD, EXCAVATION OR OTHER STRUCTURE, PROJECT,
16 DEVELOPMENT OR IMPROVEMENT ARE NOT SUBJECT TO TAX IF THEY CAN DEMONSTRATE
17 THAT THE JOB WAS WITHIN THE CONTROL OF A RESIDENTIAL OR COMMERCIAL CONTRACTOR
18 OR CONTRACTORS AND THAT THE RESIDENTIAL OR COMMERCIAL CONTRACTOR IS LIABLE
19 FOR THE TAX ON THE GROSS INCOME, GROSS PROCEEDS OF SALES OR GROSS RECEIPTS
20 ATTRIBUTABLE TO THE JOB AND FROM WHICH THE SUBCONTRACTORS OR OTHERS WERE
21 PAID.

22 E. AMOUNTS RECEIVED BY A CONTRACTOR FOR A PROJECT ARE EXCLUDED FROM
23 THE CONTRACTOR'S GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM THE
24 BUSINESS IF THE PERSON WHO HIRED THE CONTRACTOR EXECUTES AND PROVIDES A
25 CERTIFICATE TO THE CONTRACTOR STATING THAT THE PERSON PROVIDING THE
26 CERTIFICATE IS A RESIDENTIAL OR COMMERCIAL CONTRACTOR AND IS LIABLE FOR THE
27 TAX UNDER THIS ARTICLE. THE DEPARTMENT SHALL PRESCRIBE THE FORM OF THE
28 CERTIFICATE. IF THE CONTRACTOR HAS REASON TO BELIEVE THAT THE INFORMATION
29 CONTAINED ON THE CERTIFICATE IS ERRONEOUS OR INCOMPLETE, THE DEPARTMENT MAY
30 DISREGARD THE CERTIFICATE. IF THE PERSON WHO PROVIDES THE CERTIFICATE IS NOT
31 LIABLE FOR THE TAX AS A RESIDENTIAL OR COMMERCIAL CONTRACTOR, THAT PERSON IS
32 NEVERTHELESS DEEMED TO BE THE RESIDENTIAL OR COMMERCIAL CONTRACTOR IN LIEU OF
33 THE CONTRACTOR AND IS SUBJECT TO THE TAX UNDER THIS SECTION ON THE GROSS
34 RECEIPTS OR GROSS PROCEEDS RECEIVED BY THE CONTRACTOR.

35 F. EVERY PERSON ENGAGING OR CONTINUING IN THIS STATE IN THE BUSINESS
36 OF RESIDENTIAL OR COMMERCIAL CONTRACTING SHALL PRESENT TO THE CUSTOMER OF
37 SUCH RESIDENTIAL OR COMMERCIAL CONTRACTING A WRITTEN RECEIPT OF THE GROSS

1 INCOME OR GROSS PROCEEDS OF SALES FROM SUCH ACTIVITY AND SHALL SEPARATELY
2 STATE THE TAXES TO BE PAID PURSUANT TO THIS SECTION.

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

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

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

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

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

1 GROSS PROCEEDS OF SALES OR GROSS INCOME ATTRIBUTABLE TO CONSTRUCTION PHASE
2 SERVICES. FOR THE PURPOSES OF THIS SUBSECTION:

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

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

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

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

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

19 (ii) THE AMOUNT OF AN ADJUSTMENT, IF ANY, TO THE GUARANTEED MAXIMUM
20 PRICE AS SET IN THE CONTRACT FOR MODIFICATION WORK. FOR THE PURPOSES OF THIS
21 ITEM, "GUARANTEED MAXIMUM PRICE" MEANS THE AMOUNT GUARANTEED TO BE THE
22 MAXIMUM AMOUNT DUE TO A RESIDENTIAL OR COMMERCIAL CONTRACTOR FOR THE
23 PERFORMANCE OF ALL MODIFICATION WORK FOR THE PROJECT.

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

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

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

33 (f) PREPARATION OF ANY MANUALS, WARRANTIES, AS-BUILT DRAWINGS, SPARES
34 OR OTHER ITEMS THE RESIDENTIAL OR COMMERCIAL CONTRACTOR MUST FURNISH PURSUANT
35 TO THE CONTRACT FOR MODIFICATION WORK. FOR THE PURPOSES OF THIS SUBDIVISION,
36 "AS-BUILT DRAWING" MEANS A DRAWING THAT INDICATES FIELD CHANGES MADE TO ADAPT

1 TO FIELD CONDITIONS, FIELD CHANGES RESULTING FROM CHANGE ORDERS OR BURIED AND
2 CONCEALED INSTALLATION OF PIPING, CONDUIT AND UTILITY SERVICES.

3 (g) PREPARATION OF STATUS REPORTS AFTER MODIFICATION WORK HAS BEGUN
4 DETAILING THE PROGRESS OF WORK PERFORMED, INCLUDING PREPARATION OF ANY OF THE
5 FOLLOWING:

6 (i) ASTER SCHEDULE UPDATES.

7 (ii) MODIFICATION WORK CASH FLOW PROJECTION UPDATES.

8 (iii) SITE REPORTS MADE ON A PERIODIC BASIS.

9 (iv) IDENTIFICATION OF DISCREPANCIES, CONFLICTS OR AMBIGUITIES IN
10 MODIFICATION WORK DOCUMENTS THAT REQUIRE RESOLUTION.

11 (v) IDENTIFICATION OF ANY HEALTH AND SAFETY ISSUES THAT HAVE ARISEN IN
12 CONNECTION WITH THE MODIFICATION WORK.

13 (h) PREPARATION OF DAILY LOGS OF MODIFICATION WORK, INCLUDING
14 DOCUMENTATION OF PERSONNEL, WEATHER CONDITIONS AND ON-SITE OCCURRENCES.

15 (i) PREPARATION OF ANY SUBMITTALS OR SHOP DRAWINGS USED BY THE
16 RESIDENTIAL OR COMMERCIAL CONTRACTOR TO ILLUSTRATE DETAILS OF THE
17 MODIFICATION WORK PERFORMED.

18 (j) ADMINISTRATION OR SUPERVISION OF ANY OTHER ACTIVITIES FOR WHICH A
19 RESIDENTIAL OR COMMERCIAL CONTRACTOR RECEIVES A CERTIFICATE FOR PAYMENT OR
20 CERTIFICATE FOR FINAL PAYMENT BASED ON THE PROGRESS OF MODIFICATION WORK
21 PERFORMED ON THE PROJECT.

22 2. "DESIGN PHASE SERVICES" MEANS SERVICES FOR DEVELOPING AND
23 COMPLETING A DESIGN FOR A PROJECT THAT ARE NOT CONSTRUCTION PHASE SERVICES,
24 INCLUDING THE FOLLOWING:

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

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

31 (c) PREPARING DRAWINGS AND SPECIFICATIONS FOR ARCHITECTURAL PROGRAM
32 DOCUMENTS, SCHEMATIC DESIGN DOCUMENTS, DESIGN DEVELOPMENT DOCUMENTS,
33 MODIFICATION WORK DOCUMENTS OR DOCUMENTS THAT IDENTIFY THE SCOPE OF OR
34 MATERIALS FOR THE PROJECT.

35 (d) PREPARING AN INITIAL SCHEDULE FOR THE PROJECT, EXCLUDING THE
36 PREPARATION OF UPDATES TO THE MASTER SCHEDULE AFTER MODIFICATION WORK HAS
37 BEGUN.

1 (e) PREPARING PRELIMINARY ESTIMATES OF COSTS OF MODIFICATION WORK
2 BEFORE COMPLETION OF THE FINAL DESIGN OF THE PROJECT, INCLUDING AN ESTIMATE
3 OR SCHEDULE OF VALUES FOR ANY OF THE FOLLOWING:

4 (i) LABOR, MATERIALS, MACHINERY AND EQUIPMENT, TOOLS, WATER, HEAT,
5 UTILITIES, TRANSPORTATION AND OTHER FACILITIES AND SERVICES USED IN THE
6 EXECUTION AND COMPLETION OF MODIFICATION WORK, REGARDLESS OF WHETHER THEY ARE
7 TEMPORARY OR PERMANENT OR WHETHER THEY ARE INCORPORATED IN THE MODIFICATIONS.

8 (ii) THE COST OF LABOR AND MATERIALS TO BE FURNISHED BY THE OWNER OF
9 THE REAL PROPERTY.

10 (iii) THE COST OF ANY EQUIPMENT OF THE OWNER OF THE REAL PROPERTY TO
11 BE ASSIGNED BY THE OWNER TO THE RESIDENTIAL OR COMMERCIAL CONTRACTOR.

12 (iv) THE COST OF ANY LABOR FOR INSTALLATION OF EQUIPMENT SEPARATELY
13 PROVIDED BY THE OWNER OF THE REAL PROPERTY THAT HAS BEEN DESIGNED, SPECIFIED,
14 SELECTED OR SPECIFICALLY PROVIDED FOR IN ANY DESIGN DOCUMENT FOR THE PROJECT.

15 (v) ANY FEE PAID BY THE OWNER OF THE REAL PROPERTY TO THE RESIDENTIAL
16 OR COMMERCIAL CONTRACTOR PURSUANT TO THE CONTRACT FOR MODIFICATION WORK.

17 (vi) ANY BOND AND INSURANCE PREMIUMS.

18 (vii) ANY APPLICABLE TAXES.

19 (viii) ANY CONTINGENCY FEES FOR THE RESIDENTIAL OR COMMERCIAL
20 CONTRACTOR THAT MAY BE USED BEFORE FINAL COMPLETION OF THE PROJECT.

21 (f) REVIEWING AND EVALUATING COST ESTIMATES AND PROJECT DOCUMENTS TO
22 PREPARE RECOMMENDATIONS ON SITE USE, SITE IMPROVEMENTS, SELECTION OF
23 MATERIALS, BUILDING SYSTEMS AND EQUIPMENT, MODIFICATION FEASIBILITY,
24 AVAILABILITY OF MATERIALS AND LABOR, LOCAL MODIFICATION ACTIVITY AS RELATED
25 TO SCHEDULES AND TIME REQUIREMENTS FOR MODIFICATION WORK.

26 (g) PREPARING THE PLAN AND PROCEDURES FOR SELECTION OF SUBCONTRACTORS,
27 INCLUDING ANY PREQUALIFICATION OF SUBCONTRACTOR CANDIDATES.

28 3. "PROFESSIONAL SERVICES" MEANS ARCHITECT SERVICES, ASSAYER SERVICES,
29 ENGINEER SERVICES, GEOLOGIST SERVICES, LAND SURVEYING SERVICES OR LANDSCAPE
30 ARCHITECT SERVICES THAT ARE WITHIN THE SCOPE OF THOSE SERVICES AS PROVIDED IN
31 TITLE 32, CHAPTER 1 AND FOR WHICH GROSS PROCEEDS OF SALES OR GROSS INCOME HAS
32 NOT OTHERWISE BEEN DEDUCTED UNDER SUBSECTION K OF THIS SECTION.

33 L. NOTWITHSTANDING SUBSECTION M, PARAGRAPH 6 OF THIS SECTION, A PERSON
34 OWNING REAL PROPERTY WHO ENTERS INTO A CONTRACT FOR SALE OF THE REAL
35 PROPERTY, WHO IS RESPONSIBLE TO THE NEW OWNER OF THE PROPERTY FOR
36 MODIFICATIONS MADE TO THE PROPERTY IN THE PERIOD SUBSEQUENT TO THE TRANSFER
37 OF TITLE AND WHO RECEIVES A CONSIDERATION FOR THE MODIFICATIONS IS CONSIDERED

1 A RESIDENTIAL OR COMMERCIAL CONTRACTOR SOLELY FOR PURPOSES OF TAXING THE
2 GROSS PROCEEDS OF SALE OR GROSS INCOME RECEIVED FOR THE MODIFICATIONS MADE
3 SUBSEQUENT TO THE TRANSFER OF TITLE. THE ORIGINAL OWNER'S GROSS PROCEEDS OF
4 SALE OR GROSS INCOME RECEIVED FOR THE MODIFICATIONS SHALL BE DETERMINED
5 ACCORDING TO THE FOLLOWING METHODOLOGY:

6 1. IF ANY PART OF THE CONTRACT FOR SALE OF THE PROPERTY SPECIFIES
7 AMOUNTS TO BE PAID TO THE ORIGINAL OWNER FOR THE MODIFICATIONS TO BE MADE IN
8 THE PERIOD SUBSEQUENT TO THE TRANSFER OF TITLE, THE AMOUNTS ARE INCLUDED IN
9 THE ORIGINAL OWNER'S GROSS PROCEEDS OF SALE OR GROSS INCOME UNDER THIS
10 SECTION. PROCEEDS FROM THE SALE OF THE PROPERTY THAT ARE RECEIVED AFTER
11 TRANSFER OF TITLE AND THAT ARE UNRELATED TO THE MODIFICATIONS MADE SUBSEQUENT
12 TO THE TRANSFER OF TITLE ARE NOT CONSIDERED GROSS PROCEEDS OF SALE OR GROSS
13 INCOME FROM THE MODIFICATIONS.

14 2. IF THE ORIGINAL OWNER ENTERS INTO AN AGREEMENT SEPARATE FROM THE
15 CONTRACT FOR SALE OF THE REAL PROPERTY PROVIDING FOR AMOUNTS TO BE PAID TO
16 THE ORIGINAL OWNER FOR THE MODIFICATIONS TO BE MADE IN THE PERIOD SUBSEQUENT
17 TO THE TRANSFER OF TITLE TO THE PROPERTY, THE AMOUNTS ARE INCLUDED IN THE
18 ORIGINAL OWNER'S GROSS PROCEEDS OF SALE OR GROSS INCOME RECEIVED FOR THE
19 MODIFICATIONS MADE SUBSEQUENT TO THE TRANSFER OF TITLE.

20 3. IF THE ORIGINAL OWNER IS RESPONSIBLE TO THE NEW OWNER FOR
21 MODIFICATIONS MADE TO THE PROPERTY IN THE PERIOD SUBSEQUENT TO THE TRANSFER
22 OF TITLE AND DERIVES ANY GROSS PROCEEDS OF SALE OR GROSS INCOME FROM THE
23 PROJECT SUBSEQUENT TO THE TRANSFER OF TITLE OTHER THAN A DELAYED DISBURSEMENT
24 FROM ESCROW UNRELATED TO THE MODIFICATIONS, IT IS PRESUMED THAT THE AMOUNTS
25 ARE RECEIVED FOR THE MODIFICATIONS MADE SUBSEQUENT TO THE TRANSFER OF TITLE
26 UNLESS THE CONTRARY IS ESTABLISHED BY THE OWNER THROUGH ITS BOOKS, RECORDS
27 AND PAPERS KEPT IN THE REGULAR COURSE OF BUSINESS.

28 4. THE TAX BASE OF THE ORIGINAL OWNER IS COMPUTED IN THE SAME MANNER
29 AS A RESIDENTIAL OR COMMERCIAL CONTRACTOR UNDER THIS SECTION.

30 M. FOR THE PURPOSES OF THIS SECTION:

31 1. "CONTRACTING" MEANS ENGAGING IN BUSINESS AS A CONTRACTOR.

32 2. "CONTRACTOR" IS SYNONYMOUS WITH THE TERM "BUILDER" AND MEANS ANY
33 PERSON OR ORGANIZATION THAT UNDERTAKES TO OR OFFERS TO UNDERTAKE TO, OR
34 PURPORTS TO HAVE THE CAPACITY TO UNDERTAKE TO, OR SUBMITS A BID TO, OR DOES
35 PERSONALLY OR BY OR THROUGH OTHERS, MODIFY ANY BUILDING, HIGHWAY, ROAD,
36 RAILROAD, EXCAVATION, MANUFACTURED BUILDING OR OTHER STRUCTURE, PROJECT,
37 DEVELOPMENT OR IMPROVEMENT, OR TO DO ANY PART OF SUCH A PROJECT, INCLUDING

1 THE ERECTION OF SCAFFOLDING OR OTHER STRUCTURE OR WORKS IN CONNECTION WITH
2 SUCH A PROJECT, AND INCLUDES SUBCONTRACTORS AND SPECIALTY CONTRACTORS. FOR
3 ALL PURPOSES OF TAXATION OR DEDUCTION, THIS DEFINITION SHALL GOVERN WITHOUT
4 REGARD TO WHETHER OR NOT SUCH CONTRACTOR IS ACTING IN FULFILLMENT OF A
5 CONTRACT.

6 3. "MODIFICATION" MEANS CONSTRUCTION, ALTERATION, REPAIR, ADDITION,
7 SUBTRACTION, IMPROVEMENT, MOVEMENT, WRECKAGE OR DEMOLITION.

8 4. "MODIFY" MEANS TO CONSTRUCT, ALTER, REPAIR, ADD TO, SUBTRACT FROM,
9 IMPROVE, MOVE, WRECK OR DEMOLISH.

10 5. "RESIDENTIAL OR COMMERCIAL CONTRACTING" MEANS ENGAGING IN BUSINESS
11 AS A RESIDENTIAL OR COMMERCIAL CONTRACTOR.

12 6. "RESIDENTIAL OR COMMERCIAL CONTRACTOR" MEANS A CONTRACTOR WHO HOLDS
13 A RESIDENTIAL OR COMMERCIAL CONTRACTING CLASSIFICATION LICENSE FROM THE
14 ARIZONA REGISTRAR AND WHO SUPERVISES, PERFORMS OR COORDINATES THE
15 MODIFICATION OF ANY BUILDING, RAILROAD, EXCAVATION, OR OTHER STRUCTURE,
16 PROJECT, DEVELOPMENT OR IMPROVEMENT INCLUDING THE CONTRACTING, IF ANY, WITH
17 ANY SUBCONTRACTORS OR SPECIALTY CONTRACTORS AND WHO IS RESPONSIBLE FOR THE
18 COMPLETION OF THE CONTRACT. EXCEPT AS PROVIDED IN SUBSECTIONS E AND L OF
19 THIS SECTION, A PERSON WHO OWNS REAL PROPERTY, WHO ENGAGES ONE OR MORE
20 CONTRACTORS TO MODIFY THAT REAL PROPERTY AND WHO DOES NOT ITSELF MODIFY THAT
21 REAL PROPERTY IS NOT A RESIDENTIAL OR COMMERCIAL CONTRACTOR WITHIN THE
22 MEANING OF THIS PARAGRAPH REGARDLESS OF THE EXISTENCE OF A CONTRACT FOR SALE
23 OR THE SUBSEQUENT SALE OF THAT REAL PROPERTY.

24 Sec. 29. Section 42-6102, Arizona Revised Statutes, is amended to
25 read:

26 42-6102. Administration

27 A. Unless the context otherwise requires, chapter 5, article 1 of this
28 title governs the administration of the taxes imposed by this article, except
29 that:

30 1. A separate license is not required for the taxes imposed by this
31 article, and the taxes due under this article shall be included, reported and
32 paid with the transaction privilege tax.

33 2. A separate bond is not required of employees of the department in
34 administering this article.

35 3. The taxes imposed by this article may be included without
36 segregation in any notice and lien filed for unpaid transaction privilege
37 taxes.

1 D. The net revenues collected under this section shall be distributed
2 and deposited as follows for use consistent with the regional transportation
3 plan adopted under title 28, chapter 17, article 1:

4 1. 56.2 per cent to the regional area road fund pursuant to section
5 28-6303 for freeways and other routes in the state highway system, including
6 capital expense and maintenance.

7 2. 10.5 per cent to the regional area road fund pursuant to section
8 28-6303 for major arterial streets and intersection improvements, including
9 capital expense and implementation studies.

10 3. 33.3 per cent to the public transportation fund pursuant to section
11 48-5103 for:

12 (a) Capital costs, maintenance and operation of public transportation
13 classifications.

14 (b) Capital costs and utility relocation costs associated with a light
15 rail public transit system.

16 Sec. 31. Section 42-6106, Arizona Revised Statutes, is amended to
17 read:

18 42-6106. County transportation excise tax

19 A. If approved by the qualified electors voting at a countywide
20 election, the regional transportation authority in any county shall levy and
21 the department shall collect a transportation excise tax up to the rate
22 authorized by this section in addition to all other taxes.

23 B. The tax shall be levied and collected:

24 1. At a rate of not more than ten per cent of the transaction
25 privilege tax rate prescribed by section 42-5010, subsection A in effect on
26 January 1, 1990 to each person engaging or continuing in the county in a
27 business taxed under chapter 5, article 1 of this title.

28 2. ~~In the case of persons subject to the tax imposed under section~~
29 ~~42-5352, subsection A,~~ At a rate of not more than ~~.305 cents per gallon of~~
30 ~~jet fuel sold~~ TEN PER CENT OF THE RATE PRESCRIBED BY SECTION 42-5352,
31 SUBSECTION A.

32 3. On the use or consumption of electricity or natural gas by retail
33 electric or natural gas customers in the county who are subject to use tax
34 under section 42-5155, at a rate equal to the transaction privilege tax rate
35 under paragraph 1 applying to persons engaging or continuing in the county in
36 the utilities transaction privilege tax classification.

1 C. Any subsequent reduction in the transaction privilege tax rate
2 prescribed by chapter 5, article 1 of this title shall not reduce the tax
3 that is approved and collected as prescribed in this section. The department
4 shall collect the tax at a variable rate if the variable rate is specified in
5 the ballot proposition. The department shall collect the tax at a modified
6 rate if approved by a majority of the qualified electors voting.

7 D. The net revenues collected under this section:

8 1. In counties with a population exceeding four hundred thousand
9 persons, shall be deposited in the regional transportation fund pursuant to
10 section 48-5307.

11 2. In counties with a population of four hundred thousand or fewer
12 persons, shall be deposited in the public transportation authority fund
13 pursuant to section 28-9142 or the regional transportation fund pursuant to
14 section 48-5307 or shall be allocated between both funds.

15 E. The tax shall be levied under this section beginning January 1 or
16 July 1, whichever date occurs first after approval by the voters, and may be
17 in effect for a period of not more than twenty years.

18 Sec. 32. Section 42-6107, Arizona Revised Statutes, is amended to
19 read:

20 42-6107. County transportation excise tax for roads

21 A. If a majority of the qualified electors voting at a countywide
22 special election, or a majority of the qualified electors voting on the
23 ballot proposition at a general election, approves the transportation excise
24 tax, the county shall levy and the department shall collect a tax:

25 1. At a rate of not more than ten per cent of the transaction
26 privilege tax rate as prescribed by section 42-5010, subsection A applying,
27 as of January 1, 1990, to each person engaging or continuing in the county in
28 a business taxed under chapter 5, article 1 of this title.

29 ~~2. In the case of persons subject to the tax imposed under section~~
30 ~~42-5352, subsection A, At a rate of not more than .305 cents per gallon of~~
31 ~~jet fuel sold~~ TEN PER CENT OF THE RATE PRESCRIBED BY SECTION 42-5352,
32 SUBSECTION A.

33 3. On the use or consumption of electricity or natural gas by retail
34 electric or natural gas customers in the county who are subject to use tax
35 under section 42-5155, at a rate equal to the transaction privilege tax rate
36 under paragraph 1 applying to persons engaging or continuing in the county in
37 the utilities transaction privilege tax classification. If a majority of the

1 qualified electors in the county approved the transportation excise tax under
2 this section before 1998, a tax under this paragraph may be approved by
3 resolution adopted by a majority of the board of supervisors.

4 B. The net revenues collected under this section within a county shall
5 be deposited in the county's regional area road fund pursuant to title 28,
6 chapter 17, article 3.

7 C. The tax shall be levied under this section beginning January 1 or
8 July 1, whichever date occurs first after approval by the voters, and may be
9 in effect for a period of not more than twenty years.

10 Sec. 33. Title 42, chapter 6, article 3, Arizona Revised Statutes, is
11 amended by adding section 42-6113, to read:

12 42-6113. County use tax

13 A. IF A COUNTY LEVIES ONE OR MORE EXCISE TAXES PURSUANT TO THIS
14 ARTICLE ON THE EFFECTIVE DATE OF THIS SECTION AND IF APPROVED BY THE
15 QUALIFIED ELECTORS VOTING AT A COUNTY-WIDE ELECTION, A COUNTY MAY LEVY AND,
16 IF LEVIED, THE DEPARTMENT SHALL COLLECT AN EXCISE TAX ON THE STORAGE, USE OR
17 CONSUMPTION IN THE COUNTY OF TANGIBLE PERSONAL PROPERTY PURCHASED FROM A
18 RETAILER, AS A PERCENTAGE OF THE SALES PRICE. THE TAX LEVIED PURSUANT TO
19 THIS SUBSECTION SHALL BE AT A RATE EQUAL TO THE SUM OF THE RATES OF ALL THE
20 EXCISE TAXES LEVIED BY THE COUNTY ON THE EFFECTIVE DATE OF THIS SECTION.

21 B. IF, AFTER THE EFFECTIVE DATE OF THIS SECTION, A COUNTY SEEKS TO
22 LEVY AN EXCISE TAX PURSUANT TO THIS ARTICLE, THE COUNTY SHALL INCLUDE IN THE
23 LEVY AN EXCISE TAX AT THE SAME RATE ON THE STORAGE, USE OR CONSUMPTION IN THE
24 COUNTY OF TANGIBLE PERSONAL PROPERTY PURCHASED FROM A RETAILER.

25 Sec. 34. Section 43-1072.01, Arizona Revised Statutes, is amended to
26 read:

27 43-1072.01. Credit for increased excise taxes paid

28 A. Subject to the conditions prescribed by this section and if
29 approved by the qualified electors voting at a statewide general election,
30 for ~~tax~~ TAXABLE years beginning from and after December 31, 2000 a credit is
31 allowed against the taxes imposed by this chapter for a taxable year for a
32 taxpayer who is not claimed as a dependent by any other taxpayer and whose
33 federal adjusted gross income is:

34 1. Twenty-five thousand dollars or less for a married couple or a
35 single person who is a head of a household.

36 2. Twelve thousand five hundred dollars or less for a single person or
37 a married person filing separately.

1 B. The credit is considered to be in mitigation of increased tax rates
2 pursuant to section 42-5010, subsection G and section 42-5155, subsection
3 ~~D~~ E.

4 C. The amount of the credit shall not exceed twenty-five dollars for
5 each person who is a resident of this state and for whom a personal or
6 dependent exemption is allowed with respect to the taxpayer pursuant to
7 section 43-1023, subsection B, paragraph 1 and section 43-1043, but not more
8 than one hundred dollars for all persons in the taxpayer's household, as
9 defined in section 43-1072.

10 D. If the allowable amount of the credit exceeds the income taxes
11 otherwise due on the claimant's income, the amount of the claim not used as
12 an offset against income taxes shall be paid in the same manner as a refund
13 granted under section 42-1118. Refunds made pursuant to this subsection are
14 subject to setoff under section 42-1122.

15 E. The department shall make available suitable forms with
16 instructions for claimants. Claimants who certify on the prescribed form
17 that they have no income tax liability for the taxable year and who do not
18 meet the filing requirements of section 43-301 are not required to file an
19 individual income tax return. The claim shall be in a form prescribed by the
20 department.

21 F. For taxable years beginning from and after December 31, 2002, a
22 person who is sentenced for at least sixty days of the taxable year to the
23 custody of the federal bureau of prisons, the state department of corrections
24 or a county jail is not eligible to claim a credit pursuant to this section.

25 Sec. 35. Section 44-1263, Arizona Revised Statutes, is amended to
26 read:

27 44-1263. Inability to conform motor vehicle to express
28 warranty; replacement of vehicle or refund of
29 monies; affirmative defenses; tax refund

30 A. If the manufacturer, its agents or its authorized dealers are
31 unable to conform the motor vehicle to any applicable express warranty by
32 repairing or correcting any defect or condition ~~which~~ THAT substantially
33 impairs the use and value of the motor vehicle to the consumer after a
34 reasonable number of attempts, the manufacturer shall replace the motor
35 vehicle with a new motor vehicle or accept return of the motor vehicle from
36 the consumer and refund to the consumer the full purchase price, including
37 all collateral charges, less a reasonable allowance for the consumer's use of

1 the vehicle. The manufacturer shall make refunds to the consumer and
2 lienholder, if any, as their interests appear. A reasonable allowance for
3 use is that amount directly attributable to use by the consumer before his
4 first written report of the nonconformity to the manufacturer, agent or
5 dealer and during any subsequent period when the vehicle is not out of
6 service by reason of repair.

7 B. It is an affirmative defense to any claim under this article that
8 either:

9 1. An alleged nonconformity does not substantially impair the use and
10 market value of the motor vehicle.

11 2. A nonconformity is the result of abuse, neglect or unauthorized
12 modifications or alterations of the motor vehicle.

13 C. In the case of taxes paid pursuant to title 42, chapter 5, if the
14 manufacturer:

15 1. Accepts return of a motor vehicle from a consumer without replacing
16 the motor vehicle, the manufacturer shall refund the amount of tax attributed
17 to the sale of the vehicle to that consumer.

18 2. Replaces a motor vehicle with a new motor vehicle of lesser value,
19 the manufacturer shall refund the difference between the original amount of
20 tax attributed to the sale of that vehicle and the amount of tax attributed
21 to the sale of the replacement vehicle, excluding the value of the motor
22 vehicle being replaced.

23 3. Replaces a motor vehicle with a new motor vehicle of greater value,
24 the manufacturer shall calculate the gross proceeds of sales pursuant to
25 section 42-5001, paragraph ~~6~~ 8.

26 D. Pursuant to section 42-1118, subsection F, the manufacturer may
27 apply to the department of revenue for a refund for the amount of tax that
28 the manufacturer properly refunds to the consumer.

29 Sec. 36. Section 48-4022, Arizona Revised Statutes, is amended to
30 read:

31 48-4022. Excise tax

32 A. The board of directors of a district in a county having a
33 population of less than one million five hundred thousand persons according
34 to the most recent United States decennial or special census may by
35 resolution order the approval of a district excise tax to be placed on the
36 ballot of an election pursuant to section 48-4021. If a majority of the
37 qualified electors voting at the election approves the county jail district

1 excise tax, the board of directors may by resolution levy, and if levied, the
2 department of revenue shall collect, a tax beginning January 1 or July 1,
3 whichever date first occurs at least three months after the district
4 resolution approving the tax levy. The tax rate shall be a percentage of the
5 excise tax rate prescribed by section 42-5010, subsection A applying to each
6 person engaging or continuing in the district in a business taxed under title
7 42, chapter 5, article 1 and section 42-5352, subsection A, not to exceed:

8 1. Ten per cent of each rate prescribed by section 42-5010, subsection
9 A and section 42-5352, subsection A, in counties having a population of five
10 hundred thousand persons or less.

11 2. Five per cent of each rate prescribed by section 42-5010,
12 subsection A and section 42-5352, subsection A, in counties having a
13 population of more than five hundred thousand persons but less than one
14 million five hundred thousand persons.

15 B. If a district levies an excise tax under subsection A of this
16 section, the board of directors, by resolution, ~~may~~ SHALL also levy, and if
17 levied, the department of revenue shall collect, a use tax on ~~each retail~~
18 ~~electric or natural gas customer using or consuming electricity or natural~~
19 ~~gas in the district and subject to use tax pursuant to section 42-5155. The~~
20 ~~use tax levied pursuant to this subsection shall be applied as a percentage~~
21 ~~of the use tax rate imposed by title 42, chapter 5, article 4 equal to the~~
22 ~~percentage determined under subsection A, paragraph 1 or 2 of this section,~~
23 ~~as applicable.~~ THE STORAGE, USE OR CONSUMPTION IN THE COUNTY OF TANGIBLE
24 PERSONAL PROPERTY PURCHASED FROM A RETAILER OR UTILITY BUSINESS, AS A
25 PERCENTAGE OF THE SALES PRICE. THE TAX LEVIED PURSUANT TO THIS PARAGRAPH
26 SHALL BE AT A RATE EQUAL TO THE EXCISE TAX RATE UNDER SUBSECTION A OF THIS
27 SECTION APPLYING TO RETAILERS AND UTILITY BUSINESSES ACCORDING TO THE
28 RESPECTIVE CLASSIFICATION UNDER TITLE 42, CHAPTER 5, ARTICLES 1 AND 2 FOR THE
29 SAME TYPE OF TRANSACTION OR BUSINESS ACTIVITY.

30 C. The tax applies in both incorporated and unincorporated areas of
31 the county.

32 D. At the end of each month the state treasurer shall transmit the net
33 revenues collected pursuant to this section to the district treasurer who
34 shall deposit the revenues in the county jail district general fund.

1 E. Unless the context otherwise requires:

2 1. Section 42-6102 governs the administration of the tax imposed
3 pursuant to subsection A of this section.

4 2. Title 42, chapter 5, article 4 governs the administration of the
5 use tax imposed pursuant to subsection B OR F of this section.

6 F. IF A DISTRICT LEVIES AN EXCISE TAX PURSUANT TO SUBSECTION A OF THIS
7 SECTION ON THE EFFECTIVE DATE OF THE AMENDMENT OF THIS SECTION AND IF
8 APPROVED BY THE QUALIFIED ELECTORS VOTING AT A DISTRICT-WIDE ELECTION, A
9 DISTRICT MAY LEVY AND, IF LEVIED, THE DEPARTMENT SHALL COLLECT AN EXCISE TAX
10 ON THE STORAGE, USE OR CONSUMPTION IN THE COUNTY OF TANGIBLE PERSONAL
11 PROPERTY PURCHASED FROM A RETAILER, AS A PERCENTAGE OF THE SALES PRICE. THE
12 TAX LEVIED PURSUANT TO THIS SUBSECTION SHALL BE AT A RATE EQUAL TO THE RATE
13 OF THE EXCISE TAX LEVIED PURSUANT TO SUBSECTION A OF THIS SECTION.

14 Sec. 37. Section 48-5805, Arizona Revised Statutes, is amended to
15 read:

16 48-5805. Transaction privilege tax; property tax

17 A. The board of directors of the district by resolution may levy, and
18 if levied, the department of revenue shall collect, a transaction privilege
19 tax pursuant to this section to be used and spent for the purposes described
20 in section 48-5804. The board shall set the rate of the tax at not more than
21 two per cent of the tax rate that applies to each business in the district
22 that is subject to taxation under title 42, chapter 5, article 1. The board
23 shall levy the tax on each person engaging in the district in a business
24 taxed under title 42, chapter 5, article 1.

25 B. Each month the state treasurer shall remit to the district
26 treasurer the net revenues collected under ~~subsection~~ SUBSECTIONS A, D AND E
27 of this section during the second preceding month. The district treasurer
28 shall deposit the monies in the public health services district's accounts
29 and shall account for all expenditures.

30 C. In lieu of a transaction privilege tax pursuant to subsection A of
31 this section, the board by resolution may levy in the same manner and at the
32 same time as other county secondary property taxes are levied a public health
33 services district tax. The tax shall not exceed twenty-five cents per one
34 hundred dollars of assessed valuation and shall be levied on all property in
35 the county and on all property within incorporated cities and towns in the
36 county. The district shall deposit all monies collected pursuant to this
37 subsection in a separate account and shall account for all expenditures.

1 D. IF A DISTRICT LEVIES AN EXCISE TAX UNDER SUBSECTION A OF THIS
2 SECTION, THE BOARD OF DIRECTORS, BY RESOLUTION, SHALL ALSO LEVY, AND IF
3 LEVIED, THE DEPARTMENT OF REVENUE SHALL COLLECT, A USE TAX ON THE STORAGE,
4 USE OR CONSUMPTION IN THE COUNTY OF TANGIBLE PERSONAL PROPERTY PURCHASED FROM
5 A RETAILER, AS A PERCENTAGE OF THE SALES PRICE. THE TAX LEVIED PURSUANT TO
6 THIS SUBSECTION SHALL BE AT A RATE EQUAL TO THE EXCISE TAX RATE UNDER
7 SUBSECTION A OF THIS SECTION APPLYING TO RETAILERS ACCORDING TO THE
8 RESPECTIVE CLASSIFICATION UNDER TITLE 42, CHAPTER 5, ARTICLES 1 AND 2 FOR THE
9 SAME TYPE OF TRANSACTION OR BUSINESS ACTIVITY.

10 E. IF A DISTRICT LEVIES AN EXCISE TAX PURSUANT TO SUBSECTION A OF THIS
11 SECTION ON THE EFFECTIVE DATE OF THE AMENDMENT OF THIS SECTION AND IF
12 APPROVED BY THE QUALIFIED ELECTORS VOTING AT A DISTRICT-WIDE ELECTION, A
13 DISTRICT MAY LEVY AND, IF LEVIED, THE DEPARTMENT SHALL COLLECT AN EXCISE TAX
14 ON THE STORAGE, USE OR CONSUMPTION IN THE COUNTY OF TANGIBLE PERSONAL
15 PROPERTY PURCHASED FROM A RETAILER, AS A PERCENTAGE OF THE SALES PRICE. THE
16 TAX LEVIED PURSUANT TO THIS SUBSECTION SHALL BE AT A RATE EQUAL TO THE RATE
17 OF THE EXCISE TAX LEVIED PURSUANT TO SUBSECTION A OF THIS SECTION.

18 Sec. 38. Section 49-290, Arizona Revised Statutes, is amended to read:

19 49-290. Exemption from permit requirements; definition

20 A. Notwithstanding any other statute, a person who performs a remedial
21 action or a portion of a remedial action that has been approved by the
22 department if that action or portion is conducted in compliance with this
23 article is not subject to any requirement to obtain any permit or approval
24 that may otherwise be required by the department.

25 B. Except as prescribed in subsection D of this section, a person who
26 conducts a portion of a remedial action, where that portion is entirely on
27 site and is conducted in compliance with this article, may be exempted from a
28 requirement to obtain any other state or local permit or approval, other than
29 any requirement of title 45, at the written request of the person conducting
30 the remedial action. The written request shall identify the specific permit
31 to be exempted and the reasons the exemption is requested. The permit may be
32 exempted if the director finds both of the following:

33 1. The requirement does not arise out of any permit or regulatory
34 program that is required pursuant to the laws of the United States.

35 2. The requirement presents a substantial impediment to effective
36 performance of the remedial action selected by the department.

1 C. The director may waive any regulatory requirement adopted pursuant
2 to this title with respect to a site or portion of a site as part of a record
3 of decision adopted pursuant to section 49-287.04 for that site or portion of
4 a site if the regulatory requirement conflicts with the implementation of the
5 selected remedy, provided that the waiver does not result in adverse impacts
6 to public health or the environment. No waiver may be granted under this
7 subsection if it is prohibited by federal law or if the waiver would
8 jeopardize the continued delegation to the state of authority to implement a
9 federal environmental program.

10 D. Discharge of wastewater to off-site publicly owned treatment works
11 and sewer systems does not constitute an activity conducted entirely on site
12 for purposes of subsection B of this section.

13 E. The director shall give written notice of any request for exemption
14 made pursuant to subsection B of this section to the remedial action
15 coordinator designated pursuant to subsection G of this section by the
16 governmental entity whose permit requirements are the subject of the
17 request. Before making any finding pursuant to subsection B of this section,
18 the director or the director's designee shall meet and confer with the
19 remedial action coordinator and the person conducting the remedial action to
20 identify alternatives to exemption.

21 F. Any finding made by the director pursuant to subsection B of this
22 section shall be in writing. The governmental entity whose permit
23 requirement is preempted as a result of such finding is not liable for
24 property damage, personal injury damage or violations of state or local law
25 resulting from the exemption. The director shall notify the affected
26 governmental entity of any finding made pursuant to subsection B of this
27 section. A finding of the director made pursuant to subsection B of this
28 section is a final administrative decision as defined in section 41-1092 and
29 is subject to judicial review pursuant to title 12, chapter 7, article 6.

30 G. Each city, town and county shall designate a remedial action
31 coordinator who shall have responsibility for monitoring and facilitating any
32 remedial actions conducted within its jurisdiction. The designated remedial
33 action coordinator shall:

34 1. Regularly consult, as needed, with the department and the person
35 conducting a remedial action throughout the duration of the remedial action.

36 2. Expedite the processing and issuance of permits, approvals or other
37 authorizations required by the governmental entity represented by the

1 remedial action coordinator, to facilitate the prompt conduct of a remedial
2 action.

3 3. Provide information to the department and the person conducting the
4 remedial action regarding applicable requirements of the governmental entity
5 represented by the remedial action coordinator and the potential for waiver
6 of such requirements.

7 ~~H. In order to encourage remediation activities under this article and
8 to conserve the fund, neither this state nor any county that imposes an
9 excise or similar tax that is levied at a rate applied as a percentage of the
10 rates on each business class subject to the tax imposed by title 42, chapter
11 5, article 1 may impose a tax on the sale or purchase of tangible personal
12 property incorporated or fabricated into any real property, structure,
13 project, development or improvement under a contract specified in section
14 42-5075, subsection B, paragraph 6.~~

15 ~~I.~~ H. For THE purposes of this section, "on site" means the areal
16 extent of contamination and all suitable areas in close proximity to the
17 contamination that are reasonably necessary for implementation of the
18 remedial action.

19 Sec. 39. Preexisting contracts; tax

20 A. This act does not apply to or affect the tax liability with respect
21 to contracts that were entered into before January 1, 2015 by a person who
22 engaged in business under the prime contracting classification pursuant to
23 section 42-5075, Arizona Revised Statutes, or the construction contracting,
24 owner builder or speculative builder classification pursuant to section 415,
25 416 or 417 of the model city tax code.

26 B. Notwithstanding section 42-5075, Arizona Revised Statutes, as
27 amended by this act, the tax imposed by title 42, chapter 5, article 1,
28 Arizona Revised Statutes, is levied and shall be collected at a rate of five
29 and six-tenths per cent of the tax base, as determined pursuant to section
30 42-5075, Arizona Revised Statutes, as in effect on December 31, 2014, derived
31 pursuant to contracts entered into before January 1, 2015 by prime
32 contractors who were subject to tax under section 42-5075, Arizona Revised
33 Statutes, before January 1, 2015.

34 C. Prime contractors shall maintain and provide to the department of
35 revenue on request documentation regarding payments received in satisfaction
36 of contracts that are subject to taxation under this section.

1 D. Twenty per cent of the tax revenues collected pursuant to this
2 section is designated as distribution base for purposes of section 42-5029,
3 Arizona Revised Statutes.

4 E. Notwithstanding section 42-6004, Arizona Revised Statutes, as
5 amended by this act, the municipal privilege tax imposed by an incorporated
6 city or town is levied and shall be collected at the rate in effect on
7 December 31, 2014, as determined pursuant to the model city tax code, derived
8 pursuant to contracts entered into before January 1, 2015 by construction
9 contractors, owner builders and speculative builders that were subject to tax
10 under section 415, 416 or 417 of the model city tax code, before January 1,
11 2015, unless the contract does not contain a provision that entitles the
12 taxpayer to recover the amount of the tax. The taxpayer is required to
13 provide sufficient documentation to the department of revenue.

14 F. The taxes imposed pursuant to title 42, chapter 6, article 3,
15 Arizona Revised Statutes, apply to the tax base, as determined pursuant to
16 sections 42-5075 and 42-5076, Arizona Revised Statutes, as in effect on
17 December 31, 2014, derived pursuant to contracts entered into after the date
18 of the election to authorize the tax and before January 1, 2015 by prime
19 contractors and owner builders who engaged in business pursuant to sections
20 42-5075 and 42-5076, Arizona Revised Statutes. Contracts entered into before
21 the date of the election to authorize the tax by prime contractors and owner
22 builders who engaged in business pursuant to sections 42-5075 and 42-5076,
23 Arizona Revised Statutes, are taxable pursuant to title 42, chapter 6,
24 article 3, Arizona Revised Statutes, on the tax base, as determined pursuant
25 to sections 42-5075 and 42-5076, Arizona Revised Statutes, as in effect on
26 December 31, 2014, unless the contract does not contain a provision that
27 entitles the taxpayer to recover the amount of the tax from a purchaser. The
28 taxpayer is required to provide sufficient documentation to the department of
29 revenue.

30 G. Unless the context otherwise requires, title 42, chapter 5, article
31 1, Arizona Revised Statutes, governs the administration of the tax imposed by
32 this section.

33 Sec. 40. Preexisting tax exempt contracts

34 A. From and after December 31, 2014, the sale of tangible personal
35 property to a contractor for incorporation or fabrication, pursuant to a
36 contract entered into before January 1, 2015, into any project that was
37 subject to a deduction under section 42-5075, subsection B, Arizona Revised

1 Statutes, as in effect on December 31, 2014, is not subject to tax under
2 section 42-5061, Arizona Revised Statutes.

3 B. From and after December 31, 2014, the sale of tangible personal
4 property to a construction contractor, owner builder or speculative builder
5 for incorporation or fabrication pursuant to a contract entered into before
6 January 1, 2015, into any project that was subject to a deduction under
7 section 415.b, 416.c.1 or 2, or 417.c.1 or 2 of the model city tax code, as
8 in effect on December 31, 2014, is not subject to tax under section 460 of
9 the model city tax code.

10 Sec. 41. Use tax

11 A. Tangible personal property that was purchased before January 1,
12 2015 by a person who engaged in business under the prime contracting
13 classification or who performed contracting services within the control of a
14 prime contractor pursuant to section 42-5075, Arizona Revised Statutes, and
15 that was not incorporated into a project for which the contract was entered
16 into before January 1, 2015 is subject to use taxation pursuant to section
17 42-5155, Arizona Revised Statutes.

18 B. Tangible personal property that was purchased before January 1,
19 2015 by a person who engaged in business under the construction contracting,
20 owner builder or speculative builder classification or who performed
21 contracting services within the control of a construction contractor, owner
22 builder or speculative builder pursuant to section 415, 416 or 417 of the
23 model city tax code and that was not incorporated into a project for which
24 the contract was entered into before January 1, 2015 is subject to use
25 taxation under the model city tax code.

26 Sec. 42. Department of revenue; emergency rule making

27 The department of revenue may adopt emergency rules pursuant to section
28 41-1026, Arizona Revised Statutes, as necessary to administer this act.

29 Sec. 43. City and town auditors

30 Notwithstanding section 42-6001, Arizona Revised Statutes, as amended
31 by this act, for the period beginning January 1, 2015 and ending December 31,
32 2015, the department shall enter into an agreement with the governing body of
33 an incorporated city or town to furnish part-time or full-time personnel to
34 perform audit services within the boundaries of the city or town. The
35 incorporated city or town shall pay to the department the amount agreed to be
36 paid.

1 Sec. 44. Rate limitation

2 An incorporated city or town shall not impose a municipal contracting
3 excise tax rate higher than the rate imposed on construction contracting,
4 speculative builder or owner-builder, as in effect on December 31, 2012.

5 Sec. 45. Effective dates

6 A. Sections 42-5039 and 42-6113, Arizona Revised Statutes, as added by
7 this act, and sections 42-6105, 42-6106, 42-6107, 48-4022 and 48-5805,
8 Arizona Revised Statutes, as amended by this act, are effective from and
9 after December 31, 2013.

10 B. Sections 42-5078, 42-6020 and 42-6021, Arizona Revised Statutes, as
11 added by this act and sections 41-1516, 41-1532, 42-1004, 42-1103, 42-5001,
12 42-5006, 42-5009, 42-5010, 42-5029, 42-5032.01, 42-5032.02, 42-5061, 42-5071,
13 42-5072, 42-5075, 42-5151, 42-5155, 42-5159, 42-5160, 42-6001, 42-6002,
14 42-6004, 42-6005, 42-6102, 43-1072.01, 44-1263 and 49-290, Arizona Revised
15 Statutes, as amended by this act, are effective from and after December
16 31, 2014."

17 Amend title to conform

~~2111sy.doc~~
~~03/18/2013~~
~~7:26 PM~~
~~C: kb~~

3/22/13
12:11 PM
S: BR/ly