

PROPOSED  
HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2704  
(Reference to House engrossed bill)

Amendment instruction key:  
[GREEN UNDERLINING IN BRACKETS] indicates text added to statute or previously enacted session law.  
[Green underlining in brackets] indicates text added to new session law or text restoring existing law.  
[GREEN STRIKEOUT IN BRACKETS] indicates new text removed from statute or previously enacted session law.  
[Green strikethrough in brackets] indicates text removed from existing statute, previously enacted session law or new session law.  
<<Green carets>> indicate a section added to the bill.  
<<Green strikethrough in carets>> indicates a section removed from the bill.

1 The bill as proposed to be amended is reprinted as follows:

2 Section 1. Section 28-2154.01, Arizona Revised Statutes, is amended  
3 to read:

4 28-2154.01. Special ninety day nonresident registration  
5 permits; procedures

6 A. A dealer or an authorized third party that issues a special  
7 ninety day nonresident registration permit pursuant to section 28-2154  
8 shall send an electronic record of the permit to the department through an  
9 authorized third party or through the department's authorized third-party  
10 electronic service provider.

11 B. The department, an authorized third party or a dealer shall not:  
12 1. Issue, assign or deliver a special ninety day nonresident  
13 registration permit to any person unless the person does all of the  
14 following:

15 (a) Obtains the special ninety day nonresident registration permit  
16 pursuant to section 28-2154.

17 (b) Completes an affidavit in a form prescribed by the director  
18 pursuant to section 28-2154 or completes a form prescribed by section  
19 42-5009, subsection H.

20 (c) Presents to the department, authorized third party or motor  
21 vehicle dealer a current valid driver license issued by another state  
22 indicating an address outside of this state.

23 (d) Provides any other information reasonably and uniformly  
24 required by the department of transportation pursuant to section 28-2154  
25 or the department of revenue pursuant to section 42-5009, subsection H.

26 2. Issue and affix, as prescribed in subsection C of this section,  
27 a special ninety day nonresident registration permit unless the permit is  
28 recorded in the electronic records of the department.

1 C. A person who issues a special ninety day nonresident  
2 registration permit shall affix or insert, clearly and indelibly, on the  
3 face of each permit the dates of issuance and expiration and the make and  
4 vehicle identification number of the vehicle. The special ninety day  
5 nonresident registration permit shall not bear the name or address of the  
6 person who purchased the vehicle in a position that is legible from  
7 outside of the vehicle.

8 D. A dealer or authorized third party who issues a special ninety  
9 day nonresident registration permit shall maintain a record, in a form  
10 prescribed by the director, of all special ninety day nonresident  
11 registration permits issued by the dealer or authorized third party and a  
12 record of other information pertaining to the issuance of special ninety  
13 day nonresident registration permits that the department of transportation  
14 or the department of revenue requires.

15 E. The dealer or authorized third party shall keep each record for  
16 at least three years after the date of entry of the record.

17 F. A dealer or authorized third party shall allow the director of  
18 the department of transportation or the director of the department of  
19 revenue full and free access to the records during regular business hours.

20 G. The electronic record is written notice of the removal of the  
21 vehicle from this state for use in the purchaser's state of residence and  
22 relieves the dealer or authorized third party of liability in accordance  
23 with the requirements of section 42-5009.

24 H. If a purchaser registers the vehicle in this state within three  
25 hundred sixty-five days after the issuance of the special ninety day  
26 nonresident registration permit, the purchaser is liable in an amount  
27 equal to any tax, penalty and interest that the motor vehicle dealer or  
28 authorized third party would have been required to pay under title 42,  
29 chapter 5 and under articles IV and VI of the model city tax code as  
30 defined in section 42-6051. At the time of issuing the special ninety day  
31 nonresident registration permit, a motor vehicle dealer or authorized  
32 third party shall inform the purchaser in writing of the purchaser's  
33 liability described in this section. Subsequent registration or use of  
34 the vehicle in this state does not create a cause of action against a  
35 dealer or authorized third party that complies with section 28-2154,  
36 subsection A, this section and section 42-5009, subsection H.

37 I. The department of transportation and the department of revenue  
38 shall jointly develop and prescribe forms for the motor vehicle dealer,  
39 the authorized third party and the purchaser to complete for the proper  
40 administration and enforcement of this section.

41 J. Compliance with this section and section 28-2154 allows delivery  
42 of the vehicle to a nonresident purchaser in this state and retains the  
43 applicable deductions pursuant to section 42-5061, subsection A, paragraph  
44 28 and subsection ~~U~~ V.

1       <<Sec. 2. ~~Section 42-1116, Arizona Revised Statutes, is amended to~~  
2 ~~read:~~  
3       ~~42-1116. Disposition of tax revenues~~  
4       ~~A. The department of revenue shall promptly deposit, pursuant to~~  
5 ~~sections 35-146 and 35-147, all monies it collects from the taxes~~  
6 ~~administered pursuant to this article except the telecommunication~~  
7 ~~services excise tax, separately accounting for each type of tax and each~~  
8 ~~tax classification within each type of tax. At the same time the~~  
9 ~~department of revenue shall also furnish copies of the transmittal~~  
10 ~~schedules to the director of the department of administration.~~  
11       ~~B. Except as provided by subsection SUBSECTIONS C AND D of this~~  
12 ~~section, the department shall deposit all monies and remittances received~~  
13 ~~under this section to the credit of the following specific funds and~~  
14 ~~accounts:~~  
15       ~~1. Amounts sufficient to meet the requirements for tax refunds to~~  
16 ~~the tax refund account established by section 42-1117.~~  
17       ~~2. Amounts sufficient to meet the requirements of urban revenue~~  
18 ~~sharing to the urban revenue sharing fund established by section 43-206.~~  
19       ~~3. Amounts collected pursuant to chapter 5, articles 1 and 5 of~~  
20 ~~this title to the transaction privilege and severance tax clearing account~~  
21 ~~established by section 42-5029.~~  
22       ~~4. Amounts sufficient to meet the requirements of section 42-3104~~  
23 ~~to the corrections fund.~~  
24       ~~5. Amounts sufficient to meet the requirements of section 49-282,~~  
25 ~~subsection B relating to the water quality assurance revolving fund.~~  
26       ~~6. All remaining monies to the state general fund.~~  
27       ~~C. From the monies and remittances received under this section,~~  
28 ~~each month beginning July 2001 the state treasurer shall transmit to the~~  
29 ~~tourism and sports authority, established by title 5, chapter 8, for~~  
30 ~~deposit in its facility revenue clearing account established by section~~  
31 ~~5-834 one-twelfth of the amount reported by the department pursuant to~~  
32 ~~section 43-209.~~  
33       ~~D. FROM THE MONIES AND REMITTANCES RECEIVED UNDER THIS SECTION,~~  
34 ~~EACH YEAR BEGINNING JANUARY 1, 2026 THROUGH THE DATE OF THE NOTICE~~  
35 ~~PROVIDED PURSUANT TO SECTION 48-4238 OR DECEMBER 31, 2056, WHICHEVER IS~~  
36 ~~LATER, THE STATE TREASURER SHALL TRANSMIT TO THE COUNTY STADIUM DISTRICT~~  
37 ~~ESTABLISHED PURSUANT TO TITLE 48, CHAPTER 26 FOR DEPOSIT IN THE COUNTY~~  
38 ~~STADIUM DISTRICT FUND ESTABLISHED PURSUANT TO SECTION 48-4231 THE AMOUNT~~  
39 ~~REPORTED BY THE DEPARTMENT PURSUANT TO SECTION 43-209, SUBSECTION D FOR~~  
40 ~~THE PRIOR TAXABLE YEAR.>>~~

1           Sec. 2. Section 42-5008.01, Arizona Revised Statutes, is amended to  
2 read:

3           42-5008.01. Liability for amounts equal to retail transaction  
4                                   privilege tax due

5           A. A person that is either a prime contractor subject to tax under  
6 section 42-5075 or a subcontractor working under the control of such a  
7 prime contractor, that purchases tangible personal property, the purchase  
8 price of which was excluded from the tax base under the retail  
9 classification under section 42-5061, subsection A, paragraph 27 or was  
10 excluded from the use tax under section 42-5159, subsection A, paragraph  
11 13, subdivision (g) at the time of purchase, and that incorporates or  
12 fabricates the tangible personal property into a project described in  
13 section 42-5075, subsection ~~P~~ is liable for an amount equal to any tax  
14 that a seller would have been required to pay under section 42-5061 and  
15 this article as follows:

16           1. The amount of liability shall be calculated and reported based  
17 on the location of the project and the taxes imposed under this chapter  
18 and chapter 6 of this title.

19           2. All deductions, exemptions and exclusions for the cost of  
20 tangible personal property provided in section 42-5075 apply to the  
21 tangible personal property incorporated or fabricated into the project.

22           3. This subsection does not apply to tangible personal property  
23 that is incorporated or fabricated into any project under a contract that  
24 would otherwise be excluded from the tax base under section 42-5075,  
25 without regard to section 42-5075, subsection ~~P~~.

26           4. The amount of liability shall be reported within the reporting  
27 period that includes the month in which the person incorporates or  
28 fabricates the tangible personal property into the project.

29           5. The person is not liable for the amount if the contractor who  
30 hired the person executes and provides to the person a certificate stating  
31 that the contractor providing the certificate is liable for any amount due  
32 under this subsection. The department shall prescribe the form of the  
33 certificate. If the person has reason to believe that the information  
34 contained on the certificate is erroneous or incomplete, the department  
35 may disregard the certificate. The contractor providing the certificate  
36 is liable for the amount that otherwise would be due from the person under  
37 this subsection.

38           B. A person that purchased tangible personal property, the purchase  
39 price of which was excluded from the tax base under section 42-5061,  
40 subsection A, paragraph 27 or was excluded from the use tax under section  
41 42-5159, subsection A, paragraph 13, subdivision (g) at the time of  
42 purchase, that subsequently cancels its transaction privilege tax license  
43 and that uses, consumes, sells or discards the tangible personal property  
44 is liable for an amount of tax determined under this subsection. For the  
45 purposes of this subsection:

1           1. If the tangible personal property is incorporated or fabricated  
2 into a project described in section 42-5075, subsection ~~⊖~~ P, or otherwise  
3 used or consumed by the person, the amount of liability shall be  
4 calculated and reported based on the person's purchase price of the  
5 tangible personal property, the location of the project, use or  
6 consumption and the taxes imposed under this chapter and chapter 6 of this  
7 title.

8           2. If the tangible personal property is sold in a manner that is  
9 not subject to tax under this chapter or is discarded, the amount shall be  
10 calculated and reported based on the payment received by the person, the  
11 location of the person's principal place of business in this state and the  
12 taxes imposed under this chapter and chapter 6 of this title.

13           3. The person is not liable under this subsection for any amount if  
14 the person discards the tangible personal property and does not receive  
15 payment of any kind.

16           4. The amount of liability shall be reported on or before the  
17 business day preceding the last business day of the month following the  
18 month in which the person uses the tangible personal property in a manner  
19 described in paragraph 1 or 2 of this subsection. No amount is due under  
20 this subsection at any time that the person stores the tangible personal  
21 property without using it in a manner described in paragraph 1 or 2 of  
22 this subsection.

23           5. All deductions, exemptions and exclusions for the cost of  
24 tangible personal property provided in section 42-5075 apply to the  
25 tangible personal property incorporated or fabricated into a project  
26 described in section 42-5075, subsection ~~⊖~~ P.

27           6. This subsection does not apply to tangible personal property  
28 that is incorporated or fabricated into any project under a contract that  
29 would otherwise be excluded from the tax base under section 42-5075,  
30 without regard to section 42-5075, subsection ~~⊖~~ P.

31           7. The person is not liable for the amount if the contractor who  
32 hired the person executes and provides to the person a certificate stating  
33 that the contractor providing the certificate is liable for any amount due  
34 under this subsection for tangible personal property incorporated or  
35 fabricated into a project described in section 42-5075, subsection ~~⊖~~ P.  
36 The department shall prescribe the form of the certificate. If the person  
37 has reason to believe that the information contained on the certificate is  
38 erroneous or incomplete, the department may disregard the certificate.  
39 The contractor providing the certificate is liable for the amount that  
40 otherwise would be due from the person under this subsection.

41           C. A person that fails to report or pay any amount due under  
42 subsection A or B of this section is liable for interest in a manner  
43 consistent with section 42-1123 and penalties in a manner consistent with  
44 section 42-1125.

1 D. If a person has paid an amount described in this section on  
2 tangible personal property that the person reasonably believed to be  
3 described IN section 42-5075, subsection ~~⊖~~ P and a final determination is  
4 made that section 42-5075, subsection ~~⊖~~ P does not apply, the person is  
5 entitled to an offset for the amount paid under this section against the  
6 amount of tax liability assessed under this chapter and chapter 6 of this  
7 title.

8 Sec. 3. Section 42-5009, Arizona Revised Statutes, is amended to  
9 read:

10 42-5009. Certificates establishing deductions; liability for  
11 making false certificate; tax exclusion;  
12 definitions

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

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

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

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

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

39 D. If a seller is entitled to a deduction by complying with  
40 subsection A of this section, the department may require the purchaser  
41 that caused the execution of the certificate to establish the accuracy and  
42 completeness of the information required to be contained in the  
43 certificate that would entitle the seller to the deduction. If the  
44 purchaser cannot establish the accuracy and completeness of the  
45 information, the purchaser is liable in an amount equal to any tax,

1 penalty and interest that the seller would have been required to pay under  
2 this article if the seller had not complied with subsection A of this  
3 section. Payment of the amount under this subsection exempts the  
4 purchaser from liability for any tax imposed under article 4 of this  
5 chapter. The amount shall be treated as tax revenues collected from the  
6 seller in order to designate the distribution base for purposes of section  
7 42-5029.

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

20 F. The department may prescribe a form for a certificate used to  
21 establish entitlement to the deductions described in section 42-5061,  
22 subsection A, paragraph 46 and section 42-5063, subsection B, paragraph 3.  
23 Under rules the department may prescribe, the department may also require  
24 additional information for the seller to be entitled to the deduction. If  
25 a seller is entitled to the deductions described in section 42-5061,  
26 subsection A, paragraph 46 and section 42-5063, subsection B, paragraph 3,  
27 the department may require the purchaser who executed the certificate to  
28 establish the accuracy and completeness of the information contained in  
29 the certificate that would entitle the seller to the deduction. If the  
30 purchaser cannot establish the accuracy and completeness of the  
31 information, the purchaser is liable in an amount equal to any tax,  
32 penalty and interest that the seller would have been required to pay under  
33 this article. Payment of the amount under this subsection exempts the  
34 purchaser from liability for any tax imposed under article 4 of this  
35 chapter. The amount shall be treated as tax revenues collected from the  
36 seller in order to designate the distribution base for purposes of section  
37 42-5029.

38 G. If a seller claims a deduction under section 42-5061,  
39 subsection A, paragraph 25 and establishes entitlement to the deduction  
40 with an exemption letter that the purchaser received from the department  
41 and the exemption letter was based on a contingent event, the department  
42 may require the purchaser that received the exemption letter to establish  
43 the satisfaction of the contingent event within a reasonable time. If the  
44 purchaser cannot establish the satisfaction of the event, the purchaser is  
45 liable in an amount equal to any tax, penalty and interest that the seller

1 would have been required to pay under this article if the seller had not  
2 been furnished the exemption letter. Payment of the amount under this  
3 subsection exempts the purchaser from liability for any tax imposed under  
4 article 4 of this chapter. The amount shall be treated as tax revenues  
5 collected from the seller in order to designate the distribution base for  
6 purposes of section 42-5029. For the purposes of this subsection,  
7 "reasonable time" means a time limitation that the department determines  
8 and that does not exceed the time 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  
11 of a motor vehicle for the deductions described in section 42-5061,  
12 subsection A, paragraph 14, paragraph 28 and paragraph 44 and  
13 subsection ~~H~~ V. Except as provided in subsection J of this section, to  
14 establish entitlement to these deductions, a motor vehicle dealer shall  
15 retain:

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

19 2. For the purposes of the deductions provided by section 42-5061,  
20 subsection A, paragraph 14, subdivision (b) and section 42-5061,  
21 subsection ~~H~~ V, a copy of the nonresident registration permit authorized  
22 by section 28-2154.

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

29 4. For the purposes of the deduction provided by section 42-5061,  
30 subsection A, paragraph 14, subdivision (a), a certificate documenting the  
31 delivery of the motor vehicle to an out-of-state location.

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



1 collected from the motor vehicle dealer in order to designate the  
2 distribution base for purposes of section 42-5029.

3 J. To establish entitlement to the deduction described in section  
4 42-5061, subsection A, paragraph 44, a public consignment auction dealer  
5 as defined in section 28-4301 shall retain a copy of the certificate  
6 prescribed by subsection H of this section for its records.

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

10 L. The department shall prescribe a form for a certificate to be  
11 used by a person that is not subject to tax under section 42-5075 when the  
12 person is engaged by a contractor that is subject to tax under section  
13 42-5075 for a project that is taxable under section 42-5075. The  
14 certificate permits the person purchasing tangible personal property to be  
15 incorporated or fabricated by the person into any real property,  
16 structure, project, development or improvement to provide documentation to  
17 a retailer that the sale of tangible personal property qualifies for the  
18 deduction under section 42-5061, subsection A, paragraph 27,  
19 subdivision (b). A prime contractor shall obtain the certificate from the  
20 department and shall provide a copy to any such person working on the  
21 project. The prime contractor shall obtain a new certificate for each  
22 project to which this subsection applies. For the purposes of this  
23 subsection, the following apply:

24 1. The person that is not subject to tax under section 42-5075 may  
25 use the certificate issued pursuant to this subsection only with respect  
26 to tangible personal property that will be incorporated into a project for  
27 which the gross receipts are subject to tax under section 42-5075.

28 2. The department shall issue the certificate to the prime  
29 contractor on receiving sufficient documentation to establish that the  
30 prime contractor meets the requirements of this subsection.

31 3. If any person uses the certificate provided under this  
32 subsection to purchase tangible personal property to be used in a project  
33 that is not subject to tax under section 42-5075, the person is liable in  
34 an amount equal to any tax, penalty and interest that the seller would  
35 have been required to pay under this article if the seller had not  
36 complied with subsection A of this section. Payment of the amount under  
37 this section exempts the person from liability for any tax imposed under  
38 article 4 of this chapter. The amount shall be sourced under section  
39 42-5040, subsection A, paragraph 2.

40 M. Notwithstanding any other law, compliance with subsection L of  
41 this section by a person that is not subject to tax under section 42-5075  
42 entitles the person to the exemption allowed by section 465,  
43 subsection (k) of the model city tax code when purchasing tangible  
44 personal property to be incorporated or fabricated by the person into any  
45 real property, structure, project, development or improvement.

1 N. The requirements of subsections A and B of this section do not  
2 apply to owners, proprietors or tenants of agricultural lands or farms who  
3 sell livestock or poultry feed that is grown or raised on their lands to  
4 any of the following:

5 1. Persons who feed their own livestock or poultry.

6 2. Persons who are engaged in the business of producing livestock  
7 or poultry commercially.

8 3. Persons who are engaged in the business of feeding livestock or  
9 poultry commercially or who board livestock noncommercially.

10 O. A vendor who has reason to believe that a certificate prescribed  
11 by this section is not accurate or complete will not be relieved of the  
12 burden of proving entitlement to the exemption. A vendor that accepts a  
13 certificate in good faith will be relieved of the burden of proof and the  
14 purchaser may be required to establish the accuracy of the claimed  
15 exemption. If the purchaser cannot establish the accuracy and  
16 completeness of the information provided in the certificate, the purchaser  
17 is liable for an amount equal to the transaction privilege tax, penalty  
18 and interest that the vendor would have been required to pay if the vendor  
19 had not accepted the certificate.

20 P. Notwithstanding any other law, an online lodging operator, as  
21 defined in section 42-5076, shall be entitled to an exclusion from any  
22 applicable taxes for any online lodging transaction, as defined in section  
23 42-5076, facilitated by an online lodging marketplace, as defined in  
24 section 42-5076, for which the online lodging operator has obtained from  
25 the online lodging marketplace written notice that the online lodging  
26 marketplace is registered with the department to collect applicable taxes  
27 for all online lodging transactions facilitated by the online lodging  
28 marketplace, and transaction history documenting tax collected by the  
29 online lodging marketplace, pursuant to section 42-5005, subsection L.

30 Q. The department shall prescribe the form of a certificate to be  
31 used by a person purchasing an aircraft to document eligibility for a  
32 deduction pursuant to section 42-5061, subsection B, paragraph 8,  
33 subdivision (a), item (v) or an exemption pursuant to section 42-5159,  
34 subsection B, paragraph 8, subdivision (a), item (v), relating to  
35 aircraft. The person must provide this certificate and documentation  
36 confirming that the operational control of the aircraft has been  
37 transferred or will be transferred immediately after the purchase to one  
38 or more persons described in section 42-5061, subsection B, paragraph 8,  
39 subdivision (a), item (i), (ii), (iii) or (iv) or section 42-5159,  
40 subsection B, paragraph 8, subdivision (a), item (i), (ii), (iii) or (iv).  
41 Operational control of the aircraft must be transferred for at least fifty  
42 percent of the aircraft's flight hours. If such operational control is  
43 not transferred for at least fifty percent of the aircraft's flight hours  
44 during the recapture period, the owner of the aircraft is liable for an  
45 amount equal to any tax that the seller or purchaser would have been

1 required to pay under this chapter at the time of the sale, plus penalty  
2 and interest. The recapture period begins on the date that operational  
3 control of the aircraft is first transferred and ends on the later of the  
4 date the aircraft is fully depreciated for federal income tax purposes or  
5 five years after operational control was first transferred. For the  
6 purposes of this subsection, operational control of the aircraft must be  
7 within the meaning of federal aviation administration operations  
8 specification A008, or its successor, except that:

9       1. If it is determined that operational control has been  
10 transferred for less than fifty percent but more than forty percent of the  
11 aircraft's flight hours, the owner of the aircraft is liable for an amount  
12 equal to any tax that the seller or purchaser would have been required to  
13 pay under this chapter at the time of the sale, plus interest.

14       2. If the aircraft is sold during the recapture period, the seller  
15 is not liable for the amount determined pursuant to this subsection unless  
16 the operational control of the aircraft had not been transferred for at  
17 least fifty percent of the aircraft's flight hours at the time of the  
18 sale.

19       R. Notwithstanding any other law, a shared vehicle owner is  
20 entitled to an exclusion from any applicable taxes for a shared vehicle  
21 transaction that is facilitated by a peer-to-peer car sharing program and  
22 for which the peer-to-peer car sharing program has collected and remitted  
23 applicable taxes.

24       S. A qualifying community health center, qualifying health care  
25 organization or qualifying hospital or any other entity that is recognized  
26 as nonprofit under section 501(c) of the United States internal revenue  
27 code and that is required to obtain an exemption letter from the  
28 department shall:

29       1. Apply to the department for the exemption letter and fully  
30 answer any eligibility questions required by the department for the  
31 purposes of the exemption letter. If the department approves the  
32 exemption letter application, the exemption letter is valid until the  
33 entity is no longer qualified for the exemption letter.

34       2. Notify the department in writing if the entity no longer  
35 qualifies for the exemption letter. Regardless of whether the entity  
36 notifies the department as required by this paragraph, if the entity no  
37 longer qualifies for the exemption letter, the entity is liable in an  
38 amount equal to any tax, penalty and interest that the seller would have  
39 been required to pay under this article if the seller had not been  
40 furnished the exemption letter. Payment of the amount under this  
41 paragraph exempts the entity from liability for any tax imposed under  
42 article 4 of this chapter. The amount shall be treated as tax revenues  
43 collected from the seller in order to designate the distribution base for  
44 the purposes of section 42-5029.

1 T. For the purposes of this section, "peer-to-peer car sharing  
2 program", "shared vehicle owner" and "shared vehicle transaction" have the  
3 same meanings prescribed in section 28-9601.

4 Sec. 4. Section 42-5029, Arizona Revised Statutes, is amended to  
5 read:

6 42-5029. Remission and distribution of monies; withholding;  
7 definition

8 A. The department shall deposit, pursuant to sections 35-146 and  
9 35-147, all revenues collected under this article and articles 4, 5 and 8  
10 of this chapter pursuant to section 42-1116, separately accounting for:

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

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

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

16 4. Revenues collected pursuant to section 42-5010, subsection G and  
17 section 42-5155, subsection D.

18 5. Revenues collected pursuant to section 42-5010.01 and section  
19 42-5155, subsection E.

20 6. Revenues collected pursuant to section 42-5061 from a remote  
21 seller.

22 B. The department shall credit payments of estimated tax to an  
23 estimated tax clearing account and each month shall transfer all monies in  
24 the estimated tax clearing account to a fund designated as the transaction  
25 privilege and severance tax clearing account. The department shall credit  
26 all other payments to the transaction privilege and severance tax clearing  
27 account, separately accounting for the monies designated as distribution  
28 base under sections 42-5010, 42-5164 and 42-5205. Each month the  
29 department shall report to the state treasurer the amount of monies  
30 collected pursuant to this article and articles 4, 5 and 8 of this  
31 chapter.

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

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

39 1. Pay twenty-five percent to the various incorporated  
40 municipalities in this state in proportion to their population to be used  
41 by the municipalities for any municipal purpose, except a municipality  
42 shall use monies paid from revenues separately accounted for pursuant to  
43 subsection A, paragraph 6 of this section and paid pursuant to this  
44 paragraph for public safety before any other municipal purpose.

1           2. Pay 38.08 percent to the counties in this state by averaging the  
2 following proportions:

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

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

11          3. Pay an additional 2.43 percent to the counties in this state as  
12 follows:

13          (a) Average the following proportions:

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

26           (ii) The proportion that the distribution base monies collected  
27 during the calendar month in each county under this article, section  
28 42-5164, subsection B and section 42-5205, subsection B bear to the total  
29 distribution base monies collected under this article, section 42-5164,  
30 subsection B and section 42-5205, subsection B throughout this state for  
31 the calendar month.

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

43          4. After any distributions required by sections 42-5030,  
44 42-5030.01, 42-5031, 42-5032, 42-5032.01, ~~and~~ 42-5032.02 AND 42-5032.03  
45 and after making any transfer to the water quality assurance revolving

1 fund as required by section 49-282, subsection B, credit the remainder of  
2 the monies designated as distribution base to the state general  
3 fund. From this amount the legislature shall annually appropriate to:

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

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

8 (c) The firearms safety and ranges fund established by section  
9 17-273, \$50,000 derived from the taxes collected from the retail  
10 classification pursuant to section 42-5061 for the current fiscal year.

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

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

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

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

40 4. After transferring monies pursuant to paragraphs 1, 2 and 3 of  
41 this subsection, one-twelfth of the amount a community college that is  
42 owned, operated or chartered by a qualifying Indian tribe on its own  
43 Indian reservation would receive pursuant to section 15-1472, subsection  
44 D, paragraph 2 if it were a community college district shall be  
45 distributed each month to the treasurer or other designated depository of

1 a qualifying Indian tribe. Monies distributed pursuant to this paragraph  
2 are for the exclusive purpose of providing support to one or more  
3 community colleges owned, operated or chartered by a qualifying Indian  
4 tribe and shall be used in a manner consistent with section 15-1472,  
5 subsection B. For the purposes of this paragraph, "qualifying Indian  
6 tribe" has the same meaning as defined in section 42-5031.01,  
7 subsection D.

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

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

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

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

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

17             (e) In fiscal year 2005-2006 and each fiscal year thereafter,  
18 \$86,280,500.

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

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

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

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

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

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

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

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

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

10 G. Notwithstanding subsection D of this section, if a court of  
11 competent jurisdiction finally determines that tax monies distributed  
12 under this section were illegally collected under this article or articles  
13 5 and 8 of this chapter and orders the monies to be refunded to the  
14 taxpayer, the department shall compute the amount of such monies that was  
15 distributed to each city, town and county under this section. Each  
16 city's, town's and county's proportionate share of the costs shall be  
17 based on the amount of the original tax payment each municipality and  
18 county received. Each month the state treasurer shall reduce the amount  
19 otherwise distributable to the city, town and county under this section by  
20 1/36 of the total amount to be recovered from the city, town or county  
21 until the total amount has been recovered, but the monthly reduction for  
22 any city, town or county shall not exceed ten percent of the full monthly  
23 distribution to that entity. The reduction shall begin for the first  
24 calendar month after the final disposition of the case and shall continue  
25 until the total amount, including 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  
29 shall withhold from the next succeeding distribution of monies pursuant to  
30 this section due to the defaulting political subdivision the amount  
31 specified in the certificate of default and immediately deposit the amount  
32 withheld in the greater Arizona development authority revolving fund. The  
33 state treasurer shall continue to withhold and deposit the monies until  
34 the greater Arizona development authority certifies to the state treasurer  
35 that the default has been cured. In no event may the state treasurer  
36 withhold any amount that the defaulting political subdivision certifies to  
37 the state treasurer and the authority as being necessary to make any  
38 required deposits then due for the payment of principal and interest on  
39 bonds of the political subdivision that were issued before the date of the  
40 loan repayment agreement or bonds and that have been secured by a pledge  
41 of distributions made pursuant to this section.

42 I. Except as provided by sections 42-5033 and 42-5033.01, the  
43 population of a county, city or town as determined by the most recent  
44 United States decennial census plus any revisions to the decennial census



1 certified by the United States bureau of the census shall be used as the  
2 basis for apportioning monies pursuant to subsection D of this section.

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

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

27 L. Except as otherwise provided by this subsection, on notice from  
28 the attorney general pursuant to section 41-194.01, subsection B,  
29 paragraph 1 that an ordinance, regulation, order or other official action  
30 adopted or taken by the governing body of a county, city or town violates  
31 state law or the Constitution of Arizona, the state treasurer shall  
32 withhold the distribution of monies pursuant to this section to the  
33 affected county, city or town and shall continue to withhold monies  
34 pursuant to this subsection until the attorney general certifies to the  
35 state treasurer that the violation has been resolved. The state treasurer  
36 shall redistribute the monies withheld pursuant to this subsection among  
37 all other counties, cities and towns in proportion to their population as  
38 provided by subsection D of this section. The state treasurer shall not  
39 withhold any amount that the county, city or town certifies to the  
40 attorney general and the state treasurer as being necessary to make any  
41 required deposits or payments for debt service on bonds or other long-term  
42 obligations of the county, city or town that were issued or incurred  
43 before committing the violation.

1 [M. SUBJECT TO SECTION 48-4238, BEGINNING THE FIRST DAY OF THE  
2 MONTH FOLLOWING THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION AND  
3 EACH MONTH THEREAFTER THROUGH DECEMBER 31, 2055, FROM THE MONIES TO BE  
4 PAID PURSUANT TO SUBSECTION D OF THIS SECTION TO A COUNTY WITH A  
5 POPULATION OF MORE THAN THREE MILLION PERSONS, THE DEPARTMENT SHALL  
6 TRANSMIT TO THE COUNTY STADIUM DISTRICT ESTABLISHED PURSUANT TO TITLE 48,  
7 CHAPTER 26 FOR DEPOSIT IN THE COUNTY STADIUM DISTRICT FUND ESTABLISHED  
8 PURSUANT TO SECTION 48-4231 AN AMOUNT THAT IS DETERMINED BY SUBTRACTING  
9 THE AMOUNT DETERMINED PURSUANT TO PARAGRAPH 1 OF THIS SUBSECTION FROM THE  
10 AMOUNT DETERMINED PURSUANT TO PARAGRAPH 2 OF THIS SUBSECTION AS FOLLOWS:

11 1. THE SUM OF THE AMOUNT DETERMINED PURSUANT TO SECTION 42-6113,  
12 SUBSECTION B AND THE DIFFERENCE BETWEEN THE AMOUNT THAT WOULD HAVE  
13 OTHERWISE BEEN PAYABLE TO A COUNTY WITH A POPULATION OF MORE THAN THREE  
14 MILLION PERSONS PURSUANT TO SUBSECTION D OF THIS SECTION IF THE AMOUNT  
15 DETERMINED PURSUANT TO SECTION 42-5032.03, SUBSECTION B WAS INCLUDED IN  
16 THE DISTRIBUTION BASE AND THE AMOUNT THAT COUNTY WAS ACTUALLY PAID  
17 PURSUANT TO SUBSECTION D OF THIS SECTION.

18 2. THE SUM OF THE AMOUNT DETERMINED PURSUANT TO SECTION 42-6018,  
19 SUBSECTION B AND THE DIFFERENCE BETWEEN THE AMOUNT THAT WOULD HAVE  
20 OTHERWISE BEEN PAYABLE PURSUANT TO SUBSECTION D OF THIS SECTION TO A CITY  
21 OR TOWN THAT IS REQUIRED TO TRANSMIT MONIES PURSUANT TO SECTION 42-6018 IF  
22 THE AMOUNT DETERMINED PURSUANT TO SECTION 42-5032.03, SUBSECTION B WAS  
23 INCLUDED IN THE DISTRIBUTION BASE AND THE AMOUNT THAT THE CITY OR TOWN WAS  
24 ACTUALLY PAID PURSUANT TO SUBSECTION D OF THIS SECTION.]

25 [M.] [N.] For the purposes of this section, "community college  
26 district" means a community college district that is established pursuant  
27 to sections 15-1402 and 15-1403 and that is a political subdivision of  
28 this state and, unless otherwise specified, includes a community college  
29 tuition financing district established pursuant to section 15-1409.

30 Sec. 5. Title 42, chapter 5, article 1, Arizona Revised Statutes,  
31 is amended by adding section 42-5032.03, to read:

32 42-5032.03. Distribution of revenue for county stadium  
33 district; definition

34 A. [SUBJECT TO SECTION 48-4238,] BEGINNING THE FIRST DAY OF THE  
35 MONTH FOLLOWING THE EFFECTIVE DATE OF THIS SECTION AND EACH MONTH  
36 THEREAFTER THROUGH [THE MONTH OF THE NOTICE PROVIDED PURSUANT TO SECTION  
37 ~~48-4238 OR~~] DECEMBER 31, 2055, [WHICHEVER IS LATER,] THE STATE TREASURER  
38 SHALL TRANSMIT, FROM THE AMOUNT DESIGNATED AS DISTRIBUTION BASE PURSUANT  
39 TO SECTION 42-5029, SUBSECTION D, THE AMOUNT DETERMINED UNDER SUBSECTION B  
40 OF THIS SECTION TO THE COUNTY STADIUM DISTRICT ESTABLISHED PURSUANT TO  
41 TITLE 48, CHAPTER 26 FOR DEPOSIT IN THE COUNTY STADIUM DISTRICT FUND  
42 ESTABLISHED PURSUANT TO SECTION 48-4231.

1 B. THE AMOUNT TO BE TRANSMITTED UNDER SUBSECTION A OF THIS SECTION  
2 IS THE TOTAL AMOUNT OF STATE TRANSACTION PRIVILEGE TAX REVENUES RECEIVED  
3 FROM PERSONS CONDUCTING BUSINESS UNDER THE RETAIL, AMUSEMENT, RESTAURANT  
4 AND PRIME CONTRACTING CLASSIFICATIONS AT, OR WITH RESPECT TO EVENTS HELD  
5 AT, A MAJOR LEAGUE BASEBALL FACILITY OR AN ADJACENT BUILDING THAT IS OWNED  
6 BY A COUNTY STADIUM DISTRICT PURSUANT TO TITLE 48, CHAPTER 26 AND OPERATED  
7 BY THE COUNTY STADIUM DISTRICT OR THE PROFESSIONAL BASEBALL FRANCHISE  
8 ORGANIZATION THAT OCCUPIES THE FACILITY OR ADJACENT BUILDING.

9 [C. FOR THE PURPOSES OF THIS SECTION, "ADJACENT BUILDING" HAS THE  
10 SAME MEANING PRESCRIBED IN SECTION 48-4201.]

11 Sec. 6. Section 42-5061, Arizona Revised Statutes, is amended to  
12 read:

13 42-5061. Retail classification; definitions

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

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

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

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

27 4. Sales of tangible personal property by any nonprofit  
28 organization organized and operated exclusively for charitable purposes  
29 and recognized by the United States internal revenue service under section  
30 501(c)(3) of the internal revenue code.

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

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

36 7. The sale of stocks and bonds.

37 8. Drugs and medical oxygen, including delivery hose, mask or tent,  
38 regulator and tank, if prescribed by a member of the medical, dental or  
39 veterinarian profession who is licensed by law to administer such  
40 substances.

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

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

45 11. Prescription eyeglasses or contact lenses.

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

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

9           14. Sales of motor vehicles to nonresidents of this state for use  
10 outside this state if either of the following applies:

11           (a) The motor vehicle dealer ships or delivers the motor vehicle to  
12 a destination out of this state.

13           (b) The vehicle, trailer or semitrailer has a gross vehicle weight  
14 rating of more than ten thousand pounds, is used or maintained to  
15 transport property in the furtherance of interstate commerce and otherwise  
16 meets the definition of commercial motor vehicle as defined in section  
17 28-5201.

18           15. Food, as provided in and subject to the conditions of article 3  
19 of this chapter and sections 42-5074 and 42-6017.

20           16. Items purchased with United States department of agriculture  
21 coupons issued under the supplemental nutrition assistance program  
22 pursuant to the food and nutrition act of 2008 (P.L. 88-525; 78 Stat. 703;  
23 7 United States Code sections 2011 through 2036b) by the United States  
24 department of agriculture food and nutrition service or food instruments  
25 issued under section 17 of the child nutrition act (P.L. 95-627;  
26 92 Stat. 3603; P.L. 99-661, section 4302; P.L. 111-296; 42 United States  
27 Code section 1786).

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

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

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

39           20. Lottery tickets or shares pursuant to title 5, chapter 5.1,  
40 article 1.

41           21. The sale of cash equivalents and the sale of precious metal  
42 bullion and monetized bullion to the ultimate consumer, but the sale of  
43 coins or other forms of money for manufacture into jewelry or works of art  
44 is subject to the tax and the gross proceeds of sales or gross income  
45 derived from the redemption of any cash equivalent by the holder as a

1 means of payment for goods or services that are taxable under this article  
2 is subject to the tax. For the purposes of this paragraph:

3 (a) "Cash equivalents" means items or intangibles, whether or not  
4 negotiable, that are sold to one or more persons, through which a value  
5 denominated in money is purchased in advance and may be redeemed in full  
6 or in part for tangible personal property, intangibles or services. Cash  
7 equivalents include gift cards, stored value cards, gift certificates,  
8 vouchers, traveler's checks, money orders or other instruments, orders or  
9 electronic mechanisms, such as an electronic code, personal identification  
10 number or digital payment mechanism, or any other prepaid intangible right  
11 to acquire tangible personal property, intangibles or services in the  
12 future, whether from the seller of the cash equivalent or from another  
13 person. Cash equivalents do not include either of the following:

14 (i) Items or intangibles that are sold to one or more persons,  
15 through which a value is not denominated in money.

16 (ii) Prepaid calling cards or prepaid authorization numbers for  
17 telecommunications services made taxable by subsection P of this section.

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

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

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

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

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

38 25. Tangible personal property sold to:

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

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

1 (c) A qualifying health care organization as defined in section  
2 42-5001 if the organization is dedicated to providing educational,  
3 therapeutic, rehabilitative and family medical education training for  
4 blind and visually impaired children and children with multiple  
5 disabilities from the time of birth to age twenty-one.

6 (d) A qualifying community health center as defined in section  
7 42-5001.

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

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

19 (g) A qualifying health sciences educational institution as defined  
20 in section 42-5001.

21 (h) Any person representing or working on behalf of another person  
22 described in subdivisions (a) through (g) of this paragraph if the  
23 tangible personal property is incorporated or fabricated into a project  
24 described in section 42-5075, subsection ~~P~~ P.

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

27 27. Tangible personal property sold to:

28 (a) A person that is subject to tax under this article by reason of  
29 being engaged in business classified under section 42-5075 or to a  
30 subcontractor working under the control of a person engaged in business  
31 classified under section 42-5075, if the property so sold is any of the  
32 following:

33 (i) Incorporated or fabricated by the person into any real  
34 property, structure, project, development or improvement as part of the  
35 business.

36 (ii) Incorporated or fabricated by the person into any project  
37 described in section 42-5075, subsection ~~P~~ P.

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

40 (b) A person that is not subject to tax under section 42-5075 and  
41 that has been provided a copy of a certificate under section 42-5009,  
42 subsection L, if the property so sold is incorporated or fabricated by the  
43 person into the real property, structure, project, development or  
44 improvement described in the certificate.

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

6           29. Tangible personal property purchased in this state by a  
7 nonprofit charitable organization that has qualified under section  
8 501(c)(3) of the United States internal revenue code and that engages in  
9 and uses such property exclusively in programs for persons with mental or  
10 physical disabilities if the programs are exclusively for training, job  
11 placement, rehabilitation or testing.

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

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

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

36           33. Sales of propagative materials to persons who use those items  
37 to commercially produce agricultural, horticultural, viticultural or  
38 floricultural crops in this state. For the purposes of this paragraph,  
39 "propagative materials":

40           (a) Includes seeds, seedlings, roots, bulbs, liners, transplants,  
41 cuttings, soil and plant additives, agricultural minerals, auxiliary soil  
42 and plant substances, micronutrients, fertilizers, insecticides,  
43 herbicides, fungicides, soil fumigants, desiccants, rodenticides,  
44 adjuvants, plant nutrients and plant growth regulators.

1 (b) Except for use in commercially producing industrial hemp as  
2 defined in section 3-311, does not include any propagative materials used  
3 in producing any part, including seeds, of any plant of the genus  
4 cannabis.

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

10 35. Sales of natural gas or liquefied petroleum gas used to propel  
11 a motor vehicle.

12 36. Paper machine clothing, such as forming fabrics and dryer  
13 felts, sold to a paper manufacturer and directly used or consumed in paper  
14 manufacturing.

15 37. Coal, petroleum, coke, natural gas, virgin fuel oil and  
16 electricity sold to a qualified environmental technology manufacturer,  
17 producer or processor as defined in section 41-1514.02 and directly used  
18 or consumed in generating or providing on-site power or energy solely for  
19 environmental technology manufacturing, producing or processing or  
20 environmental protection. This paragraph applies for twenty full  
21 consecutive calendar or fiscal years from the date the first paper  
22 manufacturing machine is placed in service. In the case of an  
23 environmental technology manufacturer, producer or processor that does not  
24 manufacture paper, the time period begins with the date the first  
25 manufacturing, processing or production equipment is placed in service.

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

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



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

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

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

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

18 42. Sales of:

19 (a) Livestock and poultry to persons engaging in the businesses of  
20 farming, ranching or producing livestock or poultry.

21 (b) Livestock and poultry feed, salts, vitamins and other additives  
22 for livestock or poultry consumption that are sold to persons for use or  
23 consumption by their own livestock or poultry, for use or consumption in  
24 the businesses of farming, ranching and producing or feeding livestock,  
25 poultry, or livestock or poultry products or for use or consumption in  
26 noncommercial boarding of livestock. For the purposes of this paragraph,  
27 "poultry" includes ratites.

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

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

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

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

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

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

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

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

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

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

26          51. Sales of tangible personal property to be incorporated or  
27 installed as part of environmental response or remediation activities  
28 under section 42-5075, subsection B, paragraph 6.

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

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

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

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

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

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

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

17           57. Orthodontic devices dispensed by a dental professional who is  
18 licensed under title 32, chapter 11 to a patient as part of the practice  
19 of dentistry.

20           58. Sales of tangible personal property incorporated or fabricated  
21 into a project described in section 42-5075, subsection ~~⊖~~ P, that is  
22 located within the exterior boundaries of an Indian reservation for which  
23 the owner, as defined in section 42-5075, of the project is an Indian  
24 tribe or an affiliated Indian. For the purposes of this paragraph:

25           (a) "Affiliated Indian" means an individual Native American Indian  
26 who is duly registered on the tribal rolls of the Indian tribe for whose  
27 benefit the Indian reservation was established.

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

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

37           59. Sales of works of fine art, as defined in section 44-1771, at  
38 an art auction or gallery in this state to nonresidents of this state for  
39 use outside this state if the vendor ships or delivers the work of fine  
40 art to a destination outside this state.

41           60. Sales of tangible personal property by a marketplace seller  
42 that are facilitated by a marketplace facilitator in which the marketplace  
43 facilitator has remitted or will remit the applicable tax to the  
44 department pursuant to section 42-5014.

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

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

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

18           3. Tangible personal property sold to persons engaged in business  
19 classified under the telecommunications classification, including a person  
20 representing or working on behalf of such a person in a manner described  
21 in section 42-5075, subsection ~~⊖~~ P, and consisting of central office  
22 switching equipment, switchboards, private branch exchange equipment,  
23 microwave radio equipment and carrier equipment including optical fiber,  
24 coaxial cable and other transmission media that are components of carrier  
25 systems.

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

31           5. Machinery and equipment used directly for energy storage for  
32 later electrical use. For the purposes of this paragraph:

33           (a) "Electric utility scale" means a person that is engaged in a  
34 business activity described in section 42-5063, subsection A or such  
35 person's equipment or wholesale electricity suppliers.

36           (b) "Energy storage" means commercially available technology for  
37 electric utility scale that is capable of absorbing energy, storing energy  
38 for a period of time and thereafter dispatching the energy and that uses  
39 mechanical, chemical or thermal processes to store energy.

40           (c) "Machinery and equipment used directly" means all machinery and  
41 equipment that are used for electric energy storage from the point of  
42 receipt of such energy in order to facilitate storage of the electric  
43 energy to the point where the electric energy is released.

44           6. Neat animals, horses, asses, sheep, ratites, swine or goats used  
45 or to be used as breeding or production stock, including sales of

1 breedings or ownership shares in such animals used for breeding or  
2 production.

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

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

9             (a) A person:

10                 (i) Holding, or exempted by federal law from obtaining, a federal  
11 certificate of public convenience and necessity for use as, in conjunction  
12 with or becoming part of an aircraft to be used to transport persons for  
13 hire in intrastate, interstate or foreign commerce.

14                 (ii) That is certificated or licensed under federal aviation  
15 administration regulations (14 Code of Federal Regulations part 121 or  
16 135) as a scheduled or unscheduled carrier of persons for hire for use as  
17 or in conjunction with or becoming part of an aircraft to be used to  
18 transport persons for hire in intrastate, interstate or foreign commerce.

19                 (iii) Holding a foreign air carrier permit for air transportation  
20 for use as or in conjunction with or becoming a part of aircraft to be  
21 used to transport persons, property or United States mail in intrastate,  
22 interstate or foreign commerce.

23                 (iv) Operating an aircraft to transport persons in any manner for  
24 compensation or hire, or for use in a fractional ownership program that  
25 meets the requirements of federal aviation administration regulations  
26 (14 Code of Federal Regulations part 91, subpart K), including as an air  
27 carrier, a foreign air carrier or a commercial operator or under a  
28 restricted category, within the meaning of 14 Code of Federal Regulations,  
29 regardless of whether the operation or aircraft is regulated or certified  
30 under part 91, 119, 121, 133, 135, 136 or 137, or another part of 14 Code  
31 of Federal Regulations.

32                 (v) That will lease or otherwise transfer operational control,  
33 within the meaning of federal aviation administration operations  
34 specification A008, or its successor, of the aircraft, instruments or  
35 accessories to one or more persons described in item (i), (ii), (iii) or  
36 (iv) of this subdivision, subject to section 42-5009, subsection Q.

37             (b) Any foreign government.

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

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

5           10. Railroad rolling stock, rails, ties and signal control  
6 equipment used directly to transport persons or property.

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

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

18          13. Groundwater measuring devices required under section 45-604.

19          14. Machinery and equipment consisting of agricultural aircraft,  
20 tractors, off-highway vehicles, tractor-drawn implements, self-powered  
21 implements, machinery and equipment necessary for extracting milk, and  
22 machinery and equipment necessary for cooling milk and livestock, and drip  
23 irrigation lines not already exempt under paragraph 7 of this subsection  
24 and that are used for commercial production of agricultural,  
25 horticultural, viticultural and floricultural crops and products in this  
26 state. For the purposes of this paragraph:

27           (a) "Off-highway vehicles" means off-highway vehicles as defined in  
28 section 28-1171 that are modified at the time of sale to function as a  
29 tractor or to tow tractor-drawn implements and that are not equipped with  
30 a modified exhaust system to increase horsepower or speed or an engine  
31 that is more than one thousand cubic centimeters or that have a maximum  
32 speed of fifty miles per hour or less.

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

35          15. Machinery or equipment used in research and development. For  
36 the purposes of this paragraph, "research and development" means basic and  
37 applied research in the sciences and engineering, and designing,  
38 developing or testing prototypes, processes or new products, including  
39 research and development of computer software that is embedded in or an  
40 integral part of the prototype or new product or that is required for  
41 machinery or equipment otherwise exempt under this section to function  
42 effectively. Research and development do not include manufacturing  
43 quality control, routine consumer product testing, market research, sales  
44 promotion, sales service, research in social sciences or psychology,  
45 computer software research that is not included in the definition of

1 research and development, or other nontechnological activities or  
2 technical services.

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

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

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

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

15 (ii) Over two-thirds of the transmissions, measured in megabytes,  
16 transmitted by or on behalf of those direct broadcast television or data  
17 transmission services during the test period were transmitted by the  
18 facility to or on behalf of those services. For the purposes of  
19 subdivision (b) of this paragraph, "test period" means the three hundred  
20 sixty-five day period beginning on the later of the date on which the  
21 tangible personal property is purchased or the date on which the direct  
22 broadcast satellite television or data transmission service first  
23 transmits information to its customers.

24 17. Clean rooms that are used for manufacturing, processing,  
25 fabrication or research and development, as defined in paragraph 15 of  
26 this subsection, of semiconductor products. For the purposes of this  
27 paragraph, "clean room" means all property that comprises or creates an  
28 environment where humidity, temperature, particulate matter and  
29 contamination are precisely controlled within specified parameters,  
30 without regard to whether the property is actually contained within that  
31 environment or whether any of the property is affixed to or incorporated  
32 into real property. Clean room:

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

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

41 18. Machinery and equipment used directly in feeding poultry,  
42 environmentally controlling housing for poultry, moving eggs within a  
43 production and packaging facility or sorting or cooling eggs. This  
44 exemption does not apply to vehicles used for transporting eggs.

1           19. Machinery or equipment, including related structural components  
2 and containment structures, that is employed in connection with  
3 manufacturing, processing, fabricating, job printing, refining, mining,  
4 natural gas pipelines, metallurgical operations, telecommunications,  
5 producing or transmitting electricity or research and development and that  
6 is used directly to meet or exceed rules or regulations adopted by the  
7 federal energy regulatory commission, the United States environmental  
8 protection agency, the United States nuclear regulatory commission, the  
9 Arizona department of environmental quality or a political subdivision of  
10 this state to prevent, monitor, control or reduce land, water or air  
11 pollution. For the purposes of this paragraph, "containment structure"  
12 means a structure that prevents, monitors, controls or reduces noxious or  
13 harmful discharge into the environment.

14           20. Machinery and equipment that are sold to a person engaged in  
15 commercially producing livestock, livestock products or agricultural,  
16 horticultural, viticultural or floricultural crops or products in this  
17 state, including a person representing or working on behalf of such a  
18 person in a manner described in section 42-5075, subsection ~~⊖~~ P, if the  
19 machinery and equipment are used directly and primarily to prevent,  
20 monitor, control or reduce air, water or land pollution.

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

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

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

33           (c) Any machinery or equipment purchased after the television  
34 station has ceased analog broadcasting, or purchased after November 1,  
35 2009, whichever occurs first.

36           22. Qualifying equipment that is purchased from and after June 30,  
37 2004 through December 31, 2026 by a qualified business under section  
38 41-1516 for harvesting or processing qualifying forest products removed  
39 from qualifying projects as defined in section 41-1516. To qualify for  
40 this deduction, the qualified business at the time of purchase must  
41 present its certification approved by the department.

42           23. Computer data center equipment sold to the owner, operator or  
43 qualified colocation tenant of a computer data center that is certified by  
44 the Arizona commerce authority under section 41-1519 or an authorized  
45 agent of the owner, operator or qualified colocation tenant during the



1 qualification period for use in the qualified computer data center. For  
2 the purposes of this paragraph, "computer data center", "computer data  
3 center equipment", "qualification period" and "qualified colocation  
4 tenant" have the same meanings prescribed in section 41-1519.

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

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

11 2. Janitorial equipment and hand tools.

12 3. Office equipment, furniture and supplies.

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

16 5. Motor vehicles required to be licensed by this state, except  
17 buses or other urban mass transit vehicles specifically exempted pursuant  
18 to subsection B, paragraph 12 of this section, without regard to the use  
19 of such motor vehicles.

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

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

23 8. Machinery and equipment or other tangible personal property used  
24 by a contractor in performing a contract.

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

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

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

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

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

15 1. Agricultural producers who are owners, proprietors or tenants of  
16 agricultural lands, orchards, farms or gardens where agricultural products  
17 are grown, raised or prepared for market and who are marketing their own  
18 agricultural products.

19 2. Businesses classified under the:  
20 (a) Transporting classification.  
21 (b) Utilities classification.  
22 (c) Telecommunications classification.  
23 (d) Pipeline classification.  
24 (e) Private car line classification.  
25 (f) Publication classification.  
26 (g) Job printing classification.  
27 (h) Prime contracting classification.  
28 (i) Restaurant classification.

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

32 1. Sales made directly to the United States government or its  
33 departments or agencies by a manufacturer, modifier, assembler or  
34 repairer.

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

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

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

6           J. There shall be deducted from the tax base fifty percent of the  
7 gross proceeds or gross income from any sale of tangible personal property  
8 made directly to the United States government or its departments or  
9 agencies that is not deducted under subsection I of this section.

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

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

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

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

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

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

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

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

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

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

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

7           R. For the purposes of this section, the transfer of title or  
8 possession of coal from an owner or operator of a power plant to a person  
9 in the business of refining coal is not a sale of coal if both of the  
10 following apply:

11           1. The transfer of title or possession of the coal is for the  
12 purpose of refining the coal.

13           2. The title or possession of the coal is transferred back to the  
14 owner or operator of the power plant after completion of the coal refining  
15 process. For the purposes of this paragraph, "coal refining process"  
16 means the application of a coal additive system that aids in the reduction  
17 of power plant emissions during the combustion of coal and the treatment  
18 of flue gas.

19           S. If a seller is entitled to a deduction pursuant to subsection B,  
20 paragraph 16, subdivision (b) of this section, the department may require  
21 the purchaser to establish that the requirements of subsection B,  
22 paragraph 16, subdivision (b) of this section have been satisfied. If the  
23 purchaser cannot establish that the requirements of subsection B,  
24 paragraph 16, subdivision (b) of this section have been satisfied, the  
25 purchaser is liable in an amount equal to any tax, penalty and interest  
26 that the seller would have been required to pay under article 1 of this  
27 chapter if the seller had not made a deduction pursuant to subsection B,  
28 paragraph 16, subdivision (b) of this section. Payment of the amount  
29 under this subsection exempts the purchaser from liability for any tax  
30 imposed under article 4 of this chapter and related to the tangible  
31 personal property purchased. The amount shall be treated as transaction  
32 privilege tax to the purchaser and as tax revenues collected from the  
33 seller to designate the distribution base pursuant to section 42-5029.

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

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

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

1 U. FOR THE PURPOSES OF SECTION 42-5032.03, [SUBJECT TO SECTION  
2 48-4238.] BEGINNING THE FIRST DAY OF THE MONTH FOLLOWING THE EFFECTIVE  
3 DATE OF THIS [AMENDMENT TO THIS] SECTION THROUGH [THE MONTH OF THE NOTICE  
4 PROVIDED PURSUANT TO SECTION 48-4238] OR DECEMBER 31, 2055, [WHICHEVER IS  
5 LATER,] THE DEPARTMENT SHALL SEPARATELY ACCOUNT FOR REVENUES COLLECTED  
6 UNDER THE RETAIL CLASSIFICATION FROM BUSINESSES SELLING TANGIBLE PERSONAL  
7 PROPERTY AT RETAIL ON THE PREMISES OF A MAJOR LEAGUE BASEBALL FACILITY OR  
8 AN ADJACENT BUILDING THAT IS OWNED BY A COUNTY STADIUM DISTRICT PURSUANT  
9 TO TITLE 48, CHAPTER 26 AND OPERATED BY THE COUNTY STADIUM DISTRICT OR THE  
10 PROFESSIONAL BASEBALL FRANCHISE ORGANIZATION THAT OCCUPIES THE FACILITY OR  
11 ADJACENT BUILDING. [FOR THE PURPOSES OF THIS SUBSECTION, "ADJACENT  
12 BUILDING" HAS THE SAME MEANING PRESCRIBED IN SECTION 48-4201.]

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

26 ~~W.~~ W. For the purposes of this section:

27 1. "Agricultural aircraft" means an aircraft that is built for  
28 agricultural use for the aerial application of pesticides or fertilizer or  
29 for aerial seeding.

30 2. "Aircraft" includes:

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

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

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

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

1           ~~W.~~ X. For the purposes of subsection I of this section:

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

5           2. "Manufacturer" means a person who is principally engaged in  
6 fabricating, producing or manufacturing products, wares or articles for  
7 use from raw or prepared materials, imparting to those materials new  
8 forms, qualities, properties and combinations.

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

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

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

20           6. "Subcontract" means an agreement between a contractor and any  
21 person who is not an employee of the contractor for furnishing supplies or  
22 services that, in whole or in part, are necessary to perform one or more  
23 government contracts, or under which any portion of the contractor's  
24 obligation under one or more government contracts is performed, undertaken  
25 or assumed and that includes provisions causing title to overhead  
26 materials or other tangible personal property used in performing the  
27 subcontract to pass to the government or that includes provisions  
28 incorporating such title passing clauses in a government contract into the  
29 subcontract.

30           Sec. 7. Section 42-5073, Arizona Revised Statutes, is amended to  
31 read:

32           42-5073. Amusement classification

33           A. The amusement classification is comprised of the business of  
34 operating or conducting theaters, movies, operas, shows of any type or  
35 nature, exhibitions, concerts, carnivals, circuses, amusement parks,  
36 menageries, fairs, races, contests, games, billiard or pool parlors,  
37 bowling alleys, public dances, dance halls, boxing and wrestling matches,  
38 skating rinks, tennis courts, except as provided in subsection B of this  
39 section, video games, pinball machines or sports events or any other  
40 business charging admission or user fees for exhibition, amusement or  
41 entertainment, including the operation or sponsorship of events by a  
42 tourism and sports authority under title 5, chapter 8. For the purposes  
43 of this section, admission or user fees include, but are not limited to,  
44 any revenues derived from any form of contractual agreement for rights to

1 or use of premium or special seating facilities or arrangements. The  
2 amusement classification does not include:

3 1. Activities or projects of bona fide religious or educational  
4 institutions.

5 2. Private or group instructional activities. For the purposes of  
6 this paragraph, "private or group instructional activities" includes, but  
7 is not limited to, performing arts, martial arts, gymnastics and aerobic  
8 instruction.

9 3. The operation or sponsorship of events by the Arizona exposition  
10 and state fair board or county fair commissions.

11 4. A musical, dramatic or dance group or a botanical garden, museum  
12 or zoo that is qualified as a nonprofit charitable organization under  
13 section 501(c)(3) of the United States internal revenue code if no part of  
14 its net income inures to the benefit of any private shareholder or  
15 individual.

16 5. Exhibition events in this state sponsored, conducted or operated  
17 by a nonprofit organization that is exempt from taxation under section  
18 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the  
19 organization is associated with major league baseball teams or a national  
20 touring professional golfing association and no part of the organization's  
21 net earnings inures to the benefit of any private shareholder or  
22 individual. This paragraph does not apply to an organization that is  
23 owned, managed or controlled, in whole or in part, by a major league  
24 baseball team, or its owners, officers, employees or agents, or by a major  
25 league baseball association or professional golfing association, or its  
26 owners, officers, employees or agents, unless the organization conducted  
27 or operated exhibition events in this state before January 1, 2018 that  
28 were exempt from taxation under this section.

29 6. Operating or sponsoring rodeos that feature primarily farm and  
30 ranch animals in this state and that are sponsored, conducted or operated  
31 by a nonprofit organization that is exempt from taxation under section  
32 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal  
33 revenue code if no part of the organization's net earnings inures to the  
34 benefit of any private shareholder or individual.

35 7. Sales of admissions to intercollegiate football contests if the  
36 contests are both:

37 (a) Operated by a nonprofit organization that is exempt from  
38 taxation under section 501(c)(3) of the internal revenue code and no part  
39 of the organization's net earnings inures to the benefit of any private  
40 shareholder or individual.

41 (b) Not held in a multipurpose facility that is owned or operated  
42 by the tourism and sports authority pursuant to title 5, chapter 8.

43 8. Activities and events of, or fees and assessments received by, a  
44 homeowners organization from persons who are members of the organization  
45 or accompanied guests of members. For the purposes of this paragraph,

1 "homeowners organization" means a mandatory membership organization  
2 comprised of owners of residential property within a specified residential  
3 real estate subdivision development or similar area and established to own  
4 property for the benefit of its members where both of the following apply:

5 (a) No part of the organization's net earnings inures to the  
6 benefit of any private shareholder or individual.

7 (b) The primary purpose of the organization is to provide for the  
8 acquisition, construction, management, maintenance or care of organization  
9 property.

10 9. Activities and events of, or fees received by, a nonprofit  
11 organization that is exempt from taxation under section 501(c)(6) of the  
12 internal revenue code if the organization produces, organizes or promotes  
13 cultural or civic related festivals or events and no part of the  
14 organization's net earnings inures to the benefit of any private  
15 shareholder or individual.

16 10. Arranging an amusement activity as a service to a person's  
17 customers if that person is not otherwise engaged in the business of  
18 operating or conducting an amusement personally or through others. This  
19 exception does not apply to businesses that operate or conduct amusements  
20 pursuant to customer orders and send the billings and receive the payments  
21 associated with that activity, including when the amusement is performed  
22 by third-party independent contractors. For the purposes of this  
23 paragraph, "arranging" includes billing for or collecting amusement  
24 charges from a person's customers on behalf of the persons providing the  
25 amusement.

26 B. The tax base for the amusement classification is the gross  
27 proceeds of sales or gross income derived from the business, except that  
28 the following shall be deducted from the tax base:

29 1. The gross proceeds of sales or gross income derived from  
30 memberships, including initiation fees, that provide for the right to use  
31 a health or fitness establishment or a private recreational establishment,  
32 or any portion of an establishment, including tennis and other racquet  
33 courts at that establishment, for participatory purposes for twenty-eight  
34 days or more and fees charged for use of the health or fitness  
35 establishment or private recreational establishment by bona fide  
36 accompanied guests of members, except that this paragraph does not include  
37 additional fees, other than initiation fees, charged by a health or  
38 fitness establishment or a private recreational establishment for purposes  
39 other than memberships that provide for the right to use a health or  
40 fitness establishment or private recreational establishment, or any  
41 portion of an establishment, for participatory purposes for twenty-eight  
42 days or more and accompanied guest use fees.

43 2. Amounts that are exempt under section 5-111, subsection G.

44 3. The gross proceeds of sales or gross income derived from  
45 membership fees, including initiation fees, that provide for the right to



1 use a transient lodging recreational establishment, including golf courses  
2 and tennis and other racquet courts at that establishment, for  
3 participatory purposes for twenty-eight days or more, except that this  
4 paragraph does not include additional fees, other than initiation fees,  
5 that are charged by a transient lodging recreational establishment for  
6 purposes other than memberships and that provide for the right to use a  
7 transient lodging recreational establishment or any portion of the  
8 establishment for participatory purposes for twenty-eight days or more.

9         4. The gross proceeds of sales or gross income derived from sales  
10 to persons engaged in the business of transient lodging classified under  
11 section 42-5070, if all of the following apply:

12             (a) The persons who are engaged in the transient lodging business  
13 sell the amusement to another person for consideration.

14             (b) The consideration received by the transient lodging business is  
15 equal to or greater than the amount to be deducted under this subsection.

16             (c) The transient lodging business has provided an exemption  
17 certificate to the person engaging in business under this section.

18         5. The gross proceeds of sales or gross income derived from:

19             (a) Business activity that is properly included in any other  
20 business classification under this article and that is taxable to the  
21 person engaged in that classification, but the gross proceeds of sales or  
22 gross income to be deducted shall not exceed the consideration paid to the  
23 person conducting the activity.

24             (b) Business activity that is arranged by the person who is subject  
25 to tax under this section and that is not taxable to the person conducting  
26 the activity due to an exclusion, exemption or deduction under this  
27 section or section 42-5062, but the gross proceeds of sales or gross  
28 income to be deducted shall not exceed the consideration paid to the  
29 person conducting the activity.

30             (c) Business activity that is arranged by a person who is subject  
31 to tax under this section and that is taxable to another person under this  
32 section who conducts the activity, but the gross proceeds of sales or  
33 gross income to be deducted shall not exceed the consideration paid to the  
34 person conducting the activity.

35         6. The gross proceeds of sales or gross income derived from entry  
36 fees paid by participants for events that either:

37             (a) Until March 1, 2017, consist of a run, walk, swim or bicycle  
38 ride or a similar event, or any combination of these events.

39             (b) Are operated or conducted by nonprofit organizations that are  
40 exempt from taxation under section 501(c)(3) of the internal revenue code  
41 and of which no part of the organization's net earnings inures to the  
42 benefit of any private shareholder or individual, if the event consists of  
43 a run, walk, swim or bicycle ride or a similar event, or any combination  
44 of these events.

45         C. For the purposes of subsection B of this section:

1           1. "Health or fitness establishment" means a facility whose primary  
2 purpose is to provide facilities, equipment, instruction or education to  
3 promote the health and fitness of its members and at least eighty percent  
4 of the monthly gross revenue of the facility is received through accounts  
5 of memberships and accompanied guest use fees that provide for the right  
6 to use the facility, or any portion of the facility, under the terms of  
7 the membership agreement for participatory purposes for twenty-eight days  
8 or more.

9           2. "Private recreational establishment" means a facility whose  
10 primary purpose is to provide recreational facilities, such as tennis,  
11 golf and swimming, for its members and where at least eighty percent of  
12 the monthly gross revenue of the facility is received through accounts of  
13 memberships and accompanied guest use fees that provide for the right to  
14 use the facility, or any portion of the facility, for participatory  
15 purposes for twenty-eight days or more.

16           3. "Transient lodging recreational establishment" means a facility  
17 whose primary purpose is to provide facilities for transient lodging, that  
18 is subject to taxation under this chapter and that also provides  
19 recreational facilities, such as tennis, golf and swimming, for members  
20 for a period of twenty-eight days or more.

21           D. Until December 31, 1988, the revenues from hayrides and other  
22 animal-drawn amusement rides, from horseback riding and riding instruction  
23 and from recreational tours using motor vehicles designed to operate on  
24 and off public highways are exempt from the tax imposed by this section.  
25 Beginning January 1, 1989, the gross proceeds or gross income from  
26 hayrides and other animal-drawn amusement rides, from horseback riding and  
27 from recreational tours using motor vehicles designed to operate on and  
28 off public highways are subject to taxation under this section. Tax  
29 liabilities, penalties and interest paid for taxable periods before  
30 January 1, 1989 shall not be refunded unless the taxpayer requesting the  
31 refund provides proof satisfactory to the department that the taxes will  
32 be returned to the customer.

33           E. If a person is engaged in the business of offering both  
34 exhibition, amusement or entertainment and private or group instructional  
35 activities, the person's books shall be kept to show separately the gross  
36 income from exhibition, amusement or entertainment and the gross income  
37 from instructional activities. If the books do not provide this separate  
38 accounting, the tax is imposed on the person's total gross income from the  
39 business.

40           F. The department shall separately account for revenues collected  
41 under the amusement classification for the purposes of section 42-5029,  
42 subsection D, paragraph 4, subdivision (b).

43           G. For the purposes of section 42-5032.01, the department shall  
44 separately account for revenues collected under the amusement  
45 classification from sales of admissions to:

1           1. Events that are held in a multipurpose facility that is owned or  
2 operated by the tourism and sports authority pursuant to title 5, chapter  
3 8, including intercollegiate football contests that are operated by a  
4 nonprofit organization that is exempt from taxation under section  
5 501(c)(3) of the internal revenue code.

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

9           H. FOR THE PURPOSES OF SECTION 42-5032.03, [SUBJECT TO SECTION  
10 48-4238.] BEGINNING THE FIRST DAY OF THE MONTH FOLLOWING THE EFFECTIVE  
11 DATE OF THIS [AMENDMENT TO THIS] SECTION THROUGH [THE MONTH OF THE NOTICE  
12 PROVIDED PURSUANT TO SECTION 48-4238 OR] DECEMBER 31, 2055, [WHICHEVER IS  
13 LATER,] THE DEPARTMENT SHALL SEPARATELY ACCOUNT FOR REVENUES COLLECTED  
14 UNDER THE AMUSEMENT CLASSIFICATION FROM THE SALES OF ADMISSIONS TO A MAJOR  
15 LEAGUE BASEBALL FACILITY THAT IS OWNED BY A COUNTY STADIUM DISTRICT  
16 PURSUANT TO TITLE 48, CHAPTER 26 AND OPERATED BY THE COUNTY STADIUM  
17 DISTRICT OR THE PROFESSIONAL BASEBALL FRANCHISE ORGANIZATION THAT OCCUPIES  
18 THE FACILITY OR ADJACENT BUILDING. [FOR THE PURPOSES OF THIS SUBSECTION,  
19 "ADJACENT BUILDING" HAS THE SAME MEANING PRESCRIBED IN SECTION 48-4201.]

20           Sec. 8. Section 42-5074, Arizona Revised Statutes, is amended to  
21 read:

22           42-5074. Restaurant classification

23           A. The restaurant classification is comprised of the business of  
24 operating restaurants, dining cars, dining rooms, lunchrooms, mobile food  
25 units, lunch stands, soda fountains, catering services or similar  
26 establishments where articles of food or drink are sold for consumption on  
27 or off the premises.

28           B. The tax base for the restaurant classification is the gross  
29 proceeds of sales or gross income derived from the business. The gross  
30 proceeds of sales or gross income derived from the following shall be  
31 deducted from the tax base:

32           1. Sales to a person engaged in business classified under the  
33 restaurant classification if the items sold are to be resold in the  
34 regular course of the business.

35           2. Sales by a congressionally chartered veterans organization of  
36 food or drink prepared for consumption on the premises leased, owned or  
37 maintained by the organization.

38           3. Sales by churches, fraternal benefit societies and other  
39 nonprofit organizations, as these organizations are defined in the federal  
40 internal revenue code (26 United States Code section 501), that do not  
41 regularly engage or continue in the restaurant business for the purpose of  
42 fund-raising.

1           4. Sales by a nonprofit organization that is exempt from taxation  
2 under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue  
3 code if the organization is associated with a major league baseball team  
4 or a national touring professional golfing association and no part of the  
5 organization's net earnings inures to the benefit of any private  
6 shareholder or individual. This paragraph does not apply to an  
7 organization that is owned, managed or controlled, in whole or in part, by  
8 a major league baseball team, or its owners, officers, employees or  
9 agents, or by a major league baseball association or professional golfing  
10 association, or its owners, officers, employees or agents, unless the  
11 organization conducted or operated exhibition events in this state before  
12 January 1, 2018 that were exempt from taxation under section 42-5073.

13           5. Sales at a rodeo featuring primarily farm and ranch animals in  
14 this state by a nonprofit organization that is exempt from taxation under  
15 section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the  
16 internal revenue code if no part of the organization's net earnings inures  
17 to the benefit of any private shareholder or individual.

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

22           7. Sales to qualifying hospitals as defined in section 42-5001.

23           8. Sales to a qualifying health care organization as defined in  
24 section 42-5001 if the tangible personal property is used by the  
25 organization solely to provide health and medical related educational and  
26 charitable services.

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

31           10. Sales of articles of prepared or unprepared food, drink or  
32 condiment and accessory tangible personal property to a school district or  
33 charter school if the articles and accessory tangible personal property  
34 are served to persons for consumption on the premises of a public school  
35 in the school district or charter school during school hours.

36           11. Prepared food, drink or condiment donated by a restaurant to a  
37 nonprofit charitable organization that has qualified under section  
38 501(c)(3) of the internal revenue code and that regularly serves meals to  
39 the needy and indigent on a continuing basis at no cost.

40           12. Sales of articles of food and drink at low or reduced prices to  
41 eligible elderly or homeless persons or persons with a disability by a  
42 restaurant that contracts with the department of economic security and  
43 that is approved by the food and nutrition services of the United States  
44 department of agriculture pursuant to the supplemental nutrition  
45 assistance program established by the food and nutrition act of 2008

1 (P.L. 110-246; 122 Stat. 1651; 7 United States Code sections 2011 through  
2 2036a), if the purchases of the articles of food and drink are made with  
3 the benefits issued pursuant to the supplemental nutrition assistance  
4 program.

5 C. The tax imposed on the restaurant classification pursuant to  
6 this section does not apply to the gross proceeds of sales or gross income  
7 from tangible personal property sold to a commercial airline consisting of  
8 food, beverages and condiments and accessories used for serving the food  
9 and beverages, if those items are to be provided without additional charge  
10 to passengers for consumption in flight. For the purposes of this  
11 subsection, "commercial airline" means a person holding a federal  
12 certificate of public convenience and necessity or foreign air carrier  
13 permit for air transportation to transport persons, property or United  
14 States mail in intrastate, interstate or foreign commerce.

15 D. The department shall separately account for revenues collected  
16 under the restaurant classification for the purposes of section 42-5029,  
17 subsection D, paragraph 4, subdivision (b).

18 E. For the purposes of section 42-5032.01, the department shall  
19 separately account for revenues collected under the restaurant  
20 classification from businesses operating restaurants, dining rooms,  
21 lunchrooms, lunch stands, soda fountains, catering services or similar  
22 establishments:

23 1. On the premises of a multipurpose facility that is owned or  
24 operated by the tourism and sports authority pursuant to title 5, chapter  
25 8 for consumption on or off the premises.

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

29 F. FOR THE PURPOSES OF SECTION 42-5032.03, [SUBJECT TO SECTION  
30 48-4238.] BEGINNING THE FIRST DAY OF THE MONTH FOLLOWING THE EFFECTIVE  
31 DATE OF THIS [AMENDMENT TO THIS] SECTION THROUGH [THE MONTH OF THE NOTICE  
32 PROVIDED PURSUANT TO SECTION 48-4238 OR] DECEMBER 31, 2055, [WHICHEVER IS  
33 LATER,] THE DEPARTMENT SHALL SEPARATELY ACCOUNT FOR REVENUES COLLECTED  
34 UNDER THE RESTAURANT CLASSIFICATION FROM BUSINESSES OPERATING RESTAURANTS,  
35 DINING ROOMS, LUNCHROOMS, LUNCH STANDS, SODA FOUNTAINS, CATERING SERVICES  
36 OR SIMILAR ESTABLISHMENTS ON THE PREMISES OF A MAJOR LEAGUE BASEBALL  
37 FACILITY OR AN ADJACENT BUILDING THAT IS OWNED BY A COUNTY STADIUM  
38 DISTRICT PURSUANT TO TITLE 48, CHAPTER 26 AND OPERATED BY THE COUNTY  
39 STADIUM DISTRICT OR THE PROFESSIONAL BASEBALL FRANCHISE ORGANIZATION THAT  
40 OCCUPIES THE FACILITY OR ADJACENT BUILDING. [FOR THE PURPOSES OF THIS  
41 SUBSECTION, "ADJACENT BUILDING" HAS THE SAME MEANING PRESCRIBED IN SECTION  
42 48-4201.]

1           Sec. 9. Section 42-5075, Arizona Revised Statutes, is amended to  
2 read:

3           42-5075. Prime contracting classification; exemptions;  
4                           definitions

5           A. The prime contracting classification is comprised of the  
6 business of prime contracting and the business of manufactured building  
7 dealer. Sales for resale to another manufactured building dealer are not  
8 subject to tax. Sales for resale do not include sales to a lessor of  
9 manufactured buildings. The sale of a used manufactured building is not  
10 taxable under this chapter. The prime contracting classification does not  
11 include any work or operation performed by a person that is not required  
12 to be licensed by the registrar of contractors pursuant to section  
13 32-1121.

14           B. The tax base for the prime contracting classification is  
15 sixty-five percent of the gross proceeds of sales or gross income derived  
16 from the business. The following amounts shall be deducted from the gross  
17 proceeds of sales or gross income before computing the tax base:

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

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

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

29           4. The gross proceeds of sales or gross income received from a  
30 contract entered into for the modification of any building, highway, road,  
31 railroad, excavation, manufactured building or other structure, project,  
32 development or improvement located in a military reuse zone for providing  
33 aviation or aerospace services or for a manufacturer, assembler or  
34 fabricator of aviation or aerospace products within an active military  
35 reuse zone after the zone is initially established or renewed under  
36 section 42-1301. To be eligible to qualify for this deduction, before  
37 beginning work under the contract, the prime contractor must have applied  
38 for a letter of qualification from the department of revenue.

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

1 paragraph shall apply for ten full consecutive calendar or fiscal years  
2 after the start of initial construction.

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

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

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

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

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

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

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

32         7. The gross proceeds of sales or gross income that is derived from  
33 a contract for the installation, assembly, repair or maintenance of  
34 machinery, equipment or other tangible personal property that is either  
35 deducted from the tax base of the retail classification under section  
36 42-5061, subsection B or that is exempt from use tax under section  
37 42-5159, subsection B and that has independent functional utility,  
38 pursuant to the following provisions:

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

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

43             (ii) Any activity performed on any tangible personal property  
44 relating to machinery, equipment or other tangible personal property with

1 independent functional utility in furtherance of any of the purposes  
2 provided for under subdivision (d) of this paragraph.

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

7 (b) The deduction provided in this paragraph does not include gross  
8 proceeds of sales or gross income from the portion of any contracting  
9 activity that consists of the development of, or modification to, real  
10 property in order to facilitate the installation, assembly, repair,  
11 maintenance or removal of machinery, equipment or other tangible personal  
12 property that is either deducted from the tax base of the retail  
13 classification under section 42-5061, subsection B or exempt from use tax  
14 under section 42-5159, subsection B.

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

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

22 (i) Assembling the machinery, equipment or other tangible personal  
23 property.

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

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

29 (iv) Stabilizing or protecting the machinery, equipment or other  
30 tangible personal property during operation by bolting, burying or  
31 performing other similar nonpermanent connections to either real property  
32 or real property improvements.

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

36 (a) Section 42-5061, subsection A, paragraph 25, 29 or 58.

37 (b) Section 42-5061, subsection B.

38 (c) Section 42-5159, subsection A, paragraph 13, subdivision (a),  
39 (b), (c), (d), (e), (f), (j), (k), (m) or (n) or paragraph 55.

40 (d) Section 42-5159, subsection B.

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



1           10. The gross proceeds of sales or gross income that is derived  
2 from a contract entered into with a person who is engaged in the  
3 commercial production of livestock, livestock products or agricultural,  
4 horticultural, viticultural or floricultural crops or products in this  
5 state for the modification of any building, highway, road, excavation,  
6 manufactured building or other structure, project, development or  
7 improvement used directly and primarily to prevent, monitor, control or  
8 reduce air, water or land pollution.

9           11. The gross proceeds of sales or gross income that is derived  
10 from the installation, assembly, repair or maintenance of clean rooms that  
11 are deducted from the tax base of the retail classification pursuant to  
12 section 42-5061, subsection B, paragraph 17.

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

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

27           14. The gross proceeds of sales or gross income derived from a  
28 contract entered into for the construction of a launch site, as defined in  
29 14 Code of Federal Regulations section 401.5.

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

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

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

44           18. The gross proceeds of sales or gross income received from a  
45 contract for the construction of any building, or other structure,

1 project, development or improvement owned by a qualified business under  
2 section 41-1516 for harvesting or processing qualifying forest products  
3 removed from qualifying projects as defined in section 41-1516 if actual  
4 construction begins before January 1, 2024. To qualify for this  
5 deduction, the prime contractor must obtain a letter of qualification from  
6 the Arizona commerce authority before beginning work under the contract.

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

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

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

21 (c) "Development fees" means fees imposed to offset capital costs  
22 of providing public infrastructure, public safety or other public services  
23 to a development and authorized pursuant to section 9-463.05, section  
24 11-1102 or title 48 regardless of the jurisdiction to which the fees are  
25 paid.

26 20. The gross proceeds of sales or gross income derived from a  
27 contract entered into for the construction of a mixed waste processing  
28 facility that is located on a municipal solid waste landfill and that is  
29 constructed for the purpose of recycling solid waste or producing  
30 renewable energy from landfill waste. For the purposes of this paragraph:

31 (a) "Mixed waste processing facility" means a solid waste facility  
32 that is owned, operated or used for the treatment, processing or disposal  
33 of solid waste, recyclable solid waste, very small quantity generator  
34 waste or household hazardous waste. For the purposes of this subdivision,  
35 "very small quantity generator waste", "household hazardous waste" and  
36 "solid waste facility" have the same meanings prescribed in section  
37 49-701, except that solid waste facility does include a site that stores,  
38 treats or processes paper, glass, wood, cardboard, household textiles,  
39 scrap metal, plastic, vegetative waste, aluminum, steel or other  
40 recyclable material.

41 (b) "Municipal solid waste landfill" has the same meaning  
42 prescribed in section 49-701.

43 (c) "Recycling" means collecting, separating, cleansing, treating  
44 and reconstituting recyclable solid waste that would otherwise become  
45 solid waste, but does not include incineration or other similar processes.

1 (d) "Renewable energy" means usable energy, including electricity,  
2 fuels, gas and heat, produced through the conversion of energy provided by  
3 sunlight, water, wind, geothermal, heat, biomass, biogas, landfill gas or  
4 another nonfossil renewable resource.

5 21. The gross proceeds of sales or gross income derived from a  
6 contract to install containment structures. For the purposes of this  
7 paragraph, "containment structure" means a structure that prevents,  
8 monitors, controls or reduces noxious or harmful discharge into the  
9 environment.

10 C. Entitlement to the deduction pursuant to subsection B, paragraph  
11 7 of this section is subject to the following provisions:

12 1. A prime contractor may establish entitlement to the deduction by  
13 both:

14 (a) Marking the invoice for the transaction to indicate that the  
15 gross proceeds of sales or gross income derived from the transaction was  
16 deducted from the base.

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

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

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

36 4. If a prime contractor is entitled to a deduction by complying  
37 with paragraph 1 of this subsection, the department may require the  
38 purchaser who caused the execution of the certificate to establish the  
39 accuracy and completeness of the information required to be contained in  
40 the certificate that would entitle the prime contractor to the deduction.  
41 If the purchaser cannot establish the accuracy and completeness of the  
42 information, the purchaser is liable in an amount equal to any tax,  
43 penalty and interest that the prime contractor would have been required to  
44 pay under article 1 of this chapter if the prime contractor had not  
45 complied with paragraph 1 of this subsection. Payment of the amount under

1 this paragraph exempts the purchaser from liability for any tax imposed  
2 under article 4 of this chapter. The amount shall be treated as a  
3 transaction privilege tax to the purchaser and as tax revenues collected  
4 from the prime contractor in order to designate the distribution base for  
5 purposes of section 42-5029.

6 D. Subcontractors or others who perform modification activities are  
7 not subject to tax if they can demonstrate that the job was within the  
8 control of a prime contractor or contractors or a dealership of  
9 manufactured buildings and that the prime contractor or dealership is  
10 liable for the tax on the gross income, gross proceeds of sales or gross  
11 receipts attributable to the job and from which the subcontractors or  
12 others were paid.

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

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

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

38 H. For the purposes of section 42-5032.02, from and after  
39 September 30, 2013, the department shall separately account for revenues  
40 reported and collected under the prime contracting classification from any  
41 prime contractor engaged in the construction of any buildings and  
42 associated improvements that are for the benefit of a manufacturing  
43 facility. For the purposes of this subsection, "associated improvements"  
44 and "manufacturing facility" have the same meanings prescribed in section  
45 42-5032.02.

1 I. FOR THE PURPOSES OF SECTION 42-5032.02, [SUBJECT TO SECTION  
2 48-4238.] BEGINNING THE FIRST DAY OF THE MONTH FOLLOWING THE EFFECTIVE  
3 DATE OF THIS [AMENDMENT TO THIS] SECTION THROUGH [THE MONTH OF THE NOTICE  
4 PROVIDED PURSUANT TO SECTION 48-4238 OR] DECEMBER 31, 2055, [WHICHEVER IS  
5 LATER,] THE DEPARTMENT SHALL SEPARATELY ACCOUNT FOR REVENUES REPORTED AND  
6 COLLECTED UNDER THE PRIME CONTRACTING CLASSIFICATION FROM ANY PRIME  
7 CONTRACTOR ENGAGED IN THE CONSTRUCTION OF ANY BUILDINGS AND ASSOCIATED  
8 IMPROVEMENTS THAT ARE FOR THE BENEFIT OF A MAJOR LEAGUE BASEBALL FACILITY  
9 OR AN ADJACENT BUILDING THAT IS OWNED BY A COUNTY STADIUM DISTRICT  
10 PURSUANT TO TITLE 48, CHAPTER 26 AND OPERATED BY THE COUNTY STADIUM  
11 DISTRICT OR THE PROFESSIONAL BASEBALL FRANCHISE ORGANIZATION THAT OCCUPIES  
12 THE FACILITY OR ADJACENT BUILDING. [FOR THE PURPOSES OF THIS SUBSECTION,  
13 "ADJACENT BUILDING" HAS THE SAME MEANING PRESCRIBED IN SECTION 48-4201.]

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

24 ~~J.~~ K. Except as provided in subsection ~~P~~ of this section, the  
25 gross proceeds of sales or gross income derived from landscaping  
26 activities is subject to tax under this section. Landscaping includes  
27 installing lawns, grading or leveling ground, installing gravel or  
28 boulders, planting trees and other plants, felling trees, removing or  
29 mulching tree stumps, removing other imbedded plants, building irrigation  
30 berms, installing railroad ties and installing underground sprinkler or  
31 watering systems.

32 ~~K.~~ L. The portion of gross proceeds of sales or gross income  
33 attributable to the actual direct costs of providing architectural or  
34 engineering services that are incorporated in a contract is not subject to  
35 tax under this section. For the purposes of this subsection, "direct  
36 costs" means the portion of the actual costs that are directly expended in  
37 providing architectural or engineering services.

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

44 ~~M.~~ N. The following apply in determining the taxable situs of  
45 sales of manufactured buildings:

1           1. For sales in this state where the manufactured building dealer  
2 contracts to deliver the building to a setup site or to perform the setup  
3 in this state, the taxable situs is the setup site.

4           2. For sales in this state where the manufactured building dealer  
5 does not contract to deliver the building to a setup site or does not  
6 perform the setup, the taxable situs is the location of the dealership  
7 where the building is delivered to the buyer.

8           3. For sales in this state where the manufactured building dealer  
9 contracts to deliver the building to a setup site that is outside this  
10 state, the situs is outside this state and the transaction is excluded  
11 from tax.

12           ~~N~~ 0. The gross proceeds of sales or gross income attributable to  
13 a written contract for design phase services or professional services,  
14 executed before modification begins and with terms, conditions and pricing  
15 of all of these services separately stated in the contract from those for  
16 construction phase services, is not subject to tax under this section,  
17 regardless of whether the services are provided sequential to or  
18 concurrent with prime contracting activities that are subject to tax under  
19 this section. This subsection does not include the gross proceeds of  
20 sales or gross income attributable to construction phase services. For  
21 the purposes of this subsection:

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

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

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

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

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

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

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

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

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

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

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

17 (i) Master schedule updates.

18 (ii) Modification work cash flow projection updates.

19 (iii) Site reports made on a periodic basis.

20 (iv) Identification of discrepancies, conflicts or ambiguities in  
21 modification work documents that require resolution.

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

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

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

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

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

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

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

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

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

4 (e) Preparing preliminary estimates of costs of modification work  
5 before completion of the final design of the project, including an  
6 estimate or schedule of values for any of the following:

7 (i) Labor, materials, machinery and equipment, tools, water, heat,  
8 utilities, transportation and other facilities and services used in the  
9 execution and completion of modification work, regardless of whether they  
10 are temporary or permanent or whether they are incorporated in the  
11 modifications.

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

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

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

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

22 (vi) Any bond and insurance premiums.

23 (vii) Any applicable taxes.

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

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

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

34 3. "Professional services" means architect services, engineer  
35 services, geologist services, land surveying services or landscape  
36 architect services that are within the scope of those services as provided  
37 in title 32, chapter 1 and for which gross proceeds of sales or gross  
38 income has not otherwise been deducted under subsection ~~L~~ L of this  
39 section.

40 ~~P~~ P. The gross proceeds of sales or gross income derived from a  
41 contract with the owner of real property or improvements to real property  
42 for the maintenance, repair, replacement or alteration of existing  
43 property is not subject to tax under this section if the contract does not  
44 include modification activities, except as specified in this subsection.  
45 The gross proceeds of sales or gross income derived from a de minimis



1 amount of modification activity does not subject the contract or any part  
2 of the contract to tax under this section. For the purposes of this  
3 subsection:

4 1. Tangible personal property that is incorporated or fabricated  
5 into a project described in this subsection may be subject to the amount  
6 prescribed in section 42-5008.01.

7 2. Each contract is independent of any other contract, except that  
8 any change order that directly relates to the scope of work of the  
9 original contract shall be treated the same as the original contract under  
10 this chapter, regardless of the amount of modification activities included  
11 in the change order. If a change order does not directly relate to the  
12 scope of work of the original contract, the change order shall be treated  
13 as a new contract, with the tax treatment of any subsequent change order  
14 to follow the tax treatment of the contract to which the scope of work of  
15 the subsequent change order directly relates.

16 ~~P.~~ Q. Notwithstanding subsection ~~Q~~ P of this section, a contract  
17 that primarily involves surface or subsurface improvements to land and  
18 that is subject to title 28, chapter 19, 20 or 22 or title 34, chapter 2  
19 or 6 is taxable under this section, even if the contract also includes  
20 vertical improvements. Agencies that are subject to procurement processes  
21 under those provisions shall include in the request for proposals a notice  
22 to bidders when those projects are subject to this section. This  
23 subsection does not apply to contracts with:

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

31 2. Any special taxing district not specified in paragraph 1 of this  
32 subsection if the district does not substantially engage in the  
33 modification, maintenance, repair, replacement or alteration of surface or  
34 subsurface improvements to land.

35 ~~Q.~~ R. Notwithstanding subsection ~~R~~ S, paragraph 10 of this  
36 section, a person owning real property who enters into a contract for sale  
37 of the real property, who is responsible to the new owner of the property  
38 for modifications made to the property in the period subsequent to the  
39 transfer of title and who receives a consideration for the modifications  
40 is considered a prime contractor solely for purposes of taxing the gross  
41 proceeds of sale or gross income received for the modifications made  
42 subsequent to the transfer of title. The original owner's gross proceeds  
43 of sale or gross income received for the modifications shall be determined  
44 according to the following methodology:

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

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

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

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

25           ~~R.~~ S. For the purposes of this section:

26           1. "Alteration" means an activity or action that causes a direct  
27 physical change to existing property. For the purposes of this paragraph:

28           (a) For existing property that is properly classified as class two  
29 property under section 42-12002, paragraph 1, subdivision (c) or paragraph  
30 2, subdivision (c) and that is used for residential purposes, class three  
31 property under section 42-12003 or class four property under section  
32 42-12004, this paragraph does not apply if the contract amount is more  
33 than twenty-five percent of the most recent full cash value established  
34 under chapter 13, article 2 of this title as of the date of any bid for  
35 the work or the date of the contract, whichever value is higher.

36           (b) For all existing property other than existing property  
37 described in subdivision (a) of this paragraph, this paragraph does not  
38 apply if the contract amount is more than \$750,000.

39           (c) Project elements may not be artificially separated from a  
40 contract to cause a project to qualify as an alteration. The department  
41 has the burden of proof that project elements have been artificially  
42 separated from a contract.

43           (d) If a project for which the owner and the person performing the  
44 work reasonably believed, at the inception of the contract, would be  
45 treated as an alteration under this paragraph and, on completion of the

1 project, the project exceeded the applicable threshold described in either  
2 subdivision (a) or (b) of this paragraph by not more than twenty-five  
3 percent of the applicable threshold for any reason, the work performed  
4 under the contract qualifies as an alteration.

5 (e) A change order that directly relates to the scope of work of  
6 the original contract shall be treated as part of the original contract,  
7 and the contract amount shall include any amount attributable to a change  
8 order that directly relates to the scope of work of the original contract.

9 (f) Alteration does not include maintenance, repair or replacement.

10 2. "Contracting" means engaging in business as a contractor.

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

22 4. "Manufactured building" means a manufactured home, mobile home  
23 or factory-built building, as defined in section 41-4001.

24 5. "Manufactured building dealer" means a dealer who either:

25 (a) Is licensed pursuant to title 41, chapter 37, article 4 and who  
26 sells manufactured buildings to the final consumer.

27 (b) Supervises, performs or coordinates the excavation and  
28 completion of site improvements or the setup of a manufactured building,  
29 including the contracting, if any, with any subcontractor or specialty  
30 contractor for the completion of the contract.

31 6. "Modification" means construction, grading and leveling ground,  
32 wreckage or demolition. Modification does not include:

33 (a) Any project described in subsection ~~⊖~~ P of this section.

34 (b) Any wreckage or demolition of existing property, or any other  
35 activity that is a necessary component of a project described in  
36 subsection ~~⊖~~ P of this section.

37 (c) Any mobilization or demobilization related to a project  
38 described in subsection ~~⊖~~ P of this section, such as the erection or  
39 removal of temporary facilities to be used by those persons working on the  
40 project.

41 7. "Modify" means to make a modification or cause a modification to  
42 be made.

43 8. "Owner" means the person that holds title to the real property  
44 or improvements to real property that is the subject of the work, as well  
45 as an agent of the title holder and any person with the authority to

1 perform or authorize work on the real property or improvements, including  
2 a tenant and a property manager. For the purposes of subsection ~~P~~ P of  
3 this section, a person who is hired by a general contractor that is hired  
4 by an owner, or a subcontractor of a general contractor that is hired by  
5 an owner, is considered to be hired by the owner.

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

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

19 11. "Replacement" means the removal from service of one component  
20 or system of existing property or tangible personal property installed in  
21 existing property, including machinery or equipment, and the installation  
22 of a new component or system or new tangible personal property, including  
23 machinery or equipment, that provides the same, a similar or an upgraded  
24 design or functionality, regardless of the contract amount and regardless  
25 of whether the existing component or system or existing tangible personal  
26 property is physically removed from the existing property.

27 12. "Sale of a used manufactured building" does not include a lease  
28 of a used manufactured building.

29 Sec. 10. Section 42-5159, Arizona Revised Statutes, is amended to  
30 read:

31 42-5159. Exemptions

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

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

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

44 3. Tangible personal property, the storage, use or consumption of  
45 which the constitution or laws of the United States prohibit this state

1 from taxing or to the extent that the rate or imposition of tax is  
2 unconstitutional under the laws of the United States.

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

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

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

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

26 8. Purchases of:

27 (a) Livestock and poultry to persons engaging in the businesses of  
28 farming, ranching or producing livestock or poultry.

29 (b) Livestock and poultry feed, salts, vitamins and other additives  
30 sold to persons for use or consumption in the businesses of farming,  
31 ranching and producing or feeding livestock or poultry or for use or  
32 consumption in noncommercial boarding of livestock. For the purposes of  
33 this paragraph, "poultry" includes ratites.

34 9. Propagative materials for use in commercially producing  
35 agricultural, horticultural, viticultural or floricultural crops in this  
36 state. For the purposes of this paragraph, "propagative materials":

37 (a) Includes seeds, seedlings, roots, bulbs, liners, transplants,  
38 cuttings, soil and plant additives, agricultural minerals, auxiliary soil  
39 and plant substances, micronutrients, fertilizers, insecticides,  
40 herbicides, fungicides, soil fumigants, desiccants, rodenticides,  
41 adjuvants, plant nutrients and plant growth regulators.

42 (b) Except for use in commercially producing industrial hemp as  
43 defined in section 3-311, does not include any propagative materials used  
44 in producing any part, including seeds, of any plant of the genus  
45 cannabis.

1           10. Tangible personal property not exceeding \$200 in any one month  
2 purchased by an individual at retail outside the continental limits of the  
3 United States for the individual's own personal use and enjoyment.

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

8           12. Materials that are purchased by or for publicly funded  
9 libraries, including school district libraries, charter school libraries,  
10 community college libraries, state university libraries or federal, state,  
11 county or municipal libraries, for use by the public as follows:

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

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

14           13. Tangible personal property purchased by:

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

18           (b) A hospital operated by this state or a political subdivision of  
19 this state.

20           (c) A licensed nursing care institution or a licensed residential  
21 care institution or a residential care facility operated in conjunction  
22 with a licensed nursing care institution or a licensed kidney dialysis  
23 center, which provides medical services, nursing services or health  
24 related services and is not used or held for profit.

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

29           (e) 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  
32 blind and visually impaired children and children with multiple  
33 disabilities from the time of birth to age twenty-one.

34           (f) A nonprofit charitable organization that has qualified under  
35 section 501(c)(3) of the United States internal revenue code and that  
36 engages in and uses such property exclusively in programs for persons with  
37 mental or physical disabilities if the programs are exclusively for  
38 training, job placement, rehabilitation or testing.

39           (g) A person that is subject to tax under this chapter by reason of  
40 being engaged in business classified under section 42-5075, or a  
41 subcontractor working under the control of a person that is engaged in  
42 business classified under section 42-5075, if the tangible personal  
43 property is any of the following:

44           (i) Incorporated or fabricated by the person into a structure,  
45 project, development or improvement in fulfillment of a contract.

1 (ii) Incorporated or fabricated by the person into any project  
2 described in section 42-5075, subsection ~~P~~ P.

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

5 (h) A person that is not subject to tax under section 42-5075 and  
6 that has been provided a copy of a certificate described in section  
7 42-5009, subsection L, if the property purchased is incorporated or  
8 fabricated by the person into the real property, structure, project,  
9 development or improvement described in the certificate.

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

14 (j) A qualifying community health center as defined in section  
15 42-5001.

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

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

24 (m) For taxable periods beginning from and after June 30, 2001, a  
25 nonprofit charitable organization that has qualified under section  
26 501(c)(3) of the internal revenue code and that provides residential  
27 apartment housing for low-income persons over sixty-two years of age in a  
28 facility that qualifies for a federal housing subsidy, if the tangible  
29 personal property is used by the organization solely to provide  
30 residential apartment housing for low-income persons over sixty-two years  
31 of age in a facility that qualifies for a federal housing subsidy.

32 (n) A qualifying health sciences educational institution as defined  
33 in section 42-5001.

34 (o) A person representing or working on behalf of any person  
35 described in subdivision (a), (b), (c), (d), (e), (f), (i), (j), (k), (m)  
36 or (n) of this paragraph, if the tangible personal property is  
37 incorporated or fabricated into a project described in section 42-5075,  
38 subsection ~~P~~ P.

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

44 15. Tangible personal property sold by:

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

4 (b) A nonprofit organization that is exempt from taxation under  
5 section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if  
6 the organization is associated with a major league baseball team or a  
7 national touring professional golfing association and no part of the  
8 organization's net earnings inures to the benefit of any private  
9 shareholder or individual. This subdivision does not apply to an  
10 organization that is owned, managed or controlled, in whole or in part, by  
11 a major league baseball team, or its owners, officers, employees or  
12 agents, or by a major league baseball association or professional golfing  
13 association, or its owners, officers, employees or agents, unless the  
14 organization conducted or operated exhibition events in this state before  
15 January 1, 2018 that were exempt from transaction privilege tax under  
16 section 42-5073.

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

23 16. Drugs and medical oxygen, including delivery hose, mask or  
24 tent, regulator and tank, if prescribed by a member of the medical, dental  
25 or veterinarian profession who is licensed by law to administer such  
26 substances.

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

31 18. Prescription eyeglasses and contact lenses.

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

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

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

41 22. Food, as provided in and subject to the conditions of article 3  
42 of this chapter and sections 42-5074 and 42-6017.

43 23. Items purchased with United States department of agriculture  
44 coupons issued under the supplemental nutrition assistance program  
45 pursuant to the food and nutrition act of 2008 (P.L. 88-525; 78 Stat. 703;



1 7 United States Code sections 2011 through 2036b) by the United States  
2 department of agriculture food and nutrition service or food instruments  
3 issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat.  
4 3603; P.L. 99-661, section 4302; P.L. 111-296; 42 United States Code  
5 section 1786).

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

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

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

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

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

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

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

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

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

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

41 (b) Public educational institutions.

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

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

3           34. Machinery, equipment, technology or related supplies that are  
4 only useful to assist a person with a physical disability as defined in  
5 section 46-191 or a person who has a developmental disability as defined  
6 in section 36-551 or has a head injury as defined in section 41-3201 to be  
7 more independent and functional.

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

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

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

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

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

40           (a) "Overhead materials" means tangible personal property, the  
41 gross proceeds of sales or gross income derived from which would otherwise  
42 be included in the retail classification, that is used or consumed in  
43 performing a contract, the cost of which is charged to an overhead expense  
44 account and allocated to various contracts based on generally accepted

1 accounting principles and consistent with government contract accounting  
2 standards.

3 (b) "Subcontract" means an agreement between a contractor and any  
4 person who is not an employee of the contractor for furnishing of supplies  
5 or services that, in whole or in part, are necessary to perform one or  
6 more government contracts, or under which any portion of the contractor's  
7 obligation under one or more government contracts is performed, undertaken  
8 or assumed, and that includes provisions causing title to overhead  
9 materials or other tangible personal property used in performing the  
10 subcontract to pass to the government or that includes provisions  
11 incorporating such title passing clauses in a government contract into the  
12 subcontract.

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

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

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

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

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

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

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

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

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

6 47. Tangible personal property purchased to be incorporated or  
7 installed as part of environmental response or remediation activities  
8 under section 42-5075, subsection B, paragraph 6.

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

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

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

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

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

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

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

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

43 54. Coal acquired from an owner or operator of a power plant by a  
44 person that is responsible for refining coal if both of the following  
45 apply:

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

3 (b) The title or possession of the coal is transferred back to the  
4 owner or operator of the power plant after completion of the coal refining  
5 process. For the purposes of this subdivision, "coal refining process"  
6 means the application of a coal additive system that aids the reduction of  
7 power plant emissions during the combustion of coal and the treatment of  
8 flue gas.

9 55. Tangible personal property incorporated or fabricated into a  
10 project described in section 42-5075, subsection ~~⊖~~ P that is located  
11 within the exterior boundaries of an Indian reservation for which the  
12 owner, as defined in section 42-5075, of the project is an Indian tribe or  
13 an affiliated Indian. For the purposes of this paragraph:

14 (a) "Affiliated Indian" means an individual Native American Indian  
15 who is duly registered on the tribal rolls of the Indian tribe for whose  
16 benefit the Indian reservation was established.

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

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

26 56. Cash equivalents, precious metal bullion and monetized bullion  
27 purchased by the ultimate consumer, but coins or other forms of money for  
28 manufacture into jewelry or works of art are subject to tax, and tangible  
29 personal property that is purchased through the redemption of any cash  
30 equivalent by the holder as a means of payment for goods that are subject  
31 to tax under this article is subject to tax. For the purposes of this  
32 paragraph:

33 (a) "Cash equivalents" means items, whether or not negotiable, that  
34 are sold to one or more persons, through which a value denominated in  
35 money is purchased in advance and that may be redeemed in full or in part  
36 for tangible personal property, intangibles or services. Cash equivalents  
37 include gift cards, stored value cards, gift certificates, vouchers,  
38 traveler's checks, money orders or other tangible instruments or orders.  
39 Cash equivalents do not include either of the following:

40 (i) Items that are sold to one or more persons and through which a  
41 value is not denominated in money.

42 (ii) Prepaid calling cards for telecommunications services.

43 (b) "Monetized bullion" means coins and other forms of money that  
44 are manufactured from gold, silver or other metals and that have been or

1 are used as a medium of exchange in this or another state, the United  
2 States or a foreign nation.

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

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

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

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

22 3. Tangible personal property sold to persons engaged in business  
23 classified under the telecommunications classification under section  
24 42-5064, including a person representing or working on behalf of such a  
25 person in a manner described in section 42-5075, subsection ~~P~~ P, and  
26 consisting of central office switching equipment, switchboards, private  
27 branch exchange equipment, microwave radio equipment and carrier equipment  
28 including optical fiber, coaxial cable and other transmission media that  
29 are components of carrier systems.

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

35 5. Machinery and equipment used directly for energy storage for  
36 later electrical use. For the purposes of this paragraph:

37 (a) "Electric utility scale" means a person that is engaged in a  
38 business activity described in section 42-5063, subsection A or such  
39 person's equipment or wholesale electricity suppliers.

40 (b) "Energy storage" means commercially available technology for  
41 electric utility scale that is capable of absorbing energy, storing energy  
42 for a period of time and thereafter dispatching the energy and that uses  
43 mechanical, chemical or thermal processes to store energy.

44 (c) "Machinery and equipment used directly" means all machinery and  
45 equipment that are used for electric energy storage from the point of

1 receipt of such energy in order to facilitate storage of the electric  
2 energy to the point where the electric energy is released.

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

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

11         8. Aircraft, navigational and communication instruments and other  
12 accessories and related equipment sold to:

13         (a) A person:

14             (i) Holding, or exempted by federal law from obtaining, a federal  
15 certificate of public convenience and necessity for use as, in conjunction  
16 with or becoming part of an aircraft to be used to transport persons for  
17 hire in intrastate, interstate or foreign commerce.

18             (ii) That is certificated or licensed under federal aviation  
19 administration regulations (14 Code of Federal Regulations part 121 or  
20 135) as a scheduled or unscheduled carrier of persons for hire for use as  
21 or in conjunction with or becoming part of an aircraft to be used to  
22 transport persons for hire in intrastate, interstate or foreign commerce.

23             (iii) Holding a foreign air carrier permit for air transportation  
24 for use as or in conjunction with or becoming a part of aircraft to be  
25 used to transport persons, property or United States mail in intrastate,  
26 interstate or foreign commerce.

27             (iv) Operating an aircraft to transport persons in any manner for  
28 compensation or hire, or for use in a fractional ownership program that  
29 meets the requirements of federal aviation administration regulations (14  
30 Code of Federal Regulations part 91, subpart K), including as an air  
31 carrier, a foreign air carrier or a commercial operator or under a  
32 restricted category, within the meaning of 14 Code of Federal Regulations,  
33 regardless of whether the operation or aircraft is regulated or certified  
34 under part 91, 119, 121, 133, 135, 136 or 137, or another part of 14 Code  
35 of Federal Regulations.

36             (v) That will lease or otherwise transfer operational control,  
37 within the meaning of federal aviation administration operations  
38 specification A008, or its successor, of the aircraft, instruments or  
39 accessories to one or more persons described in item (i), (ii), (iii) or  
40 (iv) of this subdivision, subject to section 42-5009, subsection Q.

41         (b) Any foreign government.

42         (c) Persons who are not residents of this state and who will not  
43 use such property in this state other than in removing such property from  
44 this state. This subdivision also applies to corporations that are not  
45 incorporated in this state, regardless of maintaining a place of business

1 in this state, if the principal corporate office is located outside this  
2 state and the property will not be used in this state other than in  
3 removing the property from this state.

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

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

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

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

21 13. Groundwater measuring devices required under section 45-604.

22 14. Machinery and equipment consisting of agricultural aircraft,  
23 tractors, off-highway vehicles, tractor-drawn implements, self-powered  
24 implements, machinery and equipment necessary for extracting milk, and  
25 machinery and equipment necessary for cooling milk and livestock, and drip  
26 irrigation lines not already exempt under paragraph 7 of this subsection  
27 and that are used for commercially producing agricultural, horticultural,  
28 viticultural and floricultural crops and products in this state. For the  
29 purposes of this paragraph:

30 (a) "Off-highway vehicles" means off-highway vehicles as defined in  
31 section 28-1171 that are modified at the time of sale to function as a  
32 tractor or to tow tractor-drawn implements and that are not equipped with  
33 a modified exhaust system to increase horsepower or speed or an engine  
34 that is more than one thousand cubic centimeters or that have a maximum  
35 speed of fifty miles per hour or less.

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

38 15. Machinery or equipment used in research and development. For  
39 the purposes of this paragraph, "research and development" means basic and  
40 applied research in the sciences and engineering, and designing,  
41 developing or testing prototypes, processes or new products, including  
42 research and development of computer software that is embedded in or an  
43 integral part of the prototype or new product or that is required for  
44 machinery or equipment otherwise exempt under this section to function  
45 effectively. Research and development do not include manufacturing



1 quality control, routine consumer product testing, market research, sales  
2 promotion, sales service, research in social sciences or psychology,  
3 computer software research that is not included in the definition of  
4 research and development, or other nontechnological activities or  
5 technical services.

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

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

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

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

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

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

27 17. Clean rooms that are used for manufacturing, processing,  
28 fabrication or research and development, as defined in paragraph 15 of  
29 this subsection, of semiconductor products. For the purposes of this  
30 paragraph, "clean room" means all property that comprises or creates an  
31 environment where humidity, temperature, particulate matter and  
32 contamination are precisely controlled within specified parameters,  
33 without regard to whether the property is actually contained within that  
34 environment or whether any of the property is affixed to or incorporated  
35 into real property. Clean room:

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

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

44 18. Machinery and equipment that are used directly in feeding  
45 poultry, environmentally controlling housing for poultry, moving eggs

1 within a production and packaging facility or sorting or cooling eggs.  
2 This exemption does not apply to vehicles used for transporting eggs.

3 19. Machinery or equipment, including related structural components  
4 and containment structures, that is employed in connection with  
5 manufacturing, processing, fabricating, job printing, refining, mining,  
6 natural gas pipelines, metallurgical operations, telecommunications,  
7 producing or transmitting electricity or research and development and that  
8 is used directly to meet or exceed rules or regulations adopted by the  
9 federal energy regulatory commission, the United States environmental  
10 protection agency, the United States nuclear regulatory commission, the  
11 Arizona department of environmental quality or a political subdivision of  
12 this state to prevent, monitor, control or reduce land, water or air  
13 pollution. For the purposes of this paragraph, "containment structure"  
14 means a structure that prevents, monitors, controls or reduces noxious or  
15 harmful discharge into the environment.

16 20. Machinery and equipment that are used in commercially producing  
17 livestock, livestock products or agricultural, horticultural, viticultural  
18 or floricultural crops or products in this state, including production by  
19 a person representing or working on behalf of such a person in a manner  
20 described in section 42-5075, subsection ~~Q~~ P, if the machinery and  
21 equipment are used directly and primarily to prevent, monitor, control or  
22 reduce air, water or land pollution.

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

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

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

35 (c) Any machinery or equipment purchased after the television  
36 station has ceased analog broadcasting, or purchased after November 1,  
37 2009, whichever occurs first.

38 22. Qualifying equipment that is purchased from and after June 30,  
39 2004 through December 31, 2026 by a qualified business under section  
40 41-1516 for harvesting or processing qualifying forest products removed  
41 from qualifying projects as defined in section 41-1516. To qualify for  
42 this exemption, the qualified business must obtain and present its  
43 certification from the Arizona commerce authority at the time of purchase.

1           23. Machinery, equipment, materials and other tangible personal  
2 property used directly and predominantly to construct a qualified  
3 environmental technology manufacturing, producing or processing facility  
4 as described in section 41-1514.02. This paragraph applies for ten full  
5 consecutive calendar or fiscal years after the start of initial  
6 construction.

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

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

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

21           2. Janitorial equipment and hand tools.

22           3. Office equipment, furniture and supplies.

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

26           5. Motor vehicles required to be licensed by this state, except  
27 buses or other urban mass transit vehicles specifically exempted pursuant  
28 to subsection B, paragraph 12 of this section, without regard to the use  
29 of such motor vehicles.

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

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

33           8. Machinery and equipment or tangible personal property used by a  
34 contractor in performing a contract.

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

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

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

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

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

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

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

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

19 G. The tax levied by this article does not apply to the purchase  
20 price of electricity, natural gas or liquefied petroleum gas by:

21 1. A qualified manufacturing or smelting business. A utility that  
22 claims this deduction shall report each month, on a form prescribed by the  
23 department, the name and address of each qualified manufacturing or  
24 smelting business for which this deduction is taken. This paragraph  
25 applies to gas transportation services. For the purposes of this  
26 paragraph:

27 (a) "Gas transportation services" means the services of  
28 transporting natural gas to a natural gas customer or to a natural gas  
29 distribution facility if the natural gas was purchased from a supplier  
30 other than the utility.

31 (b) "Manufacturing" means the performance as a business of an  
32 integrated series of operations that places tangible personal property in  
33 a form, composition or character different from that in which it was  
34 acquired and transforms it into a different product with a distinctive  
35 name, character or use. Manufacturing does not include job printing,  
36 publishing, packaging, mining, generating electricity or operating a  
37 restaurant.

38 (c) "Qualified manufacturing or smelting business" means one of the  
39 following:

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

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

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

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

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

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

16 2. A business that operates an international operations center in  
17 this state and that is certified by the Arizona commerce authority  
18 pursuant to section 41-1520.

19 H. A city or town may exempt proceeds from sales of paintings,  
20 sculptures or similar works of fine art if such works of fine art are sold  
21 by the original artist. For the purposes of this subsection, fine art  
22 does not include an art creation such as jewelry, macrame, glasswork,  
23 pottery, woodwork, metalwork, furniture or clothing if the art creation  
24 has a dual purpose, both aesthetic and utilitarian, whether sold by the  
25 artist or by another person.

26 I. For the purposes of subsection B of this section:

27 1. "Agricultural aircraft" means an aircraft that is built for  
28 agricultural use for the aerial application of pesticides or fertilizer or  
29 for aerial seeding.

30 2. "Aircraft" includes:

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

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

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

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

1           Sec. 11. Title 42, chapter 6, article 1, Arizona Revised Statutes,  
2 is amended by adding section 42-6018, to read:

3           42-6018. Distribution of revenue for county stadium district  
4                                   from city or town; notice; definition

5           A. [SUBJECT TO SECTION 48-4238,] BEGINNING THE FIRST DAY OF THE  
6 MONTH FOLLOWING THE EFFECTIVE DATE OF THIS SECTION AND EACH MONTH  
7 THEREAFTER THROUGH [THE MONTH OF THE NOTICE PROVIDED PURSUANT TO SECTION  
8 48-4238 OR] DECEMBER 31, 2055, [WHICHEVER IS LATER,] A CITY OR TOWN SHALL  
9 TRANSMIT THE AMOUNT DETERMINED UNDER SUBSECTION B OF THIS SECTION TO THE  
10 COUNTY STADIUM DISTRICT ESTABLISHED PURSUANT TO TITLE 48, CHAPTER 26 FOR  
11 DEPOSIT IN THE COUNTY STADIUM DISTRICT FUND ESTABLISHED PURSUANT TO  
12 SECTION 48-4231. THE DEPARTMENT SHALL NOTIFY THE CITY OR TOWN OF THE  
13 AMOUNT DETERMINED PURSUANT TO SUBSECTION B OF THIS SECTION EACH MONTH, AND  
14 THE CITY OR TOWN SHALL TRANSMIT THE MONIES WITHIN THIRTY DAYS OF RECEIVING  
15 THE NOTICE.

16           B. THE AMOUNT TO BE TRANSMITTED UNDER SUBSECTION A OF THIS SECTION  
17 IS THE AMOUNT DETERMINED BY THE DEPARTMENT TO BE THE FIRST TWO PERCENT OF  
18 THE RATE OF TRANSACTION PRIVILEGE, SALES, USE, FRANCHISE OR OTHER SIMILAR  
19 TAX OR FEES COLLECTED ON BEHALF OF THE CITY OR TOWN FROM PERSONS ENGAGED  
20 IN THE FOLLOWING BUSINESS ACTIVITIES AT, OR WITH RESPECT TO EVENTS HELD  
21 AT, A MAJOR LEAGUE BASEBALL FACILITY OR AN ADJACENT BUILDING THAT IS OWNED  
22 BY A COUNTY STADIUM DISTRICT PURSUANT TO TITLE 48, CHAPTER 26 AND OPERATED  
23 BY THE COUNTY STADIUM DISTRICT OR THE PROFESSIONAL BASEBALL FRANCHISE  
24 ORGANIZATION THAT OCCUPIES THE FACILITY OR ADJACENT BUILDING:

- 25           1. SELLING TANGIBLE PERSONAL PROPERTY AT RETAIL.  
26           2. OPERATING OR CONDUCTING THEATERS, MOVIES, OPERAS, SHOWS OF ANY  
27 TYPE OR NATURE, EXHIBITIONS, CONCERTS, CARNIVALS, CIRCUSES, AMUSEMENT  
28 PARKS, MENAGERIES, FAIRS, RACES, CONTESTS, GAMES, BILLIARD OR POOL  
29 PARLORS, BOWLING ALLEYS, PUBLIC DANCES, DANCE HALLS, BOXING AND WRESTLING  
30 MATCHES, SKATING RINKS, TENNIS COURTS, VIDEO GAMES, PINBALL MACHINES OR  
31 SPORTS EVENTS OR ANY OTHER BUSINESS CHARGING ADMISSION OR USER FEES FOR  
32 EXHIBITION, AMUSEMENT OR ENTERTAINMENT.  
33           3. OPERATING A RESTAURANT, DINING CAR, DINING ROOM, LUNCHROOM,  
34 MOBILE FOOD UNIT, LUNCH STAND, SODA FOUNTAIN, CATERING SERVICE OR SIMILAR  
35 ESTABLISHMENT WHERE ARTICLES OF FOOD OR DRINK ARE SOLD FOR CONSUMPTION ON  
36 OR OFF THE PREMISES.

37           4. PRIME CONTRACTING.  
38           C. FOR THE PURPOSES OF THIS SECTION, [SUBJECT TO SECTION 48-4238,]  
39 BEGINNING THE FIRST DAY OF THE MONTH FOLLOWING THE EFFECTIVE DATE OF THIS  
40 SECTION THROUGH [THE MONTH OF THE NOTICE PROVIDED PURSUANT TO SECTION  
41 48-4238 OR] DECEMBER 31, 2055, [WHICHEVER IS LATER,] THE DEPARTMENT SHALL  
42 SEPARATELY ACCOUNT FOR REVENUES COLLECTED FROM THE BUSINESSES PRESCRIBED  
43 IN SUBSECTION B OF THIS SECTION ON THE PREMISES OF A MAJOR LEAGUE BASEBALL  
44 FACILITY OR AN ADJACENT BUILDING THAT IS OWNED BY A COUNTY STADIUM  
45 DISTRICT PURSUANT TO TITLE 48, CHAPTER 26 AND OPERATED BY THE COUNTY

1 STADIUM DISTRICT OR THE PROFESSIONAL BASEBALL FRANCHISE ORGANIZATION THAT  
2 OCCUPIES THE FACILITY OR ADJACENT BUILDING.

3 [D. FOR THE PURPOSES OF THIS SECTION, "ADJACENT BUILDING" HAS THE  
4 SAME MEANING PRESCRIBED IN SECTION 48-4201.]

5 Sec. 12. Delayed repeal

6 Section 42-6018, Arizona Revised Statutes, as added by this act, is  
7 repealed from and after December 31, 2055.

8 Sec. 13. Title 42, chapter 6, article 3, Arizona Revised Statutes,  
9 is amended by adding section 42-6113, to read:

10 42-6113. Distribution of revenue for county stadium district  
11 from county excise taxes; definition

12 A. [SUBJECT TO SECTION 48-4238,] BEGINNING THE FIRST DAY OF THE  
13 MONTH FOLLOWING THE EFFECTIVE DATE OF THIS SECTION AND EACH MONTH  
14 THEREAFTER THROUGH [THE MONTH OF THE NOTICE PROVIDED PURSUANT TO SECTION  
15 48-4238 OR] DECEMBER 31, 2055, [WHICHEVER IS LATER, A COUNTY] [THE STATE  
16 TREASURER] SHALL TRANSMIT FROM THE AMOUNT COLLECTED PURSUANT TO THIS  
17 ARTICLE THE AMOUNT DETERMINED UNDER SUBSECTION B OF THIS SECTION TO THE  
18 COUNTY STADIUM DISTRICT ESTABLISHED PURSUANT TO TITLE 48, CHAPTER 26 FOR  
19 DEPOSIT IN THE COUNTY STADIUM DISTRICT FUND ESTABLISHED PURSUANT TO  
20 SECTION 48-4231.

21 B. THE AMOUNT TO BE TRANSMITTED UNDER SUBSECTION A OF THIS SECTION  
22 IS THE TOTAL AMOUNT OF COUNTY EXCISE TAXES COLLECTED PURSUANT TO [SECTION]  
23 [SECTIONS 42-6105 AND] 42-6105.01 ON BEHALF OF THE COUNTY FROM PERSONS  
24 ENGAGED IN THE FOLLOWING BUSINESS ACTIVITIES AT, OR WITH RESPECT TO EVENTS  
25 HELD AT, A MAJOR LEAGUE BASEBALL FACILITY OR AN ADJACENT BUILDING THAT IS  
26 OWNED BY A COUNTY STADIUM DISTRICT PURSUANT TO TITLE 48, CHAPTER 26 AND  
27 OPERATED BY THE COUNTY STADIUM DISTRICT OR THE PROFESSIONAL BASEBALL  
28 FRANCHISE ORGANIZATION THAT OCCUPIES THE FACILITY OR ADJACENT BUILDING:

29 1. SELLING TANGIBLE PERSONAL PROPERTY AT RETAIL.

30 2. OPERATING OR CONDUCTING THEATERS, MOVIES, OPERAS, SHOWS OF ANY  
31 TYPE OR NATURE, EXHIBITIONS, CONCERTS, CARNIVALS, CIRCUSES, AMUSEMENT  
32 PARKS, MENAGERIES, FAIRS, RACES, CONTESTS, GAMES, BILLIARD OR POOL  
33 PARLORS, BOWLING ALLEYS, PUBLIC DANCES, DANCE HALLS, BOXING AND WRESTLING  
34 MATCHES, SKATING RINKS, TENNIS COURTS, VIDEO GAMES, PINBALL MACHINES OR  
35 SPORTS EVENTS OR ANY OTHER BUSINESS CHARGING ADMISSION OR USER FEES FOR  
36 EXHIBITION, AMUSEMENT OR ENTERTAINMENT.

37 3. OPERATING A RESTAURANT, DINING CAR, DINING ROOM, LUNCHROOM,  
38 MOBILE FOOD UNIT, LUNCH STAND, SODA FOUNTAIN, CATERING SERVICE OR SIMILAR  
39 ESTABLISHMENT WHERE ARTICLES OF FOOD OR DRINK ARE SOLD FOR CONSUMPTION ON  
40 OR OFF THE PREMISES.

41 4. PRIME CONTRACTING.

42 C. FOR THE PURPOSES OF THIS SECTION, [SUBJECT TO SECTION 48-4238,]  
43 BEGINNING THE FIRST DAY OF THE MONTH FOLLOWING THE EFFECTIVE DATE OF THIS  
44 SECTION THROUGH [THE MONTH OF THE NOTICE PROVIDED PURSUANT TO SECTION  
45 48-4238 OR] DECEMBER 31, 2055, [WHICHEVER IS LATER,] THE DEPARTMENT SHALL

1 SEPARATELY ACCOUNT FOR REVENUES COLLECTED PURSUANT TO ~~[SECTION]~~ [SECTIONS  
2 42-6105 AND] 42-6105.01 FROM THE BUSINESSES PRESCRIBED IN SUBSECTION B OF  
3 THIS SECTION ON THE PREMISES OF A MAJOR LEAGUE BASEBALL FACILITY OR AN  
4 ADJACENT BUILDING THAT IS OWNED BY A COUNTY STADIUM DISTRICT PURSUANT TO  
5 TITLE 48, CHAPTER 26 AND OPERATED BY THE COUNTY STADIUM DISTRICT OR THE  
6 PROFESSIONAL BASEBALL FRANCHISE ORGANIZATION THAT OCCUPIES THE FACILITY OR  
7 ADJACENT BUILDING.

8 [D. FOR THE PURPOSES OF THIS SECTION, "ADJACENT BUILDING" HAS THE  
9 SAME MEANING PRESCRIBED IN SECTION 48-4201.]

10 Sec. 14. Delayed repeal

11 Section 42-6113, Arizona Revised Statutes, as added by this act, is  
12 repealed from and after December 31, 2055.

13 ~~<<Sec. 16. Section 43-206, Arizona Revised Statutes, is amended to~~  
14 ~~read:~~

15 ~~43-206. Urban revenue sharing fund; allocation; distribution;~~  
16 ~~withholding~~

17 ~~A. The urban revenue sharing fund is established. Through fiscal~~  
18 ~~year 2022-2023, the fund consists of an amount equal to fifteen percent of~~  
19 ~~the net proceeds of the state income taxes for the fiscal year two years~~  
20 ~~preceding the current fiscal year. Beginning in fiscal year 2023-2024,~~  
21 ~~the fund consists of an amount equal to eighteen percent of the net~~  
22 ~~proceeds of the state income taxes for the fiscal year two years preceding~~  
23 ~~the current fiscal year. The fund shall be distributed to incorporated~~  
24 ~~cities and towns as provided in this section, except that a city or town~~  
25 ~~shall receive at least an amount equal to what a city or town with a~~  
26 ~~population of fifteen hundred or more persons would receive. The transfer~~  
27 ~~of net proceeds prescribed by section 49-282, subsection B does not affect~~  
28 ~~the calculation of net proceeds prescribed by this subsection.~~

29 ~~B. Each city or town shall share in the urban revenue sharing fund~~  
30 ~~in the proportion that the population of each bears to the population of~~  
31 ~~all. Except as provided by sections 42-5033 and 42-5033.01, the~~  
32 ~~population of a city or town as determined by the most recent United~~  
33 ~~States decennial census plus any revisions to the decennial census~~  
34 ~~certified by the United States CENSUS bureau of the census shall be used~~  
35 ~~as the basis for apportioning monies pursuant to this subsection.~~

36 ~~C. The treasurer, on instruction from the department, shall~~  
37 ~~transmit, not later than the tenth day of each month, to each city or town~~  
38 ~~an amount equal to one-twelfth of that city's or town's total entitlement~~  
39 ~~for the current fiscal year from the urban revenue sharing fund as~~  
40 ~~determined by the department.~~

41 ~~D. A newly incorporated city or town shall share in the urban~~  
42 ~~revenue sharing fund beginning the first month of the first full fiscal~~  
43 ~~year following incorporation.~~

44 ~~E. On receipt of a certificate of default from the greater Arizona~~  
45 ~~development authority pursuant to section 41-2257 or 41-2258, the state~~



1 ~~treasurer, to the extent not otherwise expressly prohibited by law, shall~~  
2 ~~withhold from the next succeeding distribution of monies pursuant to this~~  
3 ~~section due to the city or town the amount specified in the certificate of~~  
4 ~~default and immediately deposit the amount withheld in the greater Arizona~~  
5 ~~development authority revolving fund. The state treasurer shall continue~~  
6 ~~to withhold and deposit the monies until the authority certifies to the~~  
7 ~~state treasurer that the default has been cured. The state treasurer may~~  
8 ~~not withhold any amount that is necessary, as certified by the defaulting~~  
9 ~~political subdivision to the state treasurer and the authority, to make~~  
10 ~~any required deposits then due for the payment of principal and interest~~  
11 ~~on bonds of the political subdivision that were issued before the date of~~  
12 ~~the loan repayment agreement or bonds and that have been secured by a~~  
13 ~~pledge of distributions made pursuant to this section.~~

14 ~~F. Except as otherwise provided by this subsection, on notice from~~  
15 ~~the attorney general pursuant to section 41-194.01, subsection B,~~  
16 ~~paragraph 1 that an ordinance, regulation, order or other official action~~  
17 ~~adopted or taken by the governing body of a city or town violates state~~  
18 ~~law or the Constitution of Arizona, the state treasurer shall withhold the~~  
19 ~~distribution of monies pursuant to this section to the affected city or~~  
20 ~~town and shall continue to withhold monies pursuant to this subsection~~  
21 ~~until the attorney general certifies to the state treasurer that the~~  
22 ~~violation has been resolved. The state treasurer shall redistribute the~~  
23 ~~monies withheld pursuant to this subsection among all other cities and~~  
24 ~~towns in proportion to their population as provided by subsection B of~~  
25 ~~this section. The state treasurer shall not withhold any amount that the~~  
26 ~~city or town certifies to the attorney general and the state treasurer as~~  
27 ~~being necessary to make any required deposits or payments for debt service~~  
28 ~~on bonds or other long-term obligations of the city or town that were~~  
29 ~~issued or incurred before committing the violation.~~

30 ~~G. THE AMOUNT REPORTED TO THE DEPARTMENT PURSUANT TO SECTION~~  
31 ~~43-209, SUBSECTION D FOR A TAXABLE YEAR SHALL BE INCLUDED WHEN DETERMINING~~  
32 ~~THE NET PROCEEDS OF THE STATE INCOME TAXES FOR THE FISCAL YEAR FOR THE~~  
33 ~~PURPOSES OF THE DISTRIBUTION REQUIRED BY SUBSECTION A OF THIS SECTION.>>~~

34 ~~<<Sec. 17. Section 43-209, Arizona Revised Statutes, is amended to~~  
35 ~~read:~~

36 ~~43-209. Collection of tax on income of professional athletes~~  
37 ~~earned in this state; separate accounting for tax~~  
38 ~~revenue from professional football and baseball;~~  
39 ~~definitions~~

40 ~~A. The department shall adopt and enforce rules for the collection~~  
41 ~~of tax under this title on the income earned for services rendered in this~~  
42 ~~state by professional athletes and employees of professional sport~~  
43 ~~franchise organizations.~~

44 ~~B. On or before December 31 of each year each professional football~~  
45 ~~franchise organization AND PROFESSIONAL BASEBALL FRANCHISE ORGANIZATION~~

1 that is domiciled in this state shall provide to the department the  
2 federal taxpayer identification number, assigned pursuant to section 6109  
3 of the internal revenue code, for each resident and nonresident employee  
4 of the organization who rendered services in this state for the  
5 organization during the calendar year. Unless due to reasonable cause and  
6 not due to wilful neglect, a professional football franchise organization  
7 OR PROFESSIONAL BASEBALL FRANCHISE ORGANIZATION that fails to provide  
8 taxpayer identification numbers pursuant to this subsection shall pay a  
9 civil penalty of five dollars \$5 for each such number.

10 C. For purposes of section 42-1116, subsection C, on or before  
11 March 31 of each year, the department shall separately account for and  
12 report to the state treasurer as a single aggregate amount the total net  
13 revenues collected during the preceding calendar year from the imposition  
14 of tax under this title on the income from all sources of:

15 1. Any professional football franchise organization that is  
16 domiciled in this state.

17 2. Resident and nonresident employees of any professional football  
18 franchise organization that is domiciled in this state. For reporting  
19 purposes under this subsection, the department shall include all income  
20 reported on joint returns, regardless of the spouse to whom it is  
21 attributable, and the income of an employee's spouse that is reported on a  
22 separate return.

23 D. FOR THE PURPOSES OF SECTION 42-1116, SUBSECTION D, ON OR BEFORE  
24 MARCH 31 OF EACH YEAR THROUGH THE DATE OF THE NOTICE PROVIDED PURSUANT TO  
25 SECTION 48-4238 OR DECEMBER 31, 2056, WHICHEVER IS LATER, THE DEPARTMENT  
26 SHALL SEPARATELY ACCOUNT FOR AND REPORT TO THE STATE TREASURER AS A SINGLE  
27 AGGREGATE AMOUNT THE TOTAL NET REVENUES COLLECTED DURING THE PRECEDING  
28 CALENDAR YEAR FROM THE IMPOSITION OF TAX UNDER THIS TITLE ON THE INCOME  
29 FROM ALL SOURCES OF:

30 1. ANY PROFESSIONAL BASEBALL FRANCHISE ORGANIZATION THAT IS  
31 DOMICILED IN THIS STATE.

32 2. RESIDENT AND NONRESIDENT EMPLOYEES OF ANY PROFESSIONAL BASEBALL  
33 FRANCHISE ORGANIZATION THAT IS DOMICILED IN THIS STATE. FOR REPORTING  
34 PURPOSES UNDER THIS SUBSECTION, THE DEPARTMENT SHALL INCLUDE ALL INCOME  
35 REPORTED ON JOINT RETURNS, REGARDLESS OF THE SPOUSE TO WHOM IT IS  
36 ATTRIBUTABLE, AND THE INCOME OF AN EMPLOYEE'S SPOUSE THAT IS REPORTED ON A  
37 SEPARATE RETURN.

38 D. E. For THE purposes of this section: ,

39 1. "PROFESSIONAL BASEBALL FRANCHISE ORGANIZATION" MEANS AN  
40 ORGANIZATION THAT HAS THE RIGHT TO FIELD A TEAM FOR PARTICIPATION IN  
41 PROFESSIONAL BASEBALL CONTESTS SCHEDULED BY A NATIONWIDE LEAGUE DURING A  
42 REGULAR SEASON HELD IN THE MONTHS OF MARCH THROUGH OCTOBER EACH YEAR AND  
43 THAT IS DOMICILED IN THIS STATE ON OR BEFORE THE EFFECTIVE DATE OF THIS  
44 AMENDMENT TO THIS SECTION.

1 ~~2. "Professional football franchise organization" means an~~  
2 ~~organization that has the right to field a team for participation in~~  
3 ~~professional football contests scheduled by a nationwide league during a~~  
4 ~~regular season held in the months of September through December each~~  
5 ~~year.>>~~

6 <<Sec. 15. Section 48-4201, Arizona Revised Statutes, is amended to  
7 read:

8 48-4201. Definitions

9 In this chapter, unless the context otherwise requires:

10 [1. "ADJACENT BUILDING":

11 (a) MEANS A BUILDING THAT IS:

12 (i) OWNED BY A DISTRICT ESTABLISHED PURSUANT TO THIS CHAPTER ON OR  
13 BEFORE THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION AND OPERATED  
14 BY THE DISTRICT OR THE PROFESSIONAL BASEBALL FRANCHISE ORGANIZATION THAT  
15 OCCUPIES THE BUILDING.

16 (ii) ADJACENT TO A MAJOR LEAGUE BASEBALL FACILITY THAT IS OWNED BY  
17 A DISTRICT PURSUANT TO THIS CHAPTER AND OPERATED BY THE DISTRICT OR THE  
18 PROFESSIONAL BASEBALL FRANCHISE ORGANIZATION THAT OCCUPIES THE FACILITY.

19 (b) INCLUDES A BUILDING THAT IS CONSTRUCTED AFTER THE EFFECTIVE  
20 DATE OF THIS AMENDMENT TO THIS SECTION IF THE BUILDING IS:

21 (i) ADJACENT TO THE MAJOR LEAGUE BASEBALL FACILITY THAT IS OWNED BY  
22 A DISTRICT ESTABLISHED PURSUANT TO THIS CHAPTER AND OPERATED BY THE  
23 DISTRICT OR THE PROFESSIONAL BASEBALL FRANCHISE ORGANIZATION THAT OCCUPIES  
24 THE FACILITY.

25 (ii) OWNED BY A DISTRICT ESTABLISHED PURSUANT TO THIS CHAPTER AND  
26 OPERATED BY THE DISTRICT OR THE PROFESSIONAL BASEBALL FRANCHISE  
27 ORGANIZATION THAT WILL OCCUPY THE BUILDING FOR THE PURPOSES OF SELLING  
28 MERCHANDISE.]

29 ~~[1.]~~ [2.] "Board" means the board of directors of any district  
30 established under section 48-4202, subsection A, B or C.

31 ~~[2.]~~ [3.] "Bond" means any obligation authorized and issued  
32 pursuant to this chapter, including bonds, lease-purchase and installment  
33 purchase agreements, certificates of participation in a lease-purchase or  
34 installment purchase agreement and obligations that are authorized and  
35 issued to refund or refinance obligations that are authorized and issued  
36 pursuant to this chapter.

37 ~~[3.]~~ [4.] "District" means any county stadium district established  
38 pursuant to section 48-4202, subsection A, B or C.

39 ~~[4.]~~ [5.] "Multipurpose facility" means any facility or facilities  
40 that include:

41 (a) A primary component that is located in the district on the  
42 multipurpose facility site and on lands that are adjacent to each other or  
43 separated by public rights-of-way, that the district owns or leases and  
44 that is used to accommodate sporting, entertainment, cultural, civic,  
45 meeting, trade show or convention events or activities, fire, police or

1 other public safety facilities and tourism offices. The primary component  
2 may not include any structure or part of a structure that is used or  
3 designed for use as a county, city or town hall, as meeting space for the  
4 county, city or town governing body or for general municipal  
5 administrative office space other than for the administration, maintenance  
6 and operation of the multipurpose facility.

7 (b) Secondary components that are located in the district and that  
8 the board determines are necessary or beneficial to the primary component,  
9 limited to on-site infrastructure, artistic components, parking garages  
10 and lots, and public parks and plazas. In addition, secondary components  
11 may include related commercial facilities that are located within the  
12 multipurpose facility site.

13 ~~[5.]~~ [6.] "Multipurpose facility site" means the geographic area  
14 within the district which is depicted in the publicity pamphlet for an  
15 election held pursuant to section 48-4237.

16 ~~[6.]~~ [7.] "Municipality" means a city or town that is incorporated  
17 or chartered under the constitution and laws of this state.

18 ~~[7.]~~ [8.] "Stadium" means a sports facility or facilities located  
19 in the district and designed to accommodate, but not be limited to, major  
20 league baseball events or intercollegiate athletic events.>>

21 Sec. 16. Section 48-4203, Arizona Revised Statutes, is amended to  
22 read:

23 48-4203. Powers and duties of board of directors; report;  
24 conflict of interest

25 A. The board of directors, on behalf of the district, may:

26 1. Adopt and use a corporate seal.

27 2. Sue and be sued.

28 3. Enter into contracts, including intergovernmental agreements  
29 under title 11, chapter 7, article 3, as necessary to carry out the  
30 purposes and requirements of this chapter. The district may contract with  
31 a county sports authority established under title 11, chapter 5 to carry  
32 out any power of the district.

33 4. Adopt administrative rules as necessary to administer and  
34 operate the district and any property under its jurisdiction.

35 5. Adopt rules that allow weighted voting by board members and  
36 establish conditions for terminating the district.

37 6. Employ an executive director and administrative and clerical  
38 employees, or contract for other management personnel, and prescribe the  
39 terms and conditions of their employment as necessary to carry out the  
40 purposes of the district.

41 7. Acquire by any lawful means and operate, maintain, encumber and  
42 dispose of real and personal property and interests in property. A  
43 district established under section 48-4202, subsection A may acquire real  
44 property by eminent domain. A district established under section 48-4202,  
45 subsection B shall not acquire real property by eminent domain. A

1 district established under section 48-4202, subsection C shall not acquire  
2 or own real property or interests in real property.

3       8. Administer trusts declared or established for the district,  
4 receive and hold in trust or otherwise property located in or out of this  
5 state and, if not otherwise provided, dispose of the property for the  
6 benefit of the district.

7       9. Retain legal counsel and other consultants as necessary to carry  
8 out the purposes of the district.

9       B. The board of directors, on behalf of a district established  
10 pursuant to section 48-4202, subsection B, may:

11       1. Use revenues paid to the district pursuant to section 42-5031  
12 and other revenues the district may receive from other sources, for the  
13 purposes set forth in section 48-4204, subsection B.

14       2. Enter into agreements with developers, contractors, tenants and  
15 other users of all or part of a multipurpose facility as determined  
16 appropriate.

17       3. Pledge all or part of the revenues described in section 42-5031,  
18 subsection B to secure the district's bonds or other financial obligations  
19 issued or incurred under this chapter for the construction of all or part  
20 of a multipurpose facility.

21       C. The board of directors of a district established pursuant to  
22 section 48-4202, subsection B shall provide public outreach and education  
23 on the purpose and activities of the district, including:

24       1. Presentations to the governing bodies of the municipalities in  
25 the county in which the district is located.

26       2. Presentations to community, civic and business organizations.

27       3. Printed or electronic materials that support the purposes of  
28 this subsection.

29       D. The board of directors shall:

30       1. Appoint from among its members a ~~chairman~~ CHAIRPERSON, a  
31 secretary and such other officers as may be necessary to conduct its  
32 business. The board of directors may appoint the chief financial officer  
33 of the county as the district treasurer of a countywide district  
34 established under section 48-4202, subsection A. If the board does not  
35 appoint the chief financial officer, the county treasurer is designated ex  
36 officio as the treasurer. The board of directors of a district that is  
37 established pursuant to section 48-4202, subsection B shall designate a  
38 member of the board with financial management or accounting experience or  
39 a person with whom the board has contracted for financial management as  
40 treasurer of the district. The county treasurer is designated ex officio  
41 as the treasurer of a district that is established pursuant to section  
42 48-4202, subsection C.

1           2. Keep and maintain a complete and accurate record of all its  
2 proceedings. All proceedings and records of the board shall be open to  
3 the public as required by title 38, chapter 3, article 3.1 and title 39,  
4 chapter 1.

5           3. Provide for the use, maintenance and operation of the properties  
6 and interests controlled by the district.

7           E. The board of directors of a district that is established  
8 pursuant to section 48-4202, subsection B shall:

9           1. Determine by agreement the distribution of revenues from  
10 operating and using the multipurpose facilities among the municipalities  
11 and any participating Indian tribe or community.

12           2. Report to the legislature by October 1 of each year regarding  
13 the activities, operations, revenues and expenditures of the district for  
14 the immediately preceding fiscal year. The board shall submit the annual  
15 report to the president of the senate and the speaker of the house of  
16 representatives and provide a copy of the report to the secretary of  
17 state. At the discretion of the chairpersons of the senate finance  
18 committee and the house of representatives ways and means committee, or  
19 their successor committees, the committees may hold separate or joint  
20 hearings to consider the annual report prepared by the district.

21           3. Present to the joint legislative committee on capital review  
22 each project for the construction or reconstruction of any facility,  
23 structure, infrastructure or other improvement to real property of any  
24 kind in an amount exceeding ~~five hundred thousand dollars~~ \$500,000.

25           F. ON OR BEFORE NOVEMBER 1 OF EACH YEAR THROUGH 2055, THE BOARD OF  
26 DIRECTORS OF A DISTRICT THAT IS ESTABLISHED PURSUANT TO SECTION 48-4202,  
27 SUBSECTION A SHALL REPORT TO THE JOINT LEGISLATIVE BUDGET COMMITTEE AND  
28 THE GOVERNOR'S OFFICE OF STRATEGIC PLANNING AND BUDGETING REGARDING ALL  
29 NEW PROJECTS FOR RECONSTRUCTING, EQUIPPING, REPAIRING, MAINTAINING OR  
30 IMPROVING A MAJOR LEAGUE BASEBALL FACILITY OR ADJACENT BUILDINGS THAT ARE  
31 PAID FOR BY THE DISTRICT FROM THE COUNTY STADIUM DISTRICT FUND ESTABLISHED  
32 PURSUANT TO SECTION 48-4231. THE REPORT SHALL INDICATE WHICH PROJECTS THE  
33 PROFESSIONAL BASEBALL FRANCHISE ORGANIZATION CONTRIBUTED MONIES TOWARD AND  
34 THE AMOUNT OF THE CONTRIBUTION.

35           ~~F.~~ G. The directors, officers and employees of the district are  
36 subject to title 38, chapter 3, article 8 relating to conflicts of  
37 interest.

38           ~~G.~~ H. This state and political subdivisions of this state other  
39 than the district are not liable for any financial or other obligations of  
40 the district and the financial or other obligations do not constitute a  
41 debt or liability of this state or any political subdivision of this  
42 state, other than the district.

1           Sec. 17. Section 48-4231, Arizona Revised Statutes, is amended to  
2 read:

3           48-4231. County stadium district fund

4           A. The district treasurer shall maintain a county stadium district  
5 fund consisting of all monies received by the district, including:

6           1. Payments received from leasing, subleasing or renting property  
7 owned, leased or controlled by the district.

8           2. Revenues received by the district from admissions and  
9 concessions and other proceeds from events held at a stadium owned or  
10 leased by the district.

11           3. Monies received from issuing and selling bonds under article 3  
12 of this chapter.

13           4. ~~MONIES TRANSMITTED PURSUANT TO [SECTION 42-1116, SUBSECTION D]~~  
14 ~~[SECTION 42-5029, SUBSECTION M]~~ AND SECTIONS 42-5032.03, 42-6018 AND  
15 42-6113. ANY INDIVIDUAL, INCLUDING AN EMPLOYEE OF A PROFESSIONAL BASEBALL  
16 FRANCHISE ORGANIZATION, IS SUBJECT TO TITLE 38, CHAPTER 3, ARTICLE 8  
17 RELATING TO CONFLICTS OF INTEREST FOR THE PURPOSES OF SPENDING THE MONIES  
18 DESCRIBED IN THIS PARAGRAPH.

19           ~~4.~~ 5. Interest and other income received from investing monies in  
20 the fund.

21           ~~5.~~ 6. Gifts, grants and donations received for that purpose from  
22 any public or private source.

23           B. Monies in the fund may be used for any lawful purpose of the  
24 district, INCLUDING RECONSTRUCTING, EQUIPPING, REPAIRING, MAINTAINING OR  
25 IMPROVING A MAJOR LEAGUE BASEBALL FACILITY OR THE ADJACENT BUILDINGS THAT  
26 ARE OWNED BY THE DISTRICT AND OPERATED BY THE DISTRICT OR THE PROFESSIONAL  
27 BASEBALL FRANCHISE ORGANIZATION THAT OCCUPIES THE FACILITY OR ADJACENT  
28 BUILDINGS.

29           C. The district treasurer may invest any unexpended monies in the  
30 fund as provided in title 35, chapter 2. Notwithstanding section 35-323,  
31 the district treasurer may invest and reinvest monies in the fund, other  
32 than operating fund monies, in eligible investments with a maturity of  
33 greater than five years. Interest and other income from investments shall  
34 be credited to the fund. The district treasurer shall invest the monies  
35 so as to mature at the times when the fund assets will be required for the  
36 purposes of this article. If the liquid assets in the fund become  
37 insufficient to meet the district's obligations, the board of directors  
38 shall direct the district treasurer to liquidate sufficient securities to  
39 meet all of the current obligations and immediately notify the auditor  
40 general of the insufficiency, and the auditor general shall investigate  
41 and audit the circumstances surrounding the depletion of the fund and  
42 report the auditor general's findings to the board.

1 D. Except as provided by section 48-4231.01, the board of directors  
2 shall cause an annual audit to be conducted of the fund by an independent  
3 certified public accountant within one hundred twenty days after the end  
4 of the fiscal year. The board shall immediately file a certified copy of  
5 the audit with the auditor general. The auditor general may make such  
6 further audits and examinations as the auditor general deems necessary,  
7 but if the auditor general takes no official action within thirty days  
8 after the audit is filed, the audit is deemed sufficient. The board of  
9 directors shall pay all fees and costs of the certified public accountant  
10 and auditor general under this subsection from the fund.

11 Sec. 18. Title 48, chapter 26, article 2, Arizona Revised Statutes,  
12 is amended by adding section 48-4238, to read:

13 48-4238. Transmission limit; adjustment; notice; revenue  
14 return; penalty; deposit and distribution of  
15 penalty

16 [A. SUBJECT TO SUBSECTION B OF THIS SECTION, THE TOTAL AMOUNT OF  
17 MONIES TRANSMITTED PURSUANT TO SECTION 42-5029, SUBSECTION M AND SECTIONS  
18 42-5032.03, 42-6018 AND 42-6113 MAY NOT EXCEED \$500,000,000.

19 B. EACH YEAR BEGINNING FROM AND AFTER DECEMBER 31, 2026 THROUGH  
20 DECEMBER 31, 2055, THE DISTRICT TREASURER SHALL ADJUST THE LIMIT ACCORDING  
21 TO THE AVERAGE ANNUAL CHANGE IN THE METROPOLITAN PHOENIX CONSUMER PRICE  
22 INDEX PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR  
23 STATISTICS. THE REVISED DOLLAR AMOUNT SHALL BE RAISED TO THE NEAREST  
24 WHOLE DOLLAR AND MAY NOT BE REVISED BELOW THE AMOUNT OF THE LIMIT IN THE  
25 PRIOR YEAR.

26 C. IF THE LIMIT PRESCRIBED IN SUBSECTION A OF THIS SECTION IS MET,  
27 THE DISTRICT TREASURER SHALL NOTIFY THE STATE TREASURER, THE CITY OR TOWN  
28 IN WHICH THE MAJOR LEAGUE BASEBALL FACILITY IS LOCATED AND THE DEPARTMENT  
29 OF REVENUE. ON RECEIPT OF THE NOTICE, THE STATE TREASURER, THE CITY OR  
30 TOWN IN WHICH THE MAJOR LEAGUE BASEBALL FACILITY IS LOCATED AND THE  
31 DEPARTMENT OF REVENUE SHALL STOP TRANSMITTING MONIES PURSUANT TO SECTION  
32 42-5029, SUBSECTION M AND SECTIONS 42-5032.03, 42-6018 AND 42-6113 UNTIL  
33 THE FOLLOWING YEAR AFTER THE LIMIT IS ADJUSTED PURSUANT TO SUBSECTION B OF  
34 THIS SECTION. BEGINNING THE MONTH THAT THE LIMIT IS ADJUSTED, THE STATE  
35 TREASURER, THE CITY OR TOWN IN WHICH THE MAJOR LEAGUE BASEBALL FACILITY IS  
36 LOCATED AND THE DEPARTMENT OF REVENUE SHALL RESUME TRANSMITTING MONIES  
37 PURSUANT TO SECTION 42-5029, SUBSECTION M AND SECTIONS 42-5032.03, 42-6018  
38 AND 42-6113 UNTIL THE ADJUSTED LIMIT IS MET.

39 D. THE DISTRICT TREASURER SHALL RETURN ANY MONIES TRANSMITTED  
40 PURSUANT TO SECTION 42-5029, SUBSECTION M TO THE COUNTY TO WHICH THE  
41 MONIES WOULD HAVE OTHERWISE BEEN PAYABLE AND ANY MONIES TRANSMITTED  
42 PURSUANT TO SECTIONS 42-5032.03, 42-6018 AND 42-6113 OVER THE LIMIT  
43 PRESCRIBED IN SUBSECTION A OF THIS SECTION FOR THAT YEAR TO THE TAXING  
44 JURISDICTION FROM WHICH THE MONIES WERE GENERATED.]



1           ~~[A.]~~ [E.] IF THE PROFESSIONAL BASEBALL FRANCHISE ORGANIZATION THAT  
2 OCCUPIES THE MAJOR LEAGUE BASEBALL FACILITY OWNED BY THE DISTRICT AND  
3 OPERATED BY THE DISTRICT OR THE PROFESSIONAL BASEBALL FRANCHISE  
4 ORGANIZATION ON OR BEFORE THE EFFECTIVE DATE OF THIS SECTION LEAVES THE  
5 FACILITY, THE DISTRICT TREASURER SHALL:

6           1. NOTIFY THE STATE TREASURER AND THE DEPARTMENT OF REVENUE THAT  
7 THE PROFESSIONAL BASEBALL FRANCHISE ORGANIZATION THAT OCCUPIES THE MAJOR  
8 LEAGUE BASEBALL FACILITY OWNED BY THE DISTRICT AND OPERATED BY THE  
9 DISTRICT OR THE PROFESSIONAL BASEBALL FRANCHISE ORGANIZATION LEFT THE  
10 FACILITY~~[.]~~ ON RECEIVING THE NOTICE:

11           (a) THE STATE TREASURER ~~[AND THE CITY OR TOWN IN WHICH THE MAJOR~~  
12 ~~LEAGUE BASEBALL FACILITY IS LOCATED]~~ MAY NOT CONTINUE TO TRANSMIT MONIES  
13 PURSUANT TO ~~[SECTION 42-1116, SUBSECTION D AND]~~ SECTIONS 42-5032.03,  
14 42-6018 AND ~~[42-6133]~~ [42-6113].

15           (b) THE STATE TREASURER SHALL ASSESS A PENALTY AGAINST THE  
16 PROFESSIONAL BASEBALL FRANCHISE ORGANIZATION IN THE FOLLOWING AMOUNTS:

17           (i) \$10,000,000 IF THE PROFESSIONAL BASEBALL FRANCHISE ORGANIZATION  
18 LEAVES THE FACILITY ON OR BEFORE OCTOBER 1, 2035.

19           (ii) \$5,000,000 IF THE PROFESSIONAL BASEBALL FRANCHISE ORGANIZATION  
20 LEAVES THE FACILITY ON OR BEFORE OCTOBER 1, 2045.

21           (iii) \$1,000,000 IF THE PROFESSIONAL BASEBALL FRANCHISE  
22 ORGANIZATION LEAVES THE FACILITY ON OR BEFORE OCTOBER 1, 2050.

23           (c) THE DEPARTMENT OF REVENUE SHALL STOP SEPARATELY ACCOUNTING FOR  
24 THE REVENUES THAT WERE SUBJECT TO TRANSMISSION [PURSUANT TO SECTIONS  
25 42-5032.03, 42-6018 AND 42-6113].

26           ~~[(d) THE DEPARTMENT OF REVENUE MAY NOT CONTINUE TO TRANSMIT MONIES~~  
27 ~~PURSUANT TO SECTION 42-5029, SUBSECTION M.]~~

28           2. RETURN [ANY REMAINING MONIES TRANSMITTED PURSUANT TO SECTION  
29 42-5029, SUBSECTION M TO THE COUNTY TO WHICH THE MONIES WOULD HAVE  
30 OTHERWISE BEEN PAYABLE AND] ANY REMAINING MONIES TRANSMITTED PURSUANT TO  
31 ~~[SECTION 42-1116, SUBSECTION D AND]~~ SECTIONS 42-5032.03, 42-6018 AND  
32 42-6113 THAT ARE UNEXPENDED AND UNENCUMBERED TO THE TAXING JURISDICTION  
33 FROM WHICH THE MONIES WERE GENERATED.

34           ~~[B.]~~ [E.] THE STATE TREASURER SHALL DEPOSIT, PURSUANT TO SECTIONS  
35 35-146 AND 35-147, FIFTY PERCENT OF THE PENALTY ASSESSED PURSUANT TO  
36 SUBSECTION ~~[A.]~~ [E], PARAGRAPH 1, SUBDIVISION (b) OF THIS SECTION IN THE  
37 STATE GENERAL FUND AND DISTRIBUTE TWENTY-FIVE PERCENT OF THE PENALTY TO  
38 THE COUNTY IN WHICH THE FACILITY IS LOCATED AND TWENTY-FIVE PERCENT OF THE  
39 PENALTY TO THE CITY [OR TOWN] IN WHICH THE FACILITY IS LOCATED.

40           Sec. 19. Delayed repeal

41           Section 48-4238, as added by this act, is repealed from and after  
42 December 31, 2055.

1           Sec. 20. Legislative findings

2           The legislature finds that the professional baseball franchise  
3 organization that occupies the major league baseball facility and adjacent  
4 buildings that are owned by the county stadium district pursuant to title  
5 48, chapter 26, Arizona Revised Statutes, and operated by the district or  
6 the professional baseball franchise organization will contribute at least  
7 \$250,000,000 of the professional baseball franchise organization's own  
8 monies for the purposes of reconstructing, equipping, repairing,  
9 maintaining or improving the major league baseball facility and the  
10 adjacent buildings.

11 Enroll and engross to conform

12 Amend title to conform

J.D. MESNARD

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C: LD