



Town of Paradise Valley

6401 E Lincoln Dr
Paradise Valley, AZ 85253

Meeting Notice and Agenda Town Council

Thursday, February 11, 2021

2:00 PM

Council Chambers

**IN-PERSON ATTENDANCE AT PUBLIC MEETINGS HAS BEEN SUSPENDED UNTIL
FURTHER NOTICE. WATCH LIVE STREAMED MEETINGS AT:
<https://paradisevalleyaz.legistar.com/Calendar.aspx>**

1. CALL TO ORDER / ROLL CALL

THIS MEETING WILL BE HELD BY REMOTE PARTICIPATION ONLY

PUBLIC PARTICIPATION IN THE MEETING

Members of the public are encouraged to participate in the meeting via the following options:

1. View the live stream at <https://paradisevalleyaz.legistar.com/Calendar.aspx>
 - (a) Click on Calendar Tab
 - (b) Look for Town Council meeting (you may have to select it from the dropdown list) and find the meeting date
 - (c) Click the "In Progress" link in the column titled Video
 2. Zoom Conference
 - (a) Computer: <https://zoom.us/j/6678902153>
 - (b) Telephone: 1 669 900 6833 Meeting ID 667 890 2153
 3. Submitting questions and comments:
 - (a) Visit <https://paradisevalleyaz.legistar.com/Calendar.aspx>, search for the meeting date, and click "eComment". Locate the agenda item you are interested in and click "Comment" (Please submit comments at least 1 hr prior to meeting)
 - (b) Email dmiller@paradisevalleyaz.gov (Please submit comments at least 1 hr prior to meeting)
 4. Speaking during Call to the Public / Public Hearings
 - (a) Visit <https://paradisevalleyaz.legistar.com/Calendar.aspx>, search for the meeting date, and click "eComment". Locate the agenda item and click "Register to Speak". Join the meeting by dialing 1 669 900 6833 Meeting ID 667 890 2153
 - (b) If attending by Zoom Video Conference, click the chat button and enter your name and the agenda item you would like to address
- (These meeting participation guidelines are pursuant to Town Council Resolution 2020-08 adopted March 17, 2020.)*
- Notice is hereby given pursuant to A.R.S. §38-431.02. that members of the Town Council will attend by audio/video conference call.*

2. EXECUTIVE SESSION

- [21-046](#) Discussion or consultation with the Town Attorney in order to consider the Town's position and instruct its attorneys regarding pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation related to fence-wall setbacks as authorized by A.R.S. §38 431.03(A)(4).
- [21-058](#) Discussion and consultation with, and direction to, the Town's Attorneys regarding contracts that are the subject of negotiation and the Town Council's position regarding EPCOR Water's Company's pending rate case before the Arizona Corporation Commission as authorized by A.R.S. §38-431.03(A)(4); and discussion or consultation for legal advice regarding same with the Town's attorney as authorized by A.R.S. §38-431.03(A)(3).
- [21-051](#) Discussion or consideration of employment, assignment, promotion, or salary of the Town Manager as authorized by A.R.S. §38-431.03(A)(1); and discussion and possible direction to Town Attorney regarding Town Manager employment agreement as authorized A.R.S. §38 431.03(A)(4).
- [21-045](#) The Town Council may go into executive session at one or more times during the meeting as needed to confer with the Town Attorney for legal advice regarding any of the items listed on the agenda as authorized by A.R.S. §38-431.03(A)(3).

3. STUDY SESSION ITEMS - APPROXIMATE START TIME 3:15 PM

The Study Session is open to the public however the following items are scheduled for discussion only. The Town Council will be briefed by staff and other Town representatives. There will be no votes and no final action taken on discussion items. The Council may give direction to staff and request that items be scheduled for consideration and final action at a later date. The order of discussion items and the estimated time scheduled to hear each item are subject to change.

[21-050](#) **The 2022 General Plan Structural Organization and Format Ideas**
90 Minutes

Staff Contact: Loras Rauch, (480) 348-3595

[21-059](#) **Legislative Update**
30 Minutes

Staff Contact: Jill Keimach, 480.348.3533
Doug Cole

[21-056](#)

Discussion of Draft Ordinance 2021-01, Referred from the Planning Commission, to Amend the Town Zoning Ordinance to Prohibit Recreational Marijuana Establishments
15 Minutes

Staff Contact:

Deborah Robberson, Acting Town Attorney 480-348-3609

4. BREAK

5. RECONVENE FOR REGULAR MEETING 6:00 PM**6. ROLL CALL****7. PLEDGE OF ALLEGIANCE*****8. PRESENTATIONS*****21-052 Arizona Association of Chiefs of Police (AACOP) presentation**

Recommendation: Receive a presentation from AACOP President Michael Soelberg

Staff Contact: Peter Wingert, 480 948-7410

9. CALL TO THE PUBLIC

Citizens may address the Council on any matter not on the agenda. In conformance with Open Meeting Laws, Council may not discuss or take action on this matter at this Council meeting, but may respond to criticism, ask that staff review a matter raised, or ask that it be placed on a future agenda. Those making comments shall limit their remarks to three (3) minutes. Please fill out a Speaker Request form prior to addressing the Council.

10. CONSENT AGENDA

All items on the Consent Agenda are considered by the Town Council to be routine and will be enacted by a single motion. There will be no separate discussion of these items. If a member of the Council or public desires discussion on any item it will be removed from the Consent Agenda and considered separately. Please fill out a Speaker Request form prior to the start of the meeting and indicate which item you would like to address.

21-030 Minutes of Town Council Meeting January 21, 2021**21-048 Minutes of Town Council Meeting January 28, 2021****21-055 Adoption of Resolution 2021-02 Amending the Fiscal Year 2020/21 Budget**

Recommendation: Adopt Resolution Number 2021-02.

Staff Contact: Douglas Allen, CFO 480-348-3696

21-057 **Award of Contract for Public Relations Professional Services with S+C Communications for one-year with 4 one-year extensions for an annual amount not to exceed \$30,000**

Recommendation: Award a contract for public relations professional services to S+C Communications (Scutari and Cieslak, Inc.) for one-year and providing for up to four one-year extensions at an hourly rate of \$200/hour, not to exceed \$30,000 annually.

Staff Contact: Jill Keimach, 480.348.3533

21-061 **Approval of Legal Services Engagement Agreement with Crockett Law Group**

Recommendation: Approve engagement agreement with Crockett Law Group

Staff Contact: Deborah Robberson, 480-348-3609

11. PUBLIC HEARINGS

The Town Council may hear public comments and take action on any of these items. Citizens may address the Council regarding any or all of these items. Those making comments are limited to three (3) minutes. Speakers may not yield their time to others. Please fill out a Speaker Request form prior to the start of the meeting and indicate which item you would like to address.

12. ACTION ITEMS

The Town Council May Take Action on This Item. Citizens may address the Council regarding any or all of these items. Those making comments are limited to three (3) minutes. Speakers may not yield their time to others. Please fill out a Speaker Request form prior to the start of the meeting and indicate which item you would like to address.

21-060 **Approval of Town Position of Support or Opposition of State Legislative Summary of Bills Relevant to Paradise Valley**

Recommendation: Provide direction and approve Summary of State Legislation and Recommendations for Council Adoption during Town Council Meeting.

Staff Contact: Jill Keimach, 480.348.3533

13. STUDY SESSION CONTINUED - START TIME 7:00 PM

21-049 **Interviews for Committee, Commission, and Board Appointments**

Staff Contact: Duncan Miller, 480-348-3610

14. FUTURE AGENDA ITEMS

The Town Council May Take Action on This Item. The Mayor or Town Manager will present the long range meeting agenda schedule and announce major topics for the following meeting. Any member of the Council may move to have the Town Manager add a new agenda item to a future agenda. Upon concurrence of three more Members, which may include the Mayor, the item shall be added to the list of future agenda items and scheduled by the Town Manager as a future agenda item within 60 days.

21-047**Consideration of Requests for Future Agenda Items**

Recommendation: Review the current list of pending agenda topics.

Staff Contact: Jill B. Keimach, Town Manager, 480-348-3690

15. MAYOR / COUNCIL / MANAGER COMMENTS

The Mayor, Council or Town Manager may provide a summary of current events. In conformance with Open Meeting Laws, Council may not have discussion or take action at this Council meeting on any matter discussed during the summary.

16. ADJOURN

AGENDA IS SUBJECT TO CHANGE

**Notice is hereby given that pursuant to A.R.S. §1-602.A.9, subject to certain specified statutory exceptions, parents have a right to consent before the State or any of its political subdivisions make a video or audio recording of a minor child. Meetings of the Town Council are audio and/or video recorded, and, as a result, proceedings in which children are present may be subject to such recording. Parents in order to exercise their rights may either file written consent with the Town Clerk to such recording, or take personal action to ensure that their child or children are not present when a recording may be made. If a child is present at the time a recording is made, the Town will assume that the rights afforded parents pursuant to A.R.S. §1-602.A.9 have been waived.*

The Town of Paradise Valley endeavors to make all public meetings accessible to persons with disabilities. With 72 hours advance notice, special assistance can also be provided for disabled persons at public meetings. Please call 480-948-7411 (voice) or 480-483-1811 (TDD) to request accommodation to participate in the Town Council meeting.



Action Report

File #: 21-046

Discussion or consultation with the Town Attorney in order to consider the Town's position and instruct its attorneys regarding pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation related to fence-wall setbacks as authorized by A.R.S. §38 431.03(A)(4).



Town of Paradise Valley

6401 E Lincoln Dr
Paradise Valley, AZ 85253

Action Report

File #: 21-058



Action Report

File #: 21-051

Discussion or consideration of employment, assignment, promotion, or salary of the Town Manager as authorized by A.R.S. §38-431.03(A)(1); and discussion and possible direction to Town Attorney regarding Town Manager employment agreement as authorized A.R.S. §38 431.03(A)(4).



Action Report

File #: 21-045

The Town Council may go into executive session at one or more times during the meeting as needed to confer with the Town Attorney for legal advice regarding any of the items listed on the agenda as authorized by A.R.S. §38-431.03(A)(3).



Town of Paradise Valley

6401 E Lincoln Dr
Paradise Valley, AZ 85253

Action Report

File #: 21-050

AGENDA TITLE:
The 2022 General Plan Structural Organization and Format Ideas.

STAFF CONTACT:

TOWN *Of* PARADISE VALLEY



STAFF REPORT

TO: Mayor Bien-Willner and Town Council Members

FROM: Jill Keimach, Town Manager
Lisa Collins, Community Development Director
Paul Michaud, Planning Manager
Loras Rauch, Special Projects Planner

DATE: February 11, 2021

AGENDA TITLE:

The 2022 General Plan Structural Organization and Format Ideas

RECOMMENDATION:

Staff requests Council's input on the specific ideas presented and direction on the structural organization proposal(s) by the consultant for the 2022 General Plan.

SUMMARY STATEMENT:

The General Plan is used by town government, the development community, and the residents; all of which may have different reasons or purposes for using it. Therefore, if the General Plan is to be effective it must be "easy to use, easy to read, easy to understand".

In accordance with **A.R.S. §9-461.05** the General Plan shall consist of a statement of community goals and development policies, include maps, any necessary diagrams and text setting forth objectives, principles, standards and plan proposals. Based on the Town's population, the Paradise Valley 2022 General Plan must address in some manner the "elements" listed below. However, the state statutes do not dictate how the plan and these topics are organized, labeled or even grouped together.

- ✓ Land Use
- ✓ Circulation
- ✓ Open Space
- ✓ Growth Area
- ✓ Environmental Planning
- ✓ Cost of Development
- ✓ Water Resource

The *2012 General Plan* addresses the mandatory elements in a combined fashion and labeled somewhat differently; but still "siloed" them as separate elements/chapters as statutorily prescribed. Based on the community's input at the time the *2012 General*

Plan also added the following five new “elements’ or topics (underlined & shown in *italics*):

- Land Use & *Development*
- *Community Character and Housing Element*
- *Sustainability Element*
- Open Space & *Recreation*
- *Public Facilities/Services* & Cost of Development

Separate but complementary to the General Plan is the Town’s Strategic Initiatives which per the Town’s website are as listed below:

1. Diligently preserve the special character of Paradise Valley by enforcing the land use policies identified in the Town’s General Plan, Town Code, and SUP agreements.
2. Continuously provide high quality public safety services for Town residents and visitors.
3. Regularly invest in public facility and infrastructure projects.
4. Conscientiously manage the Town’s financial resources.
5. Consistently identify opportunities to create and promote a more sustainable community.

The town can continue to use this traditional statutory “element approach” in organizing the 2022 General Plan. However, the consultant and staff believe there may be a better approach; one that accounts for the integrated nature of planning and the overlap that the goals and policies have on the way a community may function. Therefore, the consultant would like the Council to consider a “systems approach” to the organizational structure of the 2022 General Plan.

The systems approach focuses on the recognition that Cities and Towns are comprised of interconnected systems rather than individual silos or elements. A “systems approach’ organizes a General Plan around theme(s) that have been identified by the community as valued or important aspect to the quality of life. These systems (or themes) don’t only influence the overall vision, as the traditional element/chapter format does, but can equally impact each other. These themes should remain complementary to the Town Council vision and other Town-wide efforts like the Strategic Initiatives, but they will also be cross-cutting, describing goals and policies that may not be limited to only one topic-specific element or chapter. This is a more holistic approach that recognizes the interacting systems that comprise a community and are symbiotic by nature. For instance, “Environmental Stewardship” could be one of the organizing themes under which the Plan addresses the following mandatory topics but as one integrated system:

- Open Space
- Natural Environment
- Water Resources
- Energy
- Conservation

Organizing under a systems approach creates the ability to showcase the values of the community and considers the integrated nature of how a community functions. The consultant also believes that the systems approach will deliver a user-friendly Plan that is more intuitive to the community and the end users of the document. Using the systems approach, the Plan can more easily demonstrate how goals/policies from different themes will work together to achieve the Vision and/or align with other Town led efforts. This approach accounts for multiple perspectives and variables and thus can be a more fiscally prudent way to approach the implementation aspects of the Plan.

BUDGETARY IMPACT:

None.

ATTACHMENT(S):

- A. Staff Report – Feb 11, 2021
- B. GP Structural Organization Presentation



Paradise Valley, Together

2022 GENERAL PLAN

Council Worksession #2

GENERAL PLAN ORGANIZATION

2012 GP Vision & Values

- **A Vision statement reflects the foundational values and lifestyles a community desires to maintain and/or enhance in the future.**

The current 2012 General Plan Vision Statement was based on six (6) common themes or values:

- Primarily one-acre, residential community
- Limited government
- Creating a sense of community
- Partnerships with existing schools and resorts to enhance recreational opportunities
- Improving Aesthetics / Creating a Brand
- Preserving natural open space

GENERAL PLAN ORGANIZATION

2012 GP Element/Chapter (ALT 1)



GENERAL PLAN ORGANIZATION

2012 GP Element/Chapter

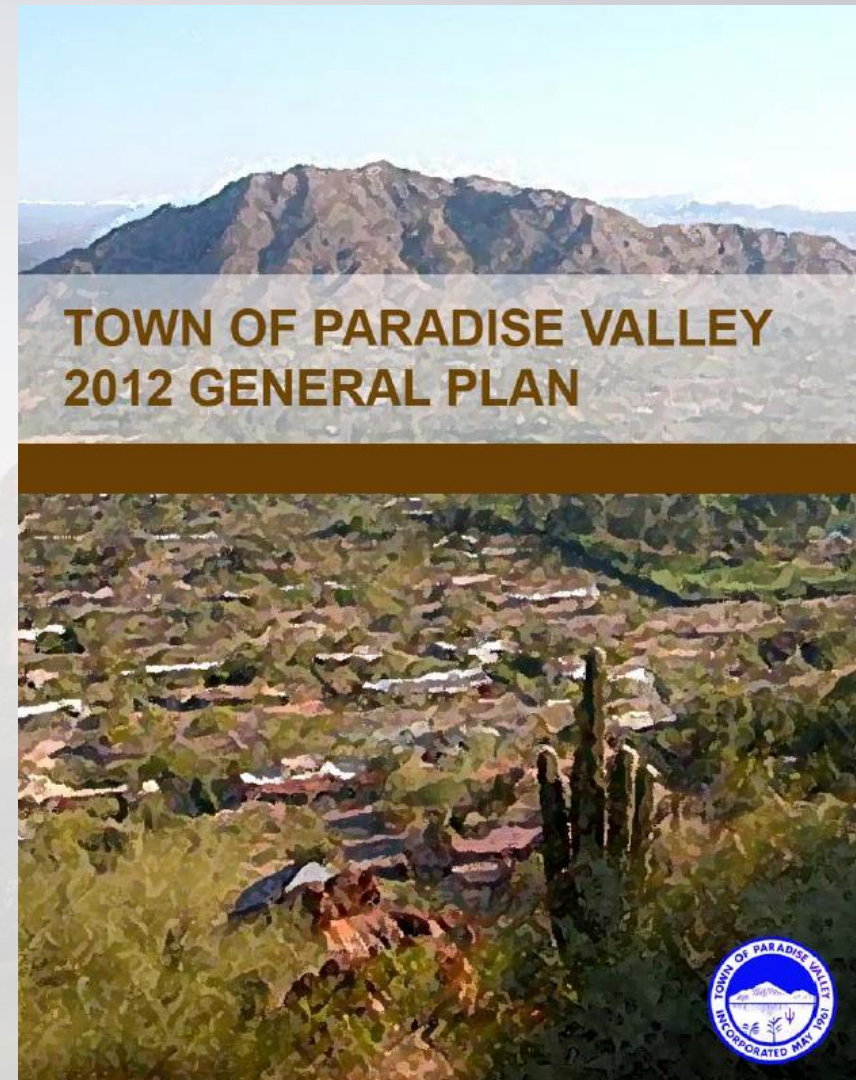
Vision & Values

Elements

- Land Use* & Development
- Community Character & Housing
- Mobility*
- Open Space* & Recreation
- Environmental Planning* & Water Resources*
- Sustainability
- Public Facilities/Services & Cost of Development*

**denotes State required element*

Denotes optional element



GENERAL PLAN ORGANIZATION

2012 GP Element/Chapter

LAND USE AND DEVELOPMENT

"We cherish and protect our primarily large-lot, single-family residential community enhanced with world-renown destination resorts. The Town will continue an active partnership with its resorts to encourage their success and promote their value to the community while minimizing their impact to adjacent residential areas.

Commercial land uses will be considered only for existing or proposed Special Use Permit properties and must be consistent with the scale and character of the community. These proposals are subject to strict review and scrutiny."

Town of Paradise Valley
Visioning Committee 2011

Town of Paradise Valley 2012 General Plan

The Land Use and Development Element functions as a guide for Town of Paradise Valley (both elected and appointed), the general public, the development community and other interested parties as to the ultimate pattern of development for the Town.

In addition to establishing the Town's development policy in broad terms, the Policies of the land use element play a pivotal role in the zoning, subdivision and public improvements decisions, as these are the primary tools for implementing the Land Use Element.

GOAL LU 2.1.1

Quality of Life. To preserve those elements or features which contribute to the Town's quality of life and character as a premiere residential community resort destination with strong rural and historic roots.

Policies

- LU 2.1.1.1 Preserve Residential Character.** The Town shall preserve and maintain the community's primarily one-acre-lot, family residential character.
- LU 2.1.1.2 Minimum One-Acre Lots.** The Town shall maintain population density by requiring a minimum of one acre residence outside of Special Use Permit resort properties encouraging the preservation of lots currently in excess of one acre.
- LU 2.1.1.3 Preserve Streetscapes.** The Town shall ensure that residential development preserves the integrity of neighborhood streetscapes and common areas.
- LU 2.1.1.4 Encourage Neighborhood Maintenance.** The Town shall encourage the maintenance and revitalization of neighborhoods while sustaining their visual coherence and compatibility. The Town shall also actively encourage resident involvement in neighborhood maintenance and revitalization.
- LU 2.1.1.5 Preserve Open Space.** The Town shall preserve public space and public wash corridors and encourage the preservation of private open space and private wash corridors.
- LU 2.1.1.6 High Quality Design.** The Town shall maintain a comprehensive and up-to-date set of ordinances and codes to ensure that development is consistent with this General Plan while resulting in high quality, sensitively designed projects.
- LU 2.1.1.7 Conversion.** The Town shall consider the conversion of land from residential to non-residential uses only within Development Areas as designated on the Development Areas Map (Figure 2.1.1.7).

LAND USE AND DEVELOPMENT

Table 2.3-1. Land Use and Development Implementation Program

Table 2.3-1. Land Use and Development Implementation Program		2012-2016	2016-2020	2021-2030	Annual	Ongoing
1. Residential Character Maintain the Town's primarily owner-occupied, low-density residential character by continuing to require a minimum of one-acre per residence except on new and existing Special Use Permit properties where single-family owner resort housing and assisted living projects may be considered. No timeshare or fractional ownership residences shall be allowed anywhere in the Town.						X
Implements Which Policy(ies)	LU 2.1.1.1, 2.1.1.2					
Responsible Party(ies)	Town Council with the support of Town Manager					
2. Preserve Streetscapes Develop and maintain a high quality roadway design that promotes the character and image of the Town, reduces negative environmental impacts including noise and minimizes adverse impacts to the neighborhood through the use of roadway cross sections, traffic counts, and high quality hardscaping and landscaping.						X
Implements Which Policy(ies)	LU 2.1.1.3					
Responsible Party(ies)	Community Development with support of Town Manager					
3. Neighborhood Maintenance Maintain communication with the community through community meetings, the Town's website, social networking, media, and other methods deemed appropriate to actively encourage resident involvement in neighborhood maintenance and revitalization.						X
Implements Which Policy(ies)	LU 2.1.1.4					
Responsible Party(ies)	Town Manager					
4. Open Space Preservation Identify parcels of land and solicit the owners for donations of land or easements in order to preserve and restore open space and mountain views. Also continue to preserve the Town's wash corridors through periodic code enforcement inspections and encourage the restoration of washes.						X
Implements Which Policy(ies)	LU 2.1.1.5					
Responsible Party(ies)	Town Manager with support of Community Development					

GENERAL PLAN ORGANIZATION

Pro's & Con's (ALT 1)

Pro's:

- Meets Arizona Revised Statutes
- Maintains Consistency/Familiarity
- Goal/Policy/Action offers clear approach
- Includes partial direction on how actions implement policies

Con's:

- Restricts ability to capture uniqueness of Paradise Valley
- Siloed Elements/lacks capture of cross-cutting policies or broader priorities
- Dispersed Implementation Actions

TOWN-WIDE INITIATIVES

2012 Values

The current 2012 General Plan Vision Statement was based on six (6) common themes or values:

- Primarily one-acre, residential community
- Limited government
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- Improving Aesthetics / Creating a Brand
- Preserving natural open space

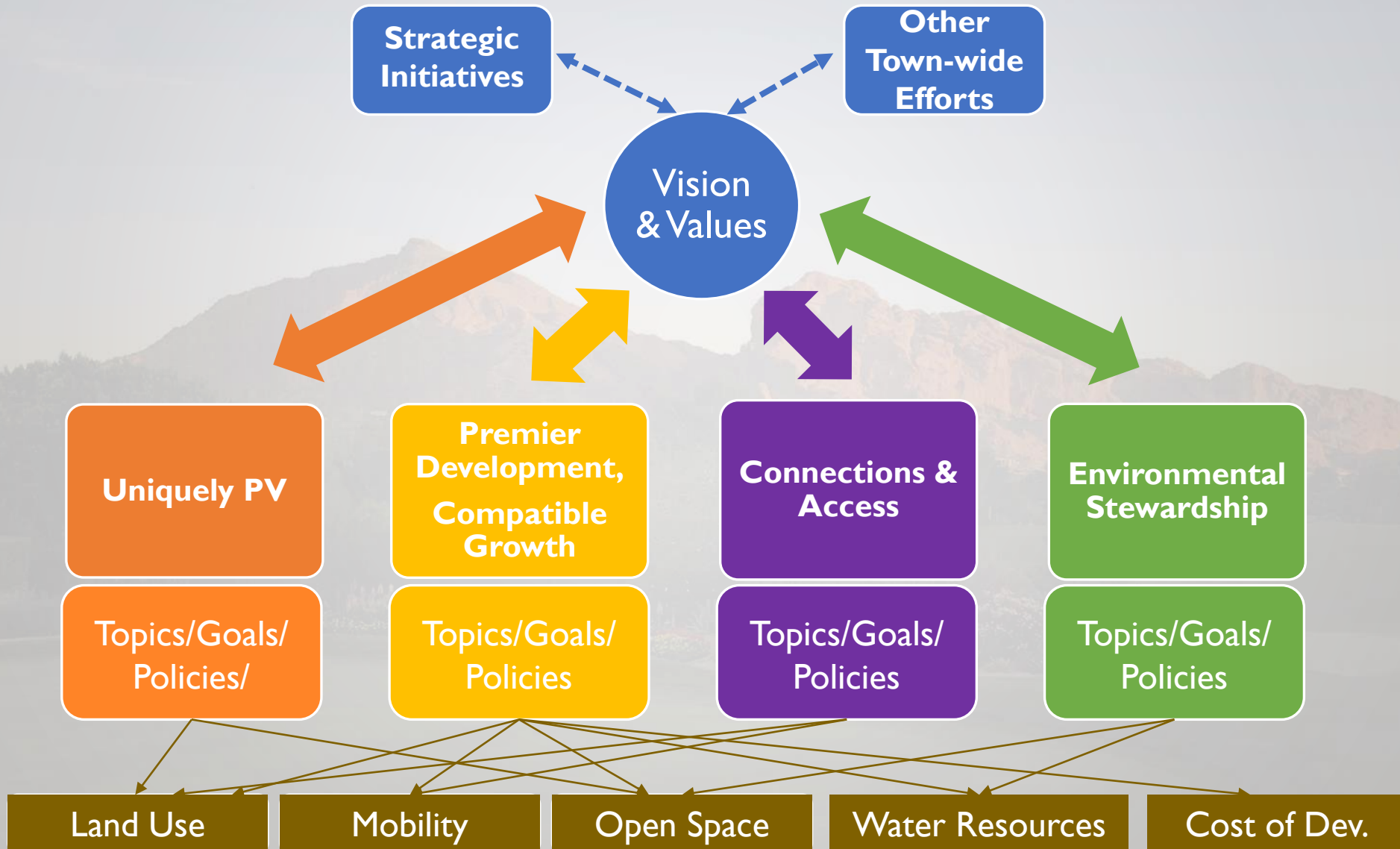


Strategic Initiatives

- Diligently preserve the special character of Paradise Valley by enforcing the land use policies identified in the Town's General Plan, Town Code, and SUP agreements.
- Continuously provide high quality public safety services for Town residents and visitors.
- Regularly invest in public facility and infrastructure projects.
- Conscientiously manage the Town's financial resources.
- Consistently identify opportunities to create and promote a more sustainable community.

GENERAL PLAN ORGANIZATION

Systems Approach/Themes (ALT 2)



GENERAL PLAN ORGANIZATION

Systems Approach/Topics (ALT 2)

Introduction

- **Purpose & Scope**
 - What is it
 - Why do we need it
 - How will it be used
- **Planning Area**
- **Planning Process**
- **Planning Framework**
 - Vision
 - Mutually Supportive Themes
 - How to Use this Plan

Uniquely PV

- **Persistent History**
- **Special Character**

Goals/Policies

Premier Development, Compatible Growth

- **Land Use & Growth**
- **Housing**
- **Public Facilities**
- **Cost of Development**

Goals/Policies

Environmental Stewardship

- **Open Spaces**
- **Natural Environment**
- **Water Resources**

Goals/Policies

Connections & Access

- **Safe**
- **Efficient**
- **Multimodal**

Goals/Policies

Implementation & Maintenance

- **Goal/Policy Matrix**
- **Implementation Actions**
- **General Plan Amendments**

GENERAL PLAN ORGANIZATION

Systems Approach/Goal & Element Matrix (ALT 2)

Example Matrix

General Plan Goals

Elements

Land Use* & Growth Areas*	Circulation* & Bicycling*	Economic Development	Open Space*, Parks & Recreation*	Public Buildings*, Facilities & Services*	Health & Wellness	Community Design	Housing* & Neighborhood Preservation/ Revitalization	Conservation, Rehabilitation* & Redevelopment	Environmental Planning* & Conservation*	Water Resources*	Arts & Culture	Safety* & Resiliency	Energy*	Cost of Development*
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Community

CM-1	Encourage a Balanced Land Use Framework	●	●	●	●	●			●	●		●	●	●
CM-2	Focus on Quality Development			●	●		●	●	●		●			
CM-3	Foster Vibrant Gathering Places	●	●	●	●	●	●	●			●			
CM-4	Promote Our Neighborhoods					●	●	●						
CM-5	Provide Diverse, High Quality Housing	●		●		●	●							
CM-6	Celebrate Our History and Culture			●			●				●			
CM-7	Bring Us Together			●	●	●					●	●		

GENERAL PLAN ORGANIZATION

Systems Approach (ALT 2)

Pro's:

- Meets Arizona Revised Statutes
- Views Town as Systems not Silos
- Creates ability to showcase uniqueness of PV
- Can still maintain clear Goal/Policy/Action structure
- Can capture Implementation Actions in one unified Chapter

Con's:

- Deviation from traditional outline may be viewed as confusing to some
- Requires confirmation of Themes
- Unifying Implementation Actions separates from Goals/Policies

GENERAL PLAN ORGANIZATION

- Observations and Questions for Alternative 1.
- Observations and Questions for Alternative 2.
- Discuss next steps.



THANK YOU FOR YOUR
GUIDANCE!



Town of Paradise Valley

6401 E Lincoln Dr
Paradise Valley, AZ 85253

Action Report

File #: 21-059

AGENDA TITLE:
Legislative Update

STAFF CONTACT:
Doug Cole

TOWN *Of* **PARADISE VALLEY**



STAFF REPORT

TO: Mayor Bien-Willner and Town Council Members

FROM: Jill Keimach, Town Manager

DATE: February 11, 2021

DEPARTMENT: Town Manager
Jill Keimach, 480.348.3533

AGENDA TITLE:
Study Session Legislative Update

SUMMARY STATEMENT:

The Town of Paradise Valley annually develops a Legislative Agenda to outline and reaffirm the Town's legislative priorities for the year. The Town Council then meets with its Legislators from District 28 to go over the Town priorities. This year this meeting was held on January 4, 2021 with District 28 legislators Senator Christine March, and Representatives Kelli Butler and Aaron Lieberman to discuss with the Mayor and Council the impact of Short-Term Rentals, the continued need for Electronic Photo Enforcement in a limited government organization like Paradise Valley, the need for diversified TPT Sales Tax for Prime Contracting and a Tourism Marketing Authorization bill.

The Town's Legislative Contract Lobbyist, Doug Cole updated the Town Council during a Study Session on January 28th. Council gave direction during that meeting to return with recommendations so the Council could formally support and oppose bills most relevant to the values previously articulated by the Paradise Valley Town Council.

In addition to the bills discussed during the last meeting, the Police Chief has requested formal opposition to three bills that on the surface look to preempt Police Department 'defunding'. The unintended consequence of these bills is that if the police department is reduced any amount, 10% or at 25% depending on the bill, the Attorney General would investigate and potentially reduce the amount of State Shared Revenue the Town receives by the amount the Police Department Budget is reduced. In Paradise Valley, the large payments to payoff the Town's unfunded pension liabilities in the Police Department may be considered a budget reduction which would significantly impact the Town finances if an equal amount would be withheld from State Share Revenue when the Town stops needing to make those payments.

BUDGETARY IMPACT:

None at this time, although Short-Term Rental bills, if not locally regulated will continue to take Town resources to respond to party houses and other unruly and disruptive behaviors.

Legislation intended to preempt “defunding” of Police departments if adopted may have the unintended consequence of restricting State Shared revenue if Paradise Valley reduces the Police Department budget as the Town has effectively paid off its unfunded pension liabilities. PSPRS Unfunded Liabilities payments recorded in the PD have ranged from \$1,000,000 to \$9,000,000 in a single year with a total of \$18,000,000 from 2016/17 to 2019/20. \$0 has been paid in FY2020/21 to date. This fluctuation would be problematic as drafted, as would the variations year-to-year in vehicle and equipment replacement and capital expenditures.

RECOMMENDATION:

Provide direction and approve Summary of Bills and Recommendation during Town Council Meeting.

ATTACHMENT(S):

- A. Staff Report
- B. Summary of Bills and Recommendations for Council Adoption
- C. Presentation

Summary of Legislation and Recommendations for Council Consideration February 11, 2021

Short-Term Rentals

SB1379 Relating to Short-Term Rentals, Enforcement (Sen. Mesnard)

Considered the Industry Bill. Allows a City or Town to adopt and enforce ordinances, related to public health and safety, traffic control and nuisance related to noise, protection of welfare, nuisance in same manner as other homes. Restricts the maximum number of adult occupants at any one time to no more than 2/bedroom up to 4 bedrooms plus 2 per 1,000 sf over 3,000 sf of home. Allows local civil penalties of \$1,000 every 30 days for not providing contact information. Requires liability insurance. First sponsor: Sen. Mesnard

Recommend Partial Oppose, Doesn't go far enough

HB 2285 Online Home Sharing: Repeal

Repeals statutes prohibiting municipalities and counties from prohibiting vacation rentals or short-term rentals and limiting the restrictions that municipalities and counties may place on those rentals to a list of specified purposes. Repeals the online lodging marketplace transaction privilege tax classification, and the requirement for online lodging marketplaces to register with the Department of Revenue for payment of transaction privilege taxes on online lodging transactions. Repeals the requirement for online lodging operators to have a current transaction privilege tax license and related civil penalties for noncompliance. Repeals the Joint Legislative Study Committee on Transient Lodging.

ARS Titles Affected: [5](#) [15](#) [42](#)

First sponsor: Rep. Lieberman (D - Dist 28)

Others: Rep. Bolick (R - Dist 20) , Rep. Butler (D - Dist 28) , Sen. Marsh (D - Dist 28) , Rep. Teran (D - Dist 30)

Recommend Support (Full Repeal of 2016 SB1350)

HB 2481 Short-Term Rentals; Enforcement; Penalties

Modifies the list of regulations that counties and municipalities are authorized to impose on vacation rentals or short-term rentals to include requiring the owner of a vacation rental or short-term rental to license or register with the county or municipality, and restricting the occupancy of a vacation rental or short-term rental to the lesser of the occupancy limit of the county or municipality or 2 adults per bedroom plus 2 additional adults. Vacation rentals and short-term rentals cannot advertise to exceed the occupancy limit of the dwelling or for any nonresidential use. Counties and municipalities are authorized to impose a civil penalty for each day a property is in violation of this

advertisement prohibition. An online lodging operator that falsifies information to an online lodging marketplace is guilty of a petty offense. A county or municipality cannot prohibit the operation of a vacation rental or short-term rental based solely on its status as a vacation rental or short-term rental if the owner of the vacation rental or short-term rental, as of May 1, 2021, has a valid transaction privilege tax license, and as of June 2, 2021, has provided the owner's or the owner's designee's contact information to the county or municipality in which the vacation rental or short-term rental is located, if required by ordinance.

ARS Titles Affected: [9](#) [11](#) [42](#)

First sponsor: Rep. Kavanagh (R - Dist 23)

Others: Sen. Alston (D - Dist 24) , Sen. Barto (R - Dist 15) , Rep. Butler (D - Dist 28) , Sen. Engel (D - Dist 10) , Rep. Jermaine (D - Dist 18) , Rep. Kaiser (R - Dist 15) , Rep. Lieberman (D - Dist 28) , Rep. Longdon (D - Dist 24) , Sen. Marsh (D - Dist 28) , Rep. Shah (D - Dist 24)

Recommend Support (Last Year's Sen. Kate Brophy McGee's SB 1554 that passed Senate 23-5)

HB 2482 Regulation; Short-Term Rentals

Modifies the list of regulations that counties and municipalities are authorized to impose on vacation rentals or short-term rentals to include: requiring contact information for the owner of the rental to be posted on the front door or in another location on the property that is visible and accessible to the public; restricting the maximum number of adult occupants allowed on the property at one time to the lesser of the occupancy limit established by the county or municipality or no more than 2 adults per bedroom, up to 4 bedrooms, plus 2 additional adults per 1,000 square feet of livable space in excess of 3,000 square feet of livable space; requiring the installation of safety and monitoring equipment that monitors and detects noise and notifies the owner if noise is unreasonable or in violation of a noise ordinance; prohibiting smoking outside within 100 feet of a residential structure; restricting occupants from checking in without the presence of the owner or the owner's designee; and prohibiting occupants from parking on public or private streets if on-property parking is available. Vacation rentals and short-term rentals cannot advertise to exceed the occupancy limit of the dwelling or for any nonresidential use, and are required to display the transaction privilege tax license in any online advertisement for rental of the unit. Establishes penalties for violations.

ARS Titles Affected: [9](#) [11](#)

First sponsor: Rep. Kavanagh (R - Dist 23)

Recommend Oppose (Last year's Rep. Kavanagh's HB 2875 that failed on the House floor 25-35)

HCR 2011 Short-Term Rentals; Vacation Rentals

The 2022 general election ballot is to carry the question of whether to amend the state Constitution to repeal statutes prohibiting municipalities and counties from prohibiting vacation rentals or short-term rentals and limiting the restrictions that municipalities and counties may place on those rentals to a list of specified purposes. Land use laws that regulate a vacation rental or short-term rental are excluded from statute entitling a property owner to just compensation if existing rights to use private real property are reduced by the enactment of any land use law enacted after the date the property is transferred to the owner and the action reduces the fair market value of the property.

ARS Titles Affected: 99

First sponsor: Rep. Lieberman (D - Dist 28)

Others: Rep. Butler (D - Dist 28) , Sen. Marsh (D - Dist 28) , Rep. Pawlik (D - Dist 17) , Rep. Shah (D - Dist 24) , Rep. Teran (D - Dist 30)

Recommend Support (Full Repeal of 2016 SB1350 to be sent to the 2022 ballot and by-passing the Governor)

Construction Sales Tax

HB 2211 TPT; Prime Contracting; Exemptions; Certificates

Various changes to statutes relating to transaction privilege taxes (TPT) for prime contracting. The definitions of "modification" and "alteration" for the purpose of computing the tax base for the prime contracting classification of TPT are modified. A certificate that a contractor provides to a person stating that the contractor is liable for any amount of transaction privilege taxes due is valid for a period of up to one year. After the certificate expires, the contractor is allowed to execute and provide to the person a new certificate. The Department of Revenue (DOR) is required to prescribe a form for a certificate to be used by a prime contractor that is subject to TPT for purchasing tangible personal property, the purchase price of which was excluded from the tax base under the retail classification of TPT. The prime contractor is required to obtain the certificate from DOR, and the certificate is valid for up to one year. After the certificate expires, the contractor is allowed to obtain a new certificate. Applies to contracts entered into beginning January 1, 2022.

ARS Titles Affected: [42](#)

First sponsor: Rep. Cobb (R - Dist 5)

Others: Rep. Bolick (R - Dist 20) , Rep. Toma (R - Dist 22)

Recommend Oppose (Cobb's bill from previous year that would be detrimental to the Town)

SB 1721 TPT: Prime Contracting Classification

The gross proceeds of sales or gross income derived from a construction contract with an owner of real property or the improvements to real property that does not exceed \$100,000 per unit for a "residential project" (defined) or \$1 million for a nonresidential

project is not subject to tax under the prime contracting classification of transaction privilege taxes, and is required to be exempt from municipal transaction privilege and use taxes. Only the contract price is used to determine whether a contract exceeds the threshold amount described in this paragraph with no subtractions for amounts paid to subcontractors or any deductions or exemptions allowed. Project elements cannot be artificially separated from a contract to cause a project to qualify for this exemption. The Department of Revenue has the burden of proving that project elements have been artificially separated from a contract. A contract that primarily involves construction of any electricity generating facility or system installed on any commercial, residential or governmental property, including the maintenance, repair, replacement or alteration of existing improvements of an electricity generating or distribution facility, is not subject to tax under the prime contracting classification of transaction privilege taxes. Retroactive to contracts entered into beginning July 1, 2021. Establishes provisions for application to contracts that were bid or entered into from January 1, 2015 through July 1, 2021.

ARS Titles Affected: [41](#) [42](#)

First sponsor: Sen. Fann (R - Dist 1)

Recommend Support

Electronic Traffic Enforcement

SB 1419 Highway Video Surveillance; Prohibition

The state and political subdivisions are prohibited from conducting "highway video surveillance" (defined) on a controlled access highway or on a sidewalk. A person who suffers an injury as a result of a violation of this prohibition is entitled to damages of at least \$1,000 for each violation, plus costs and reasonable attorney fees. Statutes authorizing and regulating photo enforcement are repealed.

ARS Titles Affected: [28](#)

First sponsor: Sen. Rogers (R - Dist 6)

Recommend Oppose

Preemption for Police Department 'Defunding'

HB 2310 Municipalities; counties; law enforcement budgets

Triggered by a 10% reduction of a law enforcement agency's budget. The AG would investigate within 30 days to verify the 10% reduction. If confirmed, the AG would require municipality to restore the budget within thirty days or AG would notify the state treasurer who would redistribute state shared monies in an equal amount to the reduction.

First sponsor: Sen. Rogers (R - Dist 6)

Representatives Roberts: Barton, Biasiucci, Blackman, Bolick, Bowers, Burges, Carroll, Chaplik, Cobb, Dunn, Fillmore, Finchem, Grantham, Griffin, Hoffman, Kaiser, Kavanagh, Nguyen, Nutt, Osborne, Parker, Payne, Pingerelli, Toma, Wilmeth

Recommend Oppose, Potential loss of State Shared Revenue with fluctuating unfunded pension payments

HB2420 law enforcement budget; reduction; certification This is a budget certification by the state of a county or municipality law enforcement budget. The reduction must be tied to reduced revenues or be subject to state shared revenue withholding.

First sponsor: Representatives Carroll, Wilmeth

Recommend Oppose, Potential loss of State Shared Revenue with fluctuating unfunded pension payments

SB1333 law enforcement; budget reduction; prohibition

This is similar to HB2310, but is triggered at any level of reduction to a PD budget. The state treasurer would withhold the same amount from the municipality's state shared revenues. A 25% reduction would see a withholding of the entire police department budget by the state treasurer until restoration. This bill provides exemptions for employee related expenses (health care or pension). It does authorize a county sheriff to assume law enforcement functions if the municipality's budget is reduced by 25%. Funds withheld by the treasurer under this bill would be available to the county sheriff in the form of grants.

First sponsor: Gowan

Recommend Oppose, Potential loss of State Shared Revenue with fluctuating Police Budgets

Tourism Marketing Authorities

HB 2161 AND SB1101 Tourism Marketing Authorities (Both bills are the same)

Establishes a new chapter in Title 9 (Cities and Towns) and a new chapter in Title 11 (Counties) allowing the governing body of one or more municipalities and/or of a county with a population of less than 2 million persons (all but Maricopa County) to adopt a resolution, on presentation of a petition signed by the owners of at least 67 percent of the transient lodging rooms in the geographic area, forming a tourism marketing authority to promote and enhance tourism in that geographic area. Establishes powers and duties of a tourism marketing authority, including authorization to levy an assessment of up to \$5 per room on transient lodging rooms sold per night. A tourism marketing authority is governed by a board of directors, and budgeting, recordkeeping and reporting requirements for the board are specified. Establishes a process for termination of a tourism marketing authority. Emergency clause.

ARS Titles Affected: [9](#) [11](#)

First sponsor: Rep. Kaiser (R - Dist 15) and Sen. Pace (R - Dist 25)

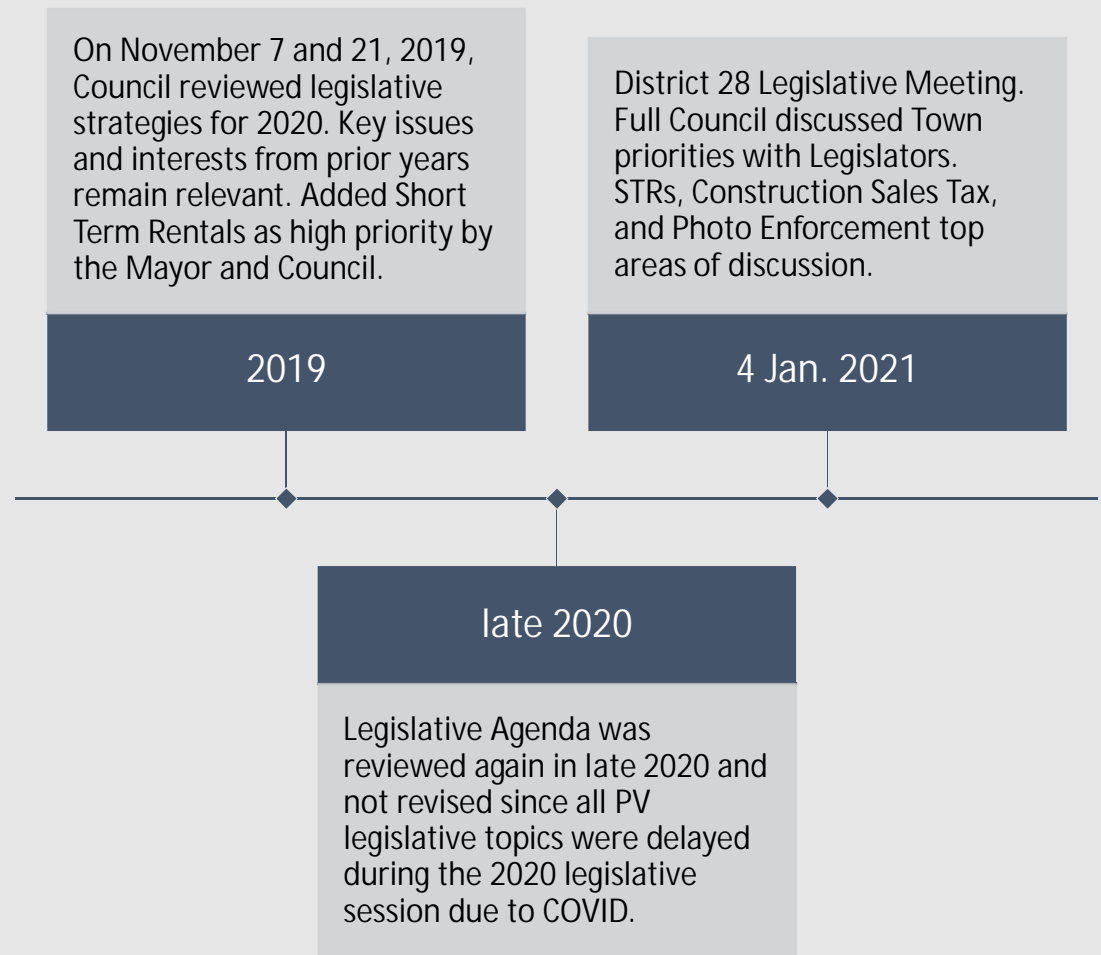
Others: Rep. Blackman (R - Dist 6) , Rep. Chaplik (R - Dist 23) , Rep. Cobb (R - Dist 5) , Rep. Weninger (R - Dist 17) and Sen. Bowie (D - Dist 18)

Recommend Support (Last year's TMA bill that Experience Scottsdale and the Arizona Lodging and Tourism Association would like the Town to support)

Study Session on Pending Legislation

February 11, 2021

Bills being followed consistent with PV Legislative Agenda



2020-21 Legislative Agenda Action Items

- Quality of Life and Public Safety Concerns to Preserve Neighborhoods
 - Short-term rental impact on neighborhoods
 - Reform State law to return local ability to regulate impacts
- Local Financial Stability
 - Sales Tax Extension (Prop 400)
 - Work to ensure local share does not decrease or obligations increase (i.e. State obligation for maintenance)
 - Transaction Privilege Tax (TPT) Construction Sales Tax
 - Amend MRRA to cap maximum project amount or remove alterations
 - Work with all interested parties on reform provided revenues held harmless

2020-21 Legislative Agenda Action Items

- Public Safety/Traffic Enforcement/Smart Technology
 - Essential tool to efficiently provide public safety within limited resources
 - Education, outreach, and signage = behavior modification/traffic safety
 - Protect ability of local government to maintain safety through all tools, especially photo enforcement areas
 - Evaluating contract options for effective and consistent service

Short-Term Rentals

HB 2285 Online Home Sharing: Repeal (Rep. Lieberman)

Full Repeal of 2016 SB1350. Repeals statutes prohibiting municipalities and counties from prohibiting vacation rentals or short-term rentals and limiting the restrictions that municipalities and counties may place on those rentals to a list of specified purposes.

Recommend Support

HB 2481 Short-Term Rentals; Enforcement; Penalties (Rep. Kavanagh)

Sen. Kate Brophy McGee's SB 1554 that passed Senate 23-5. Modifies the list of regulations that counties and municipalities are authorized to impose on vacation rentals or short-term rentals to include requiring the owner of a vacation rental or short-term rental to license or register with the county or municipality, and restricting the occupancy of a vacation rental or short-term rental to the lesser of the occupancy limit of the county or municipality or 2 adults per bedroom plus 2 additional adults. Vacation rentals and short-term rentals cannot advertise to exceed the occupancy limit of the dwelling or for any nonresidential use. Counties and municipalities are authorized to impose a civil penalty for each day a property is in violation of this advertisement prohibition.

Recommend Support

Short-Term Rentals

HB 2482 Regulation; Short-Term Rentals (Rep. Kavanagh)

Last year's Rep. Kavanagh's HB 2875 that failed on the House floor 25-35 . Modifies the list of regulations that counties and municipalities are authorized to impose on vacation rentals or short-terms rentals to include: requiring contact information for the owner of the rental to be posted on the front door or in another location on the property that is visible and accessible to the public; restricting the maximum number of adult occupants allowed on the property at one time to the lesser of the occupancy limit established by the county or municipality or no more than 2 adults per bedroom, up to 4 bedrooms, plus 2 additional adults per 1,000 square feet of livable space in excess of 3,000 square feet of livable space; requiring the installation of safety and monitoring equipment that monitors and detects noise and notifies the owner if noise is unreasonable or in violation of a noise ordinance; prohibiting smoking outside within 100 feet of a residential structure; restricting occupants from checking in without the presence of the owner or the owner's designee; and prohibiting occupants from parking on public or private streets if on-property parking is available. Vacation rentals and short-term rentals cannot advertise to exceed the occupancy limit of the dwelling or for any nonresidential use, and are required to display the transaction privilege tax license in any online advertisement for rental of the unit. Establishes penalties for violations.

Recommend Oppose

Short-Term Rentals

HCR 2011 Short-Term Rentals; Vacation Rentals (Rep. Lieberman)

Full Repeal of 2016 SB1350 to be sent to the 2022 ballot and by-passing the Governor. The 2022 general election ballot is to carry the question of whether to amend the state Constitution to repeal statutes prohibiting municipalities and counties from prohibiting vacation rentals or short-term rentals and limiting the restrictions that municipalities and counties may place on those rentals to a list of specified purposes. Land use laws that regulate a vacation rental or short-term rental are excluded from statute entitling a property owner to just compensation if existing rights to use private real property are reduced by the enactment of any land use law enacted after the date the property is transferred to the owner and the action reduces the fair market value of the property.

Recommend Support

Short-Term Rentals

SB1379 Relating to Short-Term Rentals, Enforcement (Sen. Mesnard)

Allows a City or Town to adopt and enforce ordinances, related to public health and safety, traffic control and nuisance related to noise, protection of welfare, nuisance in same manner as other homes. Restricts the maximum number of adult occupants at any one time to no more than 2/bedroom up to 4 bedrooms plus 2 per 1,000 sf over 3,000 sf of home. Allows local civil penalties of \$1,000 every 30 days for not providing contact information. Requires liability insurance.

Recommend Partial Oppose, Doesn't go far enough

Transaction Privilege Tax (TPT) Construction Sales Tax

HB 2211 TPT; Prime Contracting; Exemptions; Certificates (Rep. Cobb)

Various changes to statutes relating to transaction privilege taxes (TPT) for prime contracting. The definitions of "modification" and "alteration" for the purpose of computing the tax base for the prime contracting classification of TPT are modified. A certificate that a contractor provides to a person stating that the contractor is liable for any amount of transaction privilege taxes due is valid for a period of up to one year. After the certificate expires, the contractor is allowed to execute and provide to the person a new certificate. The Department of Revenue (DOR) is required to prescribe a form for a certificate to be used by a prime contractor that is subject to TPT for purchasing tangible personal property, the purchase price of which was excluded from the tax base under the retail classification of TPT. The prime contractor is required to obtain the certificate from DOR, and the certificate is valid for up to one year. After the certificate expires, the contractor is allowed to obtain a new certificate. Applies to contracts entered into beginning January 1, 2022.

Recommend Oppose

Transaction Privilege Tax (TPT) Construction Sales Tax

SB 1721 TPT: Prime Contracting Classification (Sen. Fann)

The gross proceeds of sales or gross income derived from a construction contract with an owner of real property or the improvements to real property that does not exceed \$100,000 per unit for a "residential project" (defined) or \$1 million for a nonresidential project is not subject to tax under the prime contracting classification of transaction privilege taxes, and is required to be exempt from municipal transaction privilege and use taxes. Only the contract price is used to determine whether a contract exceeds the threshold amount with no subtractions for amounts paid to subcontractors or any deductions or exemptions allowed. Project elements cannot be artificially separated from a contract to cause a project to qualify for this exemption. The Department of Revenue has the burden of proving that project elements have been artificially separated from a contract. A contract that primarily involves construction of any electricity generating facility is not subject to tax under the prime contracting classification of transaction privilege taxes. Retroactive to contracts entered into beginning July 1, 2021. Establishes provisions for application to contracts that were bid or entered into from January 1, 2015 through July 1, 2021.

Recommend Support

Public Safety/Electronic Traffic Enforcement

SB 1419 Highway Video Surveillance; Prohibition (Sen. Rogers)

The state and political subdivisions are prohibited from conducting "highway video surveillance" (defined) on a controlled access highway or on a sidewalk. A person who suffers an injury as a result of a violation of this prohibition is entitled to damages of at least \$1,000 for each violation, plus costs and reasonable attorney fees. Statutes authorizing and regulating photo enforcement are repealed.

Recommend Oppose

Public Safety/Preempt Police Funding “Reform”

HB 2310

Triggered by a reduction of a Police Dept budget by 10%. Requires AG to conduct an investigation within 30 days to determine if the 10% reduction was completed. If determined, AG would require municipality restore budget within 30 days. If the municipality fails to restore, AG would notify the state treasurer who would redistribute state shared monies in an equal amount to the reduction. The bill has 26 sponsors in the House.

HB2410

This is a budget certification by the state of a county or municipality Police Dept budget. The reduction must be tied to reduced revenues or be subject to state shared revenue withholding.

SB1333

Similar to HB2310, but triggered at any level of reduction in PD budget. State treasurer would withhold same amount from municipality's state shared revenues. A 25% reduction would see a withholding of the entire police department budget by the state treasurer until restoration. This bill provides exemptions for employee related expenses (health care or pension). It does authorize a county sheriff to assume law enforcement functions if the municipality's budget is reduced by 25%. Funds withheld by the treasurer available to county sheriff in grants.

Recommend Oppose: Paradise Valley reflects the PSPRS deficit payments in the Police Department budget. When the PSPRS deficit payments are complete, there will be a large reduction in the bottom line of the PD budget. Capital expenditures reflected in the PD budget could also be problematic with these bills.

Tourism Marketing Authorities

HB 2161 AND SB1101 Tourism Marketing Authorities (Both bills are the same) Rep. Kaiser and Sen. Pace

Last year's TMA bill that Experience Scottsdale and the Arizona Lodging and Tourism Association would like the Town to support.

Establishes a new chapter in Title 9 (Cities and Towns) and a new chapter in Title 11 (Counties) allowing the governing body of one or more municipalities and/or of a county with a population of less than 2 million persons (all but Maricopa County) to adopt a resolution, on presentation of a petition signed by the owners of at least 67 percent of the transient lodging rooms in the geographic area, forming a tourism marketing authority to promote and enhance tourism in that geographic area. Establishes powers and duties of a tourism marketing authority, including authorization to levy an assessment of up to \$5 per room on transient lodging rooms sold per night. A tourism marketing authority is governed by a board of directors, and budgeting, recordkeeping and reporting requirements for the board are specified. Establishes a process for termination of a tourism marketing authority. Emergency clause.

Recommend Support

Discussion

*Sponsorship has changed since the bill was introduced

REFERENCE TITLE: **tourism marketing authorities.**

State of Arizona
House of Representatives
Fifty-fifth Legislature
First Regular Session
2021

HB 2161

*Introduced by
Representatives Kaiser: Blackman, Cobb, Weninger

AN ACT

AMENDING TITLE 9, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 14; AMENDING
TITLE 11, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 15; RELATING TO
TOURISM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 9, Arizona Revised Statutes, is amended by adding
3 chapter 14, to read:

4 CHAPTER 14

5 TOURISM MARKETING AUTHORITY

6 ARTICLE 1. GENERAL PROVISIONS

7 9-1501. Definitions

8 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 1. "AUTHORITY" MEANS A TOURISM MARKETING AUTHORITY THAT IS FORMED
10 PURSUANT TO THIS CHAPTER.

11 2. "BOARD" MEANS THE BOARD OF DIRECTORS OF A TOURISM MARKETING
12 AUTHORITY.

13 3. "GOVERNING BODY" MEANS THE BODY OR BOARD THAT BY LAW IS
14 CONSTITUTED AS THE LEGISLATIVE DEPARTMENT OF THE MUNICIPALITY OR COUNTY.

15 4. "MUNICIPALITY" MEANS A CITY OR TOWN.

16 5. "TRANSIENT LODGING ROOM" MEANS A ROOM THAT IS INTENDED FOR
17 TRANSIENT OCCUPANCY IN A HOTEL OR MOTEL, INCLUDING AN INN, TOURIST HOME OR
18 HOUSE, DUDE RANCH OR RESORT.

19 9-1502. Petition; approval; formation

20 A. ON PRESENTATION OF A PETITION PURSUANT TO THIS SECTION, THE
21 GOVERNING BODY OF ONE OR MORE MUNICIPALITIES OR ONE OR MORE MUNICIPALITIES
22 AND A COUNTY WITH A POPULATION OF LESS THAN TWO MILLION PERSONS MAY ADOPT
23 A RESOLUTION FORMING A TOURISM MARKETING AUTHORITY CONSISTING OF THE
24 PROPERTY WITHIN THE CORPORATE BOUNDARIES OF THE AUTHORITY AS DESCRIBED IN
25 THE PETITION. THE PETITION FOR THE FORMATION OF THE AUTHORITY SHALL
26 INCLUDE AND IDENTIFY THE FOLLOWING:

27 1. THE GEOGRAPHIC BOUNDARIES OF THE AUTHORITY.

28 2. THE NONPROFIT TOURISM PROMOTION ORGANIZATION THAT THE
29 MUNICIPALITY AND COUNTY, IF APPLICABLE, WILL CONTRACT WITH TO PROVIDE THE
30 TOURISM MARKETING SERVICES FOR THE AUTHORITY.

31 3. A STATEMENT THAT THE TOURISM MARKETING AUTHORITY WILL PROMOTE
32 AND ENHANCE TOURISM IN THE AUTHORITY.

33 4. THE AMOUNT OF THE ASSESSMENT STATED IN DOLLARS PER ROOM PER
34 NIGHT ON THE TRANSIENT LODGING ROOMS WITHIN THE BOUNDARIES OF THE
35 AUTHORITY AND THE TRANSIENT LODGING FACILITIES TO BE ASSESSED.

36 5. A DESCRIPTION OF THE AUTHORITY'S OBLIGATION TO REPORT ANNUALLY
37 TO THE GOVERNING BODY OF EACH MUNICIPALITY AND COUNTY THAT IS
38 PARTICIPATING IN THE AUTHORITY.

39 6. A STATEMENT THAT THE AUTHORITY MAY BE TERMINATED BY PETITION OF
40 THE TRANSIENT LODGING ROOM OWNERS OR LEGALLY AUTHORIZED REPRESENTATIVES
41 AND SHALL TERMINATE AFTER TEN YEARS UNLESS RENEWED BY FURTHER ACTION BY
42 PETITION TO AND APPROVAL OF ONE OR MORE OF THE GOVERNING BODIES
43 PARTICIPATING IN THE AUTHORITY.

44 B. IF A PETITION PRESCRIBED BY SUBSECTION A OF THIS SECTION IS
45 SIGNED BY THE OWNERS OR LEGALLY AUTHORIZED REPRESENTATIVES OF AT LEAST

SIXTY-SEVEN PERCENT OF THE TRANSIENT LODGING ROOMS WITHIN THE GEOGRAPHIC AREA OF THE AUTHORITY, AND INCLUDES TWO OR MORE PROPERTIES WITH TRANSIENT LODGING ROOMS, THE GOVERNING BODY OF EACH PARTICIPATING MUNICIPALITY AND COUNTY BY AFFIRMATIVE VOTE MAY APPROVE THE FORMATION OF THE AUTHORITY. ON APPROVAL OF EACH PARTICIPATING MUNICIPALITY AND COUNTY, THE AUTHORITY IS ESTABLISHED.

9-1503. Authority powers and duties; contracts; assessments

A. ON ESTABLISHMENT OF THE AUTHORITY, THE GOVERNING BODY OF EACH MUNICIPALITY AND COUNTY PARTICIPATING IN THE AUTHORITY SHALL:

1. CONTRACT WITH A RECOGNIZED TOURISM PROMOTION AGENCY IN THE MUNICIPALITY AND COUNTY THAT IS A NONPROFIT CORPORATION EXEMPT FROM TAXATION UNDER SECTION 501(c)(6) OF THE INTERNAL REVENUE CODE AND THAT HAS BEEN IN CONTINUOUS EXISTENCE FOR AT LEAST FIVE YEARS. IF THERE IS NO RECOGNIZED TOURISM PROMOTION AGENCY IN THE MUNICIPALITY THAT HAS BEEN IN CONTINUOUS EXISTENCE FOR THE PRECEDING FIVE YEARS, THE MUNICIPALITY SHALL CONTRACT WITH A RECOGNIZED TOURISM PROMOTION AGENCY IN THE MUNICIPALITY AND COUNTY THAT IS A NONPROFIT CORPORATION EXEMPT FROM TAXATION UNDER SECTION 501(c)(6) OF THE INTERNAL REVENUE CODE AND THAT HAS BEEN IN CONTINUOUS EXISTENCE FOR AT LEAST TWO YEARS. IF THERE IS NO RECOGNIZED TOURISM PROMOTION AGENCY IN THE MUNICIPALITY, THE MUNICIPALITY MAY CONTRACT WITH THE MUNICIPALITY'S TOURISM PROMOTION OFFICE. THE CONTRACT SHALL PROVIDE THAT THE MUNICIPALITY AND ANY PARTICIPATING COUNTY SHALL DISTRIBUTE TO THE RECOGNIZED TOURISM PROMOTION AGENCY ALL MONIES THAT ARE RECEIVED FROM ASSESSMENTS COLLECTED PURSUANT TO THIS CHAPTER.

2. ENTER INTO INTERGOVERNMENTAL AGREEMENTS AS PRESCRIBED IN TITLE 11, CHAPTER 7, ARTICLE 3 FOR THE PURPOSES OF SUPPORTING THE AUTHORITY.

B. THE AUTHORITY SHALL ESTABLISH, CHARGE AND COLLECT ASSESSMENTS ON TRANSIENT LODGING ROOMS. THE AUTHORITY MAY LEVY AN ASSESSMENT OF NOT MORE THAN \$5 PER ROOM SOLD PER NIGHT ON THE TRANSIENT LODGING ROOMS IN THE AUTHORITY. THE ASSESSMENT RATE OR RATES MAY BE TIERED BASED ON THE AVERAGE DAILY ROOM RATE FOR THE AFFECTED TRANSIENT LODGING.

C. THE TRANSIENT LODGING ROOM OWNER OR LEGALLY AUTHORIZED REPRESENTATIVE SHALL PAY THE ASSESSMENT TO THE DEPARTMENT OF REVENUE AT THE SAME TIME AS PAYING THE TRANSACTION PRIVILEGE TAX UNDER SECTION 42-5014. IF THE TRANSIENT LODGING ROOM OWNER FOR ANY REASON DOES NOT PAY TRANSACTION PRIVILEGE TAX, THE ASSESSMENT IMPOSED BY THIS CHAPTER IS DUE AND PAYABLE TO THE DEPARTMENT, AND IS DELINQUENT IF NOT PAID, AS PROVIDED IN SECTION 42-5014, SUBSECTION A. THE DEPARTMENT SHALL REPORT TO THE STATE TREASURER THE AMOUNT OF MONIES COLLECTED PURSUANT TO THIS SUBSECTION.

D. THE STATE TREASURER SHALL TRANSMIT TO THE TREASURER OR OFFICER EXERCISING THE FUNCTIONS OF TREASURER OF THE PARTICIPATING MUNICIPALITY OR COUNTY, IF APPLICABLE, EACH MONTH, BEGINNING WITH THE THIRD CALENDAR MONTH AFTER THE DATE SPECIFIED IN THE PETITION FOR THE AUTHORITY, THE AMOUNT COLLECTED FROM PROPERTIES WITHIN THE AUTHORITY. THE MUNICIPAL LOCATION OF

1 A PROPERTY IN THE AUTHORITY IS THE SAME MUNICIPALITY FROM WHICH THE
2 DEPARTMENT OF REVENUE RECEIVES THE MUNICIPAL TRANSIENT LODGING TAX
3 ASSESSED PURSUANT TO TITLE 42, CHAPTER 6. THE DEPARTMENT OF REVENUE SHALL
4 SEPARATELY ACCOUNT FOR THE MONIES PAID UNDER THIS CHAPTER AND SHALL
5 DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, THE NET REVENUES
6 COLLECTED UNDER THIS CHAPTER IN THE STATE GENERAL FUND.

7 E. THE BOARD AND ANY MUNICIPALITY OR COUNTY THAT IS PARTICIPATING
8 IN THE AUTHORITY SHALL SUPPLY THE DEPARTMENT OF REVENUE AND THE STATE
9 TREASURER WITH ALL REQUESTED INFORMATION NECESSARY TO ADMINISTER THIS
10 SECTION.

11 9-1504. Authority governance; limitation; meetings; report

12 A. THE BOARD OF DIRECTORS OF THE RECOGNIZED TOURISM PROMOTION
13 AGENCY SHALL GOVERN THE AUTHORITY AND AT LEAST ONE MEMBER OF ONE OR MORE
14 OF THE GOVERNING BODIES SHALL PARTICIPATE IN THE AUTHORITY. THE AUTHORITY
15 MAY EMPLOY STAFF AND CONSULTANTS, REIMBURSE A MUNICIPALITY OR COUNTY FOR
16 STAFF, SERVICES AND FACILITIES SUPPLIED BY THE MUNICIPALITY OR COUNTY,
17 ENTER INTO CONTRACTS AND ACCEPT GRANTS.

18 B. THE AUTHORITY MAY NOT FINANCE OR FACILITATE THE ACQUISITION,
19 MAINTENANCE, CONSTRUCTION OR OPERATION OF A HOTEL, MOTEL, RESORT OR OTHER
20 TRANSIENT LODGING OR ANY SPORTS OR ENTERTAINMENT FACILITY.

21 C. THE AUTHORITY AND ITS BOARD SHALL MAINTAIN THE RECORDS OF THE
22 AUTHORITY, INCLUDING RECORDS OF ITS ACCOUNTS SHOWING ALL MONIES RECEIVED
23 AND DISBURSED AND ITS ANNUAL BUDGET, AND SHALL KEEP THE AUTHORITY'S MONIES
24 AND OPERATIONS SEPARATE FROM THE TOURISM PROMOTION AGENCY'S OTHER MONIES
25 AND ACTIVITIES. THE BOARD SHALL COMPLY WITH TITLE 38, CHAPTER 3, ARTICLE
26 3.1 AND TITLE 39, CHAPTER 1.

27 D. THE BOARD SHALL REPORT AT LEAST ANNUALLY TO THE GOVERNING BODIES
28 OF THE PARTICIPATING MUNICIPALITIES AND COUNTY ON THE ACTIVITIES AND
29 EXPENDITURES OF THE AUTHORITY AND THE IMPACTS OF THE AUTHORITY'S
30 EXPENDITURES AND ACTIVITIES.

31 9-1505. Termination; petition; renewal; modification of
32 boundaries

33 A. AN AUTHORITY MAY BE TERMINATED AT ANY TIME ON PRESENTATION OF A
34 PETITION THAT IS SIGNED BY THE OWNERS OR LEGALLY AUTHORIZED
35 REPRESENTATIVES OF AT LEAST FIFTY-ONE PERCENT OF THE TRANSIENT LODGING
36 ROOMS WITHIN THE GEOGRAPHIC AREA OF THE AUTHORITY. ON RECEIPT OF A
37 PETITION, THE GOVERNING BODY OF EACH PARTICIPATING MUNICIPALITY AND COUNTY
38 SHALL TERMINATE ITS PARTICIPATION IN THE AUTHORITY AND NOTIFY THE
39 DEPARTMENT OF REVENUE, WHICH SHALL CEASE COLLECTING ANY ASSESSMENT.

40 B. AN AUTHORITY SHALL TERMINATE TEN YEARS AFTER ITS FORMATION
41 UNLESS ONE OR MORE MUNICIPALITIES OR ONE OR MORE MUNICIPALITIES AND A
42 COUNTY BY PETITION AS PRESCRIBED BY SECTION 9-1502 AND BY RESOLUTION
43 APPROVE THE RENEWAL OF THE AUTHORITY BEFORE ITS TERMINATION. AN AUTHORITY
44 MAY BE RENEWED AND ITS BOUNDARIES MODIFIED IF FEWER THAN ALL OF THE
45 ORIGINAL ENTITIES RESOLVE TO RENEW THEIR PARTICIPATION IN THE AUTHORITY

1 EXCEPT THAT AN AUTHORITY MUST INCLUDE AT LEAST ONE MUNICIPALITY. ON
2 APPROVAL OF ONE OR MORE GOVERNING BODIES' RESOLUTIONS, THE AUTHORITY IS
3 RENEWED FOR TEN ADDITIONAL YEARS. AN AUTHORITY MAY CONTINUE TO BE RENEWED
4 EVERY TEN YEARS THEREAFTER.

5 Sec. 2. Title 11, Arizona Revised Statutes, is amended by adding
6 chapter 15, to read:

7 CHAPTER 15
8 TOURISM MARKETING AUTHORITY
9 ARTICLE 1. GENERAL PROVISIONS

10 11-2001. Definitions

11 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

12 1. "AUTHORITY" MEANS A TOURISM MARKETING AUTHORITY THAT IS FORMED
13 PURSUANT TO THIS CHAPTER.

14 2. "BOARD" MEANS THE BOARD OF DIRECTORS OF A TOURISM MARKETING
15 AUTHORITY.

16 3. "GOVERNING BODY" MEANS THE BOARD OF SUPERVISORS OF A COUNTY.

17 4. "TRANSIENT LODGING ROOM" MEANS A ROOM THAT IS INTENDED FOR
18 TRANSIENT OCCUPANCY IN A HOTEL OR MOTEL, INCLUDING AN INN, TOURIST HOME OR
19 HOUSE, DUDE RANCH OR RESORT.

20 11-2002. Petition; approval; formation

21 A. ON PRESENTATION OF A PETITION PURSUANT TO THIS SECTION, THE
22 GOVERNING BODY OF A COUNTY WITH A POPULATION OF LESS THAN TWO MILLION
23 PERSONS MAY ADOPT A RESOLUTION FORMING A TOURISM MARKETING AUTHORITY
24 CONSISTING OF ALL OF THE PROPERTY WITHIN THE BOUNDARIES OF THE COUNTY.
25 THE PETITION FOR THE FORMATION OF THE AUTHORITY SHALL INCLUDE AND IDENTIFY
26 THE FOLLOWING:

27 1. THE GEOGRAPHIC BOUNDARIES OF THE AUTHORITY.

28 2. THE NONPROFIT TOURISM PROMOTION ORGANIZATION THAT THE COUNTY
29 WILL CONTRACT WITH TO PROVIDE THE TOURISM MARKETING SERVICES FOR THE
30 AUTHORITY.

31 3. A STATEMENT THAT THE TOURISM MARKETING AUTHORITY WILL PROMOTE
32 AND ENHANCE TOURISM IN THE AUTHORITY.

33 4. THE AMOUNT OF THE ASSESSMENT STATED IN DOLLARS PER ROOM PER
34 NIGHT ON THE TRANSIENT LODGING ROOMS WITHIN THE BOUNDARIES OF THE
35 AUTHORITY AND THE TRANSIENT LODGING FACILITIES TO BE ASSESSED.

36 5. A DESCRIPTION OF THE AUTHORITY'S OBLIGATION TO REPORT ANNUALLY
37 TO THE GOVERNING BODY OF THE COUNTY THAT IS PARTICIPATING IN THE
38 AUTHORITY.

39 6. A STATEMENT THAT THE AUTHORITY MAY BE TERMINATED BY PETITION OF
40 THE TRANSIENT LODGING ROOM OWNERS OR LEGALLY AUTHORIZED REPRESENTATIVES
41 AND SHALL TERMINATE AFTER TEN YEARS UNLESS RENEWED BY FURTHER ACTION BY
42 PETITION TO AND APPROVAL OF THE GOVERNING BODY.

43 B. IF A PETITION PRESCRIBED BY SUBSECTION A OF THIS SECTION IS
44 SIGNED BY THE OWNERS OR LEGALLY AUTHORIZED REPRESENTATIVES OF AT LEAST
45 SIXTY-SEVEN PERCENT OF THE TRANSIENT LODGING ROOMS WITHIN THE GEOGRAPHIC

1 AREA OF THE AUTHORITY, AND INCLUDES TWO OR MORE PROPERTIES WITH TRANSIENT
2 LODGING ROOMS, THE GOVERNING BODY OF THE COUNTY BY AFFIRMATIVE VOTE MAY
3 APPROVE THE FORMATION OF THE AUTHORITY. ON APPROVAL OF THE COUNTY, THE
4 AUTHORITY IS ESTABLISHED.

5 11-2003. Authority powers and duties; contracts; assessments

6 A. ON ESTABLISHMENT OF THE AUTHORITY, THE GOVERNING BODY OF THE
7 COUNTY PARTICIPATING IN THE AUTHORITY SHALL:

8 1. CONTRACT WITH A RECOGNIZED TOURISM PROMOTION AGENCY IN THE
9 COUNTY THAT IS A NONPROFIT CORPORATION EXEMPT FROM TAXATION UNDER SECTION
10 501(c)(6) OF THE INTERNAL REVENUE CODE AND THAT HAS BEEN IN CONTINUOUS
11 EXISTENCE FOR AT LEAST FIVE YEARS. IF THERE IS NO RECOGNIZED TOURISM
12 PROMOTION AGENCY IN THE COUNTY THAT HAS BEEN IN CONTINUOUS EXISTENCE FOR
13 THE PRECEDING FIVE YEARS, THE COUNTY SHALL CONTRACT WITH A RECOGNIZED
14 TOURISM PROMOTION AGENCY IN THE COUNTY THAT IS A NONPROFIT CORPORATION
15 EXEMPT FROM TAXATION UNDER SECTION 501(c)(6) OF THE INTERNAL REVENUE CODE
16 AND THAT HAS BEEN IN CONTINUOUS EXISTENCE FOR AT LEAST TWO YEARS. IF
17 THERE IS NO RECOGNIZED TOURISM PROMOTION AGENCY IN THE COUNTY, THE COUNTY
18 MAY CONTRACT WITH THE COUNTY'S TOURISM PROMOTION OFFICE. THE CONTRACT
19 SHALL PROVIDE THAT THE COUNTY SHALL DISTRIBUTE TO THE RECOGNIZED TOURISM
20 PROMOTION AGENCY ALL MONIES THAT ARE RECEIVED FROM ASSESSMENTS COLLECTED
21 PURSUANT TO THIS CHAPTER.

22 2. ENTER INTO INTERGOVERNMENTAL AGREEMENTS AS PRESCRIBED IN
23 CHAPTER 7, ARTICLE 3 OF THIS TITLE FOR THE PURPOSES OF SUPPORTING THE
24 AUTHORITY.

25 B. THE AUTHORITY SHALL ESTABLISH, CHARGE AND COLLECT ASSESSMENTS ON
26 TRANSIENT LODGING ROOMS. THE AUTHORITY MAY LEVY AN ASSESSMENT OF NOT MORE
27 THAN \$5 PER ROOM SOLD PER NIGHT ON THE TRANSIENT LODGING ROOMS IN THE
28 AUTHORITY. THE ASSESSMENT RATE OR RATES MAY BE TIERED BASED ON THE
29 AVERAGE DAILY ROOM RATE FOR THE AFFECTED TRANSIENT LODGING.

30 C. THE TRANSIENT LODGING ROOM OWNER OR LEGALLY AUTHORIZED
31 REPRESENTATIVE SHALL PAY THE ASSESSMENT TO THE DEPARTMENT OF REVENUE AT
32 THE SAME TIME AS PAYING THE TRANSACTION PRIVILEGE TAX UNDER SECTION
33 42-5014. IF THE TRANSIENT LODGING ROOM OWNER FOR ANY REASON DOES NOT PAY
34 TRANSACTION PRIVILEGE TAX, THE ASSESSMENT IMPOSED BY THIS CHAPTER IS DUE
35 AND PAYABLE TO THE DEPARTMENT, AND IS DELINQUENT IF NOT PAID, AS PROVIDED
36 IN SECTION 42-5014, SUBSECTION A. THE DEPARTMENT SHALL REPORT TO THE
37 STATE TREASURER THE AMOUNT OF MONIES COLLECTED PURSUANT TO THIS
38 SUBSECTION.

39 D. THE STATE TREASURER SHALL TRANSMIT TO THE TREASURER OR OFFICER
40 EXERCISING THE FUNCTIONS OF TREASURER OF THE PARTICIPATING COUNTY EACH
41 MONTH, BEGINNING WITH THE THIRD CALENDAR MONTH AFTER THE DATE SPECIFIED IN
42 THE PETITION FOR THE AUTHORITY, THE AMOUNT COLLECTED FROM PROPERTIES
43 WITHIN THE AUTHORITY. THE DEPARTMENT OF REVENUE SHALL SEPARATELY ACCOUNT
44 FOR THE MONIES PAID UNDER THIS CHAPTER AND SHALL DEPOSIT, PURSUANT TO

1 SECTIONS 35-146 AND 35-147, THE NET REVENUES COLLECTED UNDER THIS CHAPTER
2 IN THE STATE GENERAL FUND.

3 E. THE BOARD AND THE COUNTY THAT IS PARTICIPATING IN THE AUTHORITY
4 SHALL SUPPLY THE DEPARTMENT OF REVENUE AND THE STATE TREASURER WITH ALL
5 REQUESTED INFORMATION NECESSARY TO ADMINISTER THIS SECTION.

6 11-2004. Authority governance; limitation; meetings; report

7 A. THE BOARD OF DIRECTORS OF THE RECOGNIZED TOURISM PROMOTION
8 AGENCY SHALL GOVERN THE AUTHORITY AND AT LEAST ONE MEMBER OF THE GOVERNING
9 BODY SHALL PARTICIPATE IN THE AUTHORITY. THE AUTHORITY MAY EMPLOY STAFF
10 AND CONSULTANTS, REIMBURSE A COUNTY FOR STAFF, SERVICES AND FACILITIES
11 SUPPLIED BY THE COUNTY, ENTER INTO CONTRACTS AND ACCEPT GRANTS.

12 B. THE AUTHORITY MAY NOT FINANCE OR FACILITATE THE ACQUISITION,
13 MAINTENANCE, CONSTRUCTION OR OPERATION OF A HOTEL, MOTEL, RESORT OR OTHER
14 TRANSIENT LODGING OR ANY SPORTS OR ENTERTAINMENT FACILITY.

15 C. THE AUTHORITY AND ITS BOARD SHALL MAINTAIN THE RECORDS OF THE
16 AUTHORITY, INCLUDING RECORDS OF ITS ACCOUNTS SHOWING ALL MONIES RECEIVED
17 AND DISBURSED AND ITS ANNUAL BUDGET, AND SHALL KEEP THE AUTHORITY'S MONIES
18 AND OPERATIONS SEPARATE FROM THE TOURISM PROMOTION AGENCY'S OTHER MONIES
19 AND ACTIVITIES. THE BOARD SHALL COMPLY WITH TITLE 38, CHAPTER 3, ARTICLE
20 3.1 AND TITLE 39, CHAPTER 1.

21 D. THE BOARD SHALL REPORT AT LEAST ANNUALLY TO THE GOVERNING BODY
22 OF THE COUNTY ON THE ACTIVITIES AND EXPENDITURES OF THE AUTHORITY AND THE
23 IMPACTS OF THE AUTHORITY'S EXPENDITURES AND ACTIVITIES.

24 11-2005. Termination; petition; renewal; modification of
25 boundaries

26 A. AN AUTHORITY MAY BE TERMINATED AT ANY TIME ON PRESENTATION OF A
27 PETITION THAT IS SIGNED BY THE OWNERS OR LEGALLY AUTHORIZED
28 REPRESENTATIVES OF AT LEAST FIFTY-ONE PERCENT OF THE TRANSIENT LODGING
29 ROOMS WITHIN THE GEOGRAPHIC AREA OF THE AUTHORITY. ON RECEIPT OF A
30 PETITION, THE GOVERNING BODY OF THE COUNTY SHALL TERMINATE ITS
31 PARTICIPATION IN THE AUTHORITY AND NOTIFY THE DEPARTMENT OF REVENUE, WHICH
32 SHALL CEASE COLLECTING ANY ASSESSMENT.

33 B. AN AUTHORITY SHALL TERMINATE TEN YEARS AFTER ITS FORMATION
34 UNLESS A COUNTY BY PETITION AS PRESCRIBED BY SECTION 11-2002 AND BY
35 RESOLUTION APPROVE THE RENEWAL OF THE AUTHORITY BEFORE ITS TERMINATION.
36 ON APPROVAL OF THE GOVERNING BODY'S RESOLUTION, THE AUTHORITY IS RENEWED
37 FOR TEN ADDITIONAL YEARS. AN AUTHORITY MAY CONTINUE TO BE RENEWED EVERY
38 TEN YEARS THEREAFTER.

39 Sec. 3. Emergency

40 This act is an emergency measure that is necessary to preserve the
41 public peace, health or safety and is operative immediately as provided by
42 law.

REFERENCE TITLE: TPT; prime contracting; exemptions; certificates

State of Arizona
House of Representatives
Fifty-fifth Legislature
First Regular Session
2021

HB 2211

Introduced by
Representatives Cobb: Bolick, Toma

AN ACT

AMENDING SECTIONS 42-5008.01, 42-5009 AND 42-5075, ARIZONA REVISED
STATUTES; RELATING TO TRANSACTION PRIVILEGE AND USE TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

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

6 A. A person that is either a prime contractor subject to tax under
7 section 42-5075 or a subcontractor working under the control of such a
8 prime contractor, that purchases tangible personal property, the purchase
9 price of which was excluded from the tax base under the retail
10 classification under section 42-5061, subsection A, paragraph 27 or was
11 excluded from the use tax under section 42-5159, subsection A, paragraph
12 13, subdivision (g) at the time of purchase, and that incorporates or
13 fabricates the tangible personal property into a project described in
14 section 42-5075, subsection 0 is liable for an amount equal to any tax
15 that a seller would have been required to pay under section 42-5061 and
16 this article as follows:

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

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

23 3. This subsection does not apply to tangible personal property
24 that is incorporated or fabricated into any project under a contract that
25 would otherwise be excluded from the tax base under section 42-5075,
26 without regard to section 42-5075, subsection 0.

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

30 5. The person is not liable for the amount if the contractor who
31 hired the person executes and provides to the person a certificate stating
32 that the contractor providing the certificate is liable for any amount due
33 under this subsection. The department shall prescribe the form of the
34 certificate. If the person has reason to believe that the information
35 contained on the certificate is erroneous or incomplete, the department
36 may disregard the certificate. The contractor providing the certificate
37 is liable for the amount that otherwise would be due from the person under
38 this subsection. A CERTIFICATE PROVIDED TO A PERSON PURSUANT TO THIS
39 PARAGRAPH IS VALID FOR A PERIOD OF NOT MORE THAN ONE YEAR. AFTER THE
40 CERTIFICATE EXPIRES, THE CONTRACTOR MAY EXECUTE AND PROVIDE TO THE PERSON
41 A NEW CERTIFICATE.

42 B. A person that purchased tangible personal property, the purchase
43 price of which was excluded from the tax base under section 42-5061,
44 subsection A, paragraph 27 or was excluded from the use tax under section
45 42-5159, subsection A, paragraph 13, subdivision (g) at the time of

purchase, that subsequently cancels its transaction privilege tax license and that uses, consumes, sells or discards the tangible personal property is liable for an amount of tax determined under this subsection. For the purposes of this subsection:

1. If the tangible personal property is incorporated or fabricated into a project described in section 42-5075, subsection 0, or otherwise used or consumed by the person, the amount of liability shall be calculated and reported based on the person's purchase price of the tangible personal property, the location of the project, use or consumption and the taxes imposed under this chapter and chapter 6 of this title.

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

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

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

5. All deductions, exemptions and exclusions for the cost of tangible personal property provided in section 42-5075 apply to the tangible personal property incorporated or fabricated into a project described in section 42-5075, subsection 0.

6. This subsection does not apply to tangible personal property that is incorporated or fabricated into any project under a contract that would otherwise be excluded from the tax base under section 42-5075, without regard to section 42-5075, subsection 0.

7. The person is not liable for the amount if the contractor who hired the person executes and provides to the person a certificate stating that the contractor providing the certificate is liable for any amount due under this subsection for tangible personal property incorporated or fabricated into a project described in section 42-5075, subsection 0. The department shall prescribe the form of the certificate. If the person has reason to believe that the information contained on the certificate is erroneous or incomplete, the department may disregard the certificate. The contractor providing the certificate is liable for the amount that otherwise would be due from the person under this subsection. A CERTIFICATE PROVIDED TO A PERSON PURSUANT TO THIS PARAGRAPH IS VALID FOR A

1 PERIOD OF NOT MORE THAN ONE YEAR. AFTER THE CERTIFICATE EXPIRES, THE
2 CONTRACTOR MAY EXECUTE AND PROVIDE TO THE PERSON A NEW CERTIFICATE.

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

7 D. If a person has paid an amount described in this section on
8 tangible personal property that the person reasonably believed to be
9 described IN section 42-5075, subsection 0 and a final determination is
10 made that section 42-5075, subsection 0 does not apply, the person is
11 entitled to an offset for the amount paid under this section against the
12 amount of tax liability assessed under this chapter and chapter 6 of this
13 title.

14 Sec. 2. Section 42-5009, Arizona Revised Statutes, is amended to
15 read:

16 42-5009. Certificates establishing deductions; liability for
17 making false certificate

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

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

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

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

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

1 D. If a seller is entitled to a deduction by complying with
2 subsection A of this section, the department may require the purchaser
3 that caused the execution of the certificate to establish the accuracy and
4 completeness of the information required to be contained in the
5 certificate that would entitle the seller to the deduction. If the
6 purchaser cannot establish the accuracy and completeness of the
7 information, the purchaser is liable in an amount equal to any tax,
8 penalty and interest that the seller would have been required to pay under
9 this article if the seller had not complied with subsection A of this
10 section. Payment of the amount under this subsection exempts the
11 purchaser from liability for any tax imposed under article 4 of this
12 chapter. The amount shall be treated as tax revenues collected from the
13 seller in order to designate the distribution base for purposes of section
14 42-5029.

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

27 F. The department may prescribe a form for a certificate used to
28 establish entitlement to the deductions described in section 42-5061,
29 subsection A, paragraph 46 and section 42-5063, subsection B, paragraph 3.
30 Under rules the department may prescribe, the department may also require
31 additional information for the seller to be entitled to the deduction. If
32 a seller is entitled to the deductions described in section 42-5061,
33 subsection A, paragraph 46 and section 42-5063, subsection B, paragraph 3,
34 the department may require the purchaser who executed the certificate to
35 establish the accuracy and completeness of the information contained in
36 the certificate that would entitle the seller to the deduction. If the
37 purchaser cannot establish the accuracy and completeness of the
38 information, the purchaser is liable in an amount equal to any tax,
39 penalty and interest that the seller would have been required to pay under
40 this article. Payment of the amount under this subsection exempts the
41 purchaser from liability for any tax imposed under article 4 of this
42 chapter. The amount shall be treated as tax revenues collected from the
43 seller in order to designate the distribution base for purposes of section
44 42-5029.

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

17 H. The department shall prescribe forms for certificates used to
18 establish the satisfaction of the criteria necessary to qualify the sale
19 of a motor vehicle for the deductions described in section 42-5061,
20 subsection A, paragraph 14, paragraph 28, subdivision (a) and paragraph 44
21 and subsection U. Except as provided in subsection J of this section, to
22 establish entitlement to these deductions, a motor vehicle dealer shall
23 retain:

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

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

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

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

38 I. Notwithstanding subsection A, paragraph 2 of this section, if a
39 motor vehicle dealer has established entitlement to a deduction by
40 complying with subsection H of this section, the department may require
41 the purchaser who executed the certificate to establish the accuracy and
42 completeness of the information contained in the certificate that entitled
43 the motor vehicle dealer to the deduction. If the purchaser cannot
44 establish the accuracy and completeness of the information, the purchaser
45 is liable in an amount equal to any tax, penalty and interest that the

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

9 J. To establish entitlement to the deduction described in section
10 42-5061, subsection A, paragraph 44, a public consignment auction dealer
11 as defined in section 28-4301 shall submit the valid certificate
12 prescribed by subsection H of this section to the department and retain a
13 copy for its records.

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

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

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

35 2. The department shall issue the certificate to the prime
36 contractor on receiving sufficient documentation to establish that the
37 prime contractor meets the requirements of this subsection.

38 3. If any person uses the certificate provided under this
39 subsection to purchase tangible personal property to be used in a project
40 that is not subject to tax under section 42-5075, the person is liable in
41 an amount equal to any tax, penalty and interest that the seller would
42 have been required to pay under this article if the seller had not
43 complied with subsection A of this section. Payment of the amount under
44 this section exempts the person from liability for any tax imposed under

1 article 4 of this chapter. The amount shall be sourced under section
2 42-5040, subsection A, paragraph 2.

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

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

- 13 1. Persons who feed their own livestock or poultry.
- 14 2. Persons who are engaged in the business of producing livestock
15 or poultry commercially.
- 16 3. Persons who are engaged in the business of feeding livestock or
17 poultry commercially or who board livestock noncommercially.

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

28 P. Notwithstanding any other law, an online lodging operator, as
29 defined in section 42-5076, shall be entitled to an exclusion from any
30 applicable taxes for any online lodging transaction, as defined in section
31 42-5076, facilitated by an online lodging marketplace, as defined in
32 section 42-5076, for which the online lodging operator has obtained from
33 the online lodging marketplace written notice that the online lodging
34 marketplace is registered with the department to collect applicable taxes
35 for all online lodging transactions facilitated by the online lodging
36 marketplace, and transaction history documenting tax collected by the
37 online lodging marketplace, pursuant to section 42-5005, subsection L.

38 Q. The department shall prescribe the form of a certificate to be
39 used by a person purchasing an aircraft to document eligibility for a
40 deduction pursuant to section 42-5061, subsection B, paragraph 7,
41 subdivision (a), item (v) or an exemption pursuant to section 42-5159,
42 subsection B, paragraph 7, subdivision (a), item (v), relating to
43 aircraft. The person must provide this certificate and documentation
44 confirming that the operational control of the aircraft has been
45 transferred or will be transferred immediately after the purchase to one

1 or more persons described in section 42-5061, subsection B, paragraph 7,
 2 subdivision (a), item (i), (ii), (iii) or (iv) or section 42-5159,
 3 subsection B, paragraph 7, subdivision (a), item (i), (ii), (iii) or (iv).
 4 Operational control of the aircraft must be transferred for at least fifty
 5 percent of the aircraft's flight hours. If such operational control is
 6 not transferred for at least fifty percent of the aircraft's flight hours
 7 during the recapture period, the owner of the aircraft is liable for an
 8 amount equal to any tax that the seller or purchaser would have been
 9 required to pay under this chapter at the time of the sale, plus penalty
 10 and interest. The recapture period begins on the date that operational
 11 control of the aircraft is first transferred and ends on the later of the
 12 date the aircraft is fully depreciated for federal income tax purposes or
 13 five years after operational control was first transferred. For the
 14 purposes of this subsection, operational control of the aircraft must be
 15 within the meaning of federal aviation administration operations
 16 specification A008, or its successor, except that:

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

22 2. If the aircraft is sold during the recapture period, the seller
 23 is not liable for the amount determined pursuant to this subsection unless
 24 the operational control of the aircraft had not been transferred for at
 25 least fifty percent of the aircraft's flight hours at the time of the
 26 sale.

27 R. THE DEPARTMENT SHALL PRESCRIBE A FORM FOR A CERTIFICATE TO BE
 28 USED BY A PRIME CONTRACTOR THAT IS SUBJECT TO TAX UNDER SECTION 42-5075
 29 FOR PURCHASING TANGIBLE PERSONAL PROPERTY, THE PURCHASE PRICE OF WHICH WAS
 30 EXCLUDED FROM THE TAX BASE UNDER THE RETAIL CLASSIFICATION UNDER SECTION
 31 42-5061, SUBSECTION A, PARAGRAPH 27. THE PRIME CONTRACTOR SHALL OBTAIN
 32 THE CERTIFICATE FROM THE DEPARTMENT. A CERTIFICATE OBTAINED PURSUANT TO
 33 THIS SUBSECTION IS VALID FOR A PERIOD OF NOT MORE THAN ONE YEAR. AFTER
 34 THE CERTIFICATE EXPIRES, THE PRIME CONTRACTOR MAY OBTAIN A NEW
 35 CERTIFICATE.

36 Sec. 3. Section 42-5075, Arizona Revised Statutes, is amended to
 37 read:

38 42-5075. Prime contracting classification; exemptions;
 39 definitions

40 A. The prime contracting classification is comprised of the
 41 business of prime contracting and the business of manufactured building
 42 dealer. Sales for resale to another manufactured building dealer are not
 43 subject to tax. Sales for resale do not include sales to a lessor of
 44 manufactured buildings. The sale of a used manufactured building is not
 45 taxable under this chapter. The prime contracting classification does not

1 include any work or operation performed by a person that is not required
2 to be licensed by the registrar of contractors pursuant to section
3 32-1121.

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

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

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

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

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

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

38 6. The gross proceeds of sales or gross income from a contract to
39 provide for one or more of the following actions, or a contract for site
40 preparation, constructing, furnishing or installing machinery, equipment
41 or other tangible personal property, including structures necessary to
42 protect exempt incorporated materials or installed machinery or equipment,
43 and tangible personal property incorporated into the project, to perform
44 one or more of the following actions in response to a release or suspected
45 release of a hazardous substance, pollutant or contaminant from a facility

1 to the environment, unless the release was authorized by a permit issued
2 by a governmental authority:

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

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

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

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

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

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

22 7. The gross proceeds of sales or gross income that is derived from
23 a contract for the installation, assembly, repair or maintenance of
24 machinery, equipment or other tangible personal property that is either
25 deducted from the tax base of the retail classification under section
26 42-5061, subsection B or that is exempt from use tax under section
27 42-5159, subsection B and that has independent functional utility,
28 pursuant to the following provisions:

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

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

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

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

41 (b) The deduction provided in this paragraph does not include gross
42 proceeds of sales or gross income from the portion of any contracting
43 activity that consists of the development of, or modification to, real
44 property in order to facilitate the installation, assembly, repair,
45 maintenance or removal of machinery, equipment or other tangible personal

1 property that is either deducted from the tax base of the retail
2 classification under section 42-5061, subsection B or exempt from use tax
3 under section 42-5159, subsection B.

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

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

11 (i) Assembling the machinery, equipment or other tangible personal
12 property.

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

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

18 (iv) Stabilizing or protecting the machinery, equipment or other
19 tangible personal property during operation by bolting, burying or
20 performing other similar nonpermanent connections to either real property
21 or real property improvements.

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

25 (a) Section 42-5061, subsection A, paragraph 25, 29, 57 or 59.

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

27 (c) Section 42-5159, subsection A, paragraph 13, subdivision (a),
28 (b), (c), (d), (e), (f), (j), (k), (m) or (n) or paragraph 54 or 56.

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

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

34 10. The gross proceeds of sales or gross income that is derived
35 from a contract entered into with a person who is engaged in the
36 commercial production of livestock, livestock products or agricultural,
37 horticultural, viticultural or floricultural crops or products in this
38 state for the modification of any building, highway, road, excavation,
39 manufactured building or other structure, project, development or
40 improvement used directly and primarily to prevent, monitor, control or
41 reduce air, water or land pollution.

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

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

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

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

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

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

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

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

40 19. Any amount of the gross proceeds of sales or gross income
41 attributable to development fees that are incurred in relation to a
42 contract for construction, development or improvement of real property and
43 that are paid by a prime contractor or subcontractor. For the purposes of
44 this paragraph:

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

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

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

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

20 (a) "Mixed waste processing facility" means a solid waste facility
21 that is owned, operated or used for the treatment, processing or disposal
22 of solid waste, recyclable solid waste, conditionally exempt small
23 quantity generator waste or household hazardous waste. For the purposes
24 of this subdivision, "conditionally exempt small quantity generator
25 waste", "household hazardous waste" and "solid waste facility" have the
26 same meanings prescribed in section 49-701, except that solid waste
27 facility does include a site that stores, treats or processes paper,
28 glass, wood, cardboard, household textiles, scrap metal, plastic,
29 vegetative waste, aluminum, steel or other recyclable material.

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

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

35 (d) "Renewable energy" has the same meaning prescribed in section
36 41-1511.

37 C. Entitlement to the deduction pursuant to subsection B, paragraph
38 7 of this section is subject to the following provisions:

39 1. A prime contractor may establish entitlement to the deduction by
40 both:

41 (a) Marking the invoice for the transaction to indicate that the
42 gross proceeds of sales or gross income derived from the transaction was
43 deducted from the base.

1 (b) Obtaining a certificate executed by the purchaser indicating
2 the name and address of the purchaser, the precise nature of the business
3 of the purchaser, the purpose for which the purchase was made, the
4 necessary facts to establish the deductibility of the property under
5 section 42-5061, subsection B, and a certification that the person
6 executing the certificate is authorized to do so on behalf of the
7 purchaser. The certificate may be disregarded if the prime contractor has
8 reason to believe that the information contained in the certificate is not
9 accurate or complete.

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

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

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

35 D. Subcontractors or others who perform modification activities are
36 not subject to tax if they can demonstrate that the job was within the
37 control of a prime contractor or contractors or a dealership of
38 manufactured buildings and that the prime contractor or dealership is
39 liable for the tax on the gross income, gross proceeds of sales or gross
40 receipts attributable to the job and from which the subcontractors or
41 others were paid.

42 E. Amounts received by a contractor for a project are excluded from
43 the contractor's gross proceeds of sales or gross income derived from the
44 business if the person who hired the contractor executes and provides a
45 certificate to the contractor stating that the person providing the

1 certificate is a prime contractor and is liable for the tax under article
2 1 of this chapter. The department shall prescribe the form of the
3 certificate. If the contractor has reason to believe that the information
4 contained on the certificate is erroneous or incomplete, the department
5 may disregard the certificate. If the person who provides the certificate
6 is not liable for the tax as a prime contractor, that person is
7 nevertheless deemed to be the prime contractor in lieu of the contractor
8 and is subject to the tax under this section on the gross receipts or
9 gross proceeds received by the contractor. A CERTIFICATE PROVIDED TO A
10 CONTRACTOR PURSUANT TO THIS SUBSECTION IS VALID FOR A PERIOD OF NOT MORE
11 THAN ONE YEAR. AFTER THE CERTIFICATE EXPIRES, THE PERSON MAY EXECUTE AND
12 PROVIDE TO THE CONTRACTOR A NEW CERTIFICATE.

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

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

25 H. For the purposes of section 42-5032.02, from and after
26 September 30, 2013, the department shall separately account for revenues
27 reported and collected under the prime contracting classification from any
28 prime contractor engaged in the construction of any buildings and
29 associated improvements that are for the benefit of a manufacturing
30 facility. For the purposes of this subsection, "associated improvements"
31 and "manufacturing facility" have the same meanings prescribed in section
32 42-5032.02.

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

43 J. Except as provided in subsection 0 of this section, the gross
44 proceeds of sales or gross income derived from landscaping activities is
45 subject to tax under this section. Landscaping includes installing lawns,

1 grading or leveling ground, installing gravel or boulders, planting trees
2 and other plants, felling trees, removing or mulching tree stumps,
3 removing other imbedded plants, building irrigation berms, installing
4 railroad ties and installing underground sprinkler or watering systems.

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

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

17 M. The following apply in determining the taxable situs of sales of
18 manufactured buildings:

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

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

26 3. For sales in this state where the manufactured building dealer
27 contracts to deliver the building to a setup site that is outside this
28 state, the situs is outside this state and the transaction is excluded
29 from tax.

30 N. The gross proceeds of sales or gross income attributable to a
31 written contract for design phase services or professional services,
32 executed before modification begins and with terms, conditions and pricing
33 of all of these services separately stated in the contract from those for
34 construction phase services, is not subject to tax under this section,
35 regardless of whether the services are provided sequential to or
36 concurrent with prime contracting activities that are subject to tax under
37 this section. This subsection does not include the gross proceeds of
38 sales or gross income attributable to construction phase services. For
39 the purposes of this subsection:

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

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

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

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

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

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

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

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

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

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

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

34 (i) Master schedule updates.

35 (ii) Modification work cash flow projection updates.

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

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

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

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

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

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

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

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

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

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

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

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

24 (i) Labor, materials, machinery and equipment, tools, water, heat,
25 utilities, transportation and other facilities and services used in the
26 execution and completion of modification work, regardless of whether they
27 are temporary or permanent or whether they are incorporated in the
28 modifications.

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

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

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

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

39 (vi) Any bond and insurance premiums.

40 (vii) Any applicable taxes.

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

43 (f) Reviewing and evaluating cost estimates and project documents
44 to prepare recommendations on site use, site improvements, selection of
45 materials, building systems and equipment, modification feasibility,

1 availability of materials and labor, local modification activity as
2 related to schedules and time requirements for modification work.

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

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

11 0. The gross proceeds of sales or gross income derived from a
12 contract with the owner of real property or improvements to real property
13 for the maintenance, repair, replacement or alteration of existing
14 property is not subject to tax under this section if the contract does not
15 include modification activities, except as specified in this subsection.
16 The gross proceeds of sales or gross income derived from a de minimis
17 amount of modification activity does not subject the contract or any part
18 of the contract to tax under this section. For the purposes of this
19 subsection:

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

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

32 P. Notwithstanding subsection 0 of this section, a contract that
33 primarily involves surface or subsurface improvements to land and that is
34 subject to title 28, chapter 19, 20 or 22 or title 34, chapter 2 or 6 is
35 taxable under this section, even if the contract also includes vertical
36 improvements. Agencies that are subject to procurement processes under
37 those provisions shall include in the request for proposals a notice to
38 bidders when those projects are subject to this section. This subsection
39 does not apply to contracts with:

40 1. Community facilities districts, fire districts, county
41 television improvement districts, community park maintenance districts,
42 cotton pest control districts, hospital districts, pest abatement
43 districts, health service districts, agricultural improvement districts,
44 county free library districts, county jail districts, county stadium

1 districts, special health care districts, public health services
2 districts, theme park districts or revitalization districts.

3 2. Any special taxing district not specified in paragraph 1 of this
4 subsection if the district does not substantially engage in the
5 modification, maintenance, repair, replacement or alteration of surface or
6 subsurface improvements to land.

7 Q. Notwithstanding subsection R, paragraph 10 of this section, a
8 person owning real property who enters into a contract for sale of the
9 real property, who is responsible to the new owner of the property for
10 modifications made to the property in the period subsequent to the
11 transfer of title and who receives a consideration for the modifications
12 is considered a prime contractor solely for purposes of taxing the gross
13 proceeds of sale or gross income received for the modifications made
14 subsequent to the transfer of title. The original owner's gross proceeds
15 of sale or gross income received for the modifications shall be determined
16 according to the following methodology:

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

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

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

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

41 R. For the purposes of this section:

42 1. "Alteration":

43 (a) Means an activity or action that causes a direct physical
44 change to existing property AND THAT DOES NOT INCREASE THE SQUARE FOOTAGE
45 OF THE EXISTING PROPERTY. ~~For the purposes of this paragraph:~~

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

~~(b) For all existing property other than existing property described in subdivision (a) of this paragraph, this paragraph does not apply if the contract amount is more than seven hundred fifty thousand dollars.~~

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

~~(d) If a project for which the owner and the person performing the work reasonably believed, at the inception of the contract, would be treated as an alteration under this paragraph and, on completion of the project, the project exceeded the applicable threshold described in either subdivision (a) or (b) of this paragraph by no more than twenty-five percent of the applicable threshold for any reason, the work performed under the contract qualifies as an alteration.~~

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

~~(f) Alteration~~

~~(b) Does not include maintenance, repair or replacement.~~

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

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

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

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

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

4 (b) Supervises, performs or coordinates the excavation and
5 completion of site improvements or the setup of a manufactured building,
6 including the contracting, if any, with any subcontractor or specialty
7 contractor for the completion of the contract.

8 6. "Modification" means construction, grading and leveling ground,
9 wreckage, ~~or~~ demolition OR OTHER ACTIVITIES OR ACTIONS THAT INCREASE THE
10 SQUARE FOOTAGE OF THE EXISTING PROPERTY. Modification does not include:

11 (a) Any project described in subsection 0 of this section.

12 (b) Any wreckage or demolition of existing property, or any other
13 activity that is a necessary component of a project described in
14 subsection 0 of this section.

15 (c) Any mobilization or demobilization related to a project
16 described in subsection 0 of this section, such as the erection or removal
17 of temporary facilities to be used by those persons working on the
18 project.

19 7. "Modify" means to make a modification or cause a modification to
20 be made.

21 8. "Owner" means the person that holds title to the real property
22 or improvements to real property that is the subject of the work, as well
23 as an agent of the title holder and any person with the authority to
24 perform or authorize work on the real property or improvements, including
25 a tenant and a property manager. For the purposes of subsection 0 of this
26 section, a person who is hired by a general contractor that is hired by an
27 owner, or a subcontractor of a general contractor that is hired by an
28 owner, is considered to be hired by the owner.

29 9. "Prime contracting" means engaging in business as a prime
30 contractor.

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

42 11. "Replacement" means the removal from service of one component
43 or system of existing property or tangible personal property installed in
44 existing property, including machinery or equipment, and the installation
45 of a new component or system or new tangible personal property, including

1 machinery or equipment, that provides the same, a similar or an upgraded
2 design or functionality, regardless of the contract amount and regardless
3 of whether the existing component or system or existing tangible personal
4 property is physically removed from the existing property.

5 12. "Sale of a used manufactured building" does not include a lease
6 of a used manufactured building.

7 Sec. 4. Applicability

8 This act applies to contracts entered into from and after
9 December 31, 2021.

REFERENCE TITLE: online home sharing; repeal

State of Arizona
House of Representatives
Fifty-fifth Legislature
First Regular Session
2021

HB 2285

Introduced by
Representatives Lieberman: Bolding, Butler, Terán, Senator Marsh

AN ACT

REPEALING SECTIONS 5-900.39, 11-269.17, 15-1650.01 AND 42-1125.02, ARIZONA REVISED STATUTES; AMENDING SECTIONS 42-2003, 42-5005, 42-5009, 42-5010 AND 42-5014, ARIZONA REVISED STATUTES; REPEALING SECTION 42-5042, ARIZONA REVISED STATUTES; AMENDING SECTION 42-5061, AS AMENDED BY LAWS 2019, CHAPTER 273, SECTION 7 AND CHAPTER 288, SECTION 1; AMENDING SECTION 42-5061, AS AMENDED BY LAWS 2019, CHAPTER 273, SECTION 8 AND CHAPTER 288, SECTION 2; AMENDING SECTION 42-5070, ARIZONA REVISED STATUTES; REPEALING SECTION 42-5076, ARIZONA REVISED STATUTES; AMENDING SECTION 42-5159, ARIZONA REVISED STATUTES; REPEALING SECTIONS 42-6009 AND 42-6013, ARIZONA REVISED STATUTES; AMENDING SECTIONS 42-6102, 42-6108, 42-6108.01, 42-12003 AND 42-12004, ARIZONA REVISED STATUTES; REPEALING LAWS 2016, CHAPTER 208, SECTIONS 14, 15 AND 16; RELATING TO ONLINE LODGING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Repeal

3 Sections 9-500.39, 11-269.17, 15-1650.01 and 42-1125.02, Arizona
4 Revised Statutes, are repealed.

5 Sec. 2. Section 42-2003, Arizona Revised Statutes, is amended to
6 read:

7 42-2003. Authorized disclosure of confidential information

8 A. Confidential information relating to:

9 1. A taxpayer may be disclosed to the taxpayer, its successor in
10 interest or a designee of the taxpayer who is authorized in writing by the
11 taxpayer. A principal corporate officer of a parent corporation may
12 execute a written authorization for a controlled subsidiary.

13 2. A corporate taxpayer may be disclosed to any principal officer,
14 any person designated by a principal officer or any person designated in a
15 resolution by the corporate board of directors or other similar governing
16 body. If a corporate officer signs a statement under penalty of perjury
17 representing that the officer is a principal officer, the department may
18 rely on the statement until the statement is shown to be false. For the
19 purposes of this paragraph, "principal officer" includes a chief executive
20 officer, president, secretary, treasurer, vice president of tax, chief
21 financial officer, chief operating officer or chief tax officer or any
22 other corporate officer who has the authority to bind the taxpayer on
23 matters related to state taxes.

24 3. A partnership may be disclosed to any partner of the
25 partnership. This exception does not include disclosure of confidential
26 information of a particular partner unless otherwise authorized.

27 4. A limited liability company may be disclosed to any member of
28 the company or, if the company is manager-managed, to any manager.

29 5. An estate may be disclosed to the personal representative of the
30 estate and to any heir, next of kin or beneficiary under the will of the
31 decedent if the department finds that the heir, next of kin or beneficiary
32 has a material interest that will be affected by the confidential
33 information.

34 6. A trust may be disclosed to the trustee or trustees, jointly or
35 separately, and to the grantor or any beneficiary of the trust if the
36 department finds that the grantor or beneficiary has a material interest
37 that will be affected by the confidential information.

38 7. A government entity may be disclosed to the head of the entity
39 or a member of the governing board of the entity, or any employee of the
40 entity who has been delegated the authorization in writing by the head of
41 the entity or the governing board of the entity.

42 8. Any taxpayer may be disclosed if the taxpayer has waived any
43 rights to confidentiality either in writing or on the record in any
44 administrative or judicial proceeding.

1 9. The name and taxpayer identification numbers of persons issued
2 direct payment permits may be publicly disclosed.

3 10. Any taxpayer may be disclosed during a meeting or telephone
4 call if the taxpayer is present during the meeting or telephone call and
5 authorizes the disclosure of confidential information.

6 B. Confidential information may be disclosed to:

7 1. Any employee of the department whose official duties involve tax
8 administration.

9 2. The office of the attorney general solely for its use in
10 preparation for, or in an investigation that may result in, any proceeding
11 involving tax administration before the department or any other agency or
12 board of this state, or before any grand jury or any state or federal
13 court.

14 3. The department of liquor licenses and control for its use in
15 determining whether a spirituous liquor licensee has paid all transaction
16 privilege taxes and affiliated excise taxes incurred as a result of the
17 sale of spirituous liquor, as defined in section 4-101, at the licensed
18 establishment and imposed on the licensed establishments by this state and
19 its political subdivisions.

20 4. Other state tax officials whose official duties require the
21 disclosure for proper tax administration purposes if the information is
22 sought in connection with an investigation or any other proceeding
23 conducted by the official. Any disclosure is limited to information of a
24 taxpayer who is being investigated or who is a party to a proceeding
25 conducted by the official.

26 5. The following agencies, officials and organizations, if they
27 grant substantially similar privileges to the department for the type of
28 information being sought, pursuant to statute and a written agreement
29 between the department and the foreign country, agency, state, Indian
30 tribe or organization:

31 (a) The United States internal revenue service, alcohol and tobacco
32 tax and trade bureau of the United States treasury, United States bureau
33 of alcohol, tobacco, firearms and explosives of the United States
34 department of justice, United States drug enforcement agency and federal
35 bureau of investigation.

36 (b) A state tax official of another state.

37 (c) An organization of states, federation of tax administrators or
38 multistate tax commission that operates an information exchange for tax
39 administration purposes.

40 (d) An agency, official or organization of a foreign country with
41 responsibilities that are comparable to those listed in subdivision (a),
42 (b) or (c) of this paragraph.

1 (e) An agency, official or organization of an Indian tribal
2 government with responsibilities comparable to the responsibilities of the
3 agencies, officials or organizations identified in subdivision (a), (b) or
4 (c) of this paragraph.

5 6. The auditor general, in connection with any audit of the
6 department subject to the restrictions in section 42-2002, subsection D.

7 7. Any person to the extent necessary for effective tax
8 administration in connection with:

9 (a) The processing, storage, transmission, destruction and
10 reproduction of the information.

11 (b) The programming, maintenance, repair, testing and procurement
12 of equipment for purposes of tax administration.

13 (c) The collection of the taxpayer's civil liability.

14 8. The office of administrative hearings relating to taxes
15 administered by the department pursuant to section 42-1101, but the
16 department shall not disclose any confidential information without the
17 taxpayer's written consent:

18 (a) Regarding income tax or withholding tax.

19 (b) On any tax issue relating to information associated with the
20 reporting of income tax or withholding tax.

21 9. The United States treasury inspector general for tax
22 administration for the purpose of reporting a violation of internal
23 revenue code section 7213A (26 United States Code section 7213A),
24 unauthorized inspection of returns or return information.

25 10. The financial management service of the United States treasury
26 department for use in the treasury offset program.

27 11. The United States treasury department or its authorized agent
28 for use in the state income tax levy program and in the electronic federal
29 tax payment system.

30 12. The Arizona commerce authority for its use in:

31 (a) Qualifying renewable energy operations for the tax incentives
32 under section 42-12006.

33 (b) Qualifying businesses with a qualified facility for income tax
34 credits under sections 43-1083.03 and 43-1164.04.

35 (c) Fulfilling its annual reporting responsibility pursuant to
36 section 41-1511, subsections U and V and section 41-1512, subsections U
37 and V.

38 (d) Certifying computer data centers for tax relief under section
39 41-1519.

40 13. A prosecutor for purposes of section 32-1164, subsection C.

41 14. The office of the state fire marshal for use in determining
42 compliance with and enforcing title 37, chapter 9, article 5.

43 15. The department of transportation for its use in administering
44 taxes, surcharges and penalties prescribed by title 28.

1 16. The Arizona health care cost containment system administration
2 for its use in administering nursing facility provider assessments.

3 17. The department of administration risk management division and
4 the office of the attorney general if the information relates to a claim
5 against this state pursuant to section 12-821.01 involving the department
6 of revenue.

7 18. Another state agency if the taxpayer authorizes the disclosure
8 of confidential information in writing, including an authorization that is
9 part of an application form or other document submitted to the agency.

10 19. The department of economic security for its use in determining
11 whether an employer has paid all amounts due under the unemployment
12 insurance program pursuant to title 23, chapter 4.

13 20. The department of health services for its use in determining ~~if~~
14 ~~WHETHER~~ a medical marijuana dispensary is in compliance with the tax
15 requirements of ~~title 42~~, chapter 5 ~~OF THIS TITLE~~ for purposes of section
16 36-2806, subsection A.

17 C. Confidential information may be disclosed in any state or
18 federal judicial or administrative proceeding pertaining to tax
19 administration pursuant to the following conditions:

20 1. One or more of the following circumstances must apply:

21 (a) The taxpayer is a party to the proceeding.

22 (b) The proceeding arose out of, or in connection with, determining
23 the taxpayer's civil or criminal liability, or the collection of the
24 taxpayer's civil liability, with respect to any tax imposed under this
25 title or title 43.

26 (c) The treatment of an item reflected on the taxpayer's return is
27 directly related to the resolution of an issue in the proceeding.

28 (d) Return information directly relates to a transactional
29 relationship between a person who is a party to the proceeding and the
30 taxpayer and directly affects the resolution of an issue in the
31 proceeding.

32 2. Confidential information may not be disclosed under this
33 subsection if the disclosure is prohibited by section 42-2002, subsection
34 C or D.

35 D. Identity information may be disclosed for purposes of notifying
36 persons entitled to tax refunds if the department is unable to locate the
37 persons after reasonable effort.

38 E. The department, on the request of any person, shall provide the
39 names and addresses of bingo licensees as defined in section 5-401, verify
40 whether or not a person has a privilege license and number, a tobacco
41 product distributor's license and number or a withholding license and
42 number or disclose the information to be posted on the department's
43 website or otherwise publicly accessible pursuant to section 42-1124,
44 subsection F and section 42-3401.

1 F. A department employee, in connection with the official duties
2 relating to any audit, collection activity or civil or criminal
3 investigation, may disclose return information to the extent that
4 disclosure is necessary to obtain information that is not otherwise
5 reasonably available. These official duties include the correct
6 determination of and liability for tax, the amount to be collected or the
7 enforcement of other state tax revenue laws.

8 G. Confidential information relating to transaction privilege tax,
9 use tax, severance tax, jet fuel excise and use tax and any other tax
10 collected by the department on behalf of any jurisdiction may be disclosed
11 to any county, city or town tax official if the information relates to a
12 taxpayer who is or may be taxable by a county, city or town or who may be
13 subject to audit by the department pursuant to section 42-6002. Any
14 taxpayer information that is released by the department to the county,
15 city or town:

16 1. May be used only for internal purposes, including audits. ~~If~~
17 ~~there is a legitimate business need relating to enforcing laws,~~
18 ~~regulations and ordinances pursuant to section 9-500.39 or 11-269.17, a~~
19 ~~county, city or town tax official may redisclose transaction privilege tax~~
20 ~~information relating to a vacation rental or short-term rental property~~
21 ~~owner or online lodging operator from the new license report and license~~
22 ~~update report, subject to the following:~~

23 ~~(a) The information redisclosed is limited to the following:~~
24 ~~(i) The transaction privilege tax license number.~~
25 ~~(ii) The type of organization or ownership of the business.~~
26 ~~(iii) The legal business name and doing business as name, if~~
27 ~~different from the legal name.~~
28 ~~(iv) The business mailing address, tax record physical location~~
29 ~~address, telephone number, email address and fax number.~~
30 ~~(v) The date the business started in this state, the business~~
31 ~~description and the North American industry classification system code.~~
32 ~~(vi) The name, address and telephone number for each owner,~~
33 ~~partner, corporate officer, member, managing member or official of the~~
34 ~~employing unit.~~

35 ~~(b) Redisclosure is limited to nonelected officials in other units~~
36 ~~within the county, city or town. The information may not be redisclosed~~
37 ~~to an elected official or the elected official's staff.~~

38 ~~(c) All redisclosures of confidential information made pursuant to~~
39 ~~this paragraph are subject to paragraph 2 of this subsection.~~

40 2. May not be disclosed to the public in any manner that does not
41 comply with confidentiality standards established by the department. The
42 county, city or town shall agree in writing with the department that any
43 release of confidential information that violates the confidentiality
44 standards adopted by the department will result in the immediate

1 suspension of any rights of the county, city or town to receive taxpayer
2 information under this subsection.

3 H. The department may disclose statistical information gathered
4 from confidential information if it does not disclose confidential
5 information attributable to any one taxpayer. The department may disclose
6 statistical information gathered from confidential information, even if it
7 discloses confidential information attributable to a taxpayer, to:

8 1. The state treasurer in order to comply with the requirements of
9 section 42-5029, subsection A, paragraph 3.

10 2. The joint legislative income tax credit review committee, the
11 joint legislative budget committee staff and the legislative staff in
12 order to comply with the requirements of section 43-221.

13 I. The department may disclose the aggregate amounts of any tax
14 credit, tax deduction or tax exemption enacted after January 1, 1994.
15 Information subject to disclosure under this subsection shall not be
16 disclosed if a taxpayer demonstrates to the department that such
17 information would give an unfair advantage to competitors.

18 J. Except as provided in section 42-2002, subsection C,
19 confidential information, described in section 42-2001, paragraph 1,
20 subdivision (a), item (ii), may be disclosed to law enforcement agencies
21 for law enforcement purposes.

22 K. The department may provide transaction privilege tax license
23 information to property tax officials in a county for the purpose of
24 identification and verification of the tax status of commercial property.

25 L. The department may provide transaction privilege tax, luxury
26 tax, use tax, property tax and severance tax information to the
27 ombudsman-citizens aide pursuant to title 41, chapter 8, article 5.

28 M. Except as provided in section 42-2002, subsection D, a court may
29 order the department to disclose confidential information pertaining to a
30 party to an action. An order shall be made only on a showing of good
31 cause and that the party seeking the information has made demand on the
32 taxpayer for the information.

33 N. This section does not prohibit the disclosure by the department
34 of any information or documents submitted to the department by a bingo
35 licensee. Before disclosing the information, the department shall obtain
36 the name and address of the person requesting the information.

37 O. If the department is required or permitted to disclose
38 confidential information, it may charge the person or agency requesting
39 the information for the reasonable cost of its services.

40 P. Except as provided in section 42-2002, subsection D, the
41 department of revenue shall release confidential information as requested
42 by the department of economic security pursuant to section 42-1122 or
43 46-291. Information disclosed under this subsection is limited to the
44 same type of information that the United States internal revenue service

1 is authorized to disclose under section 6103(1)(6) of the internal revenue
2 code.

3 Q. Except as provided in section 42-2002, subsection D, the
4 department shall release confidential information as requested by the
5 courts and clerks of the court pursuant to section 42-1122.

6 R. To comply with the requirements of section 42-5031, the
7 department may disclose to the state treasurer, to the county stadium
8 district board of directors and to any city or town tax official that is
9 part of the county stadium district confidential information attributable
10 to a taxpayer's business activity conducted in the county stadium
11 district.

12 S. The department shall release to the attorney general
13 confidential information as requested by the attorney general for purposes
14 of determining compliance with or enforcing any of the following:

15 1. Any public health control law relating to tobacco sales as
16 provided under title 36, chapter 6, article 14.

17 2. Any law relating to reduced cigarette ignition propensity
18 standards as provided under title 37, chapter 9, article 5.

19 3. Sections 44-7101 and 44-7111, the master settlement agreement
20 referred to in those sections and all agreements regarding disputes under
21 the master settlement agreement.

22 T. For proceedings before the department, the office of
23 administrative hearings, the state board of tax appeals or any state or
24 federal court involving penalties that were assessed against a return
25 preparer, an electronic return preparer or a payroll service company
26 pursuant to section 42-1103.02, 42-1125.01 or 43-419, confidential
27 information may be disclosed only before the judge or administrative law
28 judge adjudicating the proceeding, the parties to the proceeding and the
29 parties' representatives in the proceeding prior to its introduction into
30 evidence in the proceeding. The confidential information may be
31 introduced as evidence in the proceeding only if the taxpayer's name, the
32 names of any dependents listed on the return, all social security numbers,
33 the taxpayer's address, the taxpayer's signature and any attachments
34 containing any of the foregoing information are redacted and if either:

35 1. The treatment of an item reflected on such a return is or may be
36 related to the resolution of an issue in the proceeding.

37 2. Such a return or the return information relates or may relate to
38 a transactional relationship between a person who is a party to the
39 proceeding and the taxpayer that directly affects the resolution of an
40 issue in the proceeding.

41 3. The method of payment of the taxpayer's withholding tax
42 liability or the method of filing the taxpayer's withholding tax return is
43 an issue for the period.

44 U. The department and attorney general may share the information
45 specified in subsection S of this section with any of the following:

1 1. Federal, state or local agencies located in this state for the
2 purposes of enforcement of the statutes or agreements specified in
3 subsection S of this section or for the purposes of enforcement of
4 corresponding laws of other states.

5 2. Indian tribes located in this state for the purposes of
6 enforcement of the statutes or agreements specified in subsection S of
7 this section.

8 3. A court, arbitrator, data clearinghouse or similar entity for
9 the purpose of assessing compliance with or making calculations required
10 by the master settlement agreement or agreements regarding disputes under
11 the master settlement agreement, and with counsel for the parties or
12 expert witnesses in any such proceeding, if the information otherwise
13 remains confidential.

14 V. The department may provide the name and address of qualifying
15 hospitals and qualifying health care organizations, as defined in section
16 42-5001, to a business that is classified and reporting transaction
17 privilege tax under the utilities classification.

18 W. The department may disclose to an official of any city, town or
19 county in a current agreement or considering a prospective agreement with
20 the department as described in section 42-5032.02, subsection G any
21 information relating to amounts subject to distribution that are required
22 by section 42-5032.02. Information disclosed by the department under this
23 subsection:

24 1. May only be used by the city, town or county for internal
25 purposes.

26 2. May not be disclosed to the public in any manner that does not
27 comply with confidentiality standards established by the department. The
28 city, town or county must agree with the department in writing that any
29 release of confidential information that violates the confidentiality
30 standards will result in the immediate suspension of any rights of the
31 city, town or county to receive information under this subsection.

32 ~~X. Notwithstanding any other provision of this section, the~~
33 ~~department may not disclose information provided by an online lodging~~
34 ~~marketplace, as defined in section 42-5076, without the written consent of~~
35 ~~the online lodging marketplace, and the information may be disclosed only~~
36 ~~pursuant to subsection A, paragraphs 1 through 6, 8 and 10, subsection B,~~
37 ~~paragraphs 1, 2, 7 and 8 and subsections C, D and G of this section. Such~~
38 ~~information:~~

39 ~~1. is not subject to disclosure pursuant to title 39, relating to~~
40 ~~public records.~~

41 ~~2. May not be disclosed to any agency of this state or of any~~
42 ~~county, city, town or other political subdivision of this state.~~

1 Sec. 3. Section 42-5005, Arizona Revised Statutes, is amended to
2 read:

3 42-5005. Transaction privilege tax and municipal privilege
4 tax licenses; fees; renewal; revocation;
5 violation; classification

6 A. Every person who receives gross proceeds of sales or gross
7 income on which a transaction privilege tax is imposed by this article and
8 who desires to engage or continue in business shall apply to the
9 department for an annual transaction privilege tax license accompanied by
10 a fee of \$12. A person shall not engage or continue in business until the
11 person has obtained a transaction privilege tax license.

12 B. A person desiring to engage or continue in business within a
13 city or town that imposes a municipal privilege tax shall apply to the
14 department of revenue for an annual municipal privilege tax license
15 accompanied by a fee of up to \$50, as established by ordinance of the city
16 or town. The person shall submit the fee with each new license
17 application. The person may not engage or continue in business until the
18 person has obtained a municipal privilege tax license. The department
19 must collect, hold, pay and manage the fees in trust for the city or town
20 and may not use the monies for any other purposes. The fee imposed by
21 this subsection does not apply to a marketplace facilitator or remote
22 seller that is only required to obtain a transaction privilege tax license
23 pursuant to section 42-5043.

24 C. A transaction privilege tax license is valid only for the
25 calendar year in which it is issued, but it may be renewed for the
26 following calendar year. There is no fee for the renewal of the
27 transaction privilege tax license. The transaction privilege tax license
28 must be renewed at the same time and in the manner as the municipal
29 privilege tax license renewal.

30 D. A municipal privilege tax license is valid only for the calendar
31 year in which it is issued, but it may be renewed for the following
32 calendar year by the payment of a license renewal fee of up to \$50. The
33 renewal fee is due and payable on January 1 and is considered delinquent
34 if not received on or before the last business day of January. The
35 department must collect, hold, pay and manage the fees in trust for the
36 city or town and may not use the monies for any other purposes. The
37 renewal fee imposed by this subsection does not apply to a marketplace
38 facilitator or remote seller that is only required to obtain a transaction
39 privilege tax license pursuant to section 42-5043.

40 E. A licensee that remains in business after the municipal
41 privilege tax license has expired is subject to the payment of the license
42 renewal fee and the civil penalty prescribed in section 42-1125,
43 subsection R.

44 F. If the applicant is not in arrears in payment of any tax imposed
45 by this article, the department shall issue a license authorizing the

1 applicant to engage and continue in business on the condition that the
2 applicant complies with this article. The license number shall be
3 continuous.

4 G. The transaction privilege tax license and the municipal
5 privilege tax license are not transferable on a complete change of
6 ownership or change of location of the business. For the purposes of this
7 subsection:

8 1. "Location" means the business address appearing in the
9 application for the license and on the transaction privilege tax or
10 municipal privilege tax license.

11 2. "Ownership" means any right, title or interest in the business.

12 3. "Transferable" means the ability to convey or change the right
13 or privilege to engage or continue in business by virtue of the issuance
14 of the transaction privilege tax or municipal privilege tax license.

15 H. When the ownership or location of a business on which a
16 transaction privilege tax or municipal privilege tax is imposed has been
17 changed within the meaning of subsection G of this section, the licensee
18 shall surrender the license to the department. The license shall be
19 reissued to the new owners or for the new location on application by the
20 taxpayer and payment of the \$12 fee for a transaction privilege tax
21 license and a fee of up to \$50 per jurisdiction for a municipal privilege
22 tax license. The department must collect, hold, pay and manage the fees
23 in trust for the city or town and may not use the monies for any other
24 purposes.

25 I. A person who is engaged in or conducting a business in two or
26 more locations or under two or more business names shall procure a
27 transaction privilege tax license for each location or business name
28 regardless of whether all locations or business names are reported on a
29 consolidated return under a single transaction privilege tax license
30 number. This requirement shall not be construed as conflicting with
31 section 42-5020.

32 J. A person who is engaged in or conducting a business in two or
33 more locations or under two or more business names shall procure a
34 municipal privilege tax license for each location or business name
35 regardless of whether all locations or business names are reported on a
36 consolidated return.

37 K. A person who is engaged in or conducting business at two or more
38 locations or under two or more business names and who files a consolidated
39 return under a single transaction privilege tax license number as provided
40 by section 42-5020 is required to pay only a single municipal privilege
41 tax license renewal fee for each local jurisdiction pursuant to subsection
42 D of this section. A person who is engaged in or conducting business at
43 two or more locations or under two or more business names and who does not
44 file a consolidated return under a single license number is required to

1 pay a license renewal fee for each location or license in a local
2 jurisdiction.

3 ~~L. For the purposes of this chapter and chapter 6 of this title:~~

4 ~~1. Through December 31, 2018, an online lodging marketplace, as~~
5 ~~defined in section 42-5076, may register with the department for a license~~
6 ~~for the payment of taxes levied by this state and one or more counties,~~
7 ~~cities, towns or special taxing districts, at the election of the online~~
8 ~~lodging marketplace, for taxes due from an online lodging operator on any~~
9 ~~online lodging transaction facilitated by the online lodging marketplace,~~
10 ~~subject to sections 42-5076 and 42-6009.~~

11 ~~2. Beginning from and after December 31, 2018, an online lodging~~
12 ~~marketplace, as defined in section 42-5076, shall register with the~~
13 ~~department for a license for the payment of taxes levied by this state and~~
14 ~~one or more counties, cities, towns or special taxing districts for taxes~~
15 ~~due from an online lodging operator on any online lodging transaction~~
16 ~~facilitated by the online lodging marketplace, subject to sections 42-5076~~
17 ~~and 42-6009.~~

18 ~~M. For the purposes of this chapter and chapter 6 of this title, a~~
19 ~~person who is licensed pursuant to title 32, chapter 20 and who files an~~
20 ~~electronic consolidated tax return for individual real properties under~~
21 ~~management on behalf of the property owners may be licensed with the~~
22 ~~department for the payment of taxes levied by this state and by any~~
23 ~~county, city or town with respect to those properties. There is no fee~~
24 ~~for a license issued pursuant to this subsection.~~

25 ~~N.~~ L. If a person violates this article or any rule adopted under
26 this article, the department ~~upon~~ ON hearing may revoke any transaction
27 privilege tax or municipal privilege tax license issued to the
28 person. The department shall provide ten days' written notice of the
29 hearing, stating the time and place and requiring the person to appear and
30 show cause why the license or licenses should not be revoked. The
31 department shall provide written notice to the person of the revocation of
32 the license. The notices may be served personally or by mail pursuant to
33 section 42-5037. After revocation, the department shall not issue a new
34 license to the person unless the person presents evidence satisfactory to
35 the department that the person will comply with this article and with the
36 rules adopted under this article. The department may prescribe the terms
37 under which a revoked license may be reissued.

38 ~~O.~~ M. The department may revoke any transaction privilege tax or
39 municipal privilege tax license issued to any person who fails for
40 thirteen consecutive months to make and file a return required by this
41 article on or before the due date or the due date as extended by the
42 department unless the failure is due to a reasonable cause and not due to
43 wilful neglect.

44 ~~P.~~ N. A person who violates any provision of this section is
45 guilty of a class 3 misdemeanor.

1 Sec. 4. Section 42-5009, Arizona Revised Statutes, is amended to
2 read:

3 42-5009. Certificates establishing deductions; liability for
4 making false certificate

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

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

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

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

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

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

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

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

31 G. If a seller claims a deduction under section 42-5061,
32 subsection A, paragraph 25 and establishes entitlement to the deduction
33 with an exemption letter that the purchaser received from the department
34 and the exemption letter was based on a contingent event, the department
35 may require the purchaser that received the exemption letter to establish
36 the satisfaction of the contingent event within a reasonable time. If the
37 purchaser cannot establish the satisfaction of the event, the purchaser is
38 liable in an amount equal to any tax, penalty and interest that the seller
39 would have been required to pay under this article if the seller had not
40 been furnished the exemption letter. Payment of the amount under this
41 subsection exempts the purchaser 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 purposes of section 42-5029. For the purposes of this subsection,

"reasonable time" means a time limitation that the department determines and that does not exceed the time limitations pursuant to section 42-1104.

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

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

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

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

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

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

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

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

4 L. The department shall prescribe a form for a certificate to be
5 used by a person that is not subject to tax under section 42-5075 when the
6 person is engaged by a contractor that is subject to tax under section
7 42-5075 for a project that is taxable under section 42-5075. The
8 certificate permits the person purchasing tangible personal property to be
9 incorporated or fabricated by the person into any real property,
10 structure, project, development or improvement to provide documentation to
11 a retailer that the sale of tangible personal property qualifies for the
12 deduction under section 42-5061, subsection A, paragraph 27,
13 subdivision (b). A prime contractor shall obtain the certificate from the
14 department and shall provide a copy to any such person working on the
15 project. The prime contractor shall obtain a new certificate for each
16 project to which this subsection applies. For the purposes of this
17 subsection, the following apply:

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

22 2. The department shall issue the certificate to the prime
23 contractor on receiving sufficient documentation to establish that the
24 prime contractor meets the requirements of this subsection.

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

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

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

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

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

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

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

15 ~~P. Notwithstanding any other law, an online lodging operator, as~~
16 ~~defined in section 42-5076, shall be entitled to an exclusion from any~~
17 ~~applicable taxes for any online lodging transaction, as defined in section~~
18 ~~42-5076, facilitated by an online lodging marketplace, as defined in~~
19 ~~section 42-5076, for which the online lodging operator has obtained from~~
20 ~~the online lodging marketplace written notice that the online lodging~~
21 ~~marketplace is registered with the department to collect applicable taxes~~
22 ~~for all online lodging transactions facilitated by the online lodging~~
23 ~~marketplace, and transaction history documenting tax collected by the~~
24 ~~online lodging marketplace, pursuant to section 42-5005, subsection L.~~

25 ~~Q.~~ P. The department shall prescribe the form of a certificate to
26 be used by a person purchasing an aircraft to document eligibility for a
27 deduction pursuant to section 42-5061, subsection B, paragraph 7,
28 subdivision (a), item (v) or an exemption pursuant to section 42-5159,
29 subsection B, paragraph 7, subdivision (a), item (v), relating to
30 aircraft. The person must provide this certificate and documentation
31 confirming that the operational control of the aircraft has been
32 transferred or will be transferred immediately after the purchase to one
33 or more persons described in section 42-5061, subsection B, paragraph 7,
34 subdivision (a), item (i), (ii), (iii) or (iv) or section 42-5159,
35 subsection B, paragraph 7, subdivision (a), item (i), (ii), (iii) or (iv).
36 Operational control of the aircraft must be transferred for at least fifty
37 percent of the aircraft's flight hours. If such operational control is
38 not transferred for at least fifty percent of the aircraft's flight hours
39 during the recapture period, the owner of the aircraft is liable for an
40 amount equal to any tax that the seller or purchaser would have been
41 required to pay under this chapter at the time of the sale, plus penalty
42 and interest. The recapture period begins on the date that operational
43 control of the aircraft is first transferred and ends on the later of the
44 date the aircraft is fully depreciated for federal income tax purposes or
45 five years after operational control was first transferred. For the

purposes of this subsection, operational control of the aircraft must be within the meaning of federal aviation administration operations specification A008, or its successor, except that:

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

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

Sec. 5. Section 42-5010, Arizona Revised Statutes, is amended to read:

42-5010. Rates; distribution base

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

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

(a) Transporting classification.

(b) Utilities classification.

(c) Telecommunications classification.

(d) Pipeline classification.

(e) Private car line classification.

(f) Publication classification.

(g) Job printing classification.

(h) Prime contracting classification.

(i) Amusement classification.

(j) Restaurant classification.

(k) Personal property rental classification.

(l) Retail classification and amounts equal to retail transaction privilege tax due pursuant to section 42-5008.01.

2. Five and one-half percent of the tax base as computed for the business of every person engaging or continuing in this state in:

~~(a) the transient lodging classification described in section 42-5070.~~

~~(b) The online lodging marketplace classification described in section 42-5076 who has entered into an agreement with the department to register for, or has otherwise obtained from the department, a license to collect tax pursuant to section 42-5005, subsection L.~~

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

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

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

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

15 D. Thirty-two percent of the tax revenues collected from persons on
16 account of engaging in business under the business classification listed
17 in subsection A, paragraph 3 of this section is designated as distribution
18 base for purposes of section 42-5029.

19 E. Fifty-three and one-third percent of the tax revenues collected
20 from persons on account of engaging in business under the business
21 classification listed in subsection A, paragraph 4 of this section is
22 designated as distribution base for purposes of section 42-5029.

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

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

42 H. Any increase in the rate of tax that is imposed by this chapter
43 and that is enacted by the legislature or by a vote of the people does not
44 apply with respect to contracts entered into by prime contractors or
45 pursuant to written bids made by prime contractors on or before the

effective date of the legislation or the date of the election enacting the increase. To qualify for the exemption under this subsection, the prime contractor must maintain sufficient documentation, in a manner and form prescribed by the department, to verify the date of the contract or written bid.

I. For taxpayers taxable under this chapter other than prime contractors taxable pursuant to section 42-5075:

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

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

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

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

Sec. 6. Section 42-5014, Arizona Revised Statutes, is amended to read:

42-5014. Return and payment of tax; estimated tax; extensions; abatements

A. Except as provided in subsection B, C, ~~OR D, E or F~~ of this section, the taxes levied under this article:

1. Are due and payable monthly in the form required by section 42-5018 for the amount of the tax, to the department, on or before the twentieth day of the month next succeeding the month in which the tax accrues.

2. Are delinquent as follows:

(a) For taxpayers that are required or elect to file and pay electronically in any month, if not received by the department on or before the last business day of the month.

(b) For all other taxpayers, if not received by the department on or before the business day preceding the last business day of the month.

B. The department, for any taxpayer whose estimated annual liability for taxes imposed or administered by this article or chapter 6 of this title is between \$2,000 and \$8,000, shall authorize the taxpayer to pay the taxes on a quarterly basis. The department, for any taxpayer whose estimated annual liability for taxes imposed by this article is less than \$2,000, shall authorize the taxpayer to pay the taxes on an annual basis. For the purposes of this subsection, the taxes due under this article:

1. For taxpayers that are authorized to pay on a quarterly basis, are due and payable monthly in the form required by section 42-5018 for the amount of the tax, to the department, on or before the twentieth day of the month next succeeding the quarter in which the tax accrues.

2. For taxpayers that are authorized to pay on an annual basis, are due and payable monthly in the form required by section 42-5018 for the amount of the tax, to the department, on or before the twentieth day of January next succeeding the year in which the tax accrues.

3. Are delinquent as follows:

(a) For taxpayers that are required or elect to file and pay electronically in any quarter, if not received by the department on or before the last business day of the month.

(b) For all other taxpayers that are required to file and pay quarterly, if not received by the department on or before the business day preceding the last business day of the month.

(c) For taxpayers that are required or elect to file and pay electronically on an annual basis, if not received by the department on or before the last business day of January.

(d) For all other taxpayers that are required to file and pay annually, if not received by the department on or before the business day preceding the last business day of January.

C. The department may require a taxpayer whose business is of a transient character to file the return and remit the taxes imposed by this article on a daily, a weekly or a transaction-by-transaction basis, and those returns and payments are due and payable on the date fixed by the department without a grace period otherwise allowed by this section. For the purposes of this subsection, "business of a transient character" means sales activity by a taxpayer not regularly engaged in selling within this state that is conducted from vehicles, portable stands, rented spaces, structures or booths, or concessions at fairs, carnivals, circuses, festivals or similar activities for not more than thirty consecutive days.

1 D. If the business entity under which a taxpayer reports and pays
 2 income tax under title 43 has an annual total tax liability under this
 3 article, article 6 of this chapter and chapter 6, article 3 of this title
 4 of \$1,000,000 or more in 2019, \$1,600,000 or more in 2020, \$2,300,000 or
 5 more in 2021, \$3,100,000 or more in 2022, or \$4,100,000 or more in 2023
 6 and each year thereafter, based on the actual tax liability in the
 7 preceding calendar year, regardless of the number of offices at which the
 8 taxes imposed by this article, article 6 of this chapter or chapter 6,
 9 article 3 of this title are collected, or if the taxpayer can reasonably
 10 anticipate such liability in the current year, the taxpayer shall report
 11 on a form prescribed by the department and pay an estimated tax payment
 12 each June. Any other taxpayer may voluntarily elect to pay the estimated
 13 tax payment pursuant to this subsection. The payment shall be made on or
 14 before June 20 in the same manner as the taxpayer is required to make
 15 regular payments and is delinquent if not received by the department on or
 16 before the last business day of June if the taxpayer is required to make
 17 the payment by electronic means, ~~or~~ IS delinquent on or before the
 18 business day preceding the last business day of June for those taxpayers
 19 allowed to file by mail, ~~or~~ IS delinquent if not received by the
 20 department on the business day preceding the last business day of June for
 21 those taxpayers allowed to file in person. The estimated tax paid shall
 22 be credited against the taxpayer's tax liability under this article,
 23 article 6 of this chapter and chapter 6, article 3 of this title for the
 24 month of June for the current calendar year. The estimated tax payment
 25 shall equal either:

26 1. One-half of the actual tax liability under this article plus
 27 one-half of any tax liability under article 6 of this chapter and chapter
 28 6, article 3 of this title for May of the current calendar year.

29 2. The actual tax liability under this article plus any tax
 30 liability under article 6 of this chapter and chapter 6, article 3 of this
 31 title for the first fifteen days of June of the current calendar year.

32 ~~E. An online lodging marketplace, as defined in section 42-5076,~~
 33 ~~that is registered with the department pursuant to section 42-5005,~~
 34 ~~subsection L:~~

35 ~~1. Shall remit to the department the applicable taxes payable~~
 36 ~~pursuant to section 42-5076 and chapter 6 of this title with respect to~~
 37 ~~each online lodging transaction, as defined in section 42-5076,~~
 38 ~~facilitated by the online lodging marketplace.~~

39 ~~2. Shall report the taxes monthly and remit the aggregate total~~
 40 ~~amounts for each of the respective taxing jurisdictions.~~

41 ~~3. Shall not be required to list or otherwise identify any~~
 42 ~~individual online lodging operator, as defined in section 42-5076, on any~~
 43 ~~return or any attachment to a return.~~

~~F. A person who is licensed pursuant to title 32, chapter 20 and who is licensed with the department pursuant to section 42-5005, subsection M shall:~~

~~1. File a consolidated return monthly with respect to all managed properties for which the licensee files an electronic consolidated tax return pursuant to section 42-6013.~~

~~2. Remit to the department the aggregate total amount of the applicable taxes payable pursuant to this chapter and chapter 6 of this title for all of the respective taxing jurisdictions with respect to the managed properties.~~

~~G.~~ E. The taxpayer shall prepare a return showing the amount of the tax for which the taxpayer is liable for the preceding month, and shall mail or deliver the return to the department in the same manner and time as prescribed for the payment of taxes in subsection A of this section. If the taxpayer fails to file the return in the manner and time as prescribed for the payment of taxes in subsection A of this section, the amount of the tax required to be shown on the return is subject to the penalty imposed pursuant to section 42-1125, subsection X, without any reduction for taxes paid on or before the due date of the return. The return shall be verified by the oath of the taxpayer or an authorized agent or as prescribed by the department pursuant to section 42-1105, subsection B.

~~H.~~ F. Any person who is taxable under this article and who makes cash and credit sales shall report the cash and credit sales separately and may apply for and obtain from the department an extension of time to pay taxes due on the credit sales. The department shall grant the extension under such rules as the department prescribes. When the extension is granted, the taxpayer shall thereafter include in each monthly report all collections made on such credit sales during the month next preceding and shall pay the taxes due at the time of filing such a report.

~~I.~~ G. The returns required under this article shall be made on forms prescribed by the department and shall capture data with sufficient specificity to meet the needs of all taxing jurisdictions.

~~J.~~ H. Any person who is engaged in or conducting business in two or more locations or under two or more business names shall file the return required under this article using an electronic filing program established by the department.

~~K.~~ I. For taxable periods beginning from and after December 31, 2017, any taxpayer with an annual total tax liability under this chapter and chapter 6 of this title of \$20,000 or more, based on the actual tax liability in the preceding calendar year, regardless of the number of offices at which the taxes imposed by this chapter or chapter 6 of this title are collected, or a taxpayer that can reasonably anticipate that

1 liability in the current year, shall file the return required under this
2 article using an electronic filing program established by the department.

3 ~~I.~~ J. For taxable periods beginning from and after December 31,
4 2018, any taxpayer with an annual total tax liability under this chapter
5 and chapter 6 of this title of \$10,000 or more, based on the actual tax
6 liability in the preceding calendar year, regardless of the number of
7 offices at which the taxes imposed by this chapter or chapter 6 of this
8 title are collected, or a taxpayer that can reasonably anticipate that
9 liability in the current year, shall file the return required under this
10 article using an electronic filing program established by the department.

11 ~~M.~~ K. For taxable periods beginning from and after December 31,
12 2019, any taxpayer with an annual total tax liability under this chapter
13 and chapter 6 of this title of \$5,000 or more, based on the actual tax
14 liability in the preceding calendar year, regardless of the number of
15 offices at which the taxes imposed by this chapter or chapter 6 of this
16 title are collected, or a taxpayer that can reasonably anticipate that
17 liability in the current year, shall file the return required under this
18 article using an electronic filing program established by the department.

19 ~~N.~~ L. For taxable periods beginning from and after December 31,
20 2020, any taxpayer with an annual total tax liability under this chapter
21 and chapter 6 of this title of \$500 or more, based on the actual tax
22 liability in the preceding calendar year, regardless of the number of
23 offices at which the taxes imposed by this chapter or chapter 6 of this
24 title are collected, or a taxpayer that can reasonably anticipate that
25 liability in the current year, shall file the return required under this
26 article using an electronic filing program established by the department.

27 ~~O.~~ M. Any taxpayer that is required to report and pay using an
28 electronic filing program established by the department may apply to the
29 director, on a form prescribed by the department, for an annual waiver
30 from the electronic filing requirement. The director may grant a waiver,
31 which may be renewed, if any of the following applies:

- 32 1. The taxpayer has no computer.
- 33 2. The taxpayer has no internet access.
- 34 3. Any other circumstance considered to be worthy by the director
- 35 exists.

36 ~~P.~~ N. A waiver is not required if the return cannot be
37 electronically filed for reasons beyond the taxpayer's control, including
38 situations in which the taxpayer was instructed by either the internal
39 revenue service or the department of revenue to file by paper.

40 ~~Q.~~ O. The department, for good cause, may extend the time for
41 making any return required by this article and may grant such reasonable
42 additional time within which to make the return as it deems proper, but
43 the time for filing the return shall not be extended beyond the first day
44 of the third month next succeeding the regular due date of the return.

~~R.~~ P. The department, with the approval of the attorney general, may abate small tax balances if the administration costs exceed the amount of tax due.

~~S.~~ Q. For the purposes of subsection D of this section, "taxpayer" means the business entity under which the business reports and pays state income taxes regardless of the number of offices at which the taxes imposed by this article, article 6 of this chapter or chapter 6, article 3 of this title are collected.

Sec. 7. Repeal

Section 42-5042, Arizona Revised Statutes, is repealed.

Sec. 8. Section 42-5061, Arizona Revised Statutes, as amended by Laws 2019, chapter 273, section 7 and chapter 288, section 1, is amended to read:

42-5061. Retail classification: definitions

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

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

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

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

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

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

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

7. The sale of stocks and bonds.

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

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

10. Insulin, insulin syringes and glucose test strips.

1 11. Prescription eyeglasses or contact lenses.

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

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

10 14. Sales of motor vehicles to nonresidents of this state for use
11 outside this state if the motor vehicle dealer ships or delivers the motor
12 vehicle to a destination out of this state.

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

15 16. Items purchased with United States department of agriculture
16 coupons issued under the supplemental nutrition assistance program
17 pursuant to the food and nutrition act of 2008 (P.L. 88-525; 78 Stat. 703;
18 7 United States Code sections 2011 through 2036b) by the United States
19 department of agriculture food and nutrition service or food instruments
20 issued under section 17 of the child nutrition act (P.L. 95-627; 92
21 Stat. 3603; P.L. 99-661, section 4302; P.L. 111-296; 42 United States Code
22 section 1786).

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

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

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

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

36 21. The sale of cash equivalents and the sale of precious metal
37 bullion and monetized bullion to the ultimate consumer, but the sale of
38 coins or other forms of money for manufacture into jewelry or works of art
39 is subject to the tax and the gross proceeds of sales or gross income
40 derived from the redemption of any cash equivalent by the holder as a
41 means of payment for goods or services that are taxable under this article
42 is subject to the tax. For the purposes of this paragraph:

43 (a) "Cash equivalents" means items or intangibles, whether or not
44 negotiable, that are sold to one or more persons, through which a value
45 denominated in money is purchased in advance and may be redeemed in full

1 or in part for tangible personal property, intangibles or services. Cash
2 equivalents include gift cards, stored value cards, gift certificates,
3 vouchers, traveler's checks, money orders or other instruments, orders or
4 electronic mechanisms, such as an electronic code, personal identification
5 number or digital payment mechanism, or any other prepaid intangible right
6 to acquire tangible personal property, intangibles or services in the
7 future, whether from the seller of the cash equivalent or from another
8 person. Cash equivalents do not include either of the following:

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

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

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

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

20 22. Motor vehicle fuel and use fuel that are subject to a tax
21 imposed under title 28, chapter 16, article 1, sales of use fuel to a
22 holder of a valid single trip use fuel tax permit issued under section
23 28-5739, sales of aviation fuel that are subject to the tax imposed under
24 section 28-8344 and sales of jet fuel that are subject to the tax imposed
25 under article 8 of this chapter.

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

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

33 25. Tangible personal property sold to:

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

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

39 (c) A qualifying health care organization as defined in section
40 42-5001 if the organization is dedicated to providing educational,
41 therapeutic, rehabilitative and family medical education training for
42 blind and visually impaired children and children with multiple
43 disabilities from the time of birth to age twenty-one.

44 (d) A qualifying community health center as defined in section
45 42-5001.

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

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

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

(h) Any person representing or working on behalf of another person described in subdivisions (a) through (g) of this paragraph if the tangible personal property is incorporated or fabricated into a project described in section 42-5075, subsection 0.

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

27. Tangible personal property sold to:

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

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

(ii) Incorporated or fabricated by the person into any project described in section 42-5075, subsection 0.

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

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

28. The sale of a motor vehicle to:

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

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

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

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

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

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

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

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

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

44 34. Machinery, equipment, technology or related supplies that are
45 only useful to assist a person with a physical disability as defined in

1 section 46-191 or a person who has a developmental disability as defined
2 in section 36-551 or has a head injury as defined in section 41-3201 to be
3 more independent and functional.

4 35. Sales of natural gas or liquefied petroleum gas used to propel
5 a motor vehicle.

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

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

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

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

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

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

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

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

12 42. Sales of:

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

15 (b) Livestock and poultry feed, salts, vitamins and other additives
16 for livestock or poultry consumption that are sold to persons for use or
17 consumption by their own livestock or poultry, for use or consumption in
18 the businesses of farming, ranching and producing or feeding livestock,
19 poultry, or livestock or poultry products or for use or consumption in
20 noncommercial boarding of livestock. For the purposes of this paragraph,
21 "poultry" includes ratites.

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

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

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

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

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

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

1 (b) Electronic or digital media materials, beginning July 17, 1994.
2 48. Tangible personal property sold to a commercial airline and
3 consisting of food, beverages and condiments and accessories used for
4 serving the food and beverages, if those items are to be provided without
5 additional charge to passengers for consumption in flight. For the
6 purposes of this paragraph, "commercial airline" means a person holding a
7 federal certificate of public convenience and necessity or foreign air
8 carrier permit for air transportation to transport persons, property or
9 United States mail in intrastate, interstate or foreign commerce.
10 49. Sales of alternative fuel vehicles if the vehicle was
11 manufactured as a diesel fuel vehicle and converted to operate on
12 alternative fuel and equipment that is installed in a conventional diesel
13 fuel motor vehicle to convert the vehicle to operate on an alternative
14 fuel, as defined in section 1-215.
15 50. Sales of any spirituous, vinous or malt liquor by a person that
16 is licensed in this state as a wholesaler by the department of liquor
17 licenses and control pursuant to title 4, chapter 2, article 1.
18 51. Sales of tangible personal property to be incorporated or
19 installed as part of environmental response or remediation activities
20 under section 42-5075, subsection B, paragraph 6.
21 52. Sales of tangible personal property by a nonprofit organization
22 that is exempt from taxation under section 501(c)(6) of the internal
23 revenue code if the organization produces, organizes or promotes cultural
24 or civic related festivals or events and no part of the organization's net
25 earnings inures to the benefit of any private shareholder or individual.
26 53. Application services that are designed to assess or test
27 student learning or to promote curriculum design or enhancement purchased
28 by or for any school district, charter school, community college or state
29 university. For the purposes of this paragraph:
30 (a) "Application services" means software applications provided
31 remotely using hypertext transfer protocol or another network protocol.
32 (b) "Curriculum design or enhancement" means planning, implementing
33 or reporting on courses of study, lessons, assignments or other learning
34 activities.
35 54. Sales of motor vehicle fuel and use fuel to a qualified
36 business under section 41-1516 for off-road use in harvesting, processing
37 or transporting qualifying forest products removed from qualifying
38 projects as defined in section 41-1516.
39 55. Sales of repair parts installed in equipment used directly by a
40 qualified business under section 41-1516 in harvesting, processing or
41 transporting qualifying forest products removed from qualifying projects
42 as defined in section 41-1516.
43 56. Sales or other transfers of renewable energy credits or any
44 other unit created to track energy derived from renewable energy
45 resources. For the purposes of this paragraph, "renewable energy credit"

1 means a unit created administratively by the corporation commission or
2 governing body of a public power utility to track kilowatt hours of
3 electricity derived from a renewable energy resource or the kilowatt hour
4 equivalent of conventional energy resources displaced by distributed
5 renewable energy resources.

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

14 58. Orthodontic devices dispensed by a dental professional who is
15 licensed under title 32, chapter 11 to a patient as part of the practice
16 of dentistry.

17 59. Sales of tangible personal property incorporated or fabricated
18 into a project described in section 42-5075, subsection 0, that is located
19 within the exterior boundaries of an Indian reservation for which the
20 owner, as defined in section 42-5075, of the project is an Indian tribe or
21 an affiliated Indian. For the purposes of this paragraph:

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

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

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

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

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

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

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

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

14 3. Tangible personal property sold to persons engaged in business
15 classified under the telecommunications classification, including a person
16 representing or working on behalf of such a person in a manner described
17 in section 42-5075, subsection 0, and consisting of central office
18 switching equipment, switchboards, private branch exchange equipment,
19 microwave radio equipment and carrier equipment including optical fiber,
20 coaxial cable and other transmission media that are components of carrier
21 systems.

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

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

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

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

37 (a) A person:

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

42 (ii) That is certificated or licensed under federal aviation
43 administration regulations (14 Code of Federal Regulations part 121 or
44 135) as a scheduled or unscheduled carrier of persons for hire for use as

1 or in conjunction with or becoming part of an aircraft to be used to
2 transport persons for hire in intrastate, interstate or foreign commerce.

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

7 (iv) Operating an aircraft to transport persons in any manner for
8 compensation or hire, or for use in a fractional ownership program that
9 meets the requirements of federal aviation administration regulations (14
10 Code of Federal Regulations part 91, subpart K), including as an air
11 carrier, a foreign air carrier or a commercial operator or under a
12 restricted category, within the meaning of 14 Code of Federal Regulations,
13 regardless of whether the operation or aircraft is regulated or certified
14 under part 91, 119, 121, 133, 135, 136 or 137, or another part of 14 Code
15 of Federal Regulations.

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

21 (b) Any foreign government.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40 (ii) Over two-thirds of the transmissions, measured in megabytes,
41 transmitted by or on behalf of those direct broadcast television or data
42 transmission services during the test period were transmitted by the
43 facility to or on behalf of those services. For the purposes of
44 subdivision (b) of this paragraph, "test period" means the three hundred
45 sixty-five day period beginning on the later of the date on which the

1 tangible personal property is purchased or the date on which the direct
2 broadcast satellite television or data transmission service first
3 transmits information to its customers.

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

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

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

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

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

36 19. Machinery and equipment that are sold to a person engaged in
37 the commercial production of livestock, livestock products or
38 agricultural, horticultural, viticultural or floricultural crops or
39 products in this state, including a person representing or working on
40 behalf of such a person in a manner described in section 42-5075,
41 subsection 0, if the machinery and equipment are used directly and
42 primarily to prevent, monitor, control or reduce air, water or land
43 pollution.

44 20. Machinery or equipment that enables a television station to
45 originate and broadcast or to receive and broadcast digital television

1 signals and that was purchased to facilitate compliance with the
2 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United
3 States Code section 336) and the federal communications commission order
4 issued April 21, 1997 (47 Code of Federal Regulations part 73). This
5 paragraph does not exempt any of the following:

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

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

11 (c) Any machinery or equipment purchased after the television
12 station has ceased analog broadcasting, or purchased after November 1,
13 2009, whichever occurs first.

14 21. Qualifying equipment that is purchased from and after June 30,
15 2004 through June 30, 2024 by a qualified business under section 41-1516
16 for harvesting or processing qualifying forest products removed from
17 qualifying projects as defined in section 41-1516. To qualify for this
18 deduction, the qualified business at the time of purchase must present its
19 certification approved by the department.

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

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

26 2. Janitorial equipment and hand tools.

27 3. Office equipment, furniture and supplies.

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

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

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

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

38 8. Machinery and equipment or other tangible personal property used
39 by a contractor in the performance of a contract.

40 D. In addition to the deductions from the tax base prescribed by
41 subsection A of this section, there shall be deducted from the tax base
42 the gross proceeds of sales or gross income derived from sales of
43 machinery, equipment, materials and other tangible personal property used
44 directly and predominantly to construct a qualified environmental
45 technology manufacturing, producing or processing facility as described in

1 section 41-1514.02. This subsection applies for ten full consecutive
2 calendar or fiscal years after the start of initial construction.

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

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

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

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

27 1. Agricultural producers who are owners, proprietors or tenants of
28 agricultural lands, orchards, farms or gardens where agricultural products
29 are grown, raised or prepared for market and who are marketing their own
30 agricultural products.

31 2. Businesses classified under the:

- 32 (a) Transporting classification.
- 33 (b) Utilities classification.
- 34 (c) Telecommunications classification.
- 35 (d) Pipeline classification.
- 36 (e) Private car line classification.
- 37 (f) Publication classification.
- 38 (g) Job printing classification.
- 39 (h) Prime contracting classification.
- 40 (i) Restaurant classification.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 V. For the purposes of this section:

24 1. "Agricultural aircraft" means an aircraft that is built for
25 agricultural use for the aerial application of pesticides or fertilizer or
26 for aerial seeding.

27 2. "Aircraft" includes:

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

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

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

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

43 W. For the purposes of subsection I of this section:

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

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

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

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

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

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

29 Sec. 9. Section 42-5061, Arizona Revised Statutes, as amended by
30 Laws 2019, chapter 273, section 8 and chapter 288, section 2, is amended
31 to read:

32 42-5061. Retail classification; definitions

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

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

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

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

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

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

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

10 7. The sale of stocks and bonds.

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

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

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

19 11. Prescription eyeglasses or contact lenses.

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

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

28 14. Sales of motor vehicles to nonresidents of this state for use
29 outside this state if the motor vehicle dealer ships or delivers the motor
30 vehicle to a destination out of this state.

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

33 16. Items purchased with United States department of agriculture
34 coupons issued under the supplemental nutrition assistance program
35 pursuant to the food and nutrition act of 2008 (P.L. 88-525; 78 Stat. 703;
36 7 United States Code sections 2011 through 2036b) by the United States
37 department of agriculture food and nutrition service or food instruments
38 issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat.
39 3603; P.L. 99-661, section 4302; P.L. 111-296; 42 United States Code
40 section 1786).

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

43 18. Food and drink to a person that is engaged in a business that
44 is classified under the restaurant classification and that provides such

1 food and drink without monetary charge to its employees for their own
2 consumption on the premises during the employees' hours of employment.

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

8 20. Lottery tickets or shares pursuant to title 5, chapter 5.1,
9 article 1.

10 21. The sale of cash equivalents and the sale of precious metal
11 bullion and monetized bullion to the ultimate consumer, but the sale of
12 coins or other forms of money for manufacture into jewelry or works of art
13 is subject to the tax and the gross proceeds of sales or gross income
14 derived from the redemption of any cash equivalent by the holder as a
15 means of payment for goods or services that are taxable under this article
16 is subject to the tax. For the purposes of this paragraph:

17 (a) "Cash equivalents" means items or intangibles, whether or not
18 negotiable, that are sold to one or more persons, through which a value
19 denominated in money is purchased in advance and may be redeemed in full
20 or in part for tangible personal property, intangibles or services. Cash
21 equivalents include gift cards, stored value cards, gift certificates,
22 vouchers, traveler's checks, money orders or other instruments, orders or
23 electronic mechanisms, such as an electronic code, personal identification
24 number or digital payment mechanism, or any other prepaid intangible right
25 to acquire tangible personal property, intangibles or services in the
26 future, whether from the seller of the cash equivalent or from another
27 person. Cash equivalents do not include either of the following:

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

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

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

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

39 22. Motor vehicle fuel and use fuel that are subject to a tax
40 imposed under title 28, chapter 16, article 1, sales of use fuel to a
41 holder of a valid single trip use fuel tax permit issued under section
42 28-5739, sales of aviation fuel that are subject to the tax imposed under
43 section 28-8344 and sales of jet fuel that are subject to the tax imposed
44 under article 8 of this chapter.

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

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

8 25. Tangible personal property sold to:

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

10 (b) A qualifying health care organization as defined in section
11 42-5001 if the tangible personal property is used by the organization
12 solely to provide health and medical related educational and charitable
13 services.

14 (c) A qualifying health care organization as defined in section
15 42-5001 if the organization is dedicated to providing educational,
16 therapeutic, rehabilitative and family medical education training for
17 blind and visually impaired children and children with multiple
18 disabilities from the time of birth to age twenty-one.

19 (d) A qualifying community health center as defined in section
20 42-5001.

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

24 (f) 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 (g) A qualifying health sciences educational institution as defined
33 in section 42-5001.

34 (h) Any person representing or working on behalf of another person
35 described in subdivisions (a) through (g) of this paragraph if the
36 tangible personal property is incorporated or fabricated into a project
37 described in section 42-5075, subsection 0.

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

40 27. Tangible personal property sold to:

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

1 (i) Incorporated or fabricated by the person into any real
2 property, structure, project, development or improvement as part of the
3 business.

4 (ii) Incorporated or fabricated by the person into any project
5 described in section 42-5075, subsection 0.

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

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

13 28. The sale of a motor vehicle to:

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

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

21 29. Tangible personal property purchased in this state by a
22 nonprofit charitable organization that has qualified under section
23 501(c)(3) of the United States internal revenue code and that engages in
24 and uses such property exclusively in programs for persons with mental or
25 physical disabilities if the programs are exclusively for training, job
26 placement, rehabilitation or testing.

27 30. Sales of tangible personal property by a nonprofit organization
28 that is exempt from taxation under section 501(c)(3), 501(c)(4) or
29 501(c)(6) of the internal revenue code if the organization is associated
30 with a major league baseball team or a national touring professional
31 golfing association and no part of the organization's net earnings inures
32 to the benefit of any private shareholder or individual. This paragraph
33 does not apply to an organization that is owned, managed or controlled, in
34 whole or in part, by a major league baseball team, or its owners,
35 officers, employees or agents, or by a major league baseball association
36 or professional golfing association, or its owners, officers, employees or
37 agents, unless the organization conducted or operated exhibition events in
38 this state before January 1, 2018 that were exempt from taxation under
39 section 42-5073.

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

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

7 33. Sales of propagative materials to persons who use those items
8 to commercially produce agricultural, horticultural, viticultural or
9 floricultural crops in this state. For the purposes of this paragraph,
10 "propagative materials":

11 (a) Includes seeds, seedlings, roots, bulbs, liners, transplants,
12 cuttings, soil and plant additives, agricultural minerals, auxiliary soil
13 and plant substances, micronutrients, fertilizers, insecticides,
14 herbicides, fungicides, soil fumigants, desiccants, rodenticides,
15 adjuvants, plant nutrients and plant growth regulators.

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

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

25 35. Sales of natural gas or liquefied petroleum gas used to propel
26 a motor vehicle.

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

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

41 38. Sales of liquid, solid or gaseous chemicals used in
42 manufacturing, processing, fabricating, mining, refining, metallurgical
43 operations, research and development and, beginning on January 1, 1999,
44 printing, if using or consuming the chemicals, alone or as part of an
45 integrated system of chemicals, involves direct contact with the materials

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

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

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

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

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

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

32 42. Sales of:

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

35 (b) Livestock and poultry feed, salts, vitamins and other additives
 36 for livestock or poultry consumption that are sold to persons for use or
 37 consumption by their own livestock or poultry, for use or consumption in
 38 the businesses of farming, ranching and producing or feeding livestock,
 39 poultry, or livestock or poultry products or for use or consumption in
 40 noncommercial boarding of livestock. For the purposes of this paragraph,
 41 "poultry" includes ratites.

42 43. Sales of implants used as growth promotants and injectable
 43 medicines, not already exempt under paragraph 8 of this subsection, for
 44 livestock or poultry owned by or in possession of persons who are engaged
 45 in producing livestock, poultry, or livestock or poultry products or who

1 are engaged in feeding livestock or poultry commercially. For the
2 purposes of this paragraph, "poultry" includes ratites.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

59. Sales of tangible personal property incorporated or fabricated into a project described in section 42-5075, subsection 0, that is located within the exterior boundaries of an Indian reservation for which the owner, as defined in section 42-5075, of the project is an Indian tribe or an affiliated Indian. For the purposes of this paragraph:

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

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

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

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

61. Sales of coal.

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

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

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

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

3. Tangible personal property sold to persons engaged in business classified under the telecommunications classification, including a person representing or working on behalf of such a person in a manner described in section 42-5075, subsection 0, and consisting of central office switching equipment, switchboards, private branch exchange equipment, microwave radio equipment and carrier equipment including optical fiber, coaxial cable and other transmission media that are components of carrier systems.

4. Machinery, equipment or transmission lines used directly in producing or transmitting electrical power, but not including

1 distribution. Transformers and control equipment used at transmission
2 substation sites constitute equipment used in producing or transmitting
3 electrical power.

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

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

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

14 (a) A person:

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

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

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

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

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

42 (b) Any foreign government.

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

1 incorporated in this state, regardless of maintaining a place of business
2 in this state, if the principal corporate office is located outside this
3 state and the property will not be used in this state other than in
4 removing the property from this state.

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

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

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

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

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

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

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

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

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

1 computer software research that is not included in the definition of
2 research and development, or other nontechnological activities or
3 technical services.

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

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

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

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

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

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

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

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

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

42 17. Machinery and equipment used directly in the feeding of
43 poultry, the environmental control of housing for poultry, the movement of
44 eggs within a production and packaging facility or the sorting or cooling

1 of eggs. This exemption does not apply to vehicles used for transporting
2 eggs.

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

13 19. Machinery and equipment that are sold to a person engaged in
14 the commercial production of livestock, livestock products or
15 agricultural, horticultural, viticultural or floricultural crops or
16 products in this state, including a person representing or working on
17 behalf of such a person in a manner described in section 42-5075,
18 subsection 0, if the machinery and equipment are used directly and
19 primarily to prevent, monitor, control or reduce air, water or land
20 pollution.

21 20. 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 21. Qualifying equipment that is purchased from and after June 30,
37 2004 through June 30, 2024 by a qualified business under section 41-1516
38 for harvesting or processing qualifying forest products removed from
39 qualifying projects as defined in section 41-1516. To qualify for this
40 deduction, the qualified business at the time of purchase must present its
41 certification approved by the department.

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

44 1. Expendable materials. For the purposes of this paragraph,
45 expendable materials do not include any of the categories of tangible

1 personal property specified in subsection B of this section regardless of
2 the cost or useful life of that property.

3 2. Janitorial equipment and hand tools.

4 3. Office equipment, furniture and supplies.

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

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

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

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

15 8. Machinery and equipment or other tangible personal property used
16 by a contractor in the performance of a contract.

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

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

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

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

42 H. A person who engages in manufacturing, baling, crating, boxing,
43 barreling, canning, bottling, sacking, preserving, processing or otherwise
44 preparing for sale or commercial use any livestock, agricultural or
45 horticultural product or any other product, article, substance or

commodity and who sells the product of such business at retail in this state is deemed, as to such sales, to be engaged in business classified under the retail classification. This subsection does not apply to:

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

2. Businesses classified under the:

(a) Transporting classification.

(b) Utilities classification.

(c) Telecommunications classification.

(d) Pipeline classification.

(e) Private car line classification.

(f) Publication classification.

(g) Job printing classification.

(h) Prime contracting classification.

(i) Restaurant classification.

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

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

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

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

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

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

K. The department shall require every person claiming a deduction provided by subsection I or J of this section to file on forms prescribed by the department at such times as the department directs a sworn

statement disclosing the name of the purchaser and the exact amount of sales on which the exclusion or deduction is claimed.

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

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

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

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

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

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

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

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

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

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

R. If a seller is entitled to a deduction pursuant to subsection B, paragraph 15, subdivision (b) of this section, the department may require the purchaser to establish that the requirements of subsection B, paragraph 15, subdivision (b) of this section have been satisfied. If the purchaser cannot establish that the requirements of subsection B, paragraph 15, subdivision (b) of this section have been satisfied, the purchaser is liable in an amount equal to any tax, penalty and interest

that the seller would have been required to pay under article 1 of this chapter if the seller had not made a deduction pursuant to subsection B, paragraph 15, subdivision (b) of this section. Payment of the amount under this subsection exempts the purchaser from liability for any tax imposed under article 4 of this chapter and related to the tangible personal property purchased. The amount shall be treated as transaction privilege tax to the purchaser and as tax revenues collected from the seller to designate the distribution base pursuant to section 42-5029.

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

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

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

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

U. For the purposes of this section:

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

2. "Aircraft" includes:

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

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

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

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

7 V. For the purposes of subsection I of this section:

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

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

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

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

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

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

36 Sec. 10. Section 42-5070, Arizona Revised Statutes, is amended to
37 read:

38 42-5070. Transient lodging classification; definition

39 A. The transient lodging classification is comprised of the
40 business of operating, for occupancy by transients, a hotel or motel,
41 including an inn, tourist home or house, dude ranch, resort, campground,
42 studio or bachelor hotel, lodging house, rooming house, apartment house,
43 dormitory, public or private club, mobile home or house trailer at a fixed
44 location or other similar structure, and also including a space, lot or

1 slab that is occupied or intended or designed for occupancy by transients
2 in a mobile home or house trailer furnished by them for such occupancy.

3 B. The transient lodging classification does not include:

4 1. Operating a convalescent home or facility, home for the aged,
5 hospital, jail, military installation or fraternity or sorority house or
6 operating any structure exclusively by an association, institution,
7 governmental agency or corporation for religious, charitable or
8 educational purposes, if no part of the net earnings of the association,
9 corporation or other entity inures to the benefit of any private
10 shareholder or individual.

11 2. A lease or rental of a mobile home or house trailer at a fixed
12 location or any other similar structure, and also including a space, lot
13 or slab that is occupied or intended or designed for occupancy by
14 transients in a mobile home or house trailer furnished by them for such
15 occupancy for thirty or more consecutive days.

16 3. Leasing or renting four or fewer rooms of an owner-occupied
17 residential home, together with furnishing ~~no~~ NOT more than a breakfast
18 meal, to transient lodgers at ~~no~~ NOT more than a fifty percent average
19 annual occupancy rate.

20 ~~4. The activities of any online lodging marketplace, as defined in~~
21 ~~section 42-5076.~~

22 C. The tax base for the transient lodging classification is the
23 gross proceeds of sales or gross income derived from the business, except
24 that the tax base does not include:—

25 ~~1.~~ the gross proceeds of sales or gross income derived from
26 business activity that is properly included in another business
27 classification under this article and that is taxable to the person
28 engaged in that business classification, but the gross proceeds of sales
29 or gross income to be deducted shall not exceed the consideration paid to
30 the person conducting the activity.

31 ~~2. The gross proceeds or gross income received by an online lodging~~
32 ~~operator, as defined in section 42-5076, from any online lodging~~
33 ~~transactions, as defined in section 42-5076, for which the online lodging~~
34 ~~operator has received documentation from a registered online lodging~~
35 ~~marketplace, as defined in section 42-5076, pursuant to section 42-5009,~~
36 ~~subsection P that the online lodging marketplace has remitted or will~~
37 ~~remit the applicable tax to the department pursuant to section 42-5014,~~
38 ~~subsection E.~~

39 D. For the purposes of this section, the tax base for the transient
40 lodging classification does not include gross proceeds of sales or gross
41 income derived from:

42 1. Transactions or activities that are not limited to transients
43 and that would not be taxable if engaged in by a person not subject to tax
44 under this article.

2. Transactions or activities that are not limited to transients and that would not be taxable if engaged in by a person subject to taxation under section 42-5062 or 42-5073 due to an exclusion, exemption or deduction.

3. Commissions paid to a person that is engaged in transient lodging business subject to taxation under this section by a person providing services or property to the customers of the person engaging in the transient lodging business.

E. The department shall separately account for revenues collected under the transient lodging classification for the purposes of section 42-5029, subsection D, paragraph 4, subdivision (b).

F. For the purposes of this section, "transient" means any person who either at the person's own expense or at the expense of another obtains lodging space or the use of lodging space on a daily or weekly basis, or on any other basis for less than thirty consecutive days.

Sec. 11. Repeal

Section 42-5076, Arizona Revised Statutes, is repealed.

Sec. 12. Section 42-5159, Arizona Revised Statutes, is amended to read:

42-5159. Exemptions

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

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

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

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

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

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

1 this state is subject to the tax imposed under section 28-8344, and jet
2 fuel, the sales, distribution or use of which in this state is subject to
3 the tax imposed under article 8 of this chapter.

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

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

15 8. Purchases of:

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

18 (b) Livestock and poultry feed, salts, vitamins and other additives
19 sold to persons for use or consumption in the businesses of farming,
20 ranching and producing or feeding livestock or poultry or for use or
21 consumption in noncommercial boarding of livestock. For the purposes of
22 this paragraph, "poultry" includes ratites.

23 9. Propagative materials for use in commercially producing
24 agricultural, horticultural, viticultural or floricultural crops in this
25 state. For the purposes of this paragraph, "propagative materials":
26

27 (a) Includes seeds, seedlings, roots, bulbs, liners, transplants,
28 cuttings, soil and plant additives, agricultural minerals, auxiliary soil
29 and plant substances, micronutrients, fertilizers, insecticides,
30 herbicides, fungicides, soil fumigants, desiccants, rodenticides,
31 adjuvants, plant nutrients and plant growth regulators.

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

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

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

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

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

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

3 13. Tangible personal property purchased by:

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

7 (b) A hospital operated by this state or a political subdivision of
8 this state.

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

14 (d) A qualifying health care organization, as defined in section
15 42-5001, if the tangible personal property is used by the organization
16 solely to provide health and medical related educational and charitable
17 services.

18 (e) A qualifying health care organization as defined in section
19 42-5001 if the organization is dedicated to providing educational,
20 therapeutic, rehabilitative and family medical education training for
21 blind and visually impaired children and children with multiple
22 disabilities from the time of birth to age twenty-one.

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

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

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

35 (ii) Incorporated or fabricated by the person into any project
36 described in section 42-5075, subsection 0.

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

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

44 (i) A nonprofit charitable organization that has qualified under
45 section 501(c)(3) of the internal revenue code if the property is

1 purchased from the parent or an affiliate organization that is located
2 outside this state.

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

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

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

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

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

23 (o) A person representing or working on behalf of any person
24 described in subdivision (a), (b), (c), (d), (e), (f), (i), (j), (k), (m)
25 or (n) of this paragraph, if the tangible personal property is
26 incorporated or fabricated into a project described in section 42-5075,
27 subsection 0.

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

33 15. Tangible personal property sold by:

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

37 (b) A nonprofit organization that is exempt from taxation under
38 section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if
39 the organization is associated with a major league baseball team or a
40 national touring professional golfing association and no part of the
41 organization's net earnings inures to the benefit of any private
42 shareholder or individual. This subdivision does not apply to an
43 organization that is owned, managed or controlled, in whole or in part, by
44 a major league baseball team, or its owners, officers, employees or
45 agents, or by a major league baseball association or professional golfing

1 association, or its owners, officers, employees or agents, unless the
2 organization conducted or operated exhibition events in this state before
3 January 1, 2018 that were exempt from transaction privilege tax under
4 section 42-5073.

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

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

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

19 18. Prescription eyeglasses and contact lenses.

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

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

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

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

31 23. Items purchased with United States department of agriculture
32 coupons issued under the supplemental nutrition assistance program
33 pursuant to the food and nutrition act of 2008 (P.L. 88-525; 78 Stat. 703;
34 7 United States Code sections 2011 through 2036b) by the United States
35 department of agriculture food and nutrition service or food instruments
36 issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat.
37 3603; P.L. 99-661, section 4302; P.L. 111-296; 42 United States Code
38 section 1786).

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

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

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

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

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

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

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

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

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

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

30 (b) Public educational institutions.

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

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

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

41 35. Liquid, solid or gaseous chemicals used in manufacturing,
42 processing, fabricating, mining, refining, metallurgical operations,
43 research and development and, beginning on January 1, 1999, printing, if
44 using or consuming the chemicals, alone or as part of an integrated system
45 of chemicals, involves direct contact with the materials from which the

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

9 36. Food, drink and condiment purchased 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 37. 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 ~~who~~ THAT is subject to a fee prescribed in title 28, chapter
16 16, article 4 and ~~who~~ THAT is engaged in the business of leasing or
17 renting such property.

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

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

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

35 (b) "Subcontract" means an agreement between a contractor and any
36 person who is not an employee of the contractor for furnishing of supplies
37 or services that, in whole or in part, are necessary to the performance of
38 one or more government contracts, or under which any portion of the
39 contractor's obligation under one or more government contracts is
40 performed, undertaken or assumed, and that includes provisions causing
41 title to overhead materials or other tangible personal property used in
42 the performance of the subcontract to pass to the government or that
43 includes provisions incorporating such title passing clauses in a
44 government contract into the subcontract.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

55. Coal acquired from an owner or operator of a power plant by a person who is responsible for refining coal if both of the following apply:

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

(b) The title or possession of the coal is transferred back to the owner or operator of the power plant after completion of the coal refining process. For the purposes of this subdivision, "coal refining process"

means the application of a coal additive system that aids the reduction of power plant emissions during the combustion of coal and the treatment of flue gas.

56. Tangible personal property incorporated or fabricated into a project described in section 42-5075, subsection 0, that is located within the exterior boundaries of an Indian reservation for which the owner, as defined in section 42-5075, of the project is an Indian tribe or an affiliated Indian. For the purposes of this paragraph:

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

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

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

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

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

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

(ii) Prepaid calling cards for telecommunications services.

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

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

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

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

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

3. Tangible personal property sold to persons engaged in business classified under the telecommunications classification under section 42-5064, including a person representing or working on behalf of such a person in a manner described in section 42-5075, subsection 0, and consisting of central office switching equipment, switchboards, private branch exchange equipment, microwave radio equipment and carrier equipment including optical fiber, coaxial cable and other transmission media that are components of carrier systems.

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

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

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

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

(a) A person:

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

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

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

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

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

(b) Any foreign government.

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

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

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

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

11. Buses or other urban mass transit vehicles that are used directly to transport persons or property for hire or pursuant to a governmentally adopted and controlled urban mass transportation program and that are sold to bus companies holding a federal certificate of convenience and necessity or operated by any city, town or other

1 governmental entity or by any person contracting with such governmental
2 entity as part of a governmentally adopted and controlled program to
3 provide urban mass transportation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19. Machinery and equipment that are used in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state, including production by a person representing or working on behalf

1 of such a person in a manner described in section 42-5075, subsection 0,
2 if the machinery and equipment are used directly and primarily to prevent,
3 monitor, control or reduce air, water or land pollution.

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

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

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

16 (c) Any machinery or equipment purchased after the television
17 station has ceased analog broadcasting, or purchased after November 1,
18 2009, whichever occurs first.

19 21. Qualifying equipment that is purchased from and after June 30,
20 2004 through June 30, 2024 by a qualified business under section 41-1516
21 for harvesting or processing qualifying forest products removed from
22 qualifying projects as defined in section 41-1516. To qualify for this
23 exemption, the qualified business must obtain and present its
24 certification from the Arizona commerce authority at the time of purchase.

25 22. Machinery, equipment, materials and other tangible personal
26 property used directly and predominantly to construct a qualified
27 environmental technology manufacturing, producing or processing facility
28 as described in section 41-1514.02. This paragraph applies for ten full
29 consecutive calendar or fiscal years after the start of initial
30 construction.

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

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

37 2. Janitorial equipment and hand tools.

38 3. Office equipment, furniture and supplies.

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

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

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

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

4 8. Machinery and equipment or tangible personal property used by a
5 contractor in the performance of a contract.

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

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

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

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

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

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

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

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

37 1. A qualified manufacturing or smelting business. A utility that
38 claims this deduction shall report each month, on a form prescribed by the
39 department, the name and address of each qualified manufacturing or
40 smelting business for which this deduction is taken. This paragraph
41 applies to gas transportation services. For the purposes of this
42 paragraph:

43 (a) "Gas transportation services" means the services of
44 transporting natural gas to a natural gas customer or to a natural gas

1 distribution facility if the natural gas was purchased from a supplier
2 other than the utility.

3 (b) "Manufacturing" means the performance as a business of an
4 integrated series of operations that places tangible personal property in
5 a form, composition or character different from that in which it was
6 acquired and transforms it into a different product with a distinctive
7 name, character or use. Manufacturing does not include job printing,
8 publishing, packaging, mining, generating electricity or operating a
9 restaurant.

10 (c) "Qualified manufacturing or smelting business" means one of the
11 following:

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

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

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

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

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

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

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

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

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

42 1. "Agricultural aircraft" means an aircraft that is built for
43 agricultural use for the aerial application of pesticides or fertilizer or
44 for aerial seeding.

45 2. "Aircraft" includes:

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

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

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

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

Sec. 13. Repeal

Sections 42-6009 and 42-6013, Arizona Revised Statutes, are repealed.

Sec. 14. Section 42-6102, Arizona Revised Statutes, is amended to read:

42-6102. Administration: exception

A. Unless the context otherwise requires, chapter 5, article 1 of this title governs the administration of the taxes imposed by this article, except that:

1. A separate license is not required for the taxes imposed by this article, and the taxes due under this article shall be included, reported and paid with the transaction privilege tax.

2. A separate bond is not required of employees of the department in administering this article.

3. The taxes imposed by this article may be included without segregation in any notice and lien filed for unpaid transaction privilege taxes.

B. The taxes imposed pursuant to this article do not apply to the gross proceeds of sales or gross income derived pursuant to contracts entered into before the date of the election to authorize the tax by prime contractors ~~and owner builders~~ who are classified under ~~sections~~ SECTION 42-5075 ~~and 42-5076~~ unless the contract contains a provision ~~which~~ THAT entitles the contractor to recover the amount of the tax from a purchaser. In order to qualify for this exemption the contractor shall provide sufficient documentation, in a manner and form prescribed by the department, to verify that a contract was entered into before the date of the election to authorize the tax.

Sec. 15. Section 42-6108, Arizona Revised Statutes, is amended to read:

42-6108. Tax on hotels

A. The board of supervisors of a county having a population of less than two million five hundred thousand but more than five hundred thousand

persons may levy and, if levied, the department shall collect a tax on the gross proceeds of sales or gross income from the business of every person engaging or continuing in the county in a business taxed under chapter 5 of this title and classified under section 42-5070 ~~or 42-5076~~. The tax shall be levied under this section beginning January 1 or July 1, whichever date first occurs at least three months after the county resolution approving the tax levy. The rate of tax shall not exceed six ~~per cent~~ PERCENT.

B. The tax only applies in unincorporated areas of the county.

C. At the end of each month the state treasurer shall transmit the net revenues collected pursuant to this section to the treasurer of the county levying the tax. The county shall use:

1. Not more than thirty-four percent of these revenues for the purposes set forth in section 48-4204, subsection A, as financial participation by the county as required by that subsection.

2. Not more than sixteen percent of these revenues for the purposes of economic development under section 11-254.04. Any increase in tax imposed under this section shall not constitute a new tax for the purposes of section 11-254.04, subsection B.

3. All remaining revenues to promote and enhance tourism through the recognized tourism promotion agency in the county.

Sec. 16. Section 42-6108.01, Arizona Revised Statutes, is amended to read:

42-6108.01. Tax on hotels

A. The qualified electors residing in a county having a population of less than two million but more than five hundred thousand persons, by majority vote at an election held in the county, may levy and, if levied, the department of revenue shall collect a tax on the gross proceeds of sales or gross income from the business of every person engaging or continuing in a business taxed under chapter 5 of this title and classified under section 42-5070 ~~or 42-5076~~ within the county. A tax under this section:

1. Is in addition to taxes imposed by chapter 5 of this title and section 42-6108 and any tax imposed by a city or town in the county.

2. Applies in both incorporated and unincorporated areas of the county.

B. If levied, the tax shall be levied under this section beginning on the first day of the first month beginning ninety days after the election to levy the tax. The tax shall be in effect for thirty years. The tax may be extended by majority vote of the qualified electors residing in the county at an election held in the county for a period of not more than ten years.

C. The rate of the tax is one ~~per cent~~ PERCENT of the tax base prescribed by section 42-5070 ~~or 42-5076~~.

1 D. Each month the state treasurer shall credit the net revenues
2 collected pursuant to this section to the tourism fund established by
3 section 41-2306.

4 Sec. 17. Section 42-12003, Arizona Revised Statutes, is amended to
5 read:

6 42-12003. Class three property; definition

7 A. For purposes of taxation, class three is established consisting
8 of:

9 1. Real and personal property and improvements to the property that
10 are used as the owner's primary residence, that are not otherwise included
11 in class one, two, four, six, seven or eight and that are valued at full
12 cash value.

13 2. Real and personal property that is occupied by a relative of the
14 owner, as provided by section 42-12053, and used as the relative's primary
15 residence, that is not otherwise included in class one, two, four, six,
16 seven or eight and that is valued at full cash value.

17 ~~3. Real and personal property that is owned and occupied as the~~
18 ~~primary residence of the owner who also uses the property for lease or~~
19 ~~rent to lodgers.~~

20 B. For the purposes of this section, a homesite that is included in
21 class three may include:

22 1. Up to ten acres on a single parcel of real property on which the
23 residential improvement is located.

24 2. More than ten, but not more than forty, acres on a single parcel
25 of real property on which the residential improvement is located if it is
26 zoned exclusively for residential purposes or contains legal restrictions
27 or physical conditions that prevent the division of the parcel.

28 C. For the purposes of this section, "physical conditions" means
29 topography, mountains, washes, rivers, roads or any other configuration
30 that limits the residential usable land area.

31 Sec. 18. Section 42-12004, Arizona Revised Statutes, is amended to
32 read:

33 42-12004. Class four property

34 A. For purposes of taxation, class four is established consisting
35 of:

36 1. Real and personal property and improvements to the property that
37 are used for residential purposes, including residential property that is
38 owned in foreclosure by a financial institution, that is not otherwise
39 included in another classification and that is valued at full cash value.
40 The homesite that is included in class four may include:

41 (a) Up to ten acres on a single parcel of real property on which
42 the residential improvement is located.

(b) More than ten, but not more than forty, acres on a single parcel of real property on which the residential improvement is located if it is zoned exclusively for residential purposes or contains legal restrictions or physical conditions that prevent the division of the parcel. For the purposes of this subdivision, "physical conditions" means topography, mountains, washes, rivers, roads or any other configuration that limits the residential usable land area.

2. Real and personal property and improvements to the property that are used solely as leased or rented property for residential purposes, that are not included in class one, two, three, six, seven or eight and that are valued at full cash value.

3. Child care facilities that are licensed under title 36, chapter 7.1 and that are valued at full cash value.

4. Real and personal property and improvements to property that are used to operate nonprofit residential housing facilities that are structured to house or care for persons with disabilities or who are sixty-two years of age or older and that are valued at full cash value.

5. Real and personal property and improvements that are used to operate licensed residential care institutions or licensed nursing care institutions that provide medical services, nursing services or ~~health~~ ~~related~~ HEALTH-RELATED services and that are structured to house or care for persons with disabilities or who are sixty-two years of age or older and that are valued at full cash value.

6. Real and personal property consisting of ~~no~~ NOT more than eight rooms of residential property that are leased or rented to transient lodgers, together with furnishing ~~no~~ NOT more than a breakfast meal, by the owner who resides on the property and that is valued at full cash value.

7. Real and personal property consisting of residential dwellings that are maintained for occupancy by agricultural employees as a condition of employment or as a convenience to the employer, that is not included in class three and that is valued at full cash value. The land associated with these dwellings shall be valued as agricultural land pursuant to chapter 13, article 3 of this title.

8. Real property and improvements to property constituting common areas that are valued pursuant to chapter 13, article 9 of this title.

9. Real and personal property that is defined as timeshare property by section 32-2197 and valued pursuant to chapter 13, article 10 of this title, except for any property used for commercial, industrial or transient occupancy purposes and included in class one to the extent of that use.

~~10. Real and personal property and improvements that are used for residential purposes, that are leased or rented to lodgers, except for:~~

~~(a) Property occupied by the owner of the property as the owner's primary residence and included in class three.~~

1 ~~(b) Property used for commercial purposes and included in class~~
2 ~~one.~~

3 B. Subsection A, paragraphs 4 and 5 of this section ~~shall not be~~
4 ~~construed to~~ DO NOT limit eligibility for exemption from taxation under
5 chapter 11, article 3 of this title.

6 Sec. 19. Repeal

7 Laws 2016, chapter 208, sections 14, 15 and 16 are repealed.

8 Sec. 20. Conditional enactment

9 Section 42-5061, Arizona Revised Statutes, as amended by Laws 2019,
10 chapter 273, section 8, chapter 288, section 2 and this act, becomes
11 effective on the date prescribed by Laws 2018, chapter 263, section 5 but
12 only on the occurrence of the condition prescribed by Laws 2018, chapter
13 263, section 5.

REFERENCE TITLE: municipalities; counties; law enforcement budgets

State of Arizona
House of Representatives
Fifty-fifth Legislature
First Regular Session
2021

HB 2310

Introduced by
Representatives Roberts: Barton, Biasiucci, Blackman, Bolick, Bowers,
Burges, Carroll, Chaplik, Cobb, Dunn, Fillmore, Finchem, Grantham,
Griffin, Hoffman, Kaiser, Kavanagh, Nguyen, Nutt, Osborne, Parker, Payne,
Pingerelli, Toma, Wilmeth

AN ACT

AMENDING TITLE 41, CHAPTER 1, ARTICLE 5, ARIZONA REVISED STATUTES, BY
ADDING SECTION 41-194.02; AMENDING SECTIONS 42-5029 AND 43-206, ARIZONA
REVISED STATUTES; RELATING TO THE ATTORNEY GENERAL.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 41, chapter 1, article 5, Arizona Revised
3 Statutes, is amended by adding section 41-194.02, to read:

4 41-194.02. Law enforcement agency budgets; attorney general
5 investigation; report; withholding of state
6 shared revenues; applicability; definition

7 A. AT THE REQUEST OF ONE OR MORE MEMBERS OF THE LEGISLATURE, THE
8 ATTORNEY GENERAL SHALL INVESTIGATE ANY ORDER OR OTHER OFFICIAL ACTION
9 ADOPTED OR TAKEN BY THE GOVERNING BODY OF A COUNTY, CITY OR TOWN THAT
10 REDUCES A LAW ENFORCEMENT AGENCY'S BUDGET BY AT LEAST TEN PERCENT BELOW
11 THE PREVIOUS YEAR'S BUDGET.

12 B. THE ATTORNEY GENERAL SHALL MAKE A WRITTEN REPORT OF FINDINGS AND
13 CONCLUSIONS AS A RESULT OF THE INVESTIGATION WITHIN THIRTY DAYS AFTER
14 RECEIPT OF THE REQUEST AND SHALL PROVIDE A COPY OF THE REPORT TO THE
15 GOVERNOR, THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE OF
16 REPRESENTATIVES AND THE MEMBER OR MEMBERS OF THE LEGISLATURE MAKING THE
17 ORIGINAL REQUEST. IF THE ATTORNEY GENERAL CONCLUDES THAT THE ORDER OR
18 OTHER ACTION UNDER INVESTIGATION HAS RESULTED IN A REDUCTION TO THE LAW
19 ENFORCEMENT AGENCY'S BUDGET OF AT LEAST TEN PERCENT BELOW THE PREVIOUS
20 YEAR'S BUDGET, THE ATTORNEY GENERAL SHALL PROVIDE NOTICE TO THE COUNTY,
21 CITY OR TOWN, BY CERTIFIED MAIL, OF THE ATTORNEY GENERAL'S CONCLUSION AND
22 SHALL INDICATE THAT THE COUNTY, CITY OR TOWN HAS THIRTY DAYS TO RESTORE
23 THE BUDGET REDUCTION. IF THE ATTORNEY GENERAL DETERMINES THAT THE COUNTY,
24 CITY OR TOWN HAS FAILED TO RESTORE THE BUDGET REDUCTION WITHIN THIRTY
25 DAYS, THE ATTORNEY GENERAL SHALL:

26 1. NOTIFY THE STATE TREASURER WHO SHALL WITHHOLD AND REDISTRIBUTE
27 STATE SHARED MONIES IN AN AMOUNT EQUAL TO THE REDUCTION OF THE LAW
28 ENFORCEMENT AGENCY'S BUDGET FROM THE COUNTY, CITY OR TOWN AS PROVIDED BY
29 SECTION 42-5029, SUBSECTION M AND FROM THE CITY OR TOWN AS PROVIDED BY
30 SECTION 43-206, SUBSECTION G.

31 2. CONTINUE TO MONITOR THE RESPONSE OF THE GOVERNING BODY, AND WHEN
32 THE REDUCTION TO THE LAW ENFORCEMENT AGENCY'S BUDGET HAS BEEN RESTORED,
33 THE ATTORNEY GENERAL SHALL NOTIFY:

34 (a) THE GOVERNOR, THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE
35 HOUSE OF REPRESENTATIVES AND THE MEMBER OR MEMBERS OF THE LEGISLATURE
36 MAKING THE ORIGINAL REQUEST THAT REDUCTION TO THE LAW ENFORCEMENT AGENCY'S
37 BUDGET HAS BEEN RESTORED.

38 (b) THE STATE TREASURER TO RESTORE THE DISTRIBUTION OF STATE SHARED
39 REVENUES TO THE COUNTY, CITY OR TOWN.

40 C. THIS SECTION DOES NOT APPLY IF A COUNTY, CITY OR TOWN HAS
41 REDUCED THE COUNTY'S, CITY'S OR TOWN'S OVERALL BUDGET BY AT LEAST TEN
42 PERCENT BELOW THE PREVIOUS YEAR'S BUDGET.

43 D. FOR THE PURPOSE OF THIS SECTION, "LAW ENFORCEMENT AGENCY" MEANS
44 A COUNTY SHERIFF'S DEPARTMENT OR MUNICIPAL POLICE DEPARTMENT.

1 Sec. 2. Section 42-5029, Arizona Revised Statutes, is amended to
2 read:

3 42-5029. Remission and distribution of monies; withholding;
4 definitions

5 A. The department shall deposit, pursuant to sections 35-146 and
6 35-147, all revenues collected under this article and articles 4, 5 and 8
7 of this chapter pursuant to section 42-1116, separately accounting for:

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

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

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

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

15 5. Revenues collected pursuant to section 42-5010.01 and section
16 42-5155, subsection E.

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

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

32 D. Of the monies designated as distribution base, and subject to
33 the requirements of section 42-5041, the department shall:

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

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

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

41 (b) The proportion that the distribution base monies collected
42 during the calendar month in each county under this article, section
43 42-5164, subsection B and section 42-5205, subsection B bear to the total
44 distribution base monies collected under this article, section 42-5164,

1 subsection B and section 42-5205, subsection B throughout the state for
2 the calendar month.

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

5 (a) Average the following proportions:

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

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

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

35 4. After any distributions required by sections 42-5030,
36 42-5030.01, 42-5031, 42-5032, 42-5032.01 and 42-5032.02, and after making
37 any transfer to the water quality assurance revolving fund as required by
38 section 49-282, subsection B, credit the remainder of the monies
39 designated as distribution base to the state general fund. From this
40 amount the legislature shall annually appropriate to:

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

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

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

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

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

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

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

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

1 tribe" has the same meaning as defined in section 42-5031.01,
2 subsection D.

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

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

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

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

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

12 (e) In fiscal year 2005-2006 and each fiscal year thereafter,
13 \$86,280,500.

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

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

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

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

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

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

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

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

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

4 G. Notwithstanding subsection D of this section, if a court of
5 competent jurisdiction finally determines that tax monies distributed
6 under this section were illegally collected under this article or articles
7 5 and 8 of this chapter and orders the monies to be refunded to the
8 taxpayer, the department shall compute the amount of such monies that was
9 distributed to each city, town and county under this section. Each
10 city's, town's and county's proportionate share of the costs shall be
11 based on the amount of the original tax payment each municipality and
12 county received. Each month the state treasurer shall reduce the amount
13 otherwise distributable to the city, town and county under this section by
14 one thirty-sixth of the total amount to be recovered from the city, town
15 or county until the total amount has been recovered, but the monthly
16 reduction for any city, town or county shall not exceed ten percent of the
17 full monthly distribution to that entity. The reduction shall begin for
18 the first calendar month after the final disposition of the case and shall
19 continue until the total amount, including interest and costs, has been
20 recovered.

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

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

42 J. Except as otherwise provided by this subsection, on notice from
43 the department of revenue pursuant to section 42-6010, subsection B, the
44 state treasurer shall withhold from the distribution of monies pursuant to
45 this section to the affected city or town the amount of the penalty for

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

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

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

38 M. EXCEPT AS OTHERWISE PROVIDED BY THIS SUBSECTION, ON NOTICE FROM
39 THE ATTORNEY GENERAL PURSUANT TO SECTION 41-194.02, SUBSECTION B,
40 PARAGRAPH 1 THAT AN ORDER OR OTHER OFFICIAL ACTION ADOPTED OR TAKEN BY THE
41 GOVERNING BODY OF A COUNTY, CITY OR TOWN HAS RESULTED IN A REDUCTION TO A
42 LAW ENFORCEMENT AGENCY'S BUDGET OF AT LEAST TEN PERCENT BELOW THE PREVIOUS
43 YEAR'S BUDGET, THE STATE TREASURER SHALL WITHHOLD THE DISTRIBUTION OF
44 MONIES PURSUANT TO THIS SECTION TO THE AFFECTED COUNTY, CITY OR TOWN IN AN
45 AMOUNT EQUAL TO THE REDUCTION TO THE LAW ENFORCEMENT AGENCY'S BUDGET AND

1 SHALL CONTINUE TO WITHHOLD MONIES PURSUANT TO THIS SUBSECTION UNTIL THE
2 ATTORNEY GENERAL CERTIFIES TO THE STATE TREASURER THAT THE REDUCTION HAS
3 BEEN RESTORED. THE STATE TREASURER SHALL REDISTRIBUTE THE MONIES WITHHELD
4 PURSUANT TO THIS SUBSECTION AMONG ALL OTHER COUNTIES, CITIES AND TOWNS IN
5 PROPORTION TO THEIR POPULATION AS PROVIDED BY SUBSECTION D OF THIS
6 SECTION. THE STATE TREASURER SHALL NOT WITHHOLD ANY AMOUNT THAT THE
7 COUNTY, CITY OR TOWN CERTIFIES TO THE ATTORNEY GENERAL AND THE STATE
8 TREASURER AS BEING NECESSARY TO MAKE ANY REQUIRED DEPOSITS OR PAYMENTS FOR
9 DEBT SERVICE ON BONDS OR OTHER LONG-TERM OBLIGATIONS OF THE COUNTY, CITY
10 OR TOWN THAT WERE ISSUED OR INCURRED BEFORE REDUCING THE LAW ENFORCEMENT
11 AGENCY'S BUDGET.

12 ~~M.~~ N. For the purposes of this section: ~~;~~

13 1. "Community college district" means a community college district
14 that is established pursuant to sections 15-1402 and 15-1403 and that is a
15 political subdivision of this state and, unless otherwise specified,
16 includes a community college tuition financing district established
17 pursuant to section 15-1409.

18 2. "LAW ENFORCEMENT AGENCY" HAS THE SAME MEANING PRESCRIBED IN
19 SECTION 41-194.02.

20 Sec. 3. Section 43-206, Arizona Revised Statutes, is amended to
21 read:

22 43-206. Urban revenue sharing fund; allocation; distribution;
23 withholding; definition

24 A. The urban revenue sharing fund is established. The fund shall
25 consist of an amount equal to fifteen percent of the net proceeds of the
26 state income taxes for the fiscal year two years preceding the current
27 fiscal year. The fund shall be distributed to incorporated cities and
28 towns as provided in this section, except that a city or town shall
29 receive at least an amount equal to what a city or town with a population
30 of fifteen hundred or more persons would receive. The transfer of net
31 proceeds prescribed by section 49-282, subsection B does not affect the
32 calculation of net proceeds prescribed by this subsection.

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

40 C. The treasurer, on instruction from the department, shall
41 transmit, no later than the tenth day of each month, to each city or town
42 an amount equal to one-twelfth of that city's or town's total entitlement
43 for the current fiscal year from the urban revenue sharing fund as
44 determined by the department.

1 D. A newly incorporated city or town shall share in the urban
2 revenue sharing fund beginning the first month of the first full fiscal
3 year following incorporation.

4 E. On receipt of a certificate of default from the greater Arizona
5 development authority pursuant to section 41-2257 or 41-2258, the state
6 treasurer, to the extent not otherwise expressly prohibited by law, shall
7 withhold from the next succeeding distribution of monies pursuant to this
8 section due to the city or town the amount specified in the certificate of
9 default and immediately deposit the amount withheld in the greater Arizona
10 development authority revolving fund. The state treasurer shall continue
11 to withhold and deposit the monies until the authority certifies to the
12 state treasurer that the default has been cured. In no event shall the
13 state treasurer withhold any amount that is necessary, as certified by the
14 defaulting political subdivision to the state treasurer and the authority,
15 to make any required deposits then due for the payment of principal and
16 interest on bonds of the political subdivision that were issued prior to
17 the date of the loan repayment agreement or bonds and that have been
18 secured by a pledge of distributions made pursuant to this section.

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

35 G. EXCEPT AS OTHERWISE PROVIDED BY THIS SUBSECTION, ON NOTICE FROM
36 THE ATTORNEY GENERAL PURSUANT TO SECTION 41-194.02, SUBSECTION B,
37 PARAGRAPH 1 THAT AN ORDER OR OTHER OFFICIAL ACTION ADOPTED OR TAKEN BY THE
38 GOVERNING BODY OF A CITY OR TOWN HAS RESULTED IN A REDUCTION TO A LAW
39 ENFORCEMENT AGENCY'S BUDGET OF AT LEAST TEN PERCENT BELOW THE PREVIOUS
40 YEAR'S BUDGET, THE STATE TREASURER SHALL WITHHOLD THE DISTRIBUTION OF
41 MONIES PURSUANT TO THIS SECTION TO THE AFFECTED CITY OR TOWN IN AN AMOUNT
42 EQUAL TO THE REDUCTION TO THE LAW ENFORCEMENT AGENCY'S BUDGET AND SHALL
43 CONTINUE TO WITHHOLD MONIES PURSUANT TO THIS SUBSECTION UNTIL THE ATTORNEY
44 GENERAL CERTIFIES TO THE STATE TREASURER THAT THE REDUCTION HAS BEEN
45 RESTORED. THE STATE TREASURER SHALL REDISTRIBUTE THE MONIES WITHHELD

1 PURSUANT TO THIS SUBSECTION AMONG ALL OTHER CITIES AND TOWNS IN PROPORTION
2 TO THEIR POPULATION AS PROVIDED BY SUBSECTION B OF THIS SECTION. THE
3 STATE TREASURER SHALL NOT WITHHOLD ANY AMOUNT THAT THE CITY OR TOWN
4 CERTIFIES TO THE ATTORNEY GENERAL AND THE STATE TREASURER AS BEING
5 NECESSARY TO MAKE ANY REQUIRED DEPOSITS OR PAYMENTS FOR DEBT SERVICE ON
6 BONDS OR OTHER LONG-TERM OBLIGATIONS OF THE CITY OR TOWN THAT WERE ISSUED
7 OR INCURRED BEFORE REDUCING THE LAW ENFORCEMENT AGENCY'S BUDGET.

8 H. FOR THE PURPOSES OF THIS SECTION, "LAW ENFORCEMENT AGENCY" HAS
9 THE SAME MEANING PRESCRIBED IN SECTION 41-194.02.

REFERENCE TITLE: law enforcement budget; reduction; certification

State of Arizona
House of Representatives
Fifty-fifth Legislature
First Regular Session
2021

HB 2420

Introduced by
Representatives Carroll: Wilmeth

AN ACT

AMENDING TITLE 9, CHAPTER 4, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING SECTION 9-500.48; AMENDING TITLE 11, CHAPTER 2, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 11-269.27; AMENDING SECTIONS 42-5029 AND 43-206, ARIZONA REVISED STATUTES; RELATING TO LAW ENFORCEMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 9, chapter 4, article 8, Arizona Revised Statutes,
3 is amended by adding section 9-500.48, to read:

4 9-500.48. Law enforcement agency budget; reduction;
5 certification; definition

6 A. ON OR BEFORE OCTOBER 15 OF EACH YEAR, A CITY OR TOWN SHALL
7 CERTIFY IN WRITING TO EACH STATE AGENCY THROUGH WHICH THE CITY OR TOWN
8 RECEIVES ANY STATE MONIES THAT THERE HAS BEEN NO DISPROPORTIONATE FUNDING
9 REDUCTIONS TO THE CITY'S OR TOWN'S LAW ENFORCEMENT AGENCY.

10 B. THE CERTIFICATION MUST INCLUDE A STATEMENT THAT ANY REDUCTION IN
11 FUNDING OR PROPOSED FUNDING TO THE LAW ENFORCEMENT AGENCY IS A RESULT OF
12 REDUCED REVENUE COLLECTION AND THE REDUCTION IN LAW ENFORCEMENT AGENCY
13 FUNDING IS PROPORTIONATE TO THE REDUCTION IN REVENUE. A REDUCTION IN LAW
14 ENFORCEMENT AGENCY FUNDING IS CONSIDERED PROPORTIONATE IF THE PORTION OF
15 THE CITY'S OR TOWN'S TOTAL BUDGET ALLOCATED TO THE LAW ENFORCEMENT AGENCY,
16 EXPRESSED AS A PERCENTAGE, REMAINS WITHIN THREE PERCENTAGE POINTS OF THE
17 PERCENTAGE DECREASE IN TOTAL REVENUE FROM THE PREVIOUS FISCAL YEAR.

18 C. A CITY OR TOWN THAT HAS DISPROPORTIONATELY REDUCED ITS LAW
19 ENFORCEMENT AGENCY FUNDING IS NOT ELIGIBLE TO RECEIVE STATE SHARED MONIES
20 PURSUANT TO SECTION 42-5029, SUBSECTION M AND SECTION 43-206,
21 SUBSECTION G. THE STATE TREASURER SHALL CONTINUE TO WITHHOLD STATE SHARED
22 MONIES UNTIL CERTIFICATION FROM THE CITY OR TOWN THAT THE REDUCTION IN THE
23 LAW ENFORCEMENT AGENCY'S BUDGET HAS BEEN RESTORED TO A PROPORTIONATE
24 AMOUNT AS PRESCRIBED BY SUBSECTION B OF THIS SECTION.

25 D. FOR THE PURPOSES OF THIS SECTION, "LAW ENFORCEMENT AGENCY" MEANS
26 A MUNICIPAL POLICE DEPARTMENT.

27 Sec. 2. Title 11, chapter 2, article 4, Arizona Revised Statutes,
28 is amended by adding section 11-269.27, to read:

29 11-269.27. Law enforcement agency budget; reduction;
30 certification; definition

31 A. ON OR BEFORE OCTOBER 15 OF EACH YEAR, A COUNTY SHALL CERTIFY IN
32 WRITING TO EACH STATE AGENCY THROUGH WHICH THE COUNTY RECEIVES ANY STATE
33 MONIES THAT THERE HAS BEEN NO DISPROPORTIONATE FUNDING REDUCTIONS TO THE
34 COUNTY'S LAW ENFORCEMENT AGENCY.

35 B. THE CERTIFICATION MUST INCLUDE A STATEMENT THAT ANY REDUCTION IN
36 FUNDING OR PROPOSED FUNDING IS A RESULT OF REDUCED REVENUE COLLECTION AND
37 THE REDUCTION IN LAW ENFORCEMENT AGENCY FUNDING IS PROPORTIONATE TO THE
38 REDUCTION IN REVENUE. A REDUCTION IN LAW ENFORCEMENT AGENCY FUNDING IS
39 CONSIDERED PROPORTIONATE IF THE PORTION OF THE COUNTY'S TOTAL BUDGET
40 ALLOCATED TO THE LAW ENFORCEMENT AGENCY, EXPRESSED AS A PERCENTAGE,
41 REMAINS WITHIN THREE PERCENTAGE POINTS OF THE PERCENTAGE DECREASE IN TOTAL
42 REVENUE FROM THE PREVIOUS FISCAL YEAR.

43 C. A COUNTY THAT HAS DISPROPORTIONATELY REDUCED ITS LAW ENFORCEMENT
44 AGENCY FUNDING IS NOT ELIGIBLE TO RECEIVE STATE SHARED MONIES PURSUANT TO
45 SECTION 42-5029, SUBSECTION M. THE STATE TREASURER SHALL CONTINUE TO

1 WITHHOLD STATE SHARED MONIES UNTIL CERTIFICATION FROM THE COUNTY THAT THE
2 REDUCTION IN THE LAW ENFORCEMENT AGENCY'S BUDGET HAS BEEN RESTORED TO A
3 PROPORTIONATE AMOUNT AS PRESCRIBED BY SUBSECTION B OF THIS SECTION.

4 D. FOR THE PURPOSES OF THIS SECTION, "LAW ENFORCEMENT AGENCY" MEANS
5 A COUNTY SHERIFF'S DEPARTMENT.

6 Sec. 3. Section 42-5029, Arizona Revised Statutes, is amended to
7 read:

8 42-5029. Remission and distribution of monies; withholding;
9 definitions

10 A. The department shall deposit, pursuant to sections 35-146 and
11 35-147, all revenues collected under this article and articles 4, 5 and 8
12 of this chapter pursuant to section 42-1116, separately accounting for:

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

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

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

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

20 5. Revenues collected pursuant to section 42-5010.01 and section
21 42-5155, subsection E.

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, and subject to
38 the requirements of section 42-5041, the department 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.

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

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

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

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

(a) Average the following proportions:

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

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

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

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

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

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

5 (c) The firearms safety and ranges fund established by section
6 17-273, ~~fifty thousand dollars~~ \$50,000 derived from the taxes collected
7 from the retail classification pursuant to section 42-5061 for the current
8 fiscal year.

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

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

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

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

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

1 community colleges owned, operated or chartered by a qualifying Indian
2 tribe and shall be used in a manner consistent with section 15-1472,
3 subsection B. For the purposes of this paragraph, "qualifying Indian
4 tribe" has the same meaning as defined in section 42-5031.01,
5 subsection D.

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

- 11 (a) In fiscal year 2001-2002, \$15,305,900.
- 12 (b) In fiscal year 2002-2003, \$31,530,100.
- 13 (c) In fiscal year 2003-2004, \$48,727,700.
- 14 (d) In fiscal year 2004-2005, \$66,957,200.
- 15 (e) In fiscal year 2005-2006 and each fiscal year thereafter,
16 \$86,280,500.

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

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

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

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

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

- 43 (a) Forty per cent shall be allocated for teacher compensation
44 based on performance.

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

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

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

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

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

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

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

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

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

42 M. EXCEPT AS OTHERWISE PROVIDED BY THIS SUBSECTION, ON
43 CERTIFICATION FROM THE GOVERNING BODY OF A COUNTY, CITY OR TOWN THAT AN
44 OFFICIAL ACTION ADOPTED OR TAKEN BY THE GOVERNING BODY OF A COUNTY, CITY
45 OR TOWN CREATES A DISPROPORTIONATE REDUCTION IN A LAW ENFORCEMENT AGENCY'S

BUDGET FROM THE PREVIOUS YEAR'S BUDGET PURSUANT TO SECTION 9-500.48, SUBSECTION B OR SECTION 11-269.27, SUBSECTION B, THE STATE TREASURER SHALL WITHHOLD THE DISTRIBUTION OF MONIES PURSUANT TO THIS SECTION TO THE AFFECTED COUNTY, CITY OR TOWN AND SHALL CONTINUE TO WITHHOLD MONIES PURSUANT TO THIS SUBSECTION UNTIL CERTIFICATION BY THE GOVERNING BODY OF THE COUNTY, CITY OR TOWN THAT THE REDUCTION HAS BEEN RESTORED TO A PROPORTIONATE AMOUNT AS PRESCRIBED BY SECTION 9-500.48, SUBSECTION B OR SECTION 11-269.27, SUBSECTION B. THE STATE TREASURER SHALL NOT WITHHOLD ANY AMOUNT THAT THE COUNTY, CITY OR TOWN CERTIFIES AS BEING NECESSARY TO MAKE ANY REQUIRED DEPOSITS OR PAYMENTS FOR DEBT SERVICE ON BONDS OR OTHER LONG-TERM OBLIGATIONS OF THE COUNTY, CITY OR TOWN THAT WERE ISSUED OR INCURRED BEFORE THE REDUCTION IN THE LAW ENFORCEMENT AGENCY'S BUDGET. THIS SUBSECTION DOES NOT APPLY TO A PROPORTIONATE REDUCTION IN BUDGET DUE TO A DECREASE IN REVENUE PURSUANT TO SECTION 9-500.48, SUBSECTION B OR SECTION 11.269.27, SUBSECTION B.

~~M.~~ N. For the purposes of this section: ~~;~~

1. "Community college district" means a community college district that is established pursuant to sections 15-1402 and 15-1403 and that is a political subdivision of this state and, unless otherwise specified, includes a community college tuition financing district established pursuant to section 15-1409.

2. "LAW ENFORCEMENT AGENCY" MEANS A MUNICIPAL POLICE DEPARTMENT OR COUNTY SHERIFF'S DEPARTMENT.

Sec. 4. Section 43-206, Arizona Revised Statutes, is amended to read:

43-206. Urban revenue sharing fund; allocation; distribution; withholding; definition

A. The urban revenue sharing fund is established. The fund shall consist of an amount equal to fifteen percent of the net proceeds of the state income taxes for the fiscal year two years preceding the current fiscal year. The fund shall be distributed to incorporated cities and towns as provided in this section, except that a city or town shall receive at least an amount equal to what a city or town with a population of fifteen hundred or more persons would receive. The transfer of net proceeds prescribed by section 49-282, subsection B does not affect the calculation of net proceeds prescribed by this subsection.

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

C. The treasurer, on instruction from the department, shall transmit, ~~no~~ NOT later than the tenth day of each month, to each city or

1 town an amount equal to one-twelfth of that city's or town's total
2 entitlement for the current fiscal year from the urban revenue sharing
3 fund as determined by the department.

4 D. A newly incorporated city or town shall share in the urban
5 revenue sharing fund beginning the first month of the first full fiscal
6 year following incorporation.

7 E. On receipt of a certificate of default from the greater Arizona
8 development authority pursuant to section 41-2257 or 41-2258, the state
9 treasurer, to the extent not otherwise expressly prohibited by law, shall
10 withhold from the next succeeding distribution of monies pursuant to this
11 section due to the city or town the amount specified in the certificate of
12 default and immediately deposit the amount withheld in the greater Arizona
13 development authority revolving fund. The state treasurer shall continue
14 to withhold and deposit the monies until the authority certifies to the
15 state treasurer that the default has been cured. In no event shall the
16 state treasurer withhold any amount that is necessary, as certified by the
17 defaulting political subdivision to the state treasurer and the authority,
18 to make any required deposits then due for the payment of principal and
19 interest on bonds of the political subdivision that were issued prior to
20 the date of the loan repayment agreement or bonds and that have been
21 secured by a pledge of distributions made pursuant to this section.

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

38 G. EXCEPT AS OTHERWISE PROVIDED BY THIS SUBSECTION, ON
39 CERTIFICATION FROM THE GOVERNING BODY OF A CITY OR TOWN THAT AN OFFICIAL
40 ACTION ADOPTED OR TAKEN BY THE GOVERNING BODY OF THE CITY OR TOWN CREATES
41 A DISPROPORTIONATE REDUCTION IN A LAW ENFORCEMENT AGENCY'S BUDGET FROM THE
42 PREVIOUS YEAR'S BUDGET PURSUANT TO SECTION 9-500.48, SUBSECTION B, THE
43 STATE TREASURER SHALL WITHHOLD THE DISTRIBUTION OF MONIES PURSUANT TO THIS
44 SECTION TO THE AFFECTED CITY OR TOWN AND SHALL CONTINUE TO WITHHOLD MONIES
45 PURSUANT TO THIS SUBSECTION UNTIL CERTIFICATION BY THE GOVERNING BODY OF

1 THE CITY OR TOWN THAT THE REDUCTION HAS BEEN RESTORED TO A PROPORTIONATE
2 AMOUNT AS PRESCRIBED BY SECTION 9-500.48, SUBSECTION B. THE STATE
3 TREASURER SHALL NOT WITHHOLD ANY AMOUNT THAT THE CITY OR TOWN CERTIFIES AS
4 BEING NECESSARY TO MAKE ANY REQUIRED DEPOSITS OR PAYMENTS FOR DEBT SERVICE
5 ON BONDS OR OTHER LONG-TERM OBLIGATIONS OF THE CITY OR TOWN THAT WERE
6 ISSUED OR INCURRED BEFORE THE REDUCTION IN THE LAW ENFORCEMENT AGENCY'S
7 BUDGET. THIS SUBSECTION DOES NOT APPLY TO A PROPORTIONATE REDUCTION IN
8 BUDGET DUE TO A DECREASE IN REVENUE PURSUANT TO SECTION 9-500.48,
9 SUBSECTION B.

10 H. FOR THE PURPOSES OF THIS SECTION, "LAW ENFORCEMENT AGENCY" MEANS
11 A MUNICIPAL POLICE DEPARTMENT.

12 Sec. 5. Retroactivity

13 This act applies retroactively to from and after December 31, 2020.

REFERENCE TITLE: **short-term rentals; enforcement; penalties**

State of Arizona
House of Representatives
Fifty-fifth Legislature
First Regular Session
2021

HB 2481

Introduced by
Representatives Kavanagh: Butler, Jermaine, Kaiser, Lieberman, Longdon,
Shah, Senators Alston, Barto, Engel, Marsh

AN ACT

AMENDING SECTIONS 9-500.39, 9-1301, 11-269.17, 11-1701 AND 42-1125.02,
ARIZONA REVISED STATUTES; RELATING TO VACATION AND SHORT-TERM RENTALS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 9-500.39, Arizona Revised Statutes, is amended
3 to read:

4 9-500.39. Limits on regulation of vacation rentals and
5 short-term rentals; definitions

6 A. A city or town may not prohibit vacation rentals or short-term
7 rentals.

8 B. ~~A city or town may not restrict the use of or regulate vacation~~
9 ~~rentals or short-term rentals based on their classification, use or~~
10 ~~occupancy except as provided in this section.~~ A city or town may regulate
11 vacation rentals or short-term rentals ~~for the following purposes~~ AS
12 FOLLOWS:

13 1. ~~Protecting~~ TO PROTECT the public's health and safety, including
14 rules and regulations related to fire and building codes, health and
15 sanitation, transportation or traffic control, solid or hazardous waste
16 and pollution control, and designation of an emergency point of contact,
17 if the city or town demonstrates that the rule or regulation is for the
18 primary purpose of protecting the public's health and safety.

19 2. TO ADOPT AND ENFORCE REASONABLE RESIDENTIAL USE AND ZONING
20 ORDINANCES, INCLUDING RESTRICTING VACATION AND SHORT-TERM RENTALS TO
SPECIFIC ZONING DISTRICTS, REQUIRING VACATION OR SHORT-TERM RENTALS TO
OBTAIN A VARIANCE OR USE PERMIT, ADOPTING SEPERATION REQUIREMENTS AND
LIMITING THE NUMBER OF VACATION OR SHORT-TERM RENTALS. A ZONING ORDINANCE
SHALL NOT HAVE THE EFFECT OF PROHIBITING OR UNREASONABLY RESTRICTING ALL
VACATION OR SHORT-TERM RENTALS.

21 ~~2- 3. Adopting~~ TO ADOPT and ~~enforcing residential use and zoning~~
22 ~~ordinances, including~~ ENFORCE ordinances related to noise, ~~protection of~~
23 ~~welfare,~~ property maintenance and other nuisance issues, if the ordinance
24 is applied in the same manner as other property classified under sections
25 42-12003 and 42-12004.

26 ~~3- 4. Limiting~~ TO LIMIT or ~~prohibiting~~ PROHIBIT the use of a
27 vacation rental or short-term rental for the purposes of housing sex
28 offenders, operating or maintaining a sober living home, selling illegal
29 drugs, liquor control or pornography, obscenity, nude or topless dancing
30 and other adult-oriented businesses.

31 5. TO REQUIRE THE OWNER OF A VACATION RENTAL OR SHORT-TERM RENTAL
32 TO OBTAIN AND MAINTAIN A LICENSE OR REGISTER THE VACATION RENTAL OR
SHORT-TERM RENTAL WITH THE
33 CITY OR TOWN. THE CITY OR TOWN SHALL REPORT TO THE DEPARTMENT OF REVENUE
34 ALL VERIFIED VIOLATIONS OF A VACATION RENTAL OR SHORT-TERM RENTAL LICENSED
35 OR REGISTERED BY THE CITY OR TOWN.

36 ~~4- 6. Requiring~~ TO REQUIRE the owner of a vacation rental or
37 short-term rental to provide the city or town with contact information for
38 the owner or the owner's designee who is responsible for responding to
39 complaints in a timely manner in person, over the phone or by email at any
40 time of day before offering for rent or renting the vacation rental or

41 short-term rental.

42 7. TO RESTRICT THE OCCUPANCY OF A VACATION RENTAL OR SHORT-TERM
43 RENTAL TO THE LESSER OF THE OCCUPANCY LIMIT OF THE CITY OR TOWN OR TWO
44 ADULTS PER BEDROOM PLUS TWO ADDITIONAL ADULTS.

1 C. Within thirty days after a verified violation, a city or town
2 shall notify the department of revenue and the owner of the vacation
3 rental or short-term rental of the verified violation of the city's or
4 town's applicable laws, regulations or ordinances and, if the owner of the
5 vacation rental or short-term rental received the verified violation,
6 whether the city or town imposed a civil penalty on the owner of the
7 vacation rental or short-term rental and the amount of the civil penalty,
8 if assessed. If multiple verified violations arise out of the same
9 response to an incident at a vacation rental or short-term rental, those
10 verified violations are considered one verified violation for the purpose
11 of assessing civil penalties pursuant to section 42-1125.02, subsection
12 ~~B~~ C.

13 D. If the owner of a vacation rental or short-term rental has
14 provided contact information to a city or town pursuant to subsection B,
15 paragraph 4 6 of this section and if the city or town issues a citation
16 for a violation of the city's or town's applicable laws, regulations or
17 ordinances or a state law that occurred on the owner's vacation rental or
18 short-term rental property, the city or town shall make a reasonable
19 attempt to notify the owner or the owner's designee of the citation within
20 seven business days after the citation is issued using the contact
21 information provided pursuant to subsection B, paragraph 4 6 of this
22 section. If the owner of a vacation rental or short-term rental has not
23 provided contact information pursuant to subsection B, paragraph 4 6 of
24 this section, the city or town is not required to provide such notice.

25 E. This section does not exempt an owner of a residential rental
26 property, as defined in section 33-1901, from maintaining with the
27 assessor of the county in which the property is located information
28 required under title 33, chapter 17, article 1.

29 F. A vacation rental or short-term rental may not be used for
30 nonresidential uses, including for a special event that would otherwise
31 require a permit or license pursuant to a city or town ordinance or a
32 state law or rule or for a retail, restaurant, banquet space or other
33 similar use.

34 G. A VACATION RENTAL OR SHORT-TERM RENTAL MAY NOT ADVERTISE TO
35 EXCEED THE OCCUPANCY LIMIT OF THE DWELLING PURSUANT TO SUBSECTION B OF
36 THIS SECTION OR FOR ANY NONRESIDENTIAL USE PURSUANT TO SUBSECTION F OF
37 THIS SECTION. A VIOLATION OF THIS SUBSECTION IS NOT A VERIFIED VIOLATION.
38 A CITY OR TOWN MAY IMPOSE A CIVIL PENALTY FOR EACH DAY THE PROPERTY IS IN
39 VIOLATION OF THIS SUBSECTION.

40 H. A VACATION RENTAL OR SHORT-TERM RENTAL IS NOT SUBJECT TO CHAPTER
41 12, ARTICLE 1 OF THIS TITLE OF TITLE 11, CHAPTER 12, ARTICLE 1.

42 I. A CITY OR TOWN MAY NOT REGULATE AN ONLINE LODGING MARKETPLACE.

1 ~~G.~~ J. For the purposes of this section:

2 1. "ONLINE LODGING MARKETPLACE" HAS THE SAME MEANING PRESCRIBED IN 3
SECTION 42-5076.

4 ~~1.~~ 2. "Transient" has the same meaning prescribed in section
5 42-5070.

6 ~~2.~~ 3. "Vacation rental" or "short-term rental":

7 (a) Means any individually or collectively owned single-family or
8 one-to-four-family house or dwelling unit or any unit or group of units in
9 a condominium, OR cooperative ~~or timeshare~~, that is also a transient
10 public lodging establishment or owner-occupied residential home offered
11 for transient use if the accommodations are not classified for property
12 taxation under section 42-12001. ~~Vacation rental and short-term rental do~~

13 (b) DOES not include EITHER OF THE FOLLOWING:

14 (i) A unit that is used for any nonresidential use, including
15 retail, restaurant, banquet space, event center or another similar use.

16 (ii) A RESIDENTIAL RENTAL DWELLING UNIT AS DEFINED IN SECTION
17 9-1301.

18 ~~3.~~ 4. "Verified violation" means a finding of guilt or civil
19 responsibility for violating any state law or local ordinance relating to
20 a purpose prescribed in subsection B or F of this section that has been
21 finally adjudicated.

22 Sec. 2. Section 9-1301, Arizona Revised Statutes, is amended to
23 read:

24 9-1301. Definitions

25 In this chapter, unless the context otherwise requires:

26 1. "Building code" means the construction codes that were in force
27 at THE time of building construction, including plumbing and mechanical
28 codes, electric codes, residential construction codes, energy conservation
29 codes and existing building construction codes, and includes any property
30 maintenance codes, neighborhood preservation codes, anti-blight codes or
31 other similar codes, however denominated. With respect to mobile homes as
32 defined in section 33-1409, building code means the federal construction
33 codes applicable to homes constructed after June 15, 1976, and the Arizona
34 codes applicable to homes constructed before that date.

35 2. "Citywide residential rental property inspection program" means
36 any program that includes systematic or periodic inspections of a majority
37 of rental properties in the city OR TOWN that have not previously been
38 found to meet the requirements of section 9-1302.

39 3. "Exterior inspection" means the visual inspection of any portion
40 of a residential dwelling unit that can be seen from a public street or
41 other right-of-way, or that can be seen from an adjacent property if a
42 complaint or consent is received from the adjacent property owner, lawful
43 resident or lawful tenant.

4. "Initial inspection" means the first inspection of a residential rental dwelling unit after the establishment by ordinance or resolution of a residential rental inspection program.

5. "Interior inspection" means a physical or visual inspection of the interior of a residential rental dwelling unit and other portions of a residential rental dwelling unit that are not visible from a public street, right-of-way or neighboring property that is made for the purpose of looking for building code violations.

6. "Mobile home park" has the same meaning as prescribed in section 10 33-1409.

~~7. "Multifamily housing" means site built buildings containing residential dwelling units, but does not include mobile home parks.~~

8. "Owner" means the person, corporation, limited liability company, partnership, limited partnership, trust or real estate investment trust shown on the lawfully recorded title to the property.

9. "Residential dwelling unit" means a building or structure or part of a building or structure that is used for a home or residence by one or more persons who maintain a household. It also means a mobile home regardless of ownership of the land.

10. "Residential rental dwelling unit" means a dwelling unit that is leased or rented to one or more tenants. A dwelling unit that is occupied in part by the owner of the dwelling unit is not a residential rental dwelling unit unless a tenant occupies a part of the dwelling unit that has its own cooking and sleeping areas, a bathroom and a separate entrance, unless otherwise provided in a zoning ordinance of the city or town. Residential rental dwelling unit does not include an owner-occupied OWNER-OCCUPIED mobile home in a mobile home park that is not owned by the landlord of the mobile home park OR A VACATION RENTAL OR SHORT-TERM RENTAL AS DEFINED IN SECTION 9-500.39.

11. "Residential rental licensing requirement" means a requirement established by a city or town that property owners or property managers obtain a license or permit from the city or town, with or without an associated fee, before they can legally engage in the rental of dwelling units in the city or town.

12. "Residential rental registration requirement" means any requirement established by a city or town for rental housing owners or managers to submit information to the city or town as already required to be submitted to the county assessor under section 33-1902.

Sec. 3. Section 11-269.17, Arizona Revised Statutes, is amended to read:

11-269.17. Limits on regulation of vacation rentals and short-term rentals; definitions

A. A county may not prohibit vacation rentals or short-term rentals.

1 B. ~~A county may not restrict the use of or regulate vacation~~
 2 ~~rentals or short-term rentals based on their classification, use or~~
 3 ~~occupancy except as provided in this section.~~ A county may regulate
 4 vacation rentals or short-term rentals ~~for the following purposes~~ AS
 5 FOLLOWS:

6 1. ~~Protecting~~ TO PROTECT the public's health and safety, including
 7 rules and regulations related to fire and building codes, health and
 8 sanitation, transportation or traffic control, solid or hazardous waste
 9 and pollution control, and designation of an emergency point of contact,
 10 if the county demonstrates that the rule or regulation is for the primary
 11 purpose of protecting the public's health and safety.

12 2. TO ADOPT AND ENFORCE REASONABLE RESIDENTIAL USE AND ZONING
 13 ORDINANCES, INCLUDING RESTRICTING VACATION AND SHORT-TERM RENTALS TO
 SPECIFIC ZONING DISTRICTS, REQUIRING VACATION OR SHORT-TERM RENTALS TO
 OBTAIN A VARIANCE OR USE PERMIT, ADOPTING SEPERATION REQUIREMENTS AND
 LIMITING THE NUMBER OF VACATION OR SHORT-TERM RENTALS. A ZONING ORDINANCE
 SHALL NOT HAVE THE EFFECT OF PROHIBITING OR UNREASONABLY RESTRICTING ALL
 VACATION OR SHORT-TERM RENTALS.

14 ~~2-~~ 3. ~~Adopting~~ TO ADOPT and ~~enforcing residential use and zoning~~
 15 ~~ordinances, including~~ ENFORCE ordinances related to noise, ~~protection of~~
 16 ~~welfare,~~ property maintenance and other nuisance issues, if the ordinance
 17 is applied in the same manner as other property classified under sections
 18 42-12003 and 42-12004.

19 ~~3-~~ 4. ~~Limiting~~ TO LIMIT or ~~prohibiting~~ PROHIBIT the use of a
 20 vacation rental or short-term rental for the purposes of housing sex
 21 offenders, operating or maintaining a sober living home, selling illegal
 22 drugs, liquor control or pornography, obscenity, nude or topless dancing
 23 and other adult-oriented businesses.

24 5. TO REQUIRE THE OWNER OF A VACATION RENTAL OR SHORT-TERM RENTAL
 25 TO OBTAIN AND MAINTAIN A LICENSE OR REGISTER THE VACATION RENTAL OR
 SHORT-TERM RENTAL WITH THE
 26 COUNTY. THE COUNTY SHALL REPORT TO THE DEPARTMENT OF REVENUE ALL VERIFIED
 27 VIOLATIONS OF A VACATION RENTAL OR SHORT-TERM RENTAL LICENSED OR
 28 REGISTERED BY THE COUNTY.

29 ~~4-~~ 6. ~~Requiring~~ TO REQUIRE the owner of a vacation rental or
 30 short-term rental to provide the county with contact information for the
 31 owner or the owner's designee who is responsible for responding to
 32 complaints in a timely manner in person, over the phone or by email at any
 33 time of day before offering for rent or renting the vacation rental or
 34 short-term rental.

35 7. TO RESTRICT THE OCCUPANCY OF A VACATION RENTAL OR SHORT-TERM
 36 RENTAL TO THE LESSER OF THE OCCUPANCY LIMIT OF THE COUNTY OR TWO ADULTS
 37 PER BEDROOM PLUS TWO ADDITIONAL ADULTS.

38 C. Within thirty days after a verified violation, a county shall
 39 notify the department of revenue and the owner of the vacation rental or
 40 short-term rental of the verified violation of the county's applicable

41 laws, regulations or ordinances and, if the property owner received the
42 verified violation, whether the county imposed a civil penalty on the
43 owner of the vacation rental or short-term rental and the amount of the
44 civil penalty, if assessed. If multiple verified violations arise out of
45 the same response to an incident at a vacation rental or short-term

rental, those verified violations are considered one verified violation for the purpose of assessing civil penalties pursuant to section 42-1125.02, subsection ~~B~~ C.

D. If the owner of a vacation rental or short-term rental has provided contact information to a county pursuant to subsection B, paragraph ~~4~~ 6 of this section and if the county issues a citation for a violation of the county's applicable laws, regulations or ordinances or a state law that occurred on the owner's vacation rental or short-term rental property, the county shall make a reasonable attempt to notify the owner or the owner's designee of the citation within seven business days after the citation is issued using the contact information provided pursuant to subsection B, paragraph ~~4~~ 6 of this section. If the owner of a vacation rental or short-term rental has not provided contact information pursuant to subsection B, paragraph ~~4~~ 6 of this section, the county is not required to provide such notice.

E. This section does not exempt an owner of a residential rental property, as defined in section 33-1901, from maintaining with the assessor of the county in which the property is located information required under title 33, chapter 17, article 1.

F. A vacation rental or short-term rental may not be used for nonresidential uses, including for a special event that would otherwise require a permit or license pursuant to a county ordinance or a state law or rule or for a retail, restaurant, banquet space or other similar use.

G. A VACATION RENTAL OR SHORT-TERM RENTAL MAY NOT ADVERTISE TO EXCEED THE OCCUPANCY LIMIT OF THE DWELLING PURSUANT TO SUBSECTION B OF THIS SECTION OR FOR ANY NONRESIDENTIAL USE PURSUANT TO SUBSECTION F OF THIS SECTION. A VIOLATION OF THIS SUBSECTION IS NOT A VERIFIED VIOLATION. A COUNTY MAY IMPOSE A CIVIL PENALTY FOR EACH DAY THE PROPERTY IS IN VIOLATION OF THIS SUBSECTION.

H. A VACATION RENTAL OR SHORT-TERM RENTAL IS NOT SUBJECT TO CHAPTER 12, ARTICLE 1 OF THIS TITLE OR TITLE 9, CHAPTER 12, ARTICLE 1.

I. A COUNTY MAY NOT REGULATE AN ONLINE LODGING MARKETPLACE.

~~G.~~ J. For the purposes of this section:

1. "ONLINE LODGING MARKETPLACE" HAS THE SAME MEANING PRESCRIBED IN SECTION 42-5076.

~~1.~~ 2. "Transient" has the same meaning prescribed in section 42-5070.

~~2.~~ 3. "Vacation rental" or "short-term rental":

(a) Means any individually or collectively owned single-family or one-to-four-family house or dwelling unit or any unit or group of units in a condominium, OR cooperative ~~or timeshare~~, that is also a transient public lodging establishment or owner-occupied residential home offered for transient use if the accommodations are not classified for property taxation under section 42-12001. ~~Vacation rental and short-term rental do~~

(b) DOES not include EITHER OF THE FOLLOWING:

(i) A unit that is used for any nonresidential use, including retail, restaurant, banquet space, event center or another similar use.

(ii) A RESIDENTIAL RENTAL DWELLING UNIT AS DEFINED IN SECTION 11-1701.

~~3-~~ 4. "Verified violation" means a finding of guilt or civil responsibility for violating any state law or local ordinance relating to a purpose prescribed in subsection B or F of this section that has been finally adjudicated.

Sec. 4. Section 11-1701, Arizona Revised Statutes, is amended to read:

11-1701. Definitions

In this chapter, unless the context otherwise requires:

1. "Building code" means the construction codes that were in force at the time of building construction, including plumbing and mechanical codes, electric codes, residential construction codes, energy conservation codes and existing building construction codes, and includes any property maintenance codes, neighborhood preservation codes, anti-blight codes or other similar codes, however denominated. With respect to mobile homes as defined in section 33-1409, building code means the federal construction codes applicable to homes constructed after June 15, 1976, and the state codes applicable to homes constructed before that date.

2. "Countywide residential rental property inspection program" means any program that includes systematic or periodic inspections of a majority of rental properties in the county that have not been previously found to meet the requirements of section 11-1702.

3. "Exterior inspection" means the visual inspection of any portion of a residential dwelling unit that can be seen from a public street or other right-of-way, or that can be seen from an adjacent property if a complaint or consent is received from the adjacent property owner, lawful resident or lawful tenant.

4. "Initial inspection" means the first inspection of a residential rental dwelling unit after the establishment by ordinance or resolution of a residential rental inspection program.

5. "Interior inspection" means a physical or visual inspection of the interior of a residential rental dwelling unit and other portions of a residential rental dwelling unit that are not visible from a public street, right-of-way or neighboring property that is made for the purpose of looking for building code violations.

6. "Mobile home park" has the same meaning prescribed in section 40 33-1409.

~~7. "Multifamily housing" means site built buildings containing residential dwelling units, but does not include mobile home parks.~~

~~8-~~ 7. "Owner" means the person, corporation, limited liability company, partnership, limited partnership, trust or real estate investment trust shown on the lawfully recorded title to the property.

~~9-~~ 8. "Residential dwelling unit" means a building or structure or part of a building or structure that is used for a home or residence by one or more persons who maintain a household, including a mobile home regardless of ownership of the land.

~~10-~~ 9. "Residential rental dwelling unit" means a dwelling unit that is leased or rented to one or more tenants. A dwelling unit that is occupied in part by the owner of the dwelling unit is not a residential rental dwelling unit unless a tenant occupies a part of the dwelling unit that has its own cooking and sleeping areas, a bathroom and a separate entrance, unless otherwise provided in a zoning ordinance of the county. Residential rental dwelling unit does not include an ~~owner-occupied~~ OWNER-OCCUPIED mobile home in a mobile home park that is not owned by the landlord of the mobile home park OR A VACATION RENTAL OR SHORT-TERM RENTAL AS DEFINED IN SECTION 11-269.17.

~~11-~~ 10. "Residential rental licensing requirement" means a requirement established by a county that property owners or property managers obtain a license or permit from the county, with or without an associated fee, before they can legally engage in the rental of dwelling units in the county.

~~12-~~ 11. "Residential rental registration requirement" means any requirement established by a county for rental housing owners or managers to submit information to the county as already required to be submitted to the county assessor under section 33-1902.

Sec. 5. Section 42-1125.02, Arizona Revised Statutes, is amended to read:

42-1125.02. Civil penalties; online lodging operators; violation; classification; appeal; definitions

A. An online lodging operator that fails to comply with section 42-5042 shall pay the following civil penalty:

1. For a first offense, \$250.
2. For a second and any subsequent offense, \$1,000.

B. AN ONLINE LODGING OPERATOR THAT FALSIFIES INFORMATION TO AN ONLINE LODGING MARKETPLACE IN VIOLATION OF SECTION 42-5042 IS GUILTY OF A PETTY OFFENSE.

~~B-~~ C. If an online lodging operator received a verified violation, the online lodging operator shall pay the following civil penalty:

1. For a first verified violation received for a property, either:
 - (a) If the city, town or county did not impose a civil penalty on the online lodging operator for the verified violation, \$500.

(b) If the city, town or county imposed a civil penalty on the online lodging operator for the verified violation, the difference between the amount prescribed in subdivision (a) of this paragraph and the amount of the civil penalty the city, town or county imposed on the online lodging operator for the verified violation.

1 2. For a second verified violation received on the same property
2 within a twelve-month period, either:

3 (a) If the city, town or county did not impose a civil penalty on
4 the online lodging operator for the verified violation, \$1,000.

5 (b) If the city, town or county imposed a civil penalty on the
6 online lodging operator for the verified violation, the difference between
7 the amount prescribed in subdivision (a) of this paragraph and the amount
8 of the civil penalty the city, town or county imposed on the online
9 lodging operator for the verified violation.

10 3. For a third and any subsequent verified violation received on
11 the same property within the same twelve-month period, either:

12 (a) If the city, town or county did not impose a civil penalty on
13 the online lodging operator for the verified violation, fifty percent of
14 the gross monthly revenues of the lodging accommodation at which the
15 violation occurred for the month in which the violation occurred or
16 \$1,500, whichever is greater.

17 (b) If the city, town or county imposed a civil penalty on the
18 online lodging operator for the verified violation, the difference between
19 the amount prescribed in subdivision (a) of this paragraph and the amount
20 of the civil penalty the city, town or county imposed on the online
21 lodging operator for the verified violation.

22 ~~C~~ D. If the department imposes a civil penalty pursuant to
23 subsection ~~B~~ C, paragraph 1 of this section and the online lodging
24 operator appeals the civil penalty, the hearing officer may waive or lower
25 the civil penalty based on the online lodging operator's diligence in
26 attempting to prohibit renters from violating state law or the city's, ~~or~~
27 town's OR COUNTY'S applicable laws, regulations or ordinances. In
28 determining whether to waive or lower the civil penalty, the hearing
29 officer shall consider both of the following:

30 1. Whether rules that prohibit activities violating state law or
31 the city's, ~~or~~ town's OR COUNTY'S applicable laws, regulations or
32 ordinances were included in the advertisement for the lodging
33 accommodation, vacation rental or short-term rental.

34 2. Whether the rules described in paragraph 1 of this subsection
35 were posted in a conspicuous location inside the lodging accommodation,
36 vacation rental or short-term rental.

37 ~~D~~ E. For the purposes of this section:

38 1. "Lodging accommodation" has the same meaning prescribed in
39 section 42-5076.

40 2. "Online lodging marketplace" has the same meaning prescribed in
41 section 42-5076.

42 3. "Online lodging operator" has the same meaning prescribed in
43 section 42-5076 and includes an owner of a vacation rental or short-term
44 rental that is not offered through an online lodging marketplace.

1 4. "Vacation rental" and "short-term rental" have the same meanings
2 prescribed in section 9-500.39 or 11-269.17.

3 5. "Verified violation" has the same meaning prescribed in section 4 9-
4 500.39 or 11-269.17.

5 Sec. 6. Applicability; definitions

6 A. Notwithstanding sections 9-500.39 and 11.269.17, Arizona Revised
7 Statutes, as amended by this act, a city, town or county may not prohibit
8 the operation of a vacation rental or short-term rental based solely on
9 its status as a vacation rental or short-term rental if the owner of the
10 vacation rental or short-term rental has both of the following:

11 1. As of May 1, 2021, a valid transaction privilege tax license.

12 2. As of June 2, 2021, provided the owner's or the owner's
13 designee's contact information to the city, town or county in which the
14 vacation rental or short-term rental is located, if required by a city,
15 town or county ordinance.

16 B. Subsection A of this section does not apply if the property on
17 which the vacation rental or short-term rental is located changes title or
18 ownership.

19 C. For the purposes of this section, "vacation rental" and
20 "short-term rental" have the same meanings prescribed in section 9-500.39
21 or 11-269.17, Arizona Revised Statutes, as amended by this act.

REFERENCE TITLE: regulation; short-term rentals

State of Arizona
House of Representatives
Fifty-fifth Legislature
First Regular Session
2021

HB 2482

Introduced by
Representative Kavanagh

AN ACT

AMENDING SECTIONS 9-500.39 AND 11-269.17, ARIZONA REVISED STATUTES;
RELATING TO SHORT-TERM RENTALS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 9-500.39, Arizona Revised Statutes, is amended to read:

9-500.39. Limits on regulation of vacation rentals and short-term rentals; state preemption; civil penalties; definitions

A. A city or town may not prohibit vacation rentals or short-term rentals.

B. A city or town may not restrict the use of or regulate vacation rentals or short-term rentals based on their classification, use or occupancy except as provided in this section. A city or town may regulate vacation rentals or short-term rentals ~~for the following purposes~~ AS FOLLOWS:

1. ~~Protecting~~ TO PROTECT the public's health and safety, including rules and regulations related to fire and building codes, health and sanitation, transportation or traffic control, solid or hazardous waste and pollution control, and designation of an emergency point of contact, if the city or town demonstrates that the rule or regulation is for the primary purpose of protecting the public's health and safety.

2. ~~Adopting~~ TO ADOPT and ~~enforcing~~ ENFORCE residential use and zoning ordinances, including ordinances related to noise, protection of welfare, property maintenance and other nuisance issues, if the ordinance is applied in the same manner as other property classified under sections 42-12003 and 42-12004.

3. ~~Limiting~~ TO LIMIT or ~~prohibiting~~ PROHIBIT the use of a vacation rental or short-term rental for the purposes of housing sex offenders, operating or maintaining a sober living home, selling illegal drugs, liquor control or pornography, obscenity, nude or topless dancing and other adult-oriented businesses.

4. ~~Requiring~~ TO REQUIRE the owner of a vacation rental or short-term rental to provide the city or town with contact information for the owner or the owner's designee who is responsible for responding to complaints in a timely manner in person, over the phone or by email at any time of day before offering for rent or renting the vacation rental or short-term rental. THIS CONTACT INFORMATION SHALL BE PRINTED IN BOLD TWENTY-FOUR-POINT FONT AND POSTED ON THE FRONT DOOR OF THE VACATION RENTAL OR SHORT-TERM RENTAL. IF THE PROPERTY IS SURROUNDED BY A FENCE OR OTHER BARRIER THAT RESTRICTS ACCESS TO THE FRONT DOOR, THE CONTACT INFORMATION SHALL BE POSTED IN A LOCATION THAT IS VISIBLE AND ACCESSIBLE TO THE PUBLIC. NOTWITHSTANDING SECTION 42-1125.02, FOR A VERIFIED VIOLATION OF THIS PARAGRAPH, A CITY OR TOWN MAY IMPOSE A CIVIL PENALTY OF \$50 FOR EACH DAY THAT THE VACATION RENTAL OR SHORT-TERM RENTAL IS OCCUPIED.

5. TO RESTRICT THE MAXIMUM NUMBER OF ADULT OCCUPANTS ALLOWED IN THE VACATION RENTAL OR SHORT-TERM RENTAL AT ANY ONE TIME TO THE LESSER OF THE OCCUPANCY LIMIT ESTABLISHED BY THE CITY OR TOWN OR NOT MORE THAN TWO

1 ADULTS PER BEDROOM, UP TO FOUR BEDROOMS, PLUS TWO ADDITIONAL ADULTS PER
2 ONE THOUSAND SQUARE FEET OF LIVABLE SPACE IN EXCESS OF THREE THOUSAND
3 SQUARE FEET OF LIVABLE SPACE OF THE RESIDENCE.

4 6. TO REQUIRE THE INSTALLATION OF SAFETY AND MONITORING EQUIPMENT
5 THAT MONITORS AND DETECTS THE LEVEL OF NOISE ON THE PROPERTY OF THE
6 VACATION RENTAL OR SHORT-TERM RENTAL. THE EQUIPMENT MUST BE INSTALLED
7 INSIDE ALL VACATION RENTALS AND SHORT-TERM RENTALS AND IN THE OUTSIDE YARD
8 OR UNENCLOSED BALCONY OF ALL PROPERTIES THAT ARE VACATION RENTALS OR
9 SHORT-TERM RENTALS. THE EQUIPMENT MUST HAVE THE CAPABILITY OF NOTIFYING
10 THE OWNER OR THE OWNER'S DESIGNEE IF THE LEVEL OF NOISE AT THE PROPERTY IS
11 UNREASONABLE OR IN VIOLATION OF THE MUNICIPAL NOISE ORDINANCE. SAFETY AND
12 MONITORING EQUIPMENT IS NOT REQUIRED IN AN OWNER-OCCUPIED RESIDENTIAL HOME
13 OFFERED FOR TRANSIENT USE OR IF THE OWNER OR THE OWNER'S DESIGNEE IS
14 ELSEWHERE ON THE PROPERTY. FOR A VIOLATION OF A NOISE RESTRICTION, THE
15 OWNER OR THE OWNER'S DESIGNEE SHALL NOTIFY THE OCCUPANT OF THE NOISE
16 VIOLATION. NOTICE MAY BE MADE BY TELEPHONE CALL OR TEXT MESSAGE. IF THE
17 NOISE VIOLATION CONTINUES FOR THIRTY MINUTES, THE OWNER OR THE OWNER'S
18 DESIGNEE SHALL NOTIFY THE OCCUPANT OF THE NOISE VIOLATION IN PERSON. FOR
19 A VERIFIED VIOLATION OF THIS PARAGRAPH, A CITY OR TOWN MAY IMPOSE THE
20 CIVIL PENALTY PRESCRIBED IN SECTION 42-1125.02, SUBSECTION B.

21 7. TO PROHIBIT SMOKING OUTSIDE OF THE VACATION RENTAL OR SHORT-TERM
22 RENTAL WITHIN ONE HUNDRED FEET OF A RESIDENTIAL STRUCTURE.

23 8. TO PROHIBIT OCCUPANTS OF A VACATION RENTAL OR SHORT-TERM RENTAL
24 FROM PARKING ON PUBLIC OR PRIVATE STREETS IF ON-PROPERTY PARKING IS
25 AVAILABLE. NOTWITHSTANDING SECTION 42-1125.02, FOR A VERIFIED VIOLATION
26 OF THIS PARAGRAPH, A CITY OR TOWN MAY IMPOSE A CIVIL PENALTY OF \$100 FOR
27 EACH DAY THAT THE VACATION RENTAL OR SHORT-TERM RENTAL IS OCCUPIED.

28 C. Within thirty days after a verified violation, a city or town
29 shall notify the department of revenue and the owner of the vacation
30 rental or short-term rental of the verified violation of the city's or
31 town's applicable laws, regulations or ordinances and, if the owner of the
32 vacation rental or short-term rental received the verified violation,
33 whether the city or town imposed a civil penalty on the owner of the
34 vacation rental or short-term rental and the amount of the civil penalty,
35 if assessed. If multiple verified violations arise out of the same
36 response to an incident at a vacation rental or short-term rental, those
37 verified violations are considered one verified violation for the purpose
38 of assessing civil penalties pursuant to section 42-1125.02, subsection B.

39 D. If the owner of a vacation rental or short-term rental has
40 provided contact information to a city or town pursuant to subsection B,
41 paragraph 4 of this section and if the city or town issues a citation for
42 a violation of the city's or town's applicable laws, regulations or
43 ordinances or a state law that occurred on the owner's vacation rental or
44 short-term rental property, the city or town shall make a reasonable
45 attempt to notify the owner or the owner's designee of the citation within

1 seven business days after the citation is issued using the contact
 2 information provided pursuant to subsection B, paragraph 4 of this
 3 section. If the owner of a vacation rental or short-term rental has not
 4 provided contact information pursuant to subsection B, paragraph 4 of this
 5 section, the city or town is not required to provide such notice.

6 E. This section does not exempt an owner of a residential rental
 7 property, as defined in section 33-1901, from maintaining with the
 8 assessor of the county in which the property is located information
 9 required under title 33, chapter 17, article 1.

10 F. A vacation rental or short-term rental may not be used for
 11 nonresidential uses, including for a special event that would otherwise
 12 require a permit or license pursuant to a city or town ordinance or a
 13 state law or rule or for a retail, restaurant, banquet space or other
 14 similar use.

15 G. A VACATION RENTAL OR SHORT-TERM RENTAL MAY NOT ADVERTISE TO
 16 EXCEED THE OCCUPANCY LIMIT OF THE DWELLING OR FOR ANY NONRESIDENTIAL USE
 17 PURSUANT TO SUBSECTION F OF THIS SECTION. NOTWITHSTANDING SECTION
 18 42-1125.02, FOR A VERIFIED VIOLATION OF THIS SUBSECTION, A CITY OR TOWN
 19 MAY IMPOSE A CIVIL PENALTY OF \$50 PER DAY FOR EACH DAY THE VIOLATION
 20 OCCURRED.

21 H. THE OWNER OF A VACATION RENTAL OR SHORT-TERM RENTAL SHALL
 22 DISPLAY THE OWNER'S TRANSACTION PRIVILEGE TAX LICENSE IN ANY ONLINE
 23 ADVERTISEMENT FOR RENTAL OF THE UNIT. NOTWITHSTANDING SECTION 42-1125.02,
 24 FOR A VERIFIED VIOLATION OF THIS SUBSECTION, A CITY OR TOWN MAY IMPOSE A
 25 CIVIL PENALTY OF \$50 PER DAY FOR EACH DAY THE VIOLATION OCCURRED.

26 ~~G.~~ I. For the purposes of this section:

27 1. "Transient" has the same meaning prescribed in section 42-5070.

28 2. "Vacation rental" or "short-term rental":

29 (a) Means any individually or collectively owned single-family or
 30 one-to-four-family house or dwelling unit or any unit or group of units in
 31 a condominium, cooperative or timeshare, that is also a transient public
 32 lodging establishment or owner-occupied residential home offered for
 33 transient use if the accommodations are not classified for property
 34 taxation under section 42-12001. ~~Vacation rental and short-term rental do~~

35 (b) DOES not include a unit that is used for any nonresidential
 36 use, including retail, restaurant, banquet space, event center or another
 37 similar use.

38 3. "Verified violation" means a finding of guilt or civil
 39 responsibility for violating any state law or local ordinance relating to
 40 a purpose prescribed in subsection B, ~~or~~ F, G OR H of this section that
 41 has been finally adjudicated.

1 Sec. 2. Section 11-269.17, Arizona Revised Statutes, is amended to
2 read:

3 11-269.17. Limits on regulation of vacation rentals and
4 short-term rentals; state preemption; civil
5 penalties; definitions

6 A. A county may not prohibit vacation rentals or short-term
7 rentals.

8 B. A county may not restrict the use of or regulate vacation
9 rentals or short-term rentals based on their classification, use or
10 occupancy except as provided in this section. A county may regulate
11 vacation rentals or short-term rentals ~~for the following purposes~~ AS
12 FOLLOWS:

13 1. ~~Protecting~~ TO PROTECT the public's health and safety, including
14 rules and regulations related to fire and building codes, health and
15 sanitation, transportation or traffic control, solid or hazardous waste
16 and pollution control, and designation of an emergency point of contact,
17 if the county demonstrates that the rule or regulation is for the primary
18 purpose of protecting the public's health and safety.

19 2. ~~Adopting~~ TO ADOPT and ~~enforcing~~ ENFORCE residential use and
20 zoning ordinances, including ordinances related to noise, protection of
21 welfare, property maintenance and other nuisance issues, if the ordinance
22 is applied in the same manner as other property classified under sections
23 42-12003 and 42-12004.

24 3. ~~Limiting~~ TO LIMIT or ~~prohibiting~~ PROHIBIT the use of a vacation
25 rental or short-term rental for the purposes of housing sex offenders,
26 operating or maintaining a sober living home, selling illegal drugs,
27 liquor control or pornography, obscenity, nude or topless dancing and
28 other adult-oriented businesses.

29 4. ~~Requiring~~ TO REQUIRE the owner of a vacation rental or
30 short-term rental to provide the county with contact information for the
31 owner or the owner's designee who is responsible for responding to
32 complaints in a timely manner in person, over the phone or by email at any
33 time of day before offering for rent or renting the vacation rental or
34 short-term rental. THIS CONTACT INFORMATION SHALL BE PRINTED IN BOLD
35 TWENTY-FOUR-POINT FONT AND POSTED ON THE FRONT DOOR OF THE VACATION RENTAL
36 OR SHORT-TERM RENTAL. IF THE PROPERTY IS SURROUNDED BY A FENCE OR OTHER
37 BARRIER THAT RESTRICTS ACCESS TO THE FRONT DOOR, THE CONTACT INFORMATION
38 SHALL BE POSTED IN A LOCATION THAT IS VISIBLE AND ACCESSIBLE TO THE
39 PUBLIC. NOTWITHSTANDING SECTION 42-1125.02, FOR A VERIFIED VIOLATION OF
40 THIS PARAGRAPH, A COUNTY MAY IMPOSE A CIVIL PENALTY OF \$50 FOR EACH DAY
41 THAT THE VACATION RENTAL OR SHORT-TERM RENTAL IS OCCUPIED.

42 5. TO RESTRICT THE MAXIMUM NUMBER OF ADULT OCCUPANTS ALLOWED IN THE
43 VACATION RENTAL OR SHORT-TERM RENTAL AT ANY ONE TIME TO THE LESSER OF THE
44 OCCUPANCY LIMIT ESTABLISHED BY THE COUNTY OR NOT MORE THAN TWO ADULTS PER
45 BEDROOM, UP TO FOUR BEDROOMS, PLUS TWO ADDITIONAL ADULTS PER ONE THOUSAND

1 SQUARE FEET OF LIVABLE SPACE IN EXCESS OF THREE THOUSAND SQUARE FEET OF
2 LIVABLE SPACE OF THE RESIDENCE.

3 6. TO REQUIRE THE INSTALLATION OF SAFETY AND MONITORING EQUIPMENT
4 THAT MONITORS AND DETECTS THE LEVEL OF NOISE ON THE PROPERTY OF THE
5 VACATION RENTAL OR SHORT-TERM RENTAL. THE EQUIPMENT MUST BE INSTALLED
6 INSIDE ALL VACATION RENTALS AND SHORT-TERM RENTALS AND IN THE OUTSIDE YARD
7 OR UNENCLOSED BALCONY OF ALL PROPERTIES THAT ARE VACATION RENTALS OR
8 SHORT-TERM RENTALS. THE EQUIPMENT MUST HAVE THE CAPABILITY OF NOTIFYING
9 THE OWNER OR THE OWNER'S DESIGNEE IF THE LEVEL OF NOISE AT THE PROPERTY IS
10 UNREASONABLE OR IN VIOLATION OF THE COUNTY NOISE ORDINANCE. SAFETY AND
11 MONITORING EQUIPMENT IS NOT REQUIRED IN AN OWNER-OCCUPIED RESIDENTIAL HOME
12 OFFERED FOR TRANSIENT USE OR IF THE OWNER OR THE OWNER'S DESIGNEE IS
13 ELSEWHERE ON THE PROPERTY. FOR A VIOLATION OF A NOISE RESTRICTION, THE
14 OWNER OR THE OWNER'S DESIGNEE SHALL NOTIFY THE OCCUPANT OF THE NOISE
15 VIOLATION. NOTICE MAY BE MADE BY TELEPHONE CALL OR TEXT MESSAGE. IF THE
16 NOISE VIOLATION CONTINUES FOR THIRTY MINUTES, THE OWNER OR THE OWNER'S
17 DESIGNEE SHALL NOTIFY THE OCCUPANT OF THE NOISE VIOLATION IN PERSON. FOR
18 A VERIFIED VIOLATION OF THIS PARAGRAPH, A COUNTY MAY IMPOSE THE CIVIL
19 PENALTY PRESCRIBED IN SECTION 42-1125.02, SUBSECTION B.

20 7. TO PROHIBIT SMOKING OUTSIDE OF THE VACATION RENTAL OR SHORT-TERM
21 RENTAL WITHIN ONE HUNDRED FEET OF A RESIDENTIAL STRUCTURE.

22 8. TO PROHIBIT OCCUPANTS OF A VACATION RENTAL OR SHORT-TERM RENTAL
23 FROM PARKING ON PUBLIC OR PRIVATE STREETS IF ON-PROPERTY PARKING IS
24 AVAILABLE. NOTWITHSTANDING SECTION 42-1125.02, FOR A VERIFIED VIOLATION
25 OF THIS PARAGRAPH, A COUNTY MAY IMPOSE A CIVIL PENALTY OF \$100 FOR EACH
26 DAY THAT THE VACATION RENTAL OR SHORT-TERM RENTAL IS OCCUPIED.

27 C. Within thirty days after a verified violation, a county shall
28 notify the department of revenue and the owner of the vacation rental or
29 short-term rental of the verified violation of the county's applicable
30 laws, regulations or ordinances and, if the property owner received the
31 verified violation, whether the county imposed a civil penalty on the
32 owner of the vacation rental or short-term rental and the amount of the
33 civil penalty, if assessed. If multiple verified violations arise out of
34 the same response to an incident at a vacation rental or short-term
35 rental, those verified violations are considered one verified violation
36 for the purpose of assessing civil penalties pursuant to section
37 42-1125.02, subsection B.

38 D. If the owner of a vacation rental or short-term rental has
39 provided contact information to a county pursuant to subsection B,
40 paragraph 4 of this section and if the county issues a citation for a
41 violation of the county's applicable laws, regulations or ordinances or a
42 state law that occurred on the owner's vacation rental or short-term
43 rental property, the county shall make a reasonable attempt to notify the
44 owner or the owner's designee of the citation within seven business days
45 after the citation is issued using the contact information provided

pursuant to subsection B, paragraph 4 of this section. If the owner of a vacation rental or short-term rental has not provided contact information pursuant to subsection B, paragraph 4 of this section, the county is not required to provide such notice.

E. This section does not exempt an owner of a residential rental property, as defined in section 33-1901, from maintaining with the assessor of the county in which the property is located information required under title 33, chapter 17, article 1.

F. A vacation rental or short-term rental may not be used for nonresidential uses, including for a special event that would otherwise require a permit or license pursuant to a county ordinance or a state law or rule or for a retail, restaurant, banquet space or other similar use.

G. A VACATION RENTAL OR SHORT-TERM RENTAL MAY NOT ADVERTISE TO EXCEED THE OCCUPANCY LIMIT OF THE DWELLING OR FOR ANY NONRESIDENTIAL USE PURSUANT TO SUBSECTION F OF THIS SECTION. NOTWITHSTANDING SECTION 42-1125.02, FOR A VERIFIED VIOLATION OF THIS SUBSECTION, A COUNTY MAY IMPOSE A CIVIL PENALTY OF \$50 PER DAY FOR EACH DAY THE VIOLATION OCCURRED.

H. THE OWNER OF A VACATION RENTAL OR SHORT-TERM RENTAL SHALL DISPLAY THE OWNER'S TRANSACTION PRIVILEGE TAX LICENSE IN ANY ONLINE ADVERTISEMENT FOR RENTAL OF THE UNIT. NOTWITHSTANDING SECTION 42-1125.02, FOR A VERIFIED VIOLATION OF THIS SUBSECTION, A COUNTY MAY IMPOSE A CIVIL PENALTY OF \$50 PER DAY FOR EACH DAY THE VIOLATION OCCURRED.

~~G.~~ I. For the purposes of this section:

1. "Transient" has the same meaning prescribed in section 42-5070.

2. "Vacation rental" or "short-term rental":

(a) Means any individually or collectively owned single-family or one-to-four-family house or dwelling unit or any unit or group of units in a condominium, cooperative or timeshare, that is also a transient public lodging establishment or owner-occupied residential home offered for transient use if the accommodations are not classified for property taxation under section 42-12001. ~~Vacation rental and short-term rental do~~

(b) DOES not include a unit that is used for any nonresidential use, including retail, restaurant, banquet space, event center or another similar use.

3. "Verified violation" means a finding of guilt or civil responsibility for violating any state law or local ordinance relating to a purpose prescribed in subsection B, ~~or~~ F, G OR H of this section that has been finally adjudicated.

REFERENCE TITLE: short-term rentals; vacation rentals

State of Arizona
House of Representatives
Fifty-fifth Legislature
First Regular Session
2021

HCR 2011

Introduced by
Representatives Lieberman: Butler, Pawlik, Shah, Terán, Senator Marsh

A CONCURRENT RESOLUTION

ENACTING AND ORDERING THE SUBMISSION TO THE PEOPLE OF A MEASURE RELATING
TO SHORT-TERM AND VACATION RENTALS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it resolved by the House of Representatives of the State of Arizona,
2 the Senate concurring:

3 1. Under the power of the referendum, as vested in the Legislature,
4 the following measure, relating to short-term and vacation rentals, is
5 enacted to become valid as a law if approved by the voters and on
6 proclamation of the Governor:

7 AN ACT

8 REPEALING SECTIONS 9-500.39 AND 11-269.17, ARIZONA REVISED
9 STATUTES; AMENDING SECTIONS 12-1134, 42-1125.02, 42-2003 AND
10 42-5042, ARIZONA REVISED STATUTES; RELATING TO SHORT-TERM
11 RENTALS AND VACATION RENTALS.

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

13 Section 1. Repeal

14 Sections 9-500.39 and 11-269.17, Arizona Revised
15 Statutes, are repealed.

16 Sec. 2. Section 12-1134, Arizona Revised Statutes, is
17 amended to read:

18 12-1134. Diminution in value: just compensation:
19 exceptions: definitions

20 A. If the existing rights to use, divide, sell or
21 possess private real property are reduced by the enactment or
22 applicability of any land use law enacted after the date the
23 property is transferred to the owner and such action reduces
24 the fair market value of the property, the owner is entitled
25 to just compensation from this state or the political
26 subdivision of this state that enacted the land use law.

27 B. This section does not apply to land use laws that DO
28 ANY OF THE FOLLOWING:

29 1. Limit or prohibit a use or division of real property
30 for the protection of the public's health and safety,
31 including rules and regulations relating to fire and building
32 codes, health and sanitation, transportation or traffic
33 control, solid or hazardous waste, and pollution control. ;

34 2. Limit or prohibit the use or division of real
35 property commonly and historically recognized as a public
36 nuisance under common law. ;

37 3. Are required by federal law. ;

38 4. Limit or prohibit the use or division of a property
39 for the purpose of housing sex offenders, selling illegal
40 drugs, liquor control, or pornography, obscenity, nude or
41 topless dancing, and other adult oriented businesses if the
42 land use laws are consistent with the constitutions of this
43 state and the United States. ;

44 5. Establish locations for utility facilities. ;

45 6. Do not directly regulate an owner's land. ;

1 7. Were enacted before ~~the effective date of this~~
2 ~~section~~ DECEMBER 7, 2006.

3 8. REGULATE A VACATION RENTAL OR SHORT-TERM RENTAL.

4 C. This state or the political subdivision of this
5 state that enacted the land use law has the burden of
6 demonstrating that the land use law is exempt pursuant to
7 subsection B OF THIS SECTION.

8 D. The owner shall not be required to first submit a
9 land use application to remove, modify, vary or otherwise
10 alter the application of the land use law to the owner's
11 property as a prerequisite to demanding or receiving just
12 compensation pursuant to this section.

13 E. If a land use law continues to apply to private real
14 property more than ninety days after the owner of the property
15 makes a written demand in a specific amount for just
16 compensation to this state or the political subdivision of
17 this state that enacted the land use law, the owner has a
18 cause of action for just compensation in a court in the county
19 in which the property is located, unless this state or THE
20 political subdivision of this state and the owner reach an
21 agreement on the amount of just compensation to be paid, or
22 unless this state or THE political subdivision of this state
23 amends, ~~OR~~ repeals, ~~THE LAND USE LAW~~ or issues to the
24 landowner a binding waiver of enforcement of the land use law
25 on the owner's specific parcel.

26 F. Any demand for landowner relief or any waiver that
27 is granted in lieu of compensation runs with the land.

28 G. An action for just compensation based on diminution
29 in value must be made or forever barred within three years of
30 the effective date of the land use law, or of the first date
31 the reduction of the existing rights to use, divide, sell or
32 possess property applies to the owner's parcel, whichever is
33 later.

34 H. The remedy created by this section is in addition to
35 any other remedy that is provided by the laws and constitution
36 of this state or the United States and is not intended to
37 modify or replace any other remedy.

38 I. ~~Nothing in~~ This section ~~prohibits~~ DOES NOT PROHIBIT
39 this state or any political subdivision of this state from
40 reaching an agreement with a private property owner to waive a
41 claim for diminution in value regarding any proposed action by
42 this state or a political subdivision of this state or action
43 requested by the property owner.

J. FOR THE PURPOSES OF SUBSECTION B OF THIS SECTION:
1. "TRANSIENT" HAS THE SAME MEANING PRESCRIBED IN SECTION 42-5070.

2. "VACATION RENTAL" OR "SHORT-TERM RENTAL":

(a) MEANS ANY INDIVIDUALLY OR COLLECTIVELY OWNED SINGLE-FAMILY OR ONE-TO-FOUR-FAMILY HOUSE OR DWELLING UNIT OR ANY UNIT OR GROUP OF UNITS IN A CONDOMINIUM, COOPERATIVE OR TIMESHARE, THAT IS ALSO A TRANSIENT PUBLIC LODGING ESTABLISHMENT OR OWNER-OCCUPIED RESIDENTIAL HOME OFFERED FOR TRANSIENT USE IF THE ACCOMMODATIONS ARE NOT CLASSIFIED FOR PROPERTY TAXATION UNDER SECTION 42-12001.

(b) DOES NOT INCLUDE A UNIT THAT IS USED FOR ANY NONRESIDENTIAL USE, INCLUDING RETAIL, RESTAURANT, BANQUET SPACE, EVENT CENTER OR ANOTHER SIMILAR USE.

Sec. 3. Section 42-1125.02, Arizona Revised Statutes, is amended to read:

42-1125.02. Civil penalties; online lodging operators; definition

A. An online lodging operator that fails to comply with section 42-5042 shall pay the following civil penalty:

1. For a first offense, \$250.
2. For a second and any subsequent offense, \$1,000.

~~B. If an online lodging operator received a verified violation, the online lodging operator shall pay the following civil penalty:~~

~~1. For a first verified violation received for a property, either:~~

~~(a) If the city, town or county did not impose a civil penalty on the online lodging operator for the verified violation, \$500.~~

~~(b) If the city, town or county imposed a civil penalty on the online lodging operator for the verified violation, the difference between the amount prescribed in subdivision (a) of this paragraph and the amount of the civil penalty the city, town or county imposed on the online lodging operator for the verified violation.~~

~~2. For a second verified violation received on the same property within a twelve-month period, either:~~

~~(a) If the city, town or county did not impose a civil penalty on the online lodging operator for the verified violation, \$1,000.~~

~~(b) If the city, town or county imposed a civil penalty on the online lodging operator for the verified violation, the difference between the amount prescribed in subdivision (a) of this paragraph and the amount of the civil penalty the city,~~

town or county imposed on the online lodging operator for the verified violation.

3. For a third and any subsequent verified violation received on the same property within the same twelve-month period, either:

(a) If the city, town or county did not impose a civil penalty on the online lodging operator for the verified violation, fifty percent of the gross monthly revenues of the lodging accommodation at which the violation occurred for the month in which the violation occurred or \$1,500, whichever is greater.

(b) If the city, town or county imposed a civil penalty on the online lodging operator for the verified violation, the difference between the amount prescribed in subdivision (a) of this paragraph and the amount of the civil penalty the city, town or county imposed on the online lodging operator for the verified violation.

C. If the department imposes a civil penalty pursuant to subsection B, paragraph 1 of this section and the online lodging operator appeals the civil penalty, the hearing officer may waive or lower the civil penalty based on the online lodging operator's diligence in attempting to prohibit renters from violating state law or the city's or town's applicable laws, regulations or ordinances. In determining whether to waive or lower the civil penalty, the hearing officer shall consider both of the following:

1. Whether rules that prohibit activities violating state law or the city's or town's applicable laws, regulations or ordinances were included in the advertisement for the lodging accommodation, vacation rental or short-term rental.

2. Whether the rules described in paragraph 1 of this subsection were posted in a conspicuous location inside the lodging accommodation, vacation rental or short-term rental.

~~D.~~ B. For the purposes of this section, ~~—~~

1. "Lodging accommodation" has the same meaning prescribed in section 42-5076.

2. "Online lodging marketplace" has the same meaning prescribed in section 42-5076.

3. "online lodging operator" has the same meaning prescribed in section 42-5076 and includes an owner of a vacation rental or short-term rental that is not offered through an online lodging marketplace.

4. "Vacation rental" and "short-term rental" have the same meanings prescribed in section 9-500.39 or 11-269.17.

1 ~~5. "Verified violation" has the same meaning prescribed~~
2 ~~in section 9-500.39 or 11-269.17.~~

3 Sec. 4. Section 42-2003, Arizona Revised Statutes, is
4 amended to read:

5 42-2003. Authorized disclosure of confidential
6 information; definitions

7 A. Confidential information relating to:

8 1. A taxpayer may be disclosed to the taxpayer, its
9 successor in interest or a designee of the taxpayer who is
10 authorized in writing by the taxpayer. A principal corporate
11 officer of a parent corporation may execute a written
12 authorization for a controlled subsidiary.

13 2. A corporate taxpayer may be disclosed to any
14 principal officer, any person designated by a principal
15 officer or any person designated in a resolution by the
16 corporate board of directors or other similar governing body.
17 If a corporate officer signs a statement under penalty of
18 perjury representing that the officer is a principal officer,
19 the department may rely on the statement until the statement
20 is shown to be false. For the purposes of this paragraph,
21 "principal officer" includes a chief executive officer,
22 president, secretary, treasurer, vice president of tax, chief
23 financial officer, chief operating officer or chief tax
24 officer or any other corporate officer who has the authority
25 to bind the taxpayer on matters related to state taxes.

26 3. A partnership may be disclosed to any partner of the
27 partnership. This exception does not include disclosure of
28 confidential information of a particular partner unless
29 otherwise authorized.

30 4. A limited liability company may be disclosed to any
31 member of the company or, if the company is manager-managed,
32 to any manager.

33 5. An estate may be disclosed to the personal
34 representative of the estate and to any heir, next of kin or
35 beneficiary under the will of the decedent if the department
36 finds that the heir, next of kin or beneficiary has a material
37 interest that will be affected by the confidential
38 information.

39 6. A trust may be disclosed to the trustee or trustees,
40 jointly or separately, and to the grantor or any beneficiary
41 of the trust if the department finds that the grantor or
42 beneficiary has a material interest that will be affected by
43 the confidential information.

44 7. A government entity may be disclosed to the head of
45 the entity or a member of the governing board of the entity,

1 or any employee of the entity who has been delegated the
2 authorization in writing by the head of the entity or the
3 governing board of the entity.

4 8. Any taxpayer may be disclosed if the taxpayer has
5 waived any rights to confidentiality either in writing or on
6 the record in any administrative or judicial proceeding.

7 9. The name and taxpayer identification numbers of
8 persons issued direct payment permits may be publicly
9 disclosed.

10 10. Any taxpayer may be disclosed during a meeting or
11 telephone call if the taxpayer is present during the meeting
12 or telephone call and authorizes the disclosure of
13 confidential information.

14 B. Confidential information may be disclosed to:

15 1. Any employee of the department whose official duties
16 involve tax administration.

17 2. The office of the attorney general solely for its
18 use in preparation for, or in an investigation that may result
19 in, any proceeding involving tax administration before the
20 department or any other agency or board of this state, or
21 before any grand jury or any state or federal court.

22 3. The department of liquor licenses and control for
23 its use in determining whether a spirituous liquor licensee
24 has paid all transaction privilege taxes and affiliated excise
25 taxes incurred as a result of the sale of spirituous liquor,
26 as defined in section 4-101, at the licensed establishment and
27 imposed on the licensed establishments by this state and its
28 political subdivisions.

29 4. Other state tax officials whose official duties
30 require the disclosure for proper tax administration purposes
31 if the information is sought in connection with an
32 investigation or any other proceeding conducted by the
33 official. Any disclosure is limited to information of a
34 taxpayer who is being investigated or who is a party to a
35 proceeding conducted by the official.

36 5. The following agencies, officials and organizations,
37 if they grant substantially similar privileges to the
38 department for the type of information being sought, pursuant
39 to statute and a written agreement between the department and
40 the foreign country, agency, state, Indian tribe or
41 organization:

42 (a) The United States internal revenue service, alcohol
43 and tobacco tax and trade bureau of the United States
44 treasury, United States bureau of alcohol, tobacco, firearms
45 and explosives of the United States department of justice,

1 United States drug enforcement agency and federal bureau of
2 investigation.

3 (b) A state tax official of another state.

4 (c) An organization of states, federation of tax
5 administrators or multistate tax commission that operates an
6 information exchange for tax administration purposes.

7 (d) An agency, official or organization of a foreign
8 country with responsibilities that are comparable to those
9 listed in subdivision (a), (b) or (c) of this paragraph.

10 (e) An agency, official or organization of an Indian
11 tribal government with responsibilities comparable to the
12 responsibilities of the agencies, officials or organizations
13 identified in subdivision (a), (b) or (c) of this paragraph.

14 6. The auditor general, in connection with any audit of
15 the department subject to the restrictions in section 42-2002,
16 subsection D.

17 7. Any person to the extent necessary for effective tax
18 administration in connection with:

19 (a) The processing, storage, transmission, destruction
20 and reproduction of the information.

21 (b) The programming, maintenance, repair, testing and
22 procurement of equipment for purposes of tax administration.

23 (c) The collection of the taxpayer's civil liability.

24 8. The office of administrative hearings relating to
25 taxes administered by the department pursuant to section
26 42-1101, but the department shall not disclose any
27 confidential information without the taxpayer's written
28 consent:

29 (a) Regarding income tax or withholding tax.

30 (b) On any tax issue relating to information associated
31 with the reporting of income tax or withholding tax.

32 9. The United States treasury inspector general for tax
33 administration for the purpose of reporting a violation of
34 internal revenue code section 7213A (26 United States Code
35 section 7213A), unauthorized inspection of returns or return
36 information.

37 10. The financial management service of the United
38 States treasury department for use in the treasury offset
39 program.

40 11. The United States treasury department or its
41 authorized agent for use in the state income tax levy program
42 and in the electronic federal tax payment system.

43 12. The Arizona commerce authority for its use in:

44 (a) Qualifying renewable energy operations for the tax
45 incentives under section 42-12006.

1 (b) Qualifying businesses with a qualified facility for
2 income tax credits under sections 43-1083.03 and 43-1164.04.

3 (c) Fulfilling its annual reporting responsibility
4 pursuant to section 41-1511, subsections U and V and section
5 41-1512, subsections U and V.

6 (d) Certifying computer data centers for tax relief
7 under section 41-1519.

8 13. A prosecutor for purposes of section 32-1164,
9 subsection C.

10 14. The office of the state fire marshal for use in
11 determining compliance with and enforcing title 37, chapter 9,
12 article 5.

13 15. The department of transportation for its use in
14 administering taxes, surcharges and penalties prescribed by
15 title 28.

16 16. The Arizona health care cost containment system
17 administration for its use in administering nursing facility
18 provider assessments.

19 17. The department of administration risk management
20 division and the office of the attorney general if the
21 information relates to a claim against this state pursuant to
22 section 12-821.01 involving the department of revenue.

23 18. Another state agency if the taxpayer authorizes the
24 disclosure of confidential information in writing, including
25 an authorization that is part of an application form or other
26 document submitted to the agency.

27 19. The department of economic security for its use in
28 determining whether an employer has paid all amounts due under
29 the unemployment insurance program pursuant to title 23,
30 chapter 4.

31 20. The department of health services for its use in
32 determining ~~if~~ **WHETHER** a medical marijuana dispensary is in
33 compliance with the tax requirements of ~~title 42,~~ chapter 5 **OF**
34 **THIS TITLE** for purposes of section 36-2806, subsection A.

35 C. Confidential information may be disclosed in any
36 state or federal judicial or administrative proceeding
37 pertaining to tax administration pursuant to the following
38 conditions:

39 1. One or more of the following circumstances must
40 apply:

41 (a) The taxpayer is a party to the proceeding.

42 (b) The proceeding arose out of, or in connection with,
43 determining the taxpayer's civil or criminal liability, or the
44 collection of the taxpayer's civil liability, with respect to
45 any tax imposed under this title or title 43.

1 (c) The treatment of an item reflected on the
2 taxpayer's return is directly related to the resolution of an
3 issue in the proceeding.

4 (d) Return information directly relates to a
5 transactional relationship between a person who is a party to
6 the proceeding and the taxpayer and directly affects the
7 resolution of an issue in the proceeding.

8 2. Confidential information may not be disclosed under
9 this subsection if the disclosure is prohibited by section
10 42-2002, subsection C or D.

11 D. Identity information may be disclosed for purposes
12 of notifying persons entitled to tax refunds if the department
13 is unable to locate the persons after reasonable effort.

14 E. The department, on the request of any person, shall
15 provide the names and addresses of bingo licensees as defined
16 in section 5-401, verify whether or not a person has a
17 privilege license and number, a tobacco product distributor's
18 license and number or a withholding license and number or
19 disclose the information to be posted on the department's
20 website or otherwise publicly accessible pursuant to section
21 42-1124, subsection F and section 42-3401.

22 F. A department employee, in connection with the
23 official duties relating to any audit, collection activity or
24 civil or criminal investigation, may disclose return
25 information to the extent that disclosure is necessary to
26 obtain information that is not otherwise reasonably
27 available. These official duties include the correct
28 determination of and liability for tax, the amount to be
29 collected or the enforcement of other state tax revenue laws.

30 G. Confidential information relating to transaction
31 privilege tax, use tax, severance tax, jet fuel excise and use
32 tax and any other tax collected by the department on behalf of
33 any jurisdiction may be disclosed to any county, city or town
34 tax official if the information relates to a taxpayer who is
35 or may be taxable by a county, city or town or who may be
36 subject to audit by the department pursuant to section
37 42-6002. Any taxpayer information that is released by the
38 department to the county, city or town:

39 1. May be used only for internal purposes, including
40 audits. ~~If there is a legitimate business need relating to~~
41 ~~enforcing laws, regulations and ordinances pursuant to section~~
42 ~~9-500.39 or 11-269.17, a county, city or town tax official may~~
43 ~~redisclose transaction privilege tax information relating to a~~
44 ~~vacation rental or short-term rental property owner or online~~

1 ~~lodging operator from the new license report and license~~
2 ~~update report, subject to the following:~~

3 ~~(a) The information redisclosed is limited to the~~
4 ~~following:~~

5 ~~(i) The transaction privilege tax license number.~~

6 ~~(ii) The type of organization or ownership of the~~
7 ~~business.~~

8 ~~(iii) The legal business name and doing business as~~
9 ~~name, if different from the legal name.~~

10 ~~(iv) The business mailing address, tax record physical~~
11 ~~location address, telephone number, email address and fax~~
12 ~~number.~~

13 ~~(v) The date the business started in this state, the~~
14 ~~business description and the North American industry~~
15 ~~classification system code.~~

16 ~~(vi) The name, address and telephone number for each~~
17 ~~owner, partner, corporate officer, member, managing member or~~
18 ~~official of the employing unit.~~

19 ~~(b) Redisclosure is limited to nonelected officials in~~
20 ~~other units within the county, city or town. The information~~
21 ~~may not be redisclosed to an elected official or the elected~~
22 ~~official's staff.~~

23 ~~(c) All redisclosures of confidential information made~~
24 ~~pursuant to this paragraph are subject to paragraph 2 of this~~
25 ~~subsection.~~

26 2. May not be disclosed to the public in any manner
27 that does not comply with confidentiality standards
28 established by the department. The county, city or town shall
29 agree in writing with the department that any release of
30 confidential information that violates the confidentiality
31 standards adopted by the department will result in the
32 immediate suspension of any rights of the county, city or town
33 to receive taxpayer information under this subsection.

34 H. The department may disclose statistical information
35 gathered from confidential information if it does not disclose
36 confidential information attributable to any one taxpayer.
37 The department may disclose statistical information gathered
38 from confidential information, even if it discloses
39 confidential information attributable to a taxpayer, to:

40 1. The state treasurer in order to comply with the
41 requirements of section 42-5029, subsection A, paragraph 3.

42 2. The joint legislative income tax credit review
43 committee, the joint legislative budget committee staff and
44 the legislative staff in order to comply with the requirements
45 of section 43-221.

1 I. The department may disclose the aggregate amounts of
2 any tax credit, tax deduction or tax exemption enacted after
3 January 1, 1994. Information subject to disclosure under this
4 subsection shall not be disclosed if a taxpayer demonstrates
5 to the department that such information would give an unfair
6 advantage to competitors.

7 J. Except as provided in section 42-2002, subsection C,
8 confidential information, described in section 42-2001,
9 paragraph 1, subdivision (a), item (ii), may be disclosed to
10 law enforcement agencies for law enforcement purposes.

11 K. The department may provide transaction privilege tax
12 license information to property tax officials in a county for
13 the purpose of identification and verification of the tax
14 status of commercial property.

15 L. The department may provide transaction privilege
16 tax, luxury tax, use tax, property tax and severance tax
17 information to the ombudsman-citizens aide pursuant to title
18 41, chapter 8, article 5.

19 M. Except as provided in section 42-2002, subsection D,
20 a court may order the department to disclose confidential
21 information pertaining to a party to an action. An order
22 shall be made only on a showing of good cause and that the
23 party seeking the information has made demand on the taxpayer
24 for the information.

25 N. This section does not prohibit the disclosure by the
26 department of any information or documents submitted to the
27 department by a bingo licensee. Before disclosing the
28 information, the department shall obtain the name and address
29 of the person requesting the information.

30 O. If the department is required or permitted to
31 disclose confidential information, it may charge the person or
32 agency requesting the information for the reasonable cost of
33 its services.

34 P. Except as provided in section 42-2002, subsection D,
35 the department of revenue shall release confidential
36 information as requested by the department of economic
37 security pursuant to section 42-1122 or 46-291. Information
38 disclosed under this subsection is limited to the same type of
39 information that the United States internal revenue service is
40 authorized to disclose under section 6103(1)(6) of the
41 internal revenue code.

42 Q. Except as provided in section 42-2002, subsection D,
43 the department shall release confidential information as
44 requested by the courts and clerks of the court pursuant to
45 section 42-1122.

1 R. To comply with the requirements of section 42-5031,
2 the department may disclose to the state treasurer, to the
3 county stadium district board of directors and to any city or
4 town tax official that is part of the county stadium district
5 confidential information attributable to a taxpayer's business
6 activity conducted in the county stadium district.

7 S. The department shall release to the attorney general
8 confidential information as requested by the attorney general
9 for purposes of determining compliance with or enforcing any
10 of the following:

11 1. Any public health control law relating to tobacco
12 sales as provided under title 36, chapter 6, article 14.

13 2. Any law relating to reduced cigarette ignition
14 propensity standards as provided under title 37, chapter 9,
15 article 5.

16 3. Sections 44-7101 and 44-7111, the master settlement
17 agreement referred to in those sections and all agreements
18 regarding disputes under the master settlement agreement.

19 T. For proceedings before the department, the office of
20 administrative hearings, the state board of tax appeals or any
21 state or federal court involving penalties that were assessed
22 against a return preparer, an electronic return preparer or a
23 payroll service company pursuant to section 42-1103.02,
24 42-1125.01 or 43-419, confidential information may be
25 disclosed only before the judge or administrative law judge
26 adjudicating the proceeding, the parties to the proceeding and
27 the parties' representatives in the proceeding prior to its
28 introduction into evidence in the proceeding. The
29 confidential information may be introduced as evidence in the
30 proceeding only if the taxpayer's name, the names of any
31 dependents listed on the return, all social security numbers,
32 the taxpayer's address, the taxpayer's signature and any
33 attachments containing any of the foregoing information are
34 redacted and if either:

35 1. The treatment of an item reflected on such a return
36 is or may be related to the resolution of an issue in the
37 proceeding.

38 2. Such a return or the return information relates or
39 may relate to a transactional relationship between a person
40 who is a party to the proceeding and the taxpayer that
41 directly affects the resolution of an issue in the proceeding.

42 3. The method of payment of the taxpayer's withholding
43 tax liability or the method of filing the taxpayer's
44 withholding tax return is an issue for the period.

1 U. The department and attorney general may share the
2 information specified in subsection S of this section with any
3 of the following:

4 1. Federal, state or local agencies located in this
5 state for the purposes of enforcement of the statutes or
6 agreements specified in subsection S of this section or for
7 the purposes of enforcement of corresponding laws of other
8 states.

9 2. Indian tribes located in this state for the purposes
10 of enforcement of the statutes or agreements specified in
11 subsection S of this section.

12 3. A court, arbitrator, data clearinghouse or similar
13 entity for the purpose of assessing compliance with or making
14 calculations required by the master settlement agreement or
15 agreements regarding disputes under the master settlement
16 agreement, and with counsel for the parties or expert
17 witnesses in any such proceeding, if the information otherwise
18 remains confidential.

19 V. The department may provide the name and address of
20 qualifying hospitals and qualifying health care organizations,
21 as defined in section 42-5001, to a business that is
22 classified and reporting transaction privilege tax under the
23 utilities classification.

24 W. The department may disclose to an official of any
25 city, town or county in a current agreement or considering a
26 prospective agreement with the department as described in
27 section 42-5032.02, subsection G any information relating to
28 amounts subject to distribution that are required by section
29 42-5032.02. Information disclosed by the department under
30 this subsection:

31 1. May only be used by the city, town or county for
32 internal purposes.

33 2. May not be disclosed to the public in any manner
34 that does not comply with confidentiality standards
35 established by the department. The city, town or county must
36 agree with the department in writing that any release of
37 confidential information that violates the confidentiality
38 standards will result in the immediate suspension of any
39 rights of the city, town or county to receive information
40 under this subsection.

41 X. Notwithstanding any other provision of this section,
42 the department may not disclose information provided by an
43 online lodging marketplace, as defined in section 42-5076,
44 without the written consent of the online lodging marketplace,
45 and the information may be disclosed only pursuant to

1 subsection A, paragraphs 1 through 6, 8 and 10, subsection B,
2 paragraphs 1, 2, 7 and 8 and subsections C, D and G of this
3 section. Such information:

4 1. Is not subject to disclosure pursuant to title 39,
5 relating to public records.

6 2. May not be disclosed to any agency of this state or
7 of any county, city, town or other political subdivision of
8 this state.

9 Sec. 5. Section 42-5042, Arizona Revised Statutes, is
10 amended to read:

11 42-5042. Online lodging operators; requirements;
12 definitions

13 A. An online lodging operator may not offer for rent or
14 rent a lodging accommodation without a current transaction
15 privilege tax license. The online lodging operator shall list
16 the transaction privilege tax license number on each
17 advertisement for each lodging accommodation the online
18 lodging operator maintains, including online lodging
19 marketplace postings.

20 B. For the purposes of this section:

21 1. "Lodging accommodation" has the same meaning
22 prescribed in section 42-5076.

23 2. "Online lodging marketplace" has the same meaning
24 prescribed in section 42-5076.

25 3. "Online lodging operator" has the same meaning
26 prescribed in section 42-5076 ~~and includes an owner of a~~
27 ~~vacation rental or short-term rental, as defined in section~~
28 ~~9-500.39 or 11-269.17, that is not offered through an online~~
29 ~~lodging marketplace.~~

30 2. The Secretary of State shall submit this proposition to the
31 voters at the next general election as provided by article IV, part 1,
32 section 1, Constitution of Arizona.

REFERENCE TITLE: law enforcement; budget reduction; prohibition

State of Arizona
Senate
Fifty-fifth Legislature
First Regular Session
2021

SB 1333

Introduced by
Senator Gowan

AN ACT

AMENDING TITLE 9, CHAPTER 4, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING SECTION 9-500.48; AMENDING TITLE 41, CHAPTER 12, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1734; AMENDING SECTIONS 42-5029 AND 43-206, ARIZONA REVISED STATUTES; RELATING TO LAW ENFORCEMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 9, chapter 4, article 8, Arizona Revised Statutes,
3 is amended by adding section 9-500.48, to read:

4 9-500.48. Law enforcement; budget decrease; prohibition;
5 applicability; definitions

6 A. A CITY OR TOWN MAY NOT REDUCE THE ANNUAL OPERATING BUDGET FOR A
7 LAW ENFORCEMENT AGENCY BY ANY AMOUNT BELOW THE PREVIOUS YEAR'S BUDGET.

8 B. IF A CITY OR TOWN REDUCES THE ANNUAL OPERATING BUDGET FOR A LAW
9 ENFORCEMENT AGENCY, THE CITY OR TOWN SHALL NOTIFY THE STATE TREASURER OF
10 THE REDUCTION. THE STATE TREASURER SHALL THEN WITHHOLD ANY STATE SHARED
11 MONIES FROM THE CITY OR TOWN IN AN AMOUNT EQUAL TO THE AMOUNT OF THE
12 REDUCTION OF THE ANNUAL OPERATING BUDGET FOR THE LAW ENFORCEMENT AGENCY
13 PURSUANT TO SECTION 42-5029, SUBSECTION M AND SECTION 43-206,
14 SUBSECTION G. IF A CITY OR TOWN REDUCES THE ANNUAL OPERATING BUDGET FOR A
15 LAW ENFORCEMENT AGENCY BY MORE THAN TWENTY-FIVE PERCENT, THE CITY OR TOWN
16 SHALL NOTIFY THE STATE TREASURER AND THE STATE TREASURER SHALL WITHHOLD
17 STATE SHARED MONIES IN AN AMOUNT EQUAL TO THE LAW ENFORCEMENT AGENCY'S
18 ENTIRE BUDGET FOR THE PREVIOUS YEAR PURSUANT TO SECTION 42-5029,
19 SUBSECTION M AND SECTION 43-206, SUBSECTION G. THE STATE TREASURER SHALL
20 CONTINUE TO WITHHOLD STATE SHARED MONIES UNTIL NOTIFICATION FROM THE CITY
21 OR TOWN THAT THE REDUCTION IN THE LAW ENFORCEMENT AGENCY'S BUDGET HAS BEEN
22 RESTORED.

23 C. THE STATE TREASURER SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146
24 AND 35-147, ANY AMOUNT WITHHELD PURSUANT TO SUBSECTION B OF THIS SECTION
25 IN THE LAW ENFORCEMENT SUPPORT FUND ESTABLISHED BY SECTION 41-1734.

26 D. THE REQUIREMENTS OF THIS SECTION DO NOT APPLY IF THE CITY OR
27 TOWN DOES NOT HAVE THE MONIES REQUIRED TO CONTINUE THE ANNUAL OPERATING
28 BUDGET FOR A LAW ENFORCEMENT AGENCY AT THE SAME AMOUNT AS THE PREVIOUS
29 YEAR OR IF THE DECREASE IN THE ANNUAL OPERATING BUDGET IS AN OFFSET TO AN
30 EXPENDITURE FOR A LAW ENFORCEMENT AGENCY OR AN ADJUSTMENT FOR HEALTH CARE,
31 PENSION OR OTHER EMPLOYEE-RELATED EXPENSES FROM THE PREVIOUS YEAR'S ANNUAL
32 OPERATING BUDGET.

33 E. IF A PEACE OFFICER CAN DEMONSTRATE THAT THE PEACE OFFICER'S
34 EMPLOYMENT WAS TERMINATED AS A RESULT OF A DECREASE IN THE ANNUAL
35 OPERATING BUDGET FOR THE LAW ENFORCEMENT AGENCY, THE SHERIFF'S DEPARTMENT
36 OF THE COUNTY IN WHICH THE PEACE OFFICER'S POSITION WAS TERMINATED MAY
37 OFFER EMPLOYMENT TO THAT OFFICER. IF THE COUNTY SHERIFF'S DEPARTMENT DOES
38 NOT MAKE AN OFFER OF EMPLOYMENT TO THE PEACE OFFICER, THE DEPARTMENT OF
39 PUBLIC SAFETY SHALL MAKE AN OFFER OF EMPLOYMENT TO THE PEACE OFFICER.

40 F. F. IF A CITY OR TOWN REDUCES A LAW ENFORCEMENT AGENCY'S BUDGET
41 BY MORE THAN TWENTY-FIVE PERCENT, THE CITY OR TOWN SHALL NOTIFY THE
42 SHERIFF OF THE COUNTY IN WHICH THE CITY OR TOWN IS LOCATED AND THAT
43 SHERIFF MAY ASSUME LAW ENFORCEMENT FUNCTIONS FOR THAT CITY OR
44 TOWN. NOTWITHSTANDING SUBSECTION C OF THIS SECTION, IF THE COUNTY SHERIFF
45 ASSUMES LAW ENFORCEMENT FUNCTIONS, THE CITY OR TOWN SHALL NOTIFY THE STATE

1 TREASURER AND THE STATE TREASURER SHALL PROVIDE ALL STATE SHARED MONIES
2 WITHHELD FROM THE CITY OR TOWN TO THE COUNTY SHERIFF'S DEPARTMENT. IF THE
3 COUNTY SHERIFF DOES NOT ASSUME LAW ENFORCEMENT FUNCTIONS, THE CITY OR TOWN
4 SHALL NOTIFY THE DEPARTMENT OF PUBLIC SAFETY AND THE DEPARTMENT OF PUBLIC
5 SAFETY SHALL ASSUME LAW ENFORCEMENT FUNCTIONS. NOTWITHSTANDING SUBSECTION
6 C OF THIS SECTION, IF THE DEPARTMENT OF PUBLIC SAFETY ASSUMES LAW
7 ENFORCEMENT FUNCTIONS, THE CITY OR TOWN SHALL NOTIFY THE STATE TREASURER
8 AND THE STATE TREASURER SHALL PROVIDE ALL STATE SHARED MONIES WITHHELD
9 FROM THE CITY OR TOWN TO THE DEPARTMENT OF PUBLIC SAFETY.

10 G. FOR THE PURPOSES OF THIS SECTION:

11 1. "LAW ENFORCEMENT AGENCY" MEANS A MUNICIPAL POLICE DEPARTMENT.

12 2. "PEACE OFFICER" MEANS A MARSHAL, A POLICE OFFICER OR ANY OTHER
13 CITY OR TOWN OFFICER VESTED BY LAW WITH A DUTY TO MAINTAIN PUBLIC ORDER
14 AND MAKE ARRESTS.

15 Sec. 2. Title 41, chapter 12, article 2, Arizona Revised Statutes,
16 is amended by adding section 41-1734, to read:

17 41-1734. Law enforcement support fund

18 THE LAW ENFORCEMENT SUPPORT FUND IS ESTABLISHED CONSISTING OF MONIES
19 WITHHELD AND DEPOSITED BY THE STATE TREASURER PURSUANT TO SECTION
20 9-500.48. MONIES IN THE FUND SHALL BE USED TO PROVIDE FOR GRANTS TO A
21 COUNTY SHERIFF WHO HIRES A PEACE OFFICER PURSUANT TO SECTION 9-500.48,
22 SUBSECTION E AND PERSONNEL, EQUIPMENT AND COSTS ASSOCIATED WITH HIGHWAY
23 PATROL OFFICERS. THE DEPARTMENT SHALL ADMINISTER THE FUND. MONIES IN THE
24 FUND ARE CONTINUOUSLY APPROPRIATED. ON NOTICE FROM THE DEPARTMENT, THE
25 STATE TREASURER SHALL INVEST AND DIVEST MONIES IN THE FUND AS PROVIDED BY
26 SECTION 35-313, AND MONIES EARNED FROM INVESTMENTS SHALL BE CREDITED TO
27 THE FUND.

28 Sec. 3. Section 42-5029, Arizona Revised Statutes, is amended to
29 read:

30 42-5029. Remission and distribution of monies; withholding;
31 definitions

32 A. The department shall deposit, pursuant to sections 35-146 and
33 35-147, all revenues collected under this article and articles 4, 5 and 8
34 of this chapter pursuant to section 42-1116, separately accounting for:

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

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

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

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

42 5. Revenues collected pursuant to section 42-5010.01 and section
43 42-5155, subsection E.

44 B. The department shall credit payments of estimated tax to an
45 estimated tax clearing account and each month shall transfer all monies in

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

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

14 D. Of the monies designated as distribution base, and subject to
15 the requirements of section 42-5041, the department shall:

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

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

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

23 (b) The proportion that the distribution base monies collected
24 during the calendar month in each county under this article, section
25 42-5164, subsection B and section 42-5205, subsection B bear to the total
26 distribution base monies collected under this article, section 42-5164,
27 subsection B and section 42-5205, subsection B throughout the state for
28 the calendar month.

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

31 (a) Average the following proportions:

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

44 (ii) The proportion that the distribution base monies collected
45 during the calendar month in each county under this article, section

42-5164, subsection B and section 42-5205, subsection B bear to the total distribution base monies collected under this article, section 42-5164, subsection B and section 42-5205, subsection B throughout the state for the calendar month.

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

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

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

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

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

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

1. If there are outstanding state school facilities revenue bonds pursuant to title 15, chapter 16, article 7, each month one-twelfth of the amount that is necessary to pay the fiscal year's debt service on outstanding state school improvement revenue bonds for the current fiscal year shall be transferred each month to the school improvement revenue bond debt service fund established by section 15-2084. The total amount of bonds for which these monies may be allocated for the payment of debt

1 service shall not exceed a principal amount of eight hundred million
2 dollars exclusive of refunding bonds and other refinancing obligations.

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

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

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

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

- 32 (a) In fiscal year 2001-2002, \$15,305,900.
- 33 (b) In fiscal year 2002-2003, \$31,530,100.
- 34 (c) In fiscal year 2003-2004, \$48,727,700.
- 35 (d) In fiscal year 2004-2005, \$66,957,200.
- 36 (e) In fiscal year 2005-2006 and each fiscal year thereafter,
37 \$86,280,500.

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

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

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

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

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

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

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

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

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

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

H. On receiving a certificate of default from the greater Arizona

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

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

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

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

1 L. Except as otherwise provided by this subsection, on notice from
2 the attorney general pursuant to section 41-194.01, subsection B,
3 paragraph 1 that an ordinance, regulation, order or other official action
4 adopted or taken by the governing body of a county, city or town violates
5 state law or the Constitution of Arizona, the state treasurer shall
6 withhold the distribution of monies pursuant to this section to the
7 affected county, city or town and shall continue to withhold monies
8 pursuant to this subsection until the attorney general certifies to the
9 state treasurer that the violation has been resolved. The state treasurer
10 shall redistribute the monies withheld pursuant to this subsection among
11 all other counties, cities and towns in proportion to their population as
12 provided by subsection D of this section. The state treasurer shall not
13 withhold any amount that the county, city or town certifies to the
14 attorney general and the state treasurer as being necessary to make any
15 required deposits or payments for debt service on bonds or other long-term
16 obligations of the county, city or town that were issued or incurred
17 before committing the violation.

18 M. EXCEPT AS OTHERWISE PROVIDED BY THIS SUBSECTION, ON NOTICE FROM
19 THE GOVERNING BODY OF A CITY OR TOWN THAT AN OFFICIAL ACTION ADOPTED OR
20 TAKEN BY THE GOVERNING BODY OF THE CITY OR TOWN REDUCES A LAW ENFORCEMENT
21 AGENCY'S BUDGET BY LESS THAN TWENTY-FIVE PERCENT FROM THE PREVIOUS YEAR'S
22 BUDGET PURSUANT TO SECTION 9-500.48, THE STATE TREASURER SHALL WITHHOLD
23 THE DISTRIBUTION OF MONIES PURSUANT TO THIS SECTION IN AN AMOUNT EQUAL TO
24 THE REDUCTION TO THE LAW ENFORCEMENT AGENCY'S BUDGET TO THE AFFECTED CITY
25 OR TOWN AND SHALL CONTINUE TO WITHHOLD MONIES PURSUANT TO THIS SUBSECTION
26 UNTIL NOTIFICATION BY THE GOVERNING BODY OF THE CITY OR TOWN THAT THE
27 REDUCTION HAS BEEN RESTORED. THE STATE TREASURER SHALL DEPOSIT, PURSUANT
28 TO SECTIONS 35-146 AND 35-147, THE MONIES WITHHELD PURSUANT TO THIS
29 SUBSECTION IN THE LAW ENFORCEMENT SUPPORT FUND ESTABLISHED BY SECTION
30 41-1734. IF THE GOVERNING BODY OF A CITY OR TOWN REDUCES A LAW
31 ENFORCEMENT AGENCY'S BUDGET BY MORE THAN TWENTY-FIVE PERCENT FROM THE
32 PREVIOUS YEAR'S BUDGET, THE STATE TREASURER SHALL WITHHOLD THE
33 DISTRIBUTION OF ALL MONIES PURSUANT TO THIS SECTION TO THE AFFECTED CITY
34 OR TOWN AND SHALL CONTINUE TO WITHHOLD MONIES PURSUANT TO THIS SUBSECTION
35 UNTIL NOTIFICATION BY THE GOVERNING BODY OF THE CITY OR TOWN THAT THE
36 REDUCTION HAS BEEN RESTORED. IF THE COUNTY SHERIFF'S DEPARTMENT OR THE
37 DEPARTMENT OF PUBLIC SAFETY ASSUMES LAW ENFORCEMENT FUNCTIONS PURSUANT TO
38 SECTION 9-500.48, SUBSECTION F, THE STATE TREASURER SHALL TRANSFER ALL
39 WITHHELD MONIES TO THE AGENCY THAT ASSUMES LAW ENFORCEMENT FUNCTIONS IN
40 THE AFFECTED COUNTY, CITY OR TOWN. THE STATE TREASURER SHALL NOT WITHHOLD
41 ANY AMOUNT THAT THE CITY OR TOWN CERTIFIES AS BEING NECESSARY TO MAKE ANY
42 REQUIRED DEPOSITS OR PAYMENTS FOR DEBT SERVICE ON BONDS OR OTHER LONG-TERM
43 OBLIGATIONS OF THE CITY OR TOWN THAT WERE ISSUED OR INCURRED BEFORE THE
44 REDUCTION IN THE LAW ENFORCEMENT AGENCY'S BUDGET. THIS SUBSECTION DOES

NOT APPLY TO A REDUCTION IN BUDGET PURSUANT TO SECTION 9-500.48,
SUBSECTION D.

~~M.~~ N. For the purposes of this section: ~~—~~

1. "Community college district" means a community college district that is established pursuant to sections 15-1402 and 15-1403 and that is a political subdivision of this state and, unless otherwise specified, includes a community college tuition financing district established pursuant to section 15-1409.

2. "LAW ENFORCEMENT AGENCY" MEANS A MUNICIPAL POLICE DEPARTMENT.

Sec. 4. Section 43-206, Arizona Revised Statutes, is amended to read:

43-206. Urban revenue sharing fund; allocation; distribution; withholding; definition

A. The urban revenue sharing fund is established. The fund shall consist of an amount equal to fifteen percent of the net proceeds of the state income taxes for the fiscal year two years preceding the current fiscal year. The fund shall be distributed to incorporated cities and towns as provided in this section, except that a city or town shall receive at least an amount equal to what a city or town with a population of fifteen hundred or more persons would receive. The transfer of net proceeds prescribed by section 49-282, subsection B does not affect the calculation of net proceeds prescribed by this subsection.

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

C. The treasurer, on instruction from the department, shall transmit, ~~no~~ NOT later than the tenth day of each month, to each city or town an amount equal to one-twelfth of that city's or town's total entitlement for the current fiscal year from the urban revenue sharing fund as determined by the department.

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

E. On receipt of a certificate of default from the greater Arizona development authority pursuant to section 41-2257 or 41-2258, the state treasurer, to the extent not otherwise expressly prohibited by law, shall withhold from the next succeeding distribution of monies pursuant to this section due to the city or town the amount specified in the certificate of default and immediately deposit the amount withheld in the greater Arizona development authority revolving fund. The state treasurer shall continue to withhold and deposit the monies until the authority certifies to the

1 state treasurer that the default has been cured. In no event shall the
2 state treasurer withhold any amount that is necessary, as certified by the
3 defaulting political subdivision to the state treasurer and the authority,
4 to make any required deposits then due for the payment of principal and
5 interest on bonds of the political subdivision that were issued prior to
6 the date of the loan repayment agreement or bonds and that have been
7 secured by a pledge of distributions made pursuant to this section.

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

24 G. EXCEPT AS OTHERWISE PROVIDED BY THIS SUBSECTION, ON NOTICE FROM
25 THE GOVERNING BODY OF A CITY OR TOWN THAT AN OFFICIAL ACTION ADOPTED OR
26 TAKEN BY THE GOVERNING BODY OF A CITY OR TOWN REDUCES A LAW ENFORCEMENT
27 AGENCY'S BUDGET BY LESS THAN TWENTY-FIVE PERCENT FROM THE PREVIOUS YEAR'S
28 BUDGET PURSUANT TO SECTION 9-500.48, THE STATE TREASURER SHALL WITHHOLD
29 THE DISTRIBUTION OF MONIES PURSUANT TO THIS SECTION IN AN AMOUNT EQUAL TO
30 THE REDUCTION TO THE LAW ENFORCEMENT AGENCY'S BUDGET TO THE AFFECTED CITY
31 OR TOWN AND SHALL CONTINUE TO WITHHOLD MONIES PURSUANT TO THIS SUBSECTION
32 UNTIL NOTIFICATION BY THE GOVERNING BODY OF THE CITY OR TOWN THAT THE
33 REDUCTION HAS BEEN RESTORED. THE STATE TREASURER SHALL DEPOSIT, PURSUANT
34 TO SECTIONS 35-146 AND 35-147, THE MONIES WITHHELD PURSUANT TO THIS
35 SUBSECTION IN THE LAW ENFORCEMENT SUPPORT FUND ESTABLISHED BY SECTION
36 41-1734. IF THE GOVERNING BODY OF A CITY OR TOWN REDUCES A LAW
37 ENFORCEMENT AGENCY'S BUDGET BY MORE THAN TWENTY-FIVE PERCENT FROM THE
38 PREVIOUS YEAR'S BUDGET, THE STATE TREASURER SHALL WITHHOLD THE
39 DISTRIBUTION OF ALL MONIES PURSUANT TO THIS SECTION TO THE AFFECTED CITY
40 OR TOWN AND SHALL CONTINUE TO WITHHOLD MONIES PURSUANT TO THIS SUBSECTION
41 UNTIL NOTIFICATION BY THE GOVERNING BODY OF THE CITY OR TOWN THAT THE
42 REDUCTION HAS BEEN RESTORED. IF THE COUNTY SHERIFF'S DEPARTMENT OR
43 DEPARTMENT OF PUBLIC SAFETY ASSUMES LAW ENFORCEMENT FUNCTIONS PURSUANT TO
44 SECTION 9-500.48, SUBSECTION F, THE STATE TREASURER SHALL TRANSFER ALL
45 WITHHELD MONIES TO THE AGENCY THAT ASSUMES LAW ENFORCEMENT FUNCTIONS IN

1 THE AFFECTED CITY OR TOWN. THE STATE TREASURER SHALL NOT WITHHOLD ANY
2 AMOUNT THAT THE CITY OR TOWN CERTIFIES AS BEING NECESSARY TO MAKE ANY
3 REQUIRED DEPOSITS OR PAYMENTS FOR DEBT SERVICE ON BONDS OR OTHER LONG-TERM
4 OBLIGATIONS OF THE CITY OR TOWN THAT WERE ISSUED OR INCURRED BEFORE THE
5 REDUCTION IN THE LAW ENFORCEMENT AGENCY'S BUDGET. THIS SUBSECTION DOES
6 NOT APPLY TO A REDUCTION IN BUDGET PURSUANT TO SECTION 9-500.48,
7 SUBSECTION D.

8 H. FOR THE PURPOSES OF THIS SECTION, "LAW ENFORCEMENT AGENCY" MEANS
9 A MUNICIPAL POLICE DEPARTMENT.

10 Sec. 5. Retroactivity

11 This act applies retroactively to from and after December 31, 2020.

REFERENCE TITLE: vacation rentals; short-term rentals; enforcement

State of Arizona
Senate
Fifty-fifth Legislature
First Regular Session
2021

SB 1379

Introduced by
Senator Mesnard

AN ACT

AMENDING SECTIONS 9-500.39, 11-269.17, 42-1125.02 AND 42-5042, ARIZONA
REVISED STATUTES; RELATING TO VACATION RENTALS AND SHORT-TERM RENTALS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 9-500.39, Arizona Revised Statutes, is amended
3 to read:

4 9-500.39. Limits on regulation of vacation rentals and
5 short-term rentals; state preemption; definitions

6 A. A city or town may not prohibit vacation rentals or short-term
7 rentals.

8 B. A city or town may not restrict the use of or regulate vacation
9 rentals or short-term rentals based on their classification, use or
10 occupancy except as provided in this section. A city or town may regulate
11 vacation rentals or short-term rentals ~~for the following purposes~~ AS
12 FOLLOWS:

13 1. ~~Protecting~~ TO PROTECT the public's health and safety, including
14 rules and regulations related to fire and building codes, health and
15 sanitation, transportation or traffic control, solid or hazardous waste
16 and pollution control, and designation of an emergency point of contact,
17 if the city or town demonstrates that the rule or regulation is for the
18 primary purpose of protecting the public's health and safety.

19 2. ~~Adopting~~ TO ADOPT and ~~enforcing residential use and zoning~~
20 ENFORCE ordinances, including ordinances related to noise, protection of
21 welfare, property maintenance and other nuisance issues, if the ordinance
22 is applied in the same manner as other property classified under sections
23 42-12003 and 42-12004.

24 3. ~~Limiting~~ TO LIMIT or ~~prohibiting~~ PROHIBIT the use of a vacation
25 rental or short-term rental for the purposes of housing sex offenders,
26 operating or maintaining a sober living home, selling illegal drugs,
27 liquor control or pornography, obscenity, nude or topless dancing and
28 other adult-oriented businesses.

29 4. ~~Requiring~~ TO REQUIRE the owner of a vacation rental or
30 short-term rental to provide the city or town with contact information for
31 the owner or the owner's designee who is responsible for responding to
32 complaints in a timely manner in person, over the phone or by email at any
33 time of day before offering for rent or renting the vacation rental or
34 short-term rental. THE CITY OR TOWN MAY IMPOSE A CIVIL PENALTY OF UP TO
35 \$1,000 AGAINST THE OWNER FOR EVERY THIRTY DAYS THE OWNER FAILS TO PROVIDE
36 CONTACT INFORMATION AS PRESCRIBED BY THIS PARAGRAPH. THE CITY OR TOWN
37 SHALL PROVIDE THIRTY DAYS' NOTICE TO THE OWNER BEFORE IMPOSING THE INITIAL
38 CIVIL PENALTY.

39 5. TO RESTRICT THE MAXIMUM NUMBER OF ADULT OCCUPANTS ALLOWED IN THE
40 VACATION RENTAL OR SHORT-TERM RENTAL PROPERTY AT ANY ONE TIME TO NOT MORE
41 THAN TWO ADULTS PER BEDROOM, UP TO FOUR BEDROOMS, PLUS TWO ADDITIONAL
42 ADULTS PER ONE THOUSAND SQUARE FEET OF LIVABLE SPACE IN EXCESS OF THREE
43 THOUSAND SQUARE FEET OF LIVABLE SPACE OF THE RESIDENCE.

44 6. TO REQUIRE THE OWNER OF A VACATION RENTAL OR SHORT-TERM RENTAL
45 TO MAINTAIN LIABILITY INSURANCE APPROPRIATE TO COVER THE VACATION RENTAL

1 OR SHORT-TERM RENTAL IN THE AGGREGATE OF NOT LESS THAN \$500,000 OR TO
2 ADVERTISE AND OFFER EACH VACATION RENTAL OR SHORT-TERM RENTAL THROUGH A
3 HOSTING PLATFORM THAT PROVIDES EQUAL OR GREATER COVERAGE.

4 C. Within thirty days after a verified violation, a city or town
5 shall notify the department of revenue and the owner of the vacation
6 rental or short-term rental of the verified violation of the city's or
7 town's applicable laws, regulations or ordinances and, if the owner of the
8 vacation rental or short-term rental received the verified violation,
9 whether the city or town imposed a civil penalty on the owner of the
10 vacation rental or short-term rental and the amount of the civil penalty,
11 if assessed. If multiple verified violations arise out of the same
12 response to an incident at a vacation rental or short-term rental, those
13 verified violations are considered one verified violation for the purpose
14 of assessing civil penalties pursuant to section 42-1125.02, subsection B.
15 NOTWITHSTANDING ANY OTHER LAW, A CITY OR TOWN MAY IMPOSE A CIVIL PENALTY
16 AGAINST THE OWNER OF A VACATION RENTAL OR SHORT-TERM RENTAL OF UP TO AN
17 AMOUNT EQUAL TO ONE NIGHT'S RENT FOR THE LODGING ACCOMMODATION AS
18 ADVERTISED ON AN ONLINE LODGING MARKETPLACE FOR THE FIRST VERIFIED
19 VIOLATION, AN AMOUNT EQUAL TO TWO NIGHTS' RENT FOR THE LODGING
20 ACCOMMODATION AS ADVERTISED ON AN ONLINE LODGING MARKETPLACE FOR THE
21 SECOND VERIFIED VIOLATION AND AN AMOUNT EQUAL TO THREE NIGHTS' RENT FOR
22 THE LODGING ACCOMMODATION AS ADVERTISED ON AN ONLINE LODGING MARKETPLACE
23 FOR THE THIRD AND ANY SUBSEQUENT VERIFIED VIOLATION RECEIVED BY THE SAME
24 VACATION RENTAL OR SHORT-TERM RENTAL PROPERTY WITHIN THE SAME TWELVE-MONTH
25 PERIOD. THE DEPARTMENT OF REVENUE AFTER NOTICE AND A HEARING AS PROVIDED
26 IN SECTION 42-5005, SUBSECTION N, MAY REVOKE THE TRANSACTION PRIVILEGE TAX
27 LICENSE OF THE OWNER OF A VACATION RENTAL OR SHORT-TERM RENTAL THAT HAS
28 THREE VERIFIED VIOLATIONS WITHIN THE SAME TWELVE-MONTH PERIOD PURSUANT TO
29 SECTION 42-5042.

30 D. If the owner of a vacation rental or short-term rental has
31 provided contact information to a city or town pursuant to subsection B,
32 paragraph 4 of this section and if the city or town issues a citation for
33 a violation of the city's or town's applicable laws, regulations or
34 ordinances or a state law that occurred on the owner's vacation rental or
35 short-term rental property, the city or town shall make a reasonable
36 attempt to notify the owner or the owner's designee of the citation within
37 seven business days after the citation is issued using the contact
38 information provided pursuant to subsection B, paragraph 4 of this
39 section. If the owner of a vacation rental or short-term rental has not
40 provided contact information pursuant to subsection B, paragraph 4 of this
41 section, the city or town is not required to provide such notice.

42 E. This section does not exempt an owner of a residential rental
43 property, as defined in section 33-1901, from maintaining with the
44 assessor of the county in which the property is located information
45 required under title 33, chapter 17, article 1.

F. A vacation rental or short-term rental may not be used for nonresidential uses, including for a special event that would otherwise require a permit or license pursuant to a city or town ordinance or a state law or rule or for a retail, restaurant, banquet space or other similar use.

G. For the purposes of this section:

1. "LODGING ACCOMMODATION" HAS THE SAME MEANING PRESCRIBED IN SECTION 42-5076.

2. "ONLINE LODGING MARKETPLACE" HAS THE SAME MEANING PRESCRIBED IN SECTION 42-5076.

~~3.~~ 3. "Transient" has the same meaning prescribed in section 42-5070.

~~4.~~ 4. "Vacation rental" or "short-term rental":

(a) Means any individually or collectively owned single-family or one-to-four-family house or dwelling unit or any unit or group of units in a condominium, cooperative or timeshare, that is also a transient public lodging establishment or owner-occupied residential home offered for transient use if the accommodations are not classified for property taxation under section 42-12001. ~~Vacation rental and short-term rental do~~

(b) DOES not include a unit that is used for any nonresidential use, including retail, restaurant, banquet space, event center or another similar use.

~~5.~~ 5. "Verified violation" means a finding of guilt or civil responsibility for violating any state law or local ordinance relating to a purpose prescribed in subsection B or F of this section that has been finally adjudicated.

Sec. 2. Section 11-269.17, Arizona Revised Statutes, is amended to read:

11-269.17. Limits on regulation of vacation rentals and short-term rentals; state preemption; definitions

A. A county may not prohibit vacation rentals or short-term rentals.

B. A county may not restrict the use of or regulate vacation rentals or short-term rentals based on their classification, use or occupancy except as provided in this section. A county may regulate vacation rentals or short-term rentals ~~for the following purposes~~ AS FOLLOWS:

1. ~~Protecting~~ TO PROTECT the public's health and safety, including rules and regulations related to fire and building codes, health and sanitation, transportation or traffic control, solid or hazardous waste and pollution control, and designation of an emergency point of contact, if the county demonstrates that the rule or regulation is for the primary purpose of protecting the public's health and safety.

2. ~~Adopting~~ TO ADOPT and ~~enforcing residential use and zoning~~ ENFORCE ordinances, including ordinances related to noise, protection of welfare, property maintenance and other nuisance issues, if the ordinance is applied in the same manner as other property classified under sections 42-12003 and 42-12004.

3. ~~Limiting~~ TO LIMIT or ~~prohibiting~~ PROHIBIT the use of a vacation rental or short-term rental for the purposes of housing sex offenders, operating or maintaining a sober living home, selling illegal drugs, liquor control or pornography, obscenity, nude or topless dancing and other adult-oriented businesses.

4. ~~Requiring~~ TO REQUIRE the owner of a vacation rental or short-term rental to provide the county with contact information for the owner or the owner's designee who is responsible for responding to complaints in a timely manner in person, over the phone or by email at any time of day before offering for rent or renting the vacation rental or short-term rental. THE COUNTY MAY IMPOSE A CIVIL PENALTY OF UP TO \$1,000 AGAINST THE OWNER FOR EVERY THIRTY DAYS THE OWNER FAILS TO PROVIDE CONTACT INFORMATION AS PRESCRIBED BY THIS PARAGRAPH. THE COUNTY SHALL PROVIDE THIRTY DAYS' NOTICE TO THE OWNER BEFORE IMPOSING THE INITIAL CIVIL PENALTY.

5. TO RESTRICT THE MAXIMUM NUMBER OF ADULT OCCUPANTS ALLOWED IN THE VACATION RENTAL OR SHORT-TERM RENTAL PROPERTY AT ANY ONE TIME TO NOT MORE THAN TWO ADULTS PER BEDROOM, UP TO FOUR BEDROOMS, PLUS TWO ADDITIONAL ADULTS PER ONE THOUSAND SQUARE FEET OF LIVABLE SPACE IN EXCESS OF THREE THOUSAND SQUARE FEET OF LIVABLE SPACE OF THE RESIDENCE.

6. TO REQUIRE THE OWNER OF A VACATION RENTAL OR SHORT-TERM RENTAL TO MAINTAIN LIABILITY INSURANCE APPROPRIATE TO COVER THE VACATION RENTAL OR SHORT-TERM RENTAL IN THE AGGREGATE OF NOT LESS THAN \$500,000 OR TO ADVERTISE AND OFFER EACH VACATION RENTAL OR SHORT-TERM RENTAL THROUGH A HOSTING PLATFORM THAT PROVIDES EQUAL OR GREATER COVERAGE.

C. Within thirty days after a verified violation, a county shall notify the department of revenue and the owner of the vacation rental or short-term rental of the verified violation of the county's applicable laws, regulations or ordinances and, if the property owner received the verified violation, whether the county imposed a civil penalty on the owner of the vacation rental or short-term rental and the amount of the civil penalty, if assessed. If multiple verified violations arise out of the same response to an incident at a vacation rental or short-term rental, those verified violations are considered one verified violation for the purpose of assessing civil penalties pursuant to section 42-1125.02, subsection B. NOTWITHSTANDING ANY OTHER LAW, A COUNTY MAY IMPOSE A CIVIL PENALTY AGAINST THE OWNER OF A VACATION RENTAL OR SHORT-TERM RENTAL OF UP TO AN AMOUNT EQUAL TO ONE NIGHT'S RENT FOR THE LODGING ACCOMMODATION AS ADVERTISED ON AN ONLINE LODGING MARKETPLACE FOR THE FIRST VERIFIED VIOLATION, AN AMOUNT EQUAL TO TWO NIGHTS' RENT FOR THE

1 LODGING ACCOMMODATION AS ADVERTISED ON AN ONLINE LODGING MARKETPLACE FOR
 2 THE SECOND VERIFIED VIOLATION AND AN AMOUNT EQUAL TO THREE NIGHTS' RENT
 3 FOR THE LODGING ACCOMMODATION AS ADVERTISED ON AN ONLINE LODGING
 4 MARKETPLACE FOR THE THIRD AND ANY SUBSEQUENT VERIFIED VIOLATION RECEIVED
 5 BY THE SAME VACATION RENTAL OR SHORT-TERM RENTAL PROPERTY WITHIN THE SAME
 6 TWELVE-MONTH PERIOD. THE DEPARTMENT OF REVENUE AFTER NOTICE AND A HEARING
 7 AS PROVIDED IN SECTION 42-5005, SUBSECTION N, MAY REVOKE THE TRANSACTION
 8 PRIVILEGE TAX LICENSE OF THE OWNER OF A VACATION RENTAL OR SHORT-TERM
 9 RENTAL THAT HAS THREE VERIFIED VIOLATIONS PURSUANT TO SECTION 42-5042.

10 D. If the owner of a vacation rental or short-term rental has
 11 provided contact information to a county pursuant to subsection B,
 12 paragraph 4 of this section and if the county issues a citation for a
 13 violation of the county's applicable laws, regulations or ordinances or a
 14 state law that occurred on the owner's vacation rental or short-term
 15 rental property, the county shall make a reasonable attempt to notify the
 16 owner or the owner's designee of the citation within seven business days
 17 after the citation is issued using the contact information provided
 18 pursuant to subsection B, paragraph 4 of this section. If the owner of a
 19 vacation rental or short-term rental has not provided contact information
 20 pursuant to subsection B, paragraph 4 of this section, the county is not
 21 required to provide such notice.

22 E. This section does not exempt an owner of a residential rental
 23 property, as defined in section 33-1901, from maintaining with the
 24 assessor of the county in which the property is located information
 25 required under title 33, chapter 17, article 1.

26 F. A vacation rental or short-term rental may not be used for
 27 nonresidential uses, including for a special event that would otherwise
 28 require a permit or license pursuant to a county ordinance or a state law
 29 or rule or for a retail, restaurant, banquet space or other similar use.

30 G. For the purposes of this section:

31 1. "LODGING ACCOMMODATION" HAS THE SAME MEANING PRESCRIBED IN
 32 SECTION 42-5076.

33 2. "ONLINE LODGING MARKETPLACE" HAS THE SAME MEANING PRESCRIBED IN
 34 SECTION 42-5076.

35 ~~1.~~ 3. "Transient" has the same meaning prescribed in section
 36 42-5070.

37 ~~2.~~ 4. "Vacation rental" or "short-term rental":

38 (a) Means any individually or collectively owned single-family or
 39 one-to-four-family house or dwelling unit or any unit or group of units in
 40 a condominium, cooperative or timeshare, that is also a transient public
 41 lodging establishment or owner-occupied residential home offered for
 42 transient use if the accommodations are not classified for property
 43 taxation under section 42-12001. ~~Vacation rental and short-term rental do~~

(b) DOES not include a unit that is used for any nonresidential use, including retail, restaurant, banquet space, event center or another similar use.

~~5.~~ 5. "Verified violation" means a finding of guilt or civil responsibility for violating any state law or local ordinance relating to a purpose prescribed in subsection B or F of this section that has been finally adjudicated.

Sec. 3. Section 42-1125.02, Arizona Revised Statutes, is amended to read:

42-1125.02. Civil penalties: online lodging operators: appeal; definitions

A. An online lodging operator that fails to comply with section 42-5042 shall pay the following civil penalty:

1. For a first offense, \$250.
2. For a second and any subsequent offense, \$1,000.

B. If an online lodging operator received a verified violation, the online lodging operator shall pay the following civil penalty:

1. For a first verified violation received for a property, either:

(a) If the city, town or county did not impose a civil penalty on the online lodging operator for the verified violation, ~~\$500~~ AN AMOUNT EQUAL TO ONE NIGHT'S RENT FOR THE LODGING ACCOMMODATION AS ADVERTISED ON AN ONLINE LODGING MARKETPLACE.

(b) If the city, town or county imposed a civil penalty on the online lodging operator for the verified violation, the difference between the amount prescribed in subdivision (a) of this paragraph and the amount of the civil penalty the city, town or county imposed on the online lodging operator for the verified violation.

2. For a second verified violation received on the same property within a twelve-month period, either:

(a) If the city, town or county did not impose a civil penalty on the online lodging operator for the verified violation, ~~\$1,000~~ AN AMOUNT EQUAL TO TWO NIGHTS' RENT FOR THE LODGING ACCOMMODATION AS ADVERTISED ON AN ONLINE LODGING MARKETPLACE.

(b) If the city, town or county imposed a civil penalty on the online lodging operator for the verified violation, the difference between the amount prescribed in subdivision (a) of this paragraph and the amount of the civil penalty the city, town or county imposed on the online lodging operator for the verified violation.

3. For a third and any subsequent verified violation received on the same property within the same twelve-month period, either:

(a) If the city, town or county did not impose a civil penalty on the online lodging operator for the verified violation, ~~fifty percent of the gross monthly revenues of the lodging accommodation at which the violation occurred for the month in which the violation occurred or~~

~~\$1,500, whichever is greater~~ AN AMOUNT EQUAL TO THREE NIGHTS' RENT FOR THE LODGING ACCOMMODATION AS ADVERTISED ON AN ONLINE LODGING MARKETPLACE

(b) If the city, town or county imposed a civil penalty on the online lodging operator for the verified violation, the difference between the amount prescribed in subdivision (a) of this paragraph and the amount of the civil penalty the city, town or county imposed on the online lodging operator for the verified violation.

C. If the department imposes a civil penalty pursuant to subsection B, paragraph 1 of this section and the online lodging operator appeals the civil penalty, the hearing officer may waive or lower the civil penalty based on the online lodging operator's diligence in attempting to prohibit renters from violating state law or the city's, ~~or~~ town's OR COUNTY'S applicable laws, regulations or ordinances. In determining whether to waive or lower the civil penalty, the hearing officer shall consider both of the following:

1. Whether rules that prohibit activities violating state law or the city's, ~~or~~ town's OR COUNTY'S applicable laws, regulations or ordinances were included in the advertisement for the lodging accommodation, vacation rental or short-term rental.

2. Whether the rules described in paragraph 1 of this subsection were posted in a conspicuous location inside the lodging accommodation, vacation rental or short-term rental.

D. For the purposes of this section:

1. "Lodging accommodation" has the same meaning prescribed in section 42-5076.

2. "Online lodging marketplace" has the same meaning prescribed in section 42-5076.

3. "Online lodging operator" has the same meaning prescribed in section 42-5076 and includes an owner of a vacation rental or short-term rental that is not offered through an online lodging marketplace.

4. "Vacation rental" and "short-term rental" have the same meanings prescribed in section 9-500.39 or 11-269.17.

5. "Verified violation" has the same meaning prescribed in section 9-500.39 or 11-269.17.

Sec. 4. Section 42-5042, Arizona Revised Statutes, is amended to read:

42-5042. Online lodging operators; requirements; definitions

A. An online lodging operator may not offer for rent or rent a lodging accommodation without a current transaction privilege tax license. The online lodging operator shall list the transaction privilege tax license number on each advertisement for each lodging accommodation the online lodging operator maintains, including online lodging marketplace postings.

1 B. THE DEPARTMENT OF REVENUE MAY REVOKE THE TRANSACTION PRIVILEGE
2 TAX LICENSE OF THE OWNER OF A VACATION RENTAL OR SHORT-TERM RENTAL THAT
3 HAS THREE VERIFIED VIOLATIONS BY THE SAME VACATION RENTAL OR SHORT-TERM
4 RENTAL WITHIN THE SAME TWELVE-MONTH PERIOD PURSUANT TO SECTION 9-500.39 OR
5 11-269.17.

6 ~~B.~~ C. For the purposes of this section:

7 1. "Lodging accommodation" has the same meaning prescribed in
8 section 42-5076.

9 2. "Online lodging marketplace" has the same meaning prescribed in
10 section 42-5076.

11 3. "Online lodging operator" has the same meaning prescribed in
12 section 42-5076 and includes an owner of a vacation rental or short-term
13 rental, as defined in section 9-500.39 or 11-269.17, that is not offered
14 through an online lodging marketplace.

15 4. "VERIFIED VIOLATION" HAS THE SAME MEANING PRESCRIBED IN SECTION
16 9-500.39 OR 11-269.17.

REFERENCE TITLE: **highway video surveillance; prohibition**

State of Arizona
Senate
Fifty-fifth Legislature
First Regular Session
2021

SB 1419

Introduced by
Senator Rogers

AN ACT

AMENDING SECTIONS 28-101, 28-601 AND 28-627, ARIZONA REVISED STATUTES;
REPEALING TITLE 28, CHAPTER 3, ARTICLE 21, ARIZONA REVISED STATUTES;
AMENDING TITLE 28, CHAPTER 3, ARIZONA REVISED STATUTES, BY ADDING A NEW
ARTICLE 21; REPEALING SECTION 28-1602, ARIZONA REVISED STATUTES; RELATING
TO PHOTO ENFORCEMENT SYSTEMS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 28-101, Arizona Revised Statutes, is amended to
3 read:

4 28-101. Definitions

5 In this title, unless the context otherwise requires:

6 1. "Alcohol" means any substance containing any form of alcohol,
7 including ethanol, methanol, propynol and isopropynol.

8 2. "Alcohol concentration" if expressed as a percentage means
9 either:

10 (a) The number of grams of alcohol per one hundred milliliters of
11 blood.

12 (b) The number of grams of alcohol per two hundred ten liters of
13 breath.

14 3. "All-terrain vehicle" means either of the following:

15 (a) A motor vehicle that satisfies all of the following:

16 (i) Is designed primarily for recreational nonhighway all-terrain
17 travel.

18 (ii) Is fifty or fewer inches in width.

19 (iii) Has an unladen weight of one thousand two hundred pounds or
20 less.

21 (iv) Travels on three or more nonhighway tires.

22 (v) Is operated on a public highway.

23 (b) A recreational off-highway vehicle that satisfies all of the
24 following:

25 (i) Is designed primarily for recreational nonhighway all-terrain
26 travel.

27 (ii) Is eighty or fewer inches in width.

28 (iii) Has an unladen weight of two thousand five hundred pounds or
29 less.

30 (iv) Travels on four or more nonhighway tires.

31 (v) Has a steering wheel for steering control.

32 (vi) Has a rollover protective structure.

33 (vii) Has an occupant retention system.

34 4. "Authorized emergency vehicle" means any of the following:

35 (a) A fire department vehicle.

36 (b) A police vehicle.

37 (c) An ambulance or emergency vehicle of a municipal department or
38 public service corporation that is designated or authorized by the
39 department or a local authority.

40 (d) Any other ambulance, fire truck or rescue vehicle that is
41 authorized by the department in its sole discretion and that meets
42 liability insurance requirements prescribed by the department.

43 5. "Autocycle" means a three-wheeled motorcycle on which the driver
44 and passengers ride in a fully or partially enclosed seating area that is
45 equipped with a roll cage, safety belts for each occupant and antilock

1 brakes and that is designed to be controlled with a steering wheel and
2 pedals.

3 6. "Automotive recycler" means a person that is engaged in the
4 business of buying or acquiring a motor vehicle solely for the purpose of
5 dismantling, selling or otherwise disposing of the parts or accessories
6 and that removes parts for resale from six or more vehicles in a calendar
7 year.

8 7. "Aviation fuel" means all flammable liquids composed of a
9 mixture of selected hydrocarbons expressly manufactured and blended for
10 the purpose of effectively and efficiently operating an internal
11 combustion engine for use in an aircraft but does not include fuel for jet
12 or turbine powered aircraft.

13 8. "Bicycle" means a device, including a racing wheelchair, that is
14 propelled by human power and on which a person may ride and that has
15 either:

16 (a) Two tandem wheels, either of which is more than sixteen inches
17 in diameter.

18 (b) Three wheels in contact with the ground, any of which is more
19 than sixteen inches in diameter.

20 9. "Board" means the transportation board.

21 10. "Bus" means a motor vehicle designed for carrying sixteen or
22 more passengers, including the driver.

23 11. "Business district" means the territory contiguous to and
24 including a highway if there are buildings in use for business or
25 industrial purposes within any six hundred feet along the highway,
26 including hotels, banks or office buildings, railroad stations and public
27 buildings that occupy at least three hundred feet of frontage on one side
28 or three hundred feet collectively on both sides of the highway.

29 12. "Certificate of ownership" means a paper or an electronic
30 record that is issued in another state or a foreign jurisdiction and that
31 indicates ownership of a vehicle.

32 13. "Certificate of title" means a paper document or an electronic
33 record that is issued by the department and that indicates ownership of a
34 vehicle.

35 14. "Combination of vehicles" means a truck or truck tractor and
36 semitrailer and any trailer that it tows but does not include a forklift
37 designed for the purpose of loading or unloading the truck, trailer or
38 semitrailer.

39 15. "Controlled substance" means a substance so classified under
40 section 102(6) of the controlled substances act (21 United States Code
41 section 802(6)) and includes all substances listed in schedules I through
42 V of 21 Code of Federal Regulations part 1308.

43 16. "Conviction" means:

1 (a) An unvacated adjudication of guilt or a determination that a
2 person violated or failed to comply with the law in a court of original
3 jurisdiction or by an authorized administrative tribunal.

4 (b) An unvacated forfeiture of bail or collateral deposited to
5 secure the person's appearance in court.

6 (c) A plea of guilty or no contest accepted by the court.

7 (d) The payment of a fine or court costs.

8 17. "County highway" means a public road that is constructed and
9 maintained by a county.

10 18. "Dealer" means a person who is engaged in the business of
11 buying, selling or exchanging motor vehicles, trailers or semitrailers and
12 who has an established place of business and has paid fees pursuant to
13 section 28-4302.

14 19. "Department" means the department of transportation acting
15 directly or through its duly authorized officers and agents.

16 20. "Digital network or software application" has the same meaning
17 prescribed in section 28-9551.

18 21. "Director" means the director of the department of
19 transportation.

20 22. "Drive" means to operate or be in actual physical control of a
21 motor vehicle.

22 23. "Driver" means a person who drives or is in actual physical
23 control of a vehicle.

24 24. "Driver license" means a license that is issued by a state to
25 an individual and that authorizes the individual to drive a motor vehicle.

26 25. "Electric bicycle" means a bicycle or tricycle that is equipped
27 with fully operable pedals and an electric motor of less than seven
28 hundred fifty watts and that meets the requirements of one of the
29 following classes:

30 (a) "Class 1 electric bicycle" means a bicycle or tricycle that is
31 equipped with an electric motor that provides assistance only when the
32 rider is pedaling and that ceases to provide assistance when the bicycle
33 or tricycle reaches the speed of twenty miles per hour.

34 (b) "Class 2 electric bicycle" means a bicycle or tricycle that is
35 equipped with an electric motor that may be used exclusively to propel the
36 bicycle or tricycle and that is not capable of providing assistance when
37 the bicycle or tricycle reaches the speed of twenty miles per hour.

38 (c) "Class 3 electric bicycle" means a bicycle or tricycle that is
39 equipped with an electric motor that provides assistance only when the
40 rider is pedaling and that ceases to provide assistance when the bicycle
41 or tricycle reaches the speed of twenty-eight miles per hour.

42 26. "Electric miniature scooter" means a device that:

43 (a) Weighs less than thirty pounds.

44 (b) Has two or three wheels.

45 (c) Has handlebars.

1 (d) Has a floorboard on which a person may stand while riding.

2 (e) Is powered by an electric motor or human power, or both.

3 (f) Has a maximum speed that does not exceed ten miles per hour,
4 with or without human propulsion, on a paved level surface.

5 27. "Electric personal assistive mobility device" means a
6 self-balancing device with one wheel or two nontandem wheels and an
7 electric propulsion system that limits the maximum speed of the device to
8 fifteen miles per hour or less and that is designed to transport only one
9 person.

10 28. "Electric standup scooter":

11 (a) Means a device that:

12 (i) Weighs less than seventy-five pounds.

13 (ii) Has two or three wheels.

14 (iii) Has handlebars.

15 (iv) Has a floorboard on which a person may stand while riding.

16 (v) Is powered by an electric motor or human power, or both.

17 (vi) Has a maximum speed that does not exceed twenty miles per
18 hour, with or without human propulsion, on a paved level surface.

19 (b) Does not include an electric miniature scooter.

20 29. "Evidence" includes both of the following:

21 (a) A display on a wireless communication device of a
22 department-generated driver license, nonoperating identification license,
23 vehicle registration card or other official record of the department that
24 is presented to a law enforcement officer or in a court or an
25 administrative proceeding.

26 (b) An electronic or digital license plate authorized pursuant to
27 section 28-364.

28 30. "Farm" means any lands primarily used for agriculture
29 production.

30 31. "Farm tractor" means a motor vehicle designed and used
31 primarily as a farm implement for drawing implements of husbandry.

32 32. "Foreign vehicle" means a motor vehicle, trailer or semitrailer
33 that is brought into this state other than in the ordinary course of
34 business by or through a manufacturer or dealer and that has not been
35 registered in this state.

36 33. "Golf cart" means a motor vehicle that has not less than three
37 wheels in contact with the ground, that has an unladen weight of less than
38 one thousand eight hundred pounds, that is designed to be and is operated
39 at not more than twenty-five miles per hour and that is designed to carry
40 not more than four persons including the driver.

41 34. "Hazardous material" means a material, and its mixtures or
42 solutions, that the United States department of transportation determines
43 under 49 Code of Federal Regulations is, or any quantity of a material
44 listed as a select agent or toxin under 42 Code of Federal Regulations
45 part 73 that is, capable of posing an unreasonable risk to health, safety

and property if transported in commerce and that is required to be placarded or marked as required by the department's safety rules prescribed pursuant to chapter 14 of this title.

35. "HIGHWAY VIDEO SURVEILLANCE" MEANS THE USE OF A CAMERA OR OTHER IMAGING DEVICE OR ANY OTHER DEVICE, INCLUDING A TRANSPONDER, CELLULAR TELEPHONE, GLOBAL POSITIONING SATELLITE, DRONE OR RADIO FREQUENCY IDENTIFICATION DEVICE, THAT BY ITSELF OR IN CONJUNCTION WITH OTHER DEVICES OR INFORMATION MAY BE USED TO DETERMINE THE OWNERSHIP OR LOCATION OF A MOTOR VEHICLE, THE IDENTITY OF A MOTOR VEHICLE'S OCCUPANTS OR THE IDENTITY OR LOCATION OF A PEDESTRIAN.

~~35-~~ 36. "Implement of husbandry" means a vehicle that is designed primarily for agricultural purposes and that is used exclusively in the conduct of agricultural operations, including an implement or vehicle whether self-propelled or otherwise that meets both of the following conditions:

(a) Is used solely for agricultural purposes including the preparation or harvesting of cotton, alfalfa, grains and other farm crops.

(b) Is only incidentally operated or moved on a highway whether as a trailer or self-propelled unit. For the purposes of this subdivision, "incidentally operated or moved on a highway" means travel between a farm and another part of the same farm, from one farm to another farm or between a farm and a place of repair, supply or storage.

~~36-~~ 37. "Limousine" means a motor vehicle providing prearranged ground transportation service for an individual passenger, or a group of passengers, that is arranged in advance or is operated on a regular route or between specified points and includes ground transportation under a contract or agreement for services that includes a fixed rate or time and is provided in a motor vehicle with a seating capacity not exceeding fifteen passengers including the driver.

~~37-~~ 38. "Livery vehicle" means a motor vehicle that:

(a) Has a seating capacity not exceeding fifteen passengers including the driver.

(b) Provides passenger services for a fare determined by a flat rate or flat hourly rate between geographic zones or within a geographic area.

(c) Is available for hire on an exclusive or shared ride basis.

(d) May do any of the following:

(i) Operate on a regular route or between specified places.

(ii) Offer prearranged ground transportation service as defined in section 28-141.

(iii) Offer on demand ground transportation service pursuant to a contract with a public airport, licensed business entity or organization.

~~38-~~ 39. "Local authority" means any county, municipal or other local board or body exercising jurisdiction over highways under the constitution and laws of this state.

~~39.~~ 40. "Manufacturer" means a person engaged in the business of manufacturing motor vehicles, trailers or semitrailers.

~~40.~~ 41. "Moped" means a bicycle, not including an electric bicycle, an electric miniature scooter or an electric standup scooter, that is equipped with a helper motor if the vehicle has a maximum piston displacement of fifty cubic centimeters or less, a brake horsepower of one and one-half or less and a maximum speed of twenty-five miles per hour or less on a flat surface with less than a one percent grade.

~~41.~~ 42. "Motorcycle" means a motor vehicle that has a seat or saddle for the use of the rider and that is designed to travel on not more than three wheels in contact with the ground but excludes a tractor, an electric bicycle, an electric miniature scooter, an electric standup scooter and a moped.

~~42.~~ 43. "Motor driven cycle" means a motorcycle, including every motor scooter, with a motor that produces not more than five horsepower but does not include an electric bicycle, an electric miniature scooter or an electric standup scooter.

~~43.~~ 44. "Motorized quadricycle" means a self-propelled motor vehicle to which all of the following apply:

(a) The vehicle is self-propelled by an emission-free electric motor and may include pedals operated by the passengers.

(b) The vehicle has at least four wheels in contact with the ground.

(c) The vehicle seats at least eight passengers, including the driver.

(d) The vehicle is operable on a flat surface using solely the electric motor without assistance from the pedals or passengers.

(e) The vehicle is a commercial motor vehicle as defined in section 28-5201.

(f) The vehicle is a limousine operating under a vehicle for hire company permit issued pursuant to section 28-9503.

(g) The vehicle is manufactured by a motor vehicle manufacturer that is licensed pursuant to chapter 10 of this title.

(h) The vehicle complies with the definition and standards for low-speed vehicles set forth in federal motor vehicle safety standard 500 and 49 Code of Federal Regulations sections 571.3(b) and 571.500, respectively.

~~44.~~ 45. "Motor vehicle":

(a) Means either:

(i) A self-propelled vehicle.

(ii) For the purposes of the laws relating to the imposition of a tax on motor vehicle fuel, a vehicle that is operated on the highways of this state and that is propelled by the use of motor vehicle fuel.

(b) Does not include a scrap vehicle, a personal delivery device, a personal mobile cargo carrying device, a motorized wheelchair, an electric

personal assistive mobility device, an electric bicycle, an electric miniature scooter, an electric standup scooter or a motorized skateboard. For the purposes of this subdivision:

(i) "Motorized skateboard" means a self-propelled device that does not have handlebars and that has a motor, a deck on which a person may ride and at least two tandem wheels in contact with the ground.

(ii) "Motorized wheelchair" means a self-propelled wheelchair that is used by a person for mobility.

~~45.~~ 46. "Motor vehicle fuel" includes all products that are commonly or commercially known or sold as gasoline, including casinghead gasoline, natural gasoline and all flammable liquids, and that are composed of a mixture of selected hydrocarbons expressly manufactured and blended for the purpose of effectively and efficiently operating internal combustion engines. Motor vehicle fuel does not include inflammable liquids that are specifically manufactured for racing motor vehicles and that are distributed for and used by racing motor vehicles at a racetrack, use fuel as defined in section 28-5601, aviation fuel, fuel for jet or turbine powered aircraft or the mixture created at the interface of two different substances being transported through a pipeline, commonly known as transmix.

~~46.~~ 47. "Neighborhood electric vehicle" means a self-propelled electrically powered motor vehicle to which all of the following apply:

(a) The vehicle is emission free.

(b) The vehicle has at least four wheels in contact with the ground.

(c) The vehicle complies with the definition and standards for low-speed vehicles set forth in federal motor vehicle safety standard 500 and 49 Code of Federal Regulations sections 571.3(b) and 571.500, respectively.

~~47.~~ 48. "Nonresident" means a person who is not a resident of this state as defined in section 28-2001.

~~48.~~ 49. "Off-road recreational motor vehicle" means a motor vehicle that is designed primarily for recreational nonhighway all-terrain travel and that is not operated on a public highway. Off-road recreational motor vehicle does not mean a motor vehicle used for construction, building trade, mining or agricultural purposes.

~~49.~~ 50. "Operator" means a person who drives a motor vehicle on a highway, who is in actual physical control of a motor vehicle on a highway or who is exercising control over or steering a vehicle being towed by a motor vehicle.

~~50.~~ 51. "Owner" means:

(a) A person who holds the legal title of a vehicle.

(b) If a vehicle is the subject of an agreement for the conditional sale or lease with the right of purchase on performance of the conditions

1 stated in the agreement and with an immediate right of possession vested
2 in the conditional vendee or lessee, the conditional vendee or lessee.

3 (c) If a mortgagor of a vehicle is entitled to possession of the
4 vehicle, the mortgagor.

5 ~~51.~~ 52. "Pedestrian" means any person afoot. A person who uses an
6 electric personal assistive mobility device or a manual or motorized
7 wheelchair is considered a pedestrian unless the manual wheelchair
8 qualifies as a bicycle. For the purposes of this paragraph, "motorized
9 wheelchair" means a self-propelled wheelchair that is used by a person for
10 mobility.

11 ~~52.~~ 53. "Personal delivery device":

12 (a) Means a device that is both of the following:

13 (i) Manufactured for transporting cargo and goods in an area
14 described in section 28-1225.

15 (ii) ~~is~~ Equipped with automated driving technology, including
16 software and hardware, that enables the operation of the device with the
17 remote support and supervision of a human.

18 (b) Does not include a personal mobile cargo carrying device.

19 ~~53.~~ 54. "Personal mobile cargo carrying device" means an
20 electronically powered device that:

21 (a) Is operated primarily on sidewalks and within crosswalks and
22 that is designed to transport property.

23 (b) Weighs less than eighty pounds, excluding cargo.

24 (c) Operates at a maximum speed of twelve miles per hour.

25 (d) Is equipped with technology to transport personal property with
26 the active monitoring of a property owner and that is primarily designed
27 to remain within twenty-five feet of the property owner.

28 (e) Is equipped with a braking system that when active or engaged
29 enables the personal mobile cargo carrying device to come to a controlled
30 stop.

31 ~~54.~~ 55. "Power sweeper" means an implement, with or without motive
32 power, that is only incidentally operated or moved on a street or highway
33 and that is designed for the removal of debris, dirt, gravel, litter or
34 sand whether by broom, vacuum or regenerative air system from asphaltic
35 concrete or cement concrete surfaces, including parking lots, highways,
36 streets and warehouses, and a vehicle on which the implement is
37 permanently mounted.

38 ~~55.~~ 56. "Public transit" means the transportation of passengers on
39 scheduled routes by means of a conveyance on an individual passenger
40 fare-paying basis excluding transportation by a sightseeing bus, school
41 bus or taxi or a vehicle not operated on a scheduled route basis.

42 ~~56.~~ 57. "Reconstructed vehicle" means a vehicle that has been
43 assembled or constructed largely by means of essential parts, new or used,
44 derived from vehicles or makes of vehicles of various names, models and
45 types or that, if originally otherwise constructed, has been materially

1 altered by the removal of essential parts or by the addition or
 2 substitution of essential parts, new or used, derived from other vehicles
 3 or makes of vehicles. For the purposes of this paragraph, "essential
 4 parts" means integral and body parts, the removal, alteration or
 5 substitution of which will tend to conceal the identity or substantially
 6 alter the appearance of the vehicle.

7 ~~57.~~ 58. "Residence district" means the territory contiguous to and
 8 including a highway not comprising a business district if the property on
 9 the highway for a distance of three hundred feet or more is in the main
 10 improved with residences or residences and buildings in use for business.

11 ~~58.~~ 59. "Right-of-way" when used within the context of the
 12 regulation of the movement of traffic on a highway means the privilege of
 13 the immediate use of the highway. Right-of-way when used within the
 14 context of the real property on which transportation facilities and
 15 appurtenances to the facilities are constructed or maintained means the
 16 lands or interest in lands within the right-of-way boundaries.

17 ~~59.~~ 60. "School bus" means a motor vehicle that is designed for
 18 carrying more than ten passengers and that is either:

19 (a) Owned by any public or governmental agency or other institution
 20 and operated for the transportation of children to or from home or school
 21 on a regularly scheduled basis.

22 (b) Privately owned and operated for compensation for the
 23 transportation of children to or from home or school on a regularly
 24 scheduled basis.

25 ~~60.~~ 61. "Scrap metal dealer" has the same meaning prescribed in
 26 section 44-1641.

27 ~~61.~~ 62. "Scrap vehicle" has the same meaning prescribed in section
 28 44-1641.

29 ~~62.~~ 63. "Semitrailer" means a vehicle that is with or without
 30 motive power, other than a pole trailer or single-axle tow dolly, that is
 31 designed for carrying persons or property and for being drawn by a motor
 32 vehicle and that is constructed so that some part of its weight and that
 33 of its load rests on or is carried by another vehicle. For the purposes
 34 of this paragraph, "pole trailer" has the same meaning prescribed in
 35 section 28-601.

36 ~~63.~~ 64. "Single-axle tow dolly" means a nonvehicle device that is
 37 drawn by a motor vehicle, that is designed and used exclusively to
 38 transport another motor vehicle and on which the front or rear wheels of
 39 the drawn motor vehicle are mounted on the tow dolly while the other
 40 wheels of the drawn motor vehicle remain in contact with the ground.

41 ~~64.~~ 65. "State" means a state of the United States and the
 42 District of Columbia.

43 ~~65.~~ 66. "State highway" means a state route or portion of a state
 44 route that is accepted and designated by the board as a state highway and
 45 that is maintained by the state.

~~66.~~ 67. "State route" means a right-of-way whether actually used as a highway or not that is designated by the board as a location for the construction of a state highway.

~~67.~~ 68. "Street" or "highway" means the entire width between the boundary lines of every way if a part of the way is open to the use of the public for purposes of vehicular travel.

~~68.~~ 69. "Taxi" means a motor vehicle that has a seating capacity not exceeding fifteen passengers, including the driver, that provides passenger services and that:

(a) Does not primarily operate on a regular route or between specified places.

(b) Offers local transportation for a fare determined on the basis of the distance traveled or prearranged ground transportation service as defined in section 28-141 for a predetermined fare.

~~69.~~ 70. "Title transfer form" means a paper or an electronic form that is prescribed by the department for the purpose of transferring a certificate of title from one owner to another owner.

~~70.~~ 71. "Traffic survival school" means a school that offers educational sessions to drivers who are required to attend and successfully complete educational sessions pursuant to this title that are designed to improve the safety and habits of drivers and that are approved by the department.

~~71.~~ 72. "Trailer" means a vehicle that is with or without motive power, other than a pole trailer or single-axle tow dolly, that is designed for carrying persons or property and for being drawn by a motor vehicle and that is constructed so that no part of its weight rests on the towing vehicle. A semitrailer equipped with an auxiliary front axle commonly known as a dolly is deemed to be a trailer. For the purposes of this paragraph, "pole trailer" has the same meaning prescribed in section 28-601.

~~72.~~ 73. "Transportation network company" has the same meaning prescribed in section 28-9551.

~~73.~~ 74. "Transportation network company vehicle" has the same meaning prescribed in section 28-9551.

~~74.~~ 75. "Transportation network service" has the same meaning prescribed in section 28-9551.

~~75.~~ 76. "Truck" means a motor vehicle designed or used primarily for the carrying of property other than the effects of the driver or passengers and includes a motor vehicle to which has been added a box, a platform or other equipment for such carrying.

~~76.~~ 77. "Truck tractor" means a motor vehicle that is designed and used primarily for drawing other vehicles and that is not constructed to carry a load other than a part of the weight of the vehicle and load drawn.

1 ~~77.~~ 78. "Vehicle":

2 (a) Means a device in, on or by which a person or property is or
3 may be transported or drawn on a public highway.

4 (b) Does not include:

5 (i) Electric bicycles, electric miniature scooters, electric
6 standup scooters and devices moved by human power.

7 (ii) Devices used exclusively on stationary rails or tracks.

8 (iii) Personal delivery devices.

9 (iv) Scrap vehicles.

10 (v) Personal mobile cargo carrying devices.

11 ~~78.~~ 79. "Vehicle transporter" means either:

12 (a) A truck tractor capable of carrying a load and drawing a
13 semitrailer.

14 (b) A truck tractor with a stinger-steered fifth wheel capable of
15 carrying a load and drawing a semitrailer or a truck tractor with a dolly
16 mounted fifth wheel that is securely fastened to the truck tractor at two
17 or more points and that is capable of carrying a load and drawing a
18 semitrailer.

19 Sec. 2. Section 28-601, Arizona Revised Statutes, is amended to
20 read:

21 28-601. Definitions

22 In this chapter, unless the context otherwise requires:

23 1. "Commercial motor vehicle" means a motor vehicle or combination
24 of vehicles that is designed, used or maintained to transport passengers
25 or property in the furtherance of a commercial enterprise, that is a
26 commercial motor vehicle as defined in section 28-5201 and that is not
27 exempt from gross weight fees as prescribed in section 28-5432,
28 subsection B.

29 2. "Controlled access highway" means a highway, street or roadway
30 to or from which owners or occupants of abutting lands and other persons
31 have no legal right of access except at such points only and in the manner
32 determined by the public authority that has jurisdiction over the highway,
33 street or roadway.

34 3. "Crosswalk" means:

35 (a) That part of a roadway at an intersection included within the
36 prolongations or connections of the lateral lines of the sidewalks on
37 opposite sides of the highway measured from the curbs or, in absence of
38 curbs, from the edges of the traversable roadway.

39 (b) Any portion of a roadway at an intersection or elsewhere that
40 is distinctly indicated for pedestrian crossing by lines or other markings
41 on the surface.

42 4. "Escort vehicle" means a vehicle that is required pursuant to
43 rules adopted by the department to escort motor vehicles or combinations
44 of vehicles that require issuance of a permit pursuant to article 18 or 19
45 of this chapter for operation on the highways of this state.

5. "Explosives" means any chemical compound, mixture or device that is commonly used or intended for the purpose of producing an explosion and that is defined in 49 Code of Federal Regulations part 173.

6. "Flammable liquid" means any liquid that has a flash point of less than one hundred degrees Fahrenheit and that is defined in 49 Code of Federal Regulations section 173.120.

7. "Gross weight" means the weight of a vehicle without a load plus the weight of any load on the vehicle.

8. "Intersection" means the area embraced within the prolongation or connection of the lateral curb lines, or if none, the lateral boundary lines of the roadways of two highways that join one another at, or approximately at, right angles, or the area within which vehicles traveling on different highways joining at any other angle may come in conflict. If a highway includes two roadways thirty or more feet apart, each crossing of each roadway of the divided highway by an intersecting highway is a separate intersection. If the intersecting highway also includes two roadways thirty or more feet apart, each crossing of two roadways of the highways is a separate intersection.

9. "License" means any license, temporary instruction permit or temporary license issued under the laws of this state or any other state that pertain to the licensing of persons to operate motor vehicles.

10. "Low emission and energy efficient vehicle" means a vehicle that has been certified by the United States environmental protection agency administrator in accordance with 23 United States Code section 166 or that is part of a federally approved pilot program.

11. "Motorized wheelchair" means any self-propelled wheelchair that is used by a person for mobility.

12. "Official traffic control device" means any sign, signal, marking or device that is not inconsistent with this chapter and that is placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning or guiding traffic.

13. "Park", if prohibited, means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading.

~~14. "Photo enforcement system" means a device substantially consisting of a radar unit or sensor linked to a camera or other recording device that produces one or more photographs, microphotographs, videotapes or digital or other recorded images of a vehicle's license plate for the purpose of identifying violators of articles 3 and 6 of this chapter.~~

~~15.~~ 14. "Pneumatic tire" means a tire in which compressed air is designed to support the load.

~~16.~~ 15. "Pole trailer" means a vehicle that is all of the following:

1 (a) Without motive power.

2 (b) Designed to be drawn by another vehicle and attached to the
3 towing vehicle by means of a reach or pole or by being boomed or otherwise
4 secured to the towing vehicle.

5 (c) Used ordinarily for transporting long or irregularly shaped
6 loads such as poles, pipes or structural members capable generally of
7 sustaining themselves as beams between the supporting connections.

8 ~~17.~~ 16. "Police officer" means an officer authorized to direct or
9 regulate traffic or make arrests for violations of traffic rules or other
10 offenses.

11 ~~18.~~ 17. "Private road or driveway" means a way or place that is in
12 private ownership and that is used for vehicular travel by the owner and
13 those persons who have express or implied permission from the owner but
14 not by other persons.

15 ~~19.~~ 18. "Railroad" means a carrier of persons or property on cars
16 operated on stationary rails.

17 ~~20.~~ 19. "Railroad sign or signal" means a sign, signal or device
18 erected by authority of a public body or official or by a railroad and
19 intended to give notice of the presence of railroad tracks or the approach
20 of a railroad train.

21 ~~21.~~ 20. "Railroad train" means a steam engine or any electric or
22 other motor that is with or without cars coupled to the steam engine or
23 electric or other motor and that is operated on rails.

24 ~~22.~~ 21. "Roadway" means that portion of a highway that is
25 improved, designed or ordinarily used for vehicular travel, exclusive of
26 the berm or shoulder. If a highway includes two or more separate
27 roadways, roadway refers to any such roadway separately but not to all
28 such roadways collectively.

29 ~~23.~~ 22. "Safety zone" means the area or space that is both:

30 (a) Officially set apart within a roadway for the exclusive use of
31 pedestrians.

32 (b) Protected or either marked or indicated by adequate signs as to
33 be plainly visible at all times while set apart as a safety zone.

34 ~~24.~~ 23. "Sidewalk" means that portion of a street that is between
35 the curb lines or the lateral lines of a roadway and the adjacent property
36 lines and that is intended for the use of pedestrians.

37 ~~25.~~ 24. "Stop", if required, means complete cessation from
38 movement.

39 ~~26.~~ 25. "Stop, stopping or standing", if prohibited, means any
40 stopping or standing of an occupied or unoccupied vehicle, except when
41 necessary to avoid conflict with other traffic or in compliance with
42 directions of a police officer or traffic control sign or signal.

43 ~~27.~~ 26. "Through highway" means a highway or portion of a highway
44 at the entrances to which vehicular traffic from intersecting highways is

1 required by law to stop before entering or crossing and when stop signs
2 are erected as provided in this chapter.

3 ~~28.~~ 27. "Traffic" means pedestrians, ridden or herded animals,
4 vehicles and other conveyances either singly or together while using a
5 highway for purposes of travel.

6 ~~29.~~ 28. "Traffic control signal" means a device, whether manually,
7 electrically or mechanically operated, by which traffic is alternately
8 directed to stop and to proceed.

9 ~~30.~~ 29. "Truck" means a motor vehicle that is designed, used or
10 maintained primarily for the transportation of property.

11 Sec. 3. Section 28-627, Arizona Revised Statutes, is amended to
12 read:

13 28-627. Powers of local authorities

14 A. This chapter and chapters 4 and 5 of this title do not prohibit
15 a local authority, with respect to streets and highways under its
16 jurisdiction and within the reasonable exercise of the police power, from:

- 17 1. Regulating the standing or parking of vehicles.
- 18 2. Regulating traffic by means of police officers, traffic control
19 signals or volunteer posse organization members authorized by the sheriff
20 under section 11-441 for the purpose of directing traffic only.
- 21 3. Regulating or prohibiting processions or assemblages on the
22 highways.
- 23 4. Designating particular highways as one-way highways and
24 requiring that all vehicles on one-way highways be moved in one specific
25 direction.
- 26 5. Regulating the speed of vehicles in public parks.
- 27 6. Designating any highway as a through highway and requiring that
28 all vehicles stop before entering or crossing the highway or designating
29 any intersection as a stop intersection and requiring all vehicles to stop
30 at one or more entrances to the intersection.
- 31 7. Restricting the use of highways as authorized in section
32 28-1106.
- 33 8. Regulating the operation of bicycles and requiring the
34 registration and licensing of bicycles, including the requirement of a
35 registration fee.
- 36 9. Regulating or prohibiting the turning of vehicles or specified
37 types of vehicles at intersections.
- 38 10. Altering the prima facie speed limits as authorized by this
39 chapter.
- 40 11. Designating routes over streets and highways for vehicles not
41 exceeding one hundred two inches in width, exclusive of safety equipment.
- 42 12. Adopting other traffic regulations that are specifically
43 authorized by this chapter or chapter 4 or 5 of this title.

1 13. Designating routes on certain streets and highways for the
2 purpose of allowing off-highway vehicle operators to gain access to or
3 from a designated off-highway recreation facility as defined in section
4 28-1171, off-highway vehicle trail as defined in section 28-1171 or
5 off-highway vehicle special event as defined in section 28-1171.

6 14. Regulating electric bicycles and electric standup scooters. A
7 local authority may consider the environmental benefits and traffic
8 benefits of electric bicycles and electric standup scooters when
9 regulating electric bicycles and electric standup scooters.

10 B. A local authority shall not erect or maintain a stop sign or
11 traffic control signal at any location that requires the traffic on any
12 state highway to stop before entering or crossing any intersecting highway
13 unless approval in writing has first been obtained from the director.

14 C. An ordinance or regulation enacted under subsection A, paragraph
15 4, 5, 6, 7, 9 or 10 of this section is not effective until signs giving
16 notice of the local traffic regulations are posted on or at the entrances
17 to the highway or part of the highway affected as is most appropriate.

18 D. The definition of motor vehicle prescribed in section 28-101
19 does not prevent a local authority from adopting ordinances that regulate
20 or prohibit the operation of motorized skateboards, except that a local
21 authority shall not adopt an ordinance that requires registration and
22 licensing of motorized skateboards. For the purposes of this subsection,
23 "motorized skateboard" means a self-propelled device that does not have
24 handlebars and that has a motor, a deck on which a person may ride and at
25 least two tandem wheels in contact with the ground.

26 E. In addition to the appointment of peace officers, a local
27 authority may provide by ordinance for the appointment of:

28 1. Unarmed police aides or municipally approved private contractors
29 who are employed or contracted by the police department and who are
30 empowered to commence an action or proceeding before a court or judge for
31 a violation of the local authority's ordinances regulating the standing or
32 parking of vehicles. A municipally approved private contractor shall not
33 include a relative of an employee or of an elected official of the
34 municipality. The authority of the unarmed police aide or municipally
35 approved private contractor as authorized in this section is limited to
36 the enforcement of the ordinances of local authorities regulating the
37 standing or parking of vehicles. Pursuant to rules established by the
38 supreme court, an unarmed police aide appointed pursuant to this paragraph
39 may serve any process originating out of a municipal court in the
40 municipality in which the unarmed police aide is employed. Service of
41 process under this paragraph shall only be made during the hours the
42 municipal court is open for the transaction of business and only on court
43 premises. This paragraph does not grant to unarmed police aides or
44 municipally approved private contractors other powers or benefits to which
45 peace officers of this state are entitled.

1 2. Traffic investigators who may:
2 (a) Investigate traffic accidents within the jurisdiction of the
3 local authority.
4 (b) Commence an action or proceeding before a court or judge for
5 any violation of a state statute or local ordinance relating to traffic,
6 if the violation is related to a traffic accident within the jurisdiction
7 of the local authority.
8 (c) Pursuant to rules established by the supreme court, serve any
9 process originating out of a municipal court in the municipality in which
10 the traffic investigator is employed. Service of process under paragraph
11 1 of this subsection shall only be made during the hours the municipal
12 court is open for the transaction of business and only on court premises.
13 F. A traffic investigator appointed pursuant to this section shall:
14 1. Be unarmed at all times during the course of the traffic
15 investigator's duties.
16 2. Be an employee of the appointing local authority.
17 3. File written reports as required pursuant to section 28-667.
18 G. Notwithstanding subsection E of this section, an unarmed police
19 aide, a municipally approved private contractor or a traffic investigator
20 shall not serve any process resulting from a citation issued for a
21 violation of article 3 or 6 of this chapter or of a city or town ordinance
22 for excessive speed or failure to obey a traffic control device that is
23 obtained using ~~a photo enforcement system~~ HIGHWAY VIDEO SURVEILLANCE.
24 H. This section does not grant other powers or benefits to traffic
25 investigators to which peace officers of this state are entitled.
26 I. Pursuant to section 28-1092, a local authority shall provide
27 reasonable access to and from terminals and service facilities on highways
28 under its jurisdiction.
29 Sec. 4. Repeal
30 Title 28, chapter 3, article 21, Arizona Revised Statutes, is
31 repealed.
32 Sec. 5. Title 28, chapter 3, Arizona Revised Statutes, is amended
33 by adding a new article 21, to read:
34 ARTICLE 21. HIGHWAY VIDEO SURVEILLANCE
35 28-1201. Highway video surveillance; prohibited
36 THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE MAY NOT CONDUCT
37 HIGHWAY VIDEO SURVEILLANCE ON A CONTROLLED ACCESS HIGHWAY AS DEFINED IN
38 SECTION 28-601 OR ON A SIDEWALK AS DEFINED IN SECTION 28-601.
39 28-1202. Violation; injury; damages; attorney fees
40 A PERSON WHO SUFFERS AN INJURY AS A RESULT OF A VIOLATION OF THIS
41 ARTICLE IS ENTITLED TO THE FOLLOWING DAMAGES:
42 1. AT LEAST \$1,000 FOR EACH VIOLATION.
43 2. COSTS AND REASONABLE ATTORNEY FEES.
44 Sec. 6. Repeal
45 Section 28-1602, Arizona Revised Statutes, is repealed.

REFERENCE TITLE: TPT; prime contracting classification

State of Arizona
Senate
Fifty-fifth Legislature
First Regular Session
2021

SB 1721

Introduced by
Senator Fann

AN ACT

AMENDING SECTIONS 41-1516, 41-1532, 42-5007, 42-5008.01 AND 42-5032.02, ARIZONA REVISED STATUTES; AMENDING SECTION 42-5061, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2019, CHAPTER 273, SECTION 7 AND CHAPTER 288, SECTION 1; AMENDING SECTION 42-5061, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2019, CHAPTER 273, SECTION 8 AND CHAPTER 288, SECTION 2; AMENDING SECTIONS 42-5075 AND 42-5159, ARIZONA REVISED STATUTES; AMENDING SECTION 42-6004, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2019, CHAPTER 163, SECTION 23 AND CHAPTER 189, SECTION 3; AMENDING SECTION 42-6004, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2019, CHAPTER 163, SECTION 24 AND CHAPTER 189, SECTION 4; AMENDING SECTION 49-290, ARIZONA REVISED STATUTES; RELATING TO TRANSACTION PRIVILEGE TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 41-1516, Arizona Revised Statutes, is amended to
3 read:

4 41-1516. Healthy forest enterprise incentives; definitions

5 A. The Arizona commerce authority shall:

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

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

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

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

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

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

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

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

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

35 (i) At least seventy percent of the harvested or processed products
36 must be qualifying forest products.

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

39 (d) If the business is engaged in transporting qualifying forest
40 products, it must submit a letter from the state forester or United States
41 forest service, or official records or documents produced in connection
42 with the project, stating that all of the qualifying forest products it
43 transports are harvested from areas in this state. In addition, the
44 business must submit evidence to the authority that at least seventy-five
45 percent of the mileage traveled by its units each year are for

1 transporting qualifying forest products from or to qualifying projects
2 described in subdivision (b) or (c) of this paragraph, unless a lower
3 mileage is due to forest closures or weather conditions that are beyond
4 the control of the business.

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

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

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

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

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

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

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

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

1 sixty days after the date the business submits it to the department
2 constitutes approval of the certification.

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

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

10 1. Apply to the authority.

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

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

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

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

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

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

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

43 2. Employment information necessary to confirm eligibility for **THE**
44 income tax credit as prescribed by section 43-1076.

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

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

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

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

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

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

18 1. Inspect the facilities at the site.

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

21 3. Otherwise ascertain compliance with law and the terms of the
22 memorandum of understanding.

23 K. The authority shall revoke the business' certification and
24 notify the department of revenue and county assessor if either:

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

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

30 L. For the purposes of this section:

31 1. "Forest health" means the degree to which the integrity of the
32 forest is sustained, including reducing the risk of catastrophic wildfire
33 and destructive insect infestation, benefiting wildland habitats,
34 watersheds and communities.

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

38 3. "Processing" means:

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

44 (b) Burning qualifying forest products in the process of commercial
45 electrical generation or commercial thermal energy production for heating

1 or cooling, regardless of the physical structure of the forest product
2 before burning.

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

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

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

18 (c) Sorting and processing equipment, including portable and
19 stationary log loaders, front-end loaders, forklifts and cranes, chippers
20 and grinders, screens, decks and debarkers, saws and sawmill equipment,
21 firewood processing, wood residue baling and bagging equipment, kilns,
22 planing and molding equipment and laminating and joining equipment.

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

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

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

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

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

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

35 (vi) Shop and maintenance equipment and major spares having a value
36 of more than \$5,000 each.

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

42 6. "Qualifying project" means harvesting, transporting or processing
43 qualifying forest products as required for certification pursuant to this
44 section.

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

3 41-1532. Tax incentives; conditions

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

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

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

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

24 Sec. 3. Section 42-5007, Arizona Revised Statutes, is amended to
25 read:

26 42-5007. Taxpayer security; out-of-state prime contractors;
27 definition

28 A. In lieu of the bond required under section 42-1102 or 42-5006, a
29 person who is in the construction business, who does not have a principal
30 place of business in this state and who enters into a prime construction
31 contract to be performed in this state, at the time the contract is
32 entered into, shall furnish to the director or the director's agent a
33 surety bond or other acceptable security in an amount equal to the gross
34 receipts to be paid under the contract multiplied by the aggregate rates
35 of the applicable taxes imposed by this chapter to secure payment of the
36 tax imposed by this chapter on the gross receipts from the contract and
37 shall obtain a certificate from the director or the director's agent that
38 the requirements of this section have been met.

39 B. If the total amount to be paid under the contract is changed by
40 ten ~~per cent~~ PERCENT or more after the date the bond or other security is
41 furnished, the person shall increase or decrease, as the case may be, the
42 amount of the bond or security within fourteen days after the change.

43 C. If a person fails to comply with subsection A or B of this
44 section, the director or the director's agent may:

1 1. Demand by certified mail or in person that the person
2 comply. On the person's failure to comply within ten days after the date
3 of the mailing of such demand, the director may institute a proceeding to
4 enjoin the person's business as provided in section 42-1103.

5 2. When a serious and immediate risk exists that an amount of tax
6 due or reasonably expected to become due from the person on gross receipts
7 from a prime construction contract will not be paid, request the person to
8 comply, and, on failure to comply immediately, the director may without
9 further notice apply to tax court for an injunction under section 42-1103.

10 D. This section does not apply if the total gross receipts under
11 the construction contract, including any change in such amount, are to be
12 less than ~~fifty thousand dollars~~ \$100,000 PER RESIDENTIAL UNIT FOR A
13 RESIDENTIAL PROJECT OR \$1,000,000 FOR A NONRESIDENTIAL PROJECT.

14 E. A city, town or county or an agency of this state shall not
15 issue a building or other construction permit to any person who is subject
16 to the requirements of this section without having first been furnished by
17 the construction contractor with the certificate from the director or the
18 director's agent provided under subsection A of this section.

19 F. ~~in~~ FOR THE PURPOSES OF this section, "principal place of
20 business" means a location where a person has continuously operated a
21 facility with at least one full-time employee for the preceding twelve
22 consecutive months.

23 Sec. 4. Section 42-5008.01, Arizona Revised Statutes, is amended to
24 read:

25 42-5008.01. Liability for amounts equal to retail transaction
26 privilege tax due

27 A. A person that is either a prime contractor subject to tax under
28 section 42-5075 or a subcontractor working under the control of such a
29 prime contractor, that purchases tangible personal property, the purchase
30 price of which was excluded from the tax base under the retail
31 classification under section 42-5061, subsection A, paragraph 27 or was
32 excluded from the use tax under section 42-5159, subsection A, paragraph
33 13, subdivision (g) at the time of purchase, and that incorporates or
34 fabricates the tangible personal property into a project described in
35 section 42-5075, subsection ~~A~~ B is liable for an amount equal to any tax
36 that a seller would have been required to pay under section 42-5061 and
37 this article as follows:

38 1. The amount of liability shall be calculated and reported based
39 on the location of the project and the taxes imposed under this chapter
40 and chapter 6 of this title.

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

44 3. This subsection does not apply to tangible personal property
45 that is incorporated or fabricated into any project under a contract that

1 would otherwise be excluded from the tax base under section 42-5075,
2 without regard to section 42-5075, subsection ~~⊖~~ B.

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

6 5. The person is not liable for the amount if the contractor who
7 hired the person executes and provides to the person a certificate stating
8 that the contractor providing the certificate is liable for any amount due
9 under this subsection. The department shall prescribe the form of the
10 certificate. If the person has reason to believe that the information
11 contained on the certificate is erroneous or incomplete, the department
12 may disregard the certificate. The contractor providing the certificate
13 is liable for the amount that otherwise would be due from the person under
14 this subsection.

15 B. A person that purchased tangible personal property, the purchase
16 price of which was excluded from the tax base under section 42-5061,
17 subsection A, paragraph 27 or was excluded from the use tax under section
18 42-5159, subsection A, paragraph 13, subdivision (g) at the time of
19 purchase, that subsequently cancels its transaction privilege tax license
20 and that uses, consumes, sells or discards the tangible personal property
21 is liable for an amount of tax determined under this subsection. For the
22 purposes of this subsection:

23 1. If the tangible personal property is incorporated or fabricated
24 into a project described in section 42-5075, subsection ~~⊖~~ B, or otherwise
25 used or consumed by the person, the amount of liability shall be
26 calculated and reported based on the person's purchase price of the
27 tangible personal property, the location of the project, use or
28 consumption and the taxes imposed under this chapter and chapter 6 of this
29 title.

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

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

38 4. The amount of liability shall be reported on or before the
39 business day preceding the last business day of the month following the
40 month in which the person uses the tangible personal property in a manner
41 described in paragraph 1 or 2 of this subsection. No amount is due under
42 this subsection at any time that the person stores the tangible personal
43 property without using it in a manner described in paragraph 1 or 2 of
44 this subsection.

5. All deductions, exemptions and exclusions for the cost of tangible personal property provided in section 42-5075 ~~OR 42-5061~~ apply to the tangible personal property incorporated or fabricated into a project described in section 42-5075, subsection ~~⊖~~ B.

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

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

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

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

Sec. 5. Section 42-5032.02, Arizona Revised Statutes, is amended to read:

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

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

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

1. Ten percent of the qualifying capital investment that is certified under subsection D of this section and that constitutes

1 construction phase services, as defined in section 42-5075, has been made
2 by the manufacturing facility.

3 2. From and after June 30, 2014.

4 C. The amount to be paid to a city, town or county under subsection
5 A of this section is the total amount of state transaction privilege tax
6 revenues collected under section 42-5010, subsection A from persons
7 conducting business under section 42-5075 derived from contracts to
8 construct buildings and associated improvements for the benefit of a
9 manufacturing facility. The total amount paid to all cities, towns and
10 counties under this subsection shall not exceed a maximum of ~~fifty million~~
11 ~~dollars~~ \$50,000,000.

12 D. Within one hundred eighty days after the commencement of the
13 construction of buildings and associated improvements for the benefit of a
14 manufacturing facility that will require a city, town or county to make
15 infrastructure improvements, the manufacturing facility shall file a sworn
16 certification with the Arizona commerce authority and submit a copy of
17 this sworn certification to the applicable city, town or county that the
18 manufacturing facility agrees to either:

19 1. Make at least ~~five hundred million dollars~~ \$500,000,000 in
20 capital investment if the manufacturing facility is located in a county
21 that has a population of eight hundred thousand persons or more.

22 2. Make at least ~~fifty million dollars~~ \$50,000,000 in capital
23 investment if the manufacturing facility is located in a county that has a
24 population of less than eight hundred thousand persons.

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

31 F. Before submitting the certification to the Arizona commerce
32 authority, the manufacturing facility and the city, town or county must
33 enter into a written agreement that:

34 1. Identifies and states the cost of the public infrastructure
35 improvements that will be constructed.

36 2. Identifies the sources of monies, including monies received
37 pursuant to this section, that will be used to pay for the public
38 infrastructure improvements.

39 G. On receipt of the sworn certification from a manufacturing
40 facility pursuant to subsection D of this section, the city, town or
41 county shall enter into a written agreement with the department. This
42 agreement and any amendments or changes to the agreement shall:

43 1. State the cost of the public infrastructure improvements and
44 separately identify the particular improvements that will be made.

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

4 3. State that the city, town or county will commit all of its
5 portion of the revenue received pursuant to section 42-5029, subsection D
6 derived from contracts subject to section 42-5075 for the construction of
7 buildings and associated improvements for the benefit of the manufacturing
8 facility for public infrastructure improvements that benefit the
9 manufacturing facility.

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

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

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

23 7. State that the city, town or county agrees that any amounts paid
24 by the department to a prime contractor as identified under paragraph 6 of
25 this subsection resulting from an audit adjustment or claim for credit or
26 refund of taxes described in subsection C of this section shall be
27 recovered by the department from the city, town or county by reducing the
28 amount paid to the city, town or county under section 42-5029 from monies
29 designated as distribution base in the month next succeeding the month in
30 which the adjustment or claim is paid.

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

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

43 10. Provide any other information deemed necessary by the
44 department.

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

4 1. The city, town or county has received monies that meet or exceed
5 eighty percent of the cost of the public infrastructure improvements that
6 are necessary to support the activities related to the manufacturing
7 facility as described in the written agreement pursuant to subsection G of
8 this section.

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

12 I. For the purposes of this section:

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

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

20 3. "Manufacturing facility":

21 (a) Means an establishment that is engaged in the mechanical,
22 physical or chemical transformation or fabrication of materials,
23 substances or components into new products in this state, that is
24 classified within sections 31 through 33 inclusive of the 2007 edition of
25 the north American industry classification system as published by the
26 national technical information service of the United States department of
27 commerce and that agrees to either:

28 (i) Make at least ~~five hundred million dollars~~ \$500,000,000 in
29 capital investment if the manufacturing facility is located in a county
30 that has a population of eight hundred thousand persons or more.

31 (ii) Make at least ~~fifty million dollars~~ \$50,000,000 in capital
32 investment if the manufacturing facility is located in a county that has a
33 population of less than eight hundred thousand persons.

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

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

39 5. "Public infrastructure" means water production, delivery and
40 disposal facilities, wastewater production, delivery and disposal
41 facilities and roads that are necessary to support the activities of the
42 manufacturing facility.

1 Sec. 6. Section 42-5061, Arizona Revised Statutes, as amended by
2 Laws 2019, chapter 273, section 7 and chapter 288, section 1, is amended
3 to read:

4 42-5061. Retail classification; definitions

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

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

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

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

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

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

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

27 7. The sale of stocks and bonds.

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

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

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

36 11. Prescription eyeglasses or contact lenses.

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

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

1 14. Sales of motor vehicles to nonresidents of this state for use
2 outside this state if the motor vehicle dealer ships or delivers the motor
3 vehicle to a destination out of this state.

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

6 16. Items purchased with United States department of agriculture
7 coupons issued under the supplemental nutrition assistance program
8 pursuant to the food and nutrition act of 2008 (P.L. 88-525; 78 Stat. 703;
9 7 United States Code sections 2011 through 2036b) by the United States
10 department of agriculture food and nutrition service or food instruments
11 issued under section 17 of the child nutrition act (P.L. 95-627; 92
12 Stat. 3603; P.L. 99-661, section 4302; P.L. 111-296; 42 United States Code
13 section 1786).

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

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

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

25 20. Lottery tickets or shares pursuant to title 5, chapter 5.1,
26 article 1.

27 21. The sale of cash equivalents and the sale of precious metal
28 bullion and monetized bullion to the ultimate consumer, but the sale of
29 coins or other forms of money for manufacture into jewelry or works of art
30 is subject to the tax and the gross proceeds of sales or gross income
31 derived from the redemption of any cash equivalent by the holder as a
32 means of payment for goods or services that are taxable under this article
33 is subject to the tax. For the purposes of this paragraph:

34 (a) "Cash equivalents" means items or intangibles, whether or not
35 negotiable, that are sold to one or more persons, through which a value
36 denominated in money is purchased in advance and may be redeemed in full
37 or in part for tangible personal property, intangibles or services. Cash
38 equivalents include gift cards, stored value cards, gift certificates,
39 vouchers, traveler's checks, money orders or other instruments, orders or
40 electronic mechanisms, such as an electronic code, personal identification
41 number or digital payment mechanism, or any other prepaid intangible right
42 to acquire tangible personal property, intangibles or services in the
43 future, whether from the seller of the cash equivalent or from another
44 person. Cash equivalents do not include either of the following:

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

3 (ii) Prepaid calling cards or prepaid authorization numbers for
4 telecommunications services made taxable by subsection P of this section.

5 (b) "Monetized bullion" means coins and other forms of money that
6 are manufactured from gold, silver or other metals and that have been or
7 are used as a medium of exchange in this or another state, the United
8 States or a foreign nation.

9 (c) "Precious metal bullion" means precious metal, including gold,
10 silver, platinum, rhodium and palladium, that has been smelted or refined
11 so that its value depends on its contents and not on its form.

12 22. Motor vehicle fuel and use fuel that are subject to a tax
13 imposed under title 28, chapter 16, article 1, sales of use fuel to a
14 holder of a valid single trip use fuel tax permit issued under section
15 28-5739, sales of aviation fuel that are subject to the tax imposed under
16 section 28-8344 and sales of jet fuel that are subject to the tax imposed
17 under article 8 of this chapter.

18 23. Tangible personal property sold to a person engaged in the
19 business of leasing or renting such property under the personal property
20 rental classification if such property is to be leased or rented by such
21 person.

22 24. Tangible personal property sold in interstate or foreign
23 commerce if prohibited from being so taxed by the constitution of the
24 United States or the constitution of this state.

25 25. Tangible personal property sold to:

26 (a) A qualifying hospital as defined in section 42-5001.

27 (b) A qualifying health care organization as defined in section
28 42-5001 if the tangible personal property is used by the organization
29 solely to provide health and medical related educational and charitable
30 services.

31 (c) A qualifying health care organization as defined in section
32 42-5001 if the organization is dedicated to providing educational,
33 therapeutic, rehabilitative and family medical education training for
34 blind and visually impaired children and children with multiple
35 disabilities from the time of birth to age twenty-one.

36 (d) A qualifying community health center as defined in section
37 42-5001.

38 (e) A nonprofit charitable organization that has qualified under
39 section 501(c)(3) of the internal revenue code and that regularly serves
40 meals to the needy and indigent on a continuing basis at no cost.

41 (f) For taxable periods beginning from and after June 30, 2001, a
42 nonprofit charitable organization that has qualified under section
43 501(c)(3) of the internal revenue code and that provides residential
44 apartment housing for low income persons over sixty-two years of age in a
45 facility that qualifies for a federal housing subsidy, if the tangible

1 personal property is used by the organization solely to provide
2 residential apartment housing for low income persons over sixty-two years
3 of age in a facility that qualifies for a federal housing subsidy.

4 (g) A qualifying health sciences educational institution as defined
5 in section 42-5001.

6 (h) Any person representing or working on behalf of another person
7 described in subdivisions (a) through (g) of this paragraph if the
8 tangible personal property is incorporated or fabricated into a project
9 described in section 42-5075, subsection ~~⊖~~ B.

10 26. Magazines or other periodicals or other publications by this
11 state to encourage tourist travel.

12 27. Tangible personal property sold to:

13 (a) A person that is subject to tax under this article by reason of
14 being engaged in business classified under section 42-5075 or to a
15 subcontractor working under the control of a person engaged in business
16 classified under section 42-5075, if the property so sold is any of the
17 following:

18 (i) Incorporated or fabricated by the person into any real
19 property, structure, project, development or improvement as part of the
20 business.

21 (ii) Incorporated or fabricated by the person into any project
22 described in section 42-5075, subsection ~~⊖~~ B.

23 (iii) Used in environmental response or remediation activities
24 under section 42-5075, subsection ~~B~~ C, paragraph 6.

25 (b) A person that is not subject to tax under section 42-5075 and
26 that has been provided a copy of a certificate under section 42-5009,
27 subsection L, if the property so sold is incorporated or fabricated by the
28 person into the real property, structure, project, development or
29 improvement described in the certificate.

30 28. The sale of a motor vehicle to:

31 (a) A nonresident of this state if the purchaser's state of
32 residence does not allow a corresponding use tax exemption to the tax
33 imposed by article 1 of this chapter and if the nonresident has secured a
34 special ninety day nonresident registration permit for the vehicle as
35 prescribed by sections 28-2154 and 28-2154.01.

36 (b) An enrolled member of an Indian tribe who resides on the Indian
37 reservation established for that tribe.

38 29. Tangible personal property purchased in this state by a
39 nonprofit charitable organization that has qualified under section
40 501(c)(3) of the United States internal revenue code and that engages in
41 and uses such property exclusively in programs for persons with mental or
42 physical disabilities if the programs are exclusively for training, job
43 placement, rehabilitation or testing.

44 30. Sales of tangible personal property by a nonprofit organization
45 that is exempt from taxation under section 501(c)(3), 501(c)(4) or

501(c)(6) of the internal revenue code if the organization is associated with a major league baseball team or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual. This paragraph does not apply to an organization that is owned, managed or controlled, in whole or in part, by a major league baseball team, or its owners, officers, employees or agents, or by a major league baseball association or professional golfing association, or its owners, officers, employees or agents, unless the organization conducted or operated exhibition events in this state before January 1, 2018 that were exempt from taxation under section 42-5073.

31. Sales of commodities, as defined by title 7 United States Code section 2, that are consigned for resale in a warehouse in this state in or from which the commodity is deliverable on a contract for future delivery subject to the rules of a commodity market regulated by the United States commodity futures trading commission.

32. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the organization sponsors or operates a rodeo featuring primarily farm and ranch animals and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

33. Sales of propagative materials to persons who use those items to commercially produce agricultural, horticultural, viticultural or floricultural crops in this state. For the purposes of this paragraph, "propagative materials":

(a) Includes seeds, seedlings, roots, bulbs, liners, transplants, cuttings, soil and plant additives, agricultural minerals, auxiliary soil and plant substances, micronutrients, fertilizers, insecticides, herbicides, fungicides, soil fumigants, desiccants, rodenticides, adjuvants, plant nutrients and plant growth regulators.

(b) Except for use in commercially producing industrial hemp as defined in section 3-311, does not include any propagative materials used in producing any part, including seeds, of any plant of the genus cannabis.

34. Machinery, equipment, technology or related supplies that are only useful to assist a person with a physical disability as defined in section 46-191 or a person who has a developmental disability as defined in section 36-551 or has a head injury as defined in section 41-3201 to be more independent and functional.

35. Sales of natural gas or liquefied petroleum gas used to propel a motor vehicle.

36. Paper machine clothing, such as forming fabrics and dryer felts, sold to a paper manufacturer and directly used or consumed in paper manufacturing.

1 37. Coal, petroleum, coke, natural gas, virgin fuel oil and
2 electricity sold to a qualified environmental technology manufacturer,
3 producer or processor as defined in section 41-1514.02 and directly used
4 or consumed in the generation or provision of on-site power or energy
5 solely for environmental technology manufacturing, producing or processing
6 or environmental protection. This paragraph shall apply for twenty full
7 consecutive calendar or fiscal years from the date the first paper
8 manufacturing machine is placed in service. In the case of an
9 environmental technology manufacturer, producer or processor who does not
10 manufacture paper, the time period shall begin with the date the first
11 manufacturing, processing or production equipment is placed in service.

12 38. Sales of liquid, solid or gaseous chemicals used in
13 manufacturing, processing, fabricating, mining, refining, metallurgical
14 operations, research and development and, beginning on January 1, 1999,
15 printing, if using or consuming the chemicals, alone or as part of an
16 integrated system of chemicals, involves direct contact with the materials
17 from which the product is produced for the purpose of causing or
18 permitting a chemical or physical change to occur in the materials as part
19 of the production process. This paragraph does not include chemicals that
20 are used or consumed in activities such as packaging, storage or
21 transportation but does not affect any deduction for such chemicals that
22 is otherwise provided by this section. For the purposes of this
23 paragraph, "printing" means a commercial printing operation and includes
24 job printing, engraving, embossing, copying and bookbinding.

25 39. Through December 31, 1994, personal property liquidation
26 transactions, conducted by a personal property liquidator. From and after
27 December 31, 1994, personal property liquidation transactions shall be
28 taxable under this section provided that nothing in this subsection shall
29 be construed to authorize the taxation of casual activities or
30 transactions under this chapter. For the purposes of this paragraph:

31 (a) "Personal property liquidation transaction" means a sale of
32 personal property made by a personal property liquidator acting solely on
33 behalf of the owner of the personal property sold at the dwelling of the
34 owner or on the death of any owner, on behalf of the surviving spouse, if
35 any, any devisee or heir or the personal representative of the estate of
36 the deceased, if one has been appointed.

37 (b) "Personal property liquidator" means a person who is retained
38 to conduct a sale in a personal property liquidation transaction.

39 40. Sales of food, drink and condiment for consumption within the
40 premises of any prison, jail or other institution under the jurisdiction
41 of the state department of corrections, the department of public safety,
42 the department of juvenile corrections or a county sheriff.

43 41. A motor vehicle and any repair and replacement parts and
44 tangible personal property becoming a part of such motor vehicle sold to a
45 motor carrier who is subject to a fee prescribed in title 28, chapter 16,

1 article 4 and who is engaged in the business of leasing or renting such
2 property.

3 42. Sales of:

4 (a) Livestock and poultry to persons engaging in the businesses of
5 farming, ranching or producing livestock or poultry.

6 (b) Livestock and poultry feed, salts, vitamins and other additives
7 for livestock or poultry consumption that are sold to persons for use or
8 consumption by their own livestock or poultry, for use or consumption in
9 the businesses of farming, ranching and producing or feeding livestock,
10 poultry, or livestock or poultry products or for use or consumption in
11 noncommercial boarding of livestock. For the purposes of this paragraph,
12 "poultry" includes ratites.

13 43. Sales of implants used as growth promotants and injectable
14 medicines, not already exempt under paragraph 8 of this subsection, for
15 livestock or poultry owned by or in possession of persons who are engaged
16 in producing livestock, poultry, or livestock or poultry products or who
17 are engaged in feeding livestock or poultry commercially. For the
18 purposes of this paragraph, "poultry" includes ratites.

19 44. Sales of motor vehicles at auction to nonresidents of this
20 state for use outside this state if the vehicles are shipped or delivered
21 out of this state, regardless of where title to the motor vehicles passes
22 or its free on board point.

23 45. Tangible personal property sold to a person engaged in business
24 and subject to tax under the transient lodging classification if the
25 tangible personal property is a personal hygiene item or articles used by
26 human beings for food, drink or condiment, except alcoholic beverages,
27 that are furnished without additional charge to and intended to be
28 consumed by the transient during the transient's occupancy.

29 46. Sales of alternative fuel, as defined in section 1-215, to a
30 used oil fuel burner who has received a permit to burn used oil or used
31 oil fuel under section 49-426 or 49-480.

32 47. Sales of materials that are purchased by or for publicly funded
33 libraries including school district libraries, charter school libraries,
34 community college libraries, state university libraries or federal, state,
35 county or municipal libraries for use by the public as follows:

36 (a) Printed or photographic materials, beginning August 7, 1985.

37 (b) Electronic or digital media materials, beginning July 17, 1994.

38 48. Tangible personal property sold to a commercial airline and
39 consisting of food, beverages and condiments and accessories used for
40 serving the food and beverages, if those items are to be provided without
41 additional charge to passengers for consumption in flight. For the
42 purposes of this paragraph, "commercial airline" means a person holding a
43 federal certificate of public convenience and necessity or foreign air
44 carrier permit for air transportation to transport persons, property or
45 United States mail in intrastate, interstate or foreign commerce.

1 49. Sales of alternative fuel vehicles if the vehicle was
2 manufactured as a diesel fuel vehicle and converted to operate on
3 alternative fuel and equipment that is installed in a conventional diesel
4 fuel motor vehicle to convert the vehicle to operate on an alternative
5 fuel, as defined in section 1-215.

6 50. Sales of any spirituous, vinous or malt liquor by a person that
7 is licensed in this state as a wholesaler by the department of liquor
8 licenses and control pursuant to title 4, chapter 2, article 1.

9 51. Sales of tangible personal property to be incorporated or
10 installed as part of environmental response or remediation activities
11 under section 42-5075, subsection ~~B~~ C, paragraph 6.

12 52. Sales of tangible personal property by a nonprofit organization
13 that is exempt from taxation under section 501(c)(6) of the internal
14 revenue code if the organization produces, organizes or promotes cultural
15 or civic related festivals or events and no part of the organization's net
16 earnings inures to the benefit of any private shareholder or individual.

17 53. Application services that are designed to assess or test
18 student learning or to promote curriculum design or enhancement purchased
19 by or for any school district, charter school, community college or state
20 university. For the purposes of this paragraph:

21 (a) "Application services" means software applications provided
22 remotely using hypertext transfer protocol or another network protocol.

23 (b) "Curriculum design or enhancement" means planning, implementing
24 or reporting on courses of study, lessons, assignments or other learning
25 activities.

26 54. Sales of motor vehicle fuel and use fuel to a qualified
27 business under section 41-1516 for off-road use in harvesting, processing
28 or transporting qualifying forest products removed from qualifying
29 projects as defined in section 41-1516.

30 55. Sales of repair parts installed in equipment used directly by a
31 qualified business under section 41-1516 in harvesting, processing or
32 transporting qualifying forest products removed from qualifying projects
33 as defined in section 41-1516.

34 56. Sales or other transfers of renewable energy credits or any
35 other unit created to track energy derived from renewable energy
36 resources. For the purposes of this paragraph, "renewable energy credit"
37 means a unit created administratively by the corporation commission or
38 governing body of a public power utility to track kilowatt hours of
39 electricity derived from a renewable energy resource or the kilowatt hour
40 equivalent of conventional energy resources displaced by distributed
41 renewable energy resources.

42 57. 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 58. Orthodontic devices dispensed by a dental professional who is
6 licensed under title 32, chapter 11 to a patient as part of the practice
7 of dentistry.

8 59. Sales of tangible personal property incorporated or fabricated
9 into a project described in section 42-5075, subsection ~~⊖~~ B, that is
10 located within the exterior boundaries of an Indian reservation for which
11 the owner, as defined in section 42-5075, of the project is an Indian
12 tribe or an affiliated Indian. For the purposes of this paragraph:

13 (a) "Affiliated Indian" means an individual Native American Indian
14 who is duly registered on the tribal rolls of the Indian tribe for whose
15 benefit the Indian reservation was established.

16 (b) "Indian reservation" means all lands that are within the limits
17 of areas set aside by the United States for the exclusive use and
18 occupancy of an Indian tribe by treaty, law or executive order and that
19 are recognized as Indian reservations by the United States department of
20 the interior.

21 (c) "Indian tribe" means any organized nation, tribe, band or
22 community that is recognized as an Indian tribe by the United States
23 department of the interior and includes any entity formed under the laws
24 of the Indian tribe.

25 60. Sales of works of fine art, as defined in section 44-1771, at
26 an art auction or gallery in this state to nonresidents of this state for
27 use outside this state if the vendor ships or delivers the work of fine
28 art to a destination outside this state.

29 61. Sales of tangible personal property by a marketplace seller
30 that are facilitated by a marketplace facilitator in which the marketplace
31 facilitator has remitted or will remit the applicable tax to the
32 department pursuant to section 42-5014.

33 B. In addition to the deductions from the tax base prescribed by
34 subsection A of this section, the gross proceeds of sales or gross income
35 derived from sales of the following categories of tangible personal
36 property shall be deducted from the tax base:

37 1. Machinery, or equipment, used directly in manufacturing,
38 processing, fabricating, job printing, refining or metallurgical
39 operations. The terms "manufacturing", "processing", "fabricating", "job
40 printing", "refining" and "metallurgical" as used in this paragraph refer
41 to and include those operations commonly understood within their ordinary
42 meaning. "Metallurgical operations" includes leaching, milling,
43 precipitating, smelting and refining.

44 2. Mining machinery, or equipment, used directly in the process of
45 extracting ores or minerals from the earth for commercial purposes,

1 including equipment required to prepare the materials for extraction and
2 handling, loading or transporting such extracted material to the surface.
3 "Mining" includes underground, surface and open pit operations for
4 extracting ores and minerals.

5 3. Tangible personal property sold to persons engaged in business
6 classified under the telecommunications classification, including a person
7 representing or working on behalf of such a person in a manner described
8 in section 42-5075, subsection ~~A~~ B, and consisting of central office
9 switching equipment, switchboards, private branch exchange equipment,
10 microwave radio equipment and carrier equipment including optical fiber,
11 coaxial cable and other transmission media that are components of carrier
12 systems.

13 4. Machinery, equipment or transmission lines used directly in
14 producing or transmitting electrical power, but not including
15 distribution. Transformers and control equipment used at transmission
16 substation sites constitute equipment used in producing or transmitting
17 electrical power.

18 5. Neat animals, horses, asses, sheep, ratites, swine or goats used
19 or to be used as breeding or production stock, including sales of
20 breedings or ownership shares in such animals used for breeding or
21 production.

22 6. Pipes or valves four inches in diameter or larger used to
23 transport oil, natural gas, artificial gas, water or coal slurry,
24 including compressor units, regulators, machinery and equipment, fittings,
25 seals and any other part that is used in operating the pipes or valves.

26 7. Aircraft, navigational and communication instruments and other
27 accessories and related equipment sold to:

28 (a) A person:

29 (i) Holding, or exempted by federal law from obtaining, a federal
30 certificate of public convenience and necessity for use as, in conjunction
31 with or becoming part of an aircraft to be used to transport persons for
32 hire in intrastate, interstate or foreign commerce.

33 (ii) That is certificated or licensed under federal aviation
34 administration regulations (14 Code of Federal Regulations part 121 or
35 135) as a scheduled or unscheduled carrier of persons for hire for use as
36 or in conjunction with or becoming part of an aircraft to be used to
37 transport persons for hire in intrastate, interstate or foreign commerce.

38 (iii) Holding a foreign air carrier permit for air transportation
39 for use as or in conjunction with or becoming a part of aircraft to be
40 used to transport persons, property or United States mail in intrastate,
41 interstate or foreign commerce.

42 (iv) Operating an aircraft to transport persons in any manner for
43 compensation or hire, or for use in a fractional ownership program that
44 meets the requirements of federal aviation administration regulations (14
45 Code of Federal Regulations part 91, subpart K), including as an air

1 carrier, a foreign air carrier or a commercial operator or under a
2 restricted category, within the meaning of 14 Code of Federal Regulations,
3 regardless of whether the operation or aircraft is regulated or certified
4 under part 91, 119, 121, 133, 135, 136 or 137, or another part of 14 Code
5 of Federal Regulations.

6 (v) That will lease or otherwise transfer operational control,
7 within the meaning of federal aviation administration operations
8 specification A008, or its successor, of the aircraft, instruments or
9 accessories to one or more persons described in item (i), (ii), (iii) or
10 (iv) of this subdivision, subject to section 42-5009, subsection Q.

11 (b) Any foreign government.

12 (c) Persons who are not residents of this state and who will not
13 use such property in this state other than in removing such property from
14 this state. This subdivision also applies to corporations that are not
15 incorporated in this state, regardless of maintaining a place of business
16 in this state, if the principal corporate office is located outside this
17 state and the property will not be used in this state other than in
18 removing the property from this state.

19 8. Machinery, tools, equipment and related supplies used or
20 consumed directly in repairing, remodeling or maintaining aircraft,
21 aircraft engines or aircraft component parts by or on behalf of a
22 certificated or licensed carrier of persons or property.

23 9. Railroad rolling stock, rails, ties and signal control equipment
24 used directly to transport persons or property.

25 10. Machinery or equipment used directly to drill for oil or gas or
26 used directly in the process of extracting oil or gas from the earth for
27 commercial purposes.

28 11. Buses or other urban mass transit vehicles that are used
29 directly to transport persons or property for hire or pursuant to a
30 governmentally adopted and controlled urban mass transportation program
31 and that are sold to bus companies holding a federal certificate of
32 convenience and necessity or operated by any city, town or other
33 governmental entity or by any person contracting with such governmental
34 entity as part of a governmentally adopted and controlled program to
35 provide urban mass transportation.

36 12. Groundwater measuring devices required under section 45-604.

37 13. New machinery and equipment consisting of agricultural
38 aircraft, tractors, tractor-drawn implements, self-powered implements,
39 machinery and equipment necessary for extracting milk, and machinery and
40 equipment necessary for cooling milk and livestock, and drip irrigation
41 lines not already exempt under paragraph 6 of this subsection and that are
42 used for commercial production of agricultural, horticultural,
43 viticultural and floricultural crops and products in this state. For the
44 purposes of this paragraph:

1 (a) "New machinery and equipment" means machinery and equipment
2 that have never been sold at retail except pursuant to leases or rentals
3 that do not total two years or more.

4 (b) "Self-powered implements" includes machinery and equipment that
5 are electric-powered.

6 14. Machinery or equipment used in research and development. For
7 the purposes of this paragraph, "research and development" means basic and
8 applied research in the sciences and engineering, and designing,
9 developing or testing prototypes, processes or new products, including
10 research and development of computer software that is embedded in or an
11 integral part of the prototype or new product or that is required for
12 machinery or equipment otherwise exempt under this section to function
13 effectively. Research and development do not include manufacturing
14 quality control, routine consumer product testing, market research, sales
15 promotion, sales service, research in social sciences or psychology,
16 computer software research that is not included in the definition of
17 research and development, or other nontechnological activities or
18 technical services.

19 15. Tangible personal property that is used by either of the
20 following to receive, store, convert, produce, generate, decode, encode,
21 control or transmit telecommunications information:

22 (a) Any direct broadcast satellite television or data transmission
23 service that operates pursuant to 47 Code of Federal Regulations part 25.

24 (b) Any satellite television or data transmission facility, if both
25 of the following conditions are met:

26 (i) Over two-thirds of the transmissions, measured in megabytes,
27 transmitted by the facility during the test period were transmitted to or
28 on behalf of one or more direct broadcast satellite television or data
29 transmission services that operate pursuant to 47 Code of Federal
30 Regulations part 25.

31 (ii) Over two-thirds of the transmissions, measured in megabytes,
32 transmitted by or on behalf of those direct broadcast television or data
33 transmission services during the test period were transmitted by the
34 facility to or on behalf of those services. For the purposes of
35 subdivision (b) of this paragraph, "test period" means the three hundred
36 sixty-five day period beginning on the later of the date on which the
37 tangible personal property is purchased or the date on which the direct
38 broadcast satellite television or data transmission service first
39 transmits information to its customers.

40 16. Clean rooms that are used for manufacturing, processing,
41 fabrication or research and development, as defined in paragraph 14 of
42 this subsection, of semiconductor products. For the purposes of this
43 paragraph, "clean room" means all property that comprises or creates an
44 environment where humidity, temperature, particulate matter and
45 contamination are precisely controlled within specified parameters,

1 without regard to whether the property is actually contained within that
2 environment or whether any of the property is affixed to or incorporated
3 into real property. Clean room:

4 (a) Includes the integrated systems, fixtures, piping, movable
5 partitions, lighting and all property that is necessary or adapted to
6 reduce contamination or to control airflow, temperature, humidity,
7 chemical purity or other environmental conditions or manufacturing
8 tolerances, as well as the production machinery and equipment operating in
9 conjunction with the clean room environment.

10 (b) Does not include the building or other permanent, nonremovable
11 component of the building that houses the clean room environment.

12 17. Machinery and equipment used directly in the feeding of
13 poultry, the environmental control of housing for poultry, the movement of
14 eggs within a production and packaging facility or the sorting or cooling
15 of eggs. This exemption does not apply to vehicles used for transporting
16 eggs.

17 18. Machinery or equipment, including related structural
18 components, that is employed in connection with manufacturing, processing,
19 fabricating, job printing, refining, mining, natural gas pipelines,
20 metallurgical operations, telecommunications, producing or transmitting
21 electricity or research and development and that is used directly to meet
22 or exceed rules or regulations adopted by the federal energy regulatory
23 commission, the United States environmental protection agency, the United
24 States nuclear regulatory commission, the Arizona department of
25 environmental quality or a political subdivision of this state to prevent,
26 monitor, control or reduce land, water or air pollution.

27 19. Machinery and equipment that are sold to a person engaged in
28 the commercial production of livestock, livestock products or
29 agricultural, horticultural, viticultural or floricultural crops or
30 products in this state, including a person representing or working on
31 behalf of such a person in a manner described in section 42-5075,
32 subsection ~~A~~ B, if the machinery and equipment are used directly and
33 primarily to prevent, monitor, control or reduce air, water or land
34 pollution.

35 20. Machinery or equipment that enables a television station to
36 originate and broadcast or to receive and broadcast digital television
37 signals and that was purchased to facilitate compliance with the
38 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United
39 States Code section 336) and the federal communications commission order
40 issued April 21, 1997 (47 Code of Federal Regulations part 73). This
41 paragraph does not exempt any of the following:

42 (a) Repair or replacement parts purchased for the machinery or
43 equipment described in this paragraph.

1 (b) Machinery or equipment purchased to replace machinery or
2 equipment for which an exemption was previously claimed and taken under
3 this paragraph.

4 (c) Any machinery or equipment purchased after the television
5 station has ceased analog broadcasting, or purchased after November 1,
6 2009, whichever occurs first.

7 21. Qualifying equipment that is purchased from and after June 30,
8 2004 through June 30, 2024 by a qualified business under section 41-1516
9 for harvesting or processing qualifying forest products removed from
10 qualifying projects as defined in section 41-1516. To qualify for this
11 deduction, the qualified business at the time of purchase must present its
12 certification approved by the department.

13 C. The deductions provided by subsection B of this section do not
14 include sales of:

15 1. Expendable materials. For the purposes of this paragraph,
16 expendable materials do not include any of the categories of tangible
17 personal property specified in subsection B of this section regardless of
18 the cost or useful life of that property.

19 2. Janitorial equipment and hand tools.

20 3. Office equipment, furniture and supplies.

21 4. Tangible personal property used in selling or distributing
22 activities, other than the telecommunications transmissions described in
23 subsection B, paragraph 15 of this section.

24 5. Motor vehicles required to be licensed by this state, except
25 buses or other urban mass transit vehicles specifically exempted pursuant
26 to subsection B, paragraph 11 of this section, without regard to the use
27 of such motor vehicles.

28 6. Shops, buildings, docks, depots and all other materials of
29 whatever kind or character not specifically included as exempt.

30 7. Motors and pumps used in drip irrigation systems.

31 8. Machinery and equipment or other tangible personal property used
32 by a contractor in the performance of a contract.

33 D. In addition to the deductions from the tax base prescribed by
34 subsection A of this section, there shall be deducted from the tax base
35 the gross proceeds of sales or gross income derived from sales of
36 machinery, equipment, materials and other tangible personal property used
37 directly and predominantly to construct a qualified environmental
38 technology manufacturing, producing or processing facility as described in
39 section 41-1514.02. This subsection applies for ten full consecutive
40 calendar or fiscal years after the start of initial construction.

41 E. In computing the tax base, gross proceeds of sales or gross
42 income from retail sales of heavy trucks and trailers does not include any
43 amount attributable to federal excise taxes imposed by 26 United States
44 Code section 4051.

1 F. If a person is engaged in an occupation or business to which
2 subsection A of this section applies, the person's books shall be kept so
3 as to show separately the gross proceeds of sales of tangible personal
4 property and the gross income from sales of services, and if not so kept
5 the tax shall be imposed on the total of the person's gross proceeds of
6 sales of tangible personal property and gross income from services.

7 G. If a person is engaged in the business of selling tangible
8 personal property at both wholesale and retail, the tax under this section
9 applies only to the gross proceeds of the sales made other than at
10 wholesale if the person's books are kept so as to show separately the
11 gross proceeds of sales of each class, and if the books are not so kept,
12 the tax under this section applies to the gross proceeds of every sale so
13 made.

14 H. A person who engages in manufacturing, baling, crating, boxing,
15 barreling, canning, bottling, sacking, preserving, processing or otherwise
16 preparing for sale or commercial use any livestock, agricultural or
17 horticultural product or any other product, article, substance or
18 commodity and who sells the product of such business at retail in this
19 state is deemed, as to such sales, to be engaged in business classified
20 under the retail classification. This subsection does not apply to:

21 1. Agricultural producers who are owners, proprietors or tenants of
22 agricultural lands, orchards, farms or gardens where agricultural products
23 are grown, raised or prepared for market and who are marketing their own
24 agricultural products.

25 2. Businesses classified under the:

26 (a) Transporting classification.

27 (b) Utilities classification.

28 (c) Telecommunications classification.

29 (d) Pipeline classification.

30 (e) Private car line classification.

31 (f) Publication classification.

32 (g) Job printing classification.

33 (h) Prime contracting classification.

34 (i) Restaurant classification.

35 I. The gross proceeds of sales or gross income derived from the
36 following shall be deducted from the tax base for the retail
37 classification:

38 1. Sales made directly to the United States government or its
39 departments or agencies by a manufacturer, modifier, assembler or
40 repairer.

41 2. Sales made directly to a manufacturer, modifier, assembler or
42 repairer if such sales are of any ingredient or component part of products
43 sold directly to the United States government or its departments or
44 agencies by the manufacturer, modifier, assembler or repairer.

3. Overhead materials or other tangible personal property that is used in performing a contract between the United States government and a manufacturer, modifier, assembler or repairer, including property used in performing a subcontract with a government contractor who is a manufacturer, modifier, assembler or repairer, to which title passes to the government under the terms of the contract or subcontract.

4. Sales of overhead materials or other tangible personal property to a manufacturer, modifier, assembler or repairer if the gross proceeds of sales or gross income derived from the property by the manufacturer, modifier, assembler or repairer will be exempt under paragraph 3 of this subsection.

J. There shall be deducted from the tax base fifty percent of the gross proceeds or gross income from any sale of tangible personal property made directly to the United States government or its departments or agencies that is not deducted under subsection I of this section.

K. The department shall require every person claiming a deduction provided by subsection I or J of this section to file on forms prescribed by the department at such times as the department directs a sworn statement disclosing the name of the purchaser and the exact amount of sales on which the exclusion or deduction is claimed.

L. In computing the tax base, gross proceeds of sales or gross income does not include:

1. A manufacturer's cash rebate on the sales price of a motor vehicle if the buyer assigns the buyer's right in the rebate to the retailer.

2. The waste tire disposal fee imposed pursuant to section 44-1302.

M. There shall be deducted from the tax base the amount received from sales of solar energy devices. The retailer shall register with the department as a solar energy retailer. By registering, the retailer acknowledges that it will make its books and records relating to sales of solar energy devices available to the department for examination.

N. In computing the tax base in the case of the sale or transfer of wireless telecommunications equipment as an inducement to a customer to enter into or continue a contract for telecommunications services that are taxable under section 42-5064, gross proceeds of sales or gross income does not include any sales commissions or other compensation received by the retailer as a result of the customer entering into or continuing a contract for the telecommunications services.

O. For the purposes of this section, a sale of wireless telecommunications equipment to a person who holds the equipment for sale or transfer to a customer as an inducement to enter into or continue a contract for telecommunications services that are taxable under section 42-5064 is considered to be a sale for resale in the regular course of business.

P. Retail sales of prepaid calling cards or prepaid authorization numbers for telecommunications services, including sales of reauthorization of a prepaid card or authorization number, are subject to tax under this section.

Q. For the purposes of this section, the diversion of gas from a pipeline by a person engaged in the business of:

1. Operating a natural or artificial gas pipeline, for the sole purpose of fueling compressor equipment to pressurize the pipeline, is not a sale of the gas to the operator of the pipeline.

2. Converting natural gas into liquefied natural gas, for the sole purpose of fueling compressor equipment used in the conversion process, is not a sale of gas to the operator of the compressor equipment.

R. For the purposes of this section, the transfer of title or possession of coal from an owner or operator of a power plant to a person in the business of refining coal is not a sale of coal if both of the following apply:

1. The transfer of title or possession of the coal is for the purpose of refining the coal.

2. The title or possession of the coal is transferred back to the owner or operator of the power plant after completion of the coal refining process. For the purposes of this paragraph, "coal refining process" means the application of a coal additive system that aids in the reduction of power plant emissions during the combustion of coal and the treatment of flue gas.

S. If a seller is entitled to a deduction pursuant to subsection B, paragraph 15, subdivision (b) of this section, the department may require the purchaser to establish that the requirements of subsection B, paragraph 15, subdivision (b) of this section have been satisfied. If the purchaser cannot establish that the requirements of subsection B, paragraph 15, subdivision (b) of this section have been satisfied, the purchaser is liable in an amount equal to any tax, penalty and interest that the seller would have been required to pay under article 1 of this chapter if the seller had not made a deduction pursuant to subsection B, paragraph 15, subdivision (b) of this section. Payment of the amount under this subsection exempts the purchaser from liability for any tax imposed under article 4 of this chapter and related to the tangible personal property purchased. The amount shall be treated as transaction privilege tax to the purchaser and as tax revenues collected from the seller to designate the distribution base pursuant to section 42-5029.

T. For the purposes of section 42-5032.01, the department shall separately account for revenues collected under the retail classification from businesses selling tangible personal property at retail:

1. On the premises of a multipurpose facility that is owned, leased or operated by the tourism and sports authority pursuant to title 5, chapter 8.

1 2. At professional football contests that are held in a stadium
2 located on the campus of an institution under the jurisdiction of the
3 Arizona board of regents.

4 U. In computing the tax base for the sale of a motor vehicle to a
5 nonresident of this state, if the purchaser's state of residence allows a
6 corresponding use tax exemption to the tax imposed by article 1 of this
7 chapter and the rate of the tax in the purchaser's state of residence is
8 lower than the rate prescribed in article 1 of this chapter or if the
9 purchaser's state of residence does not impose an excise tax, and the
10 nonresident has secured a special ninety day nonresident registration
11 permit for the vehicle as prescribed by sections 28-2154 and 28-2154.01,
12 there shall be deducted from the tax base a portion of the gross proceeds
13 or gross income from the sale so that the amount of transaction privilege
14 tax that is paid in this state is equal to the excise tax that is imposed
15 by the purchaser's state of residence on the nonexempt sale or use of the
16 motor vehicle.

17 V. For the purposes of this section:

18 1. "Agricultural aircraft" means an aircraft that is built for
19 agricultural use for the aerial application of pesticides or fertilizer or
20 for aerial seeding.

21 2. "Aircraft" includes:

22 (a) An airplane flight simulator that is approved by the federal
23 aviation administration for use as a phase II or higher flight simulator
24 under appendix H, 14 Code of Federal Regulations part 121.

25 (b) Tangible personal property that is permanently affixed or
26 attached as a component part of an aircraft that is owned or operated by a
27 certificated or licensed carrier of persons or property.

28 3. "Other accessories and related equipment" includes aircraft
29 accessories and equipment such as ground service equipment that physically
30 contact aircraft at some point during the overall carrier operation.

31 4. "Selling at retail" means a sale for any purpose other than for
32 resale in the regular course of business in the form of tangible personal
33 property, but transfer of possession, lease and rental as used in the
34 definition of sale mean only such transactions as are found on
35 investigation to be in lieu of sales as defined without the words lease or
36 rental.

37 W. For the purposes of subsection I of this section:

38 1. "Assembler" means a person who unites or combines products,
39 wares or articles of manufacture so as to produce a change in form or
40 substance without changing or altering the component parts.

41 2. "Manufacturer" means a person who is principally engaged in the
42 fabrication, production or manufacture of products, wares or articles for
43 use from raw or prepared materials, imparting to those materials new
44 forms, qualities, properties and combinations.

1 3. "Modifier" means a person who reworks, changes or adds to
2 products, wares or articles of manufacture.

3 4. "Overhead materials" means tangible personal property, the gross
4 proceeds of sales or gross income derived from that would otherwise be
5 included in the retail classification, and that are used or consumed in
6 the performance of a contract, the cost of which is charged to an overhead
7 expense account and allocated to various contracts based on generally
8 accepted accounting principles and consistent with government contract
9 accounting standards.

10 5. "Repairer" means a person who restores or renews products, wares
11 or articles of manufacture.

12 6. "Subcontract" means an agreement between a contractor and any
13 person who is not an employee of the contractor for furnishing of supplies
14 or services that, in whole or in part, are necessary to the performance of
15 one or more government contracts, or under which any portion of the
16 contractor's obligation under one or more government contracts is
17 performed, undertaken or assumed and that includes provisions causing
18 title to overhead materials or other tangible personal property used in
19 the performance of the subcontract to pass to the government or that
20 includes provisions incorporating such title passing clauses in a
21 government contract into the subcontract.

22 Sec. 7. Section 42-5061, Arizona Revised Statutes, as amended by
23 Laws 2019, chapter 273, section 8 and chapter 288, section 2, is amended
24 to read:

25 42-5061. Retail classification; definitions

26 A. The retail classification is comprised of the business of
27 selling tangible personal property at retail. The tax base for the retail
28 classification is the gross proceeds of sales or gross income derived from
29 the business. The tax imposed on the retail classification does not apply
30 to the gross proceeds of sales or gross income from:

31 1. Professional or personal service occupations or businesses that
32 involve sales or transfers of tangible personal property only as
33 inconsequential elements.

34 2. Services rendered in addition to selling tangible personal
35 property at retail.

36 3. Sales of warranty or service contracts. The storage, use or
37 consumption of tangible personal property provided under the conditions of
38 such contracts is subject to tax under section 42-5156.

39 4. Sales of tangible personal property by any nonprofit
40 organization organized and operated exclusively for charitable purposes
41 and recognized by the United States internal revenue service under section
42 501(c)(3) of the internal revenue code.

43 5. Sales to persons engaged in business classified under the
44 restaurant classification of articles used by human beings for food, drink
45 or condiment, whether simple, mixed or compounded.

1 6. Business activity that is properly included in any other
2 business classification that is taxable under this article.

3 7. The sale of stocks and bonds.

4 8. Drugs and medical oxygen, including delivery hose, mask or tent,
5 regulator and tank, on the prescription of a member of the medical, dental
6 or veterinarian profession who is licensed by law to administer such
7 substances.

8 9. Prosthetic appliances as defined in section 23-501 and as
9 prescribed or recommended by a health professional who is licensed
10 pursuant to title 32, chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.

11 10. Insulin, insulin syringes and glucose test strips.

12 11. Prescription eyeglasses or contact lenses.

13 12. Hearing aids as defined in section 36-1901.

14 13. Durable medical equipment that has a centers for medicare and
15 medicaid services common procedure code, is designated reimbursable by
16 medicare, is prescribed by a person who is licensed under title 32,
17 chapter 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is
18 primarily and customarily used to serve a medical purpose, is generally
19 not useful to a person in the absence of illness or injury and is
20 appropriate for use in the home.

21 14. Sales of motor vehicles to nonresidents of this state for use
22 outside this state if the motor vehicle dealer ships or delivers the motor
23 vehicle to a destination out of this state.

24 15. Food, as provided in and subject to the conditions of article 3
25 of this chapter and sections 42-5074 and 42-6017.

26 16. Items purchased with United States department of agriculture
27 coupons issued under the supplemental nutrition assistance program
28 pursuant to the food and nutrition act of 2008 (P.L. 88-525; 78 Stat. 703;
29 7 United States Code sections 2011 through 2036b) by the United States
30 department of agriculture food and nutrition service or food instruments
31 issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat.
32 3603; P.L. 99-661, section 4302; P.L. 111-296; 42 United States Code
33 section 1786).

34 17. Textbooks by any bookstore that are required by any state
35 university or community college.

36 18. Food and drink to a person that is engaged in a business that
37 is classified under the restaurant classification and that provides such
38 food and drink without monetary charge to its employees for their own
39 consumption on the premises during the employees' hours of employment.

40 19. Articles of food, drink or condiment and accessory tangible
41 personal property to a school district or charter school if such articles
42 and accessory tangible personal property are to be prepared and served to
43 persons for consumption on the premises of a public school within the
44 district or on the premises of the charter school during school hours.

1 20. Lottery tickets or shares pursuant to title 5, chapter 5.1,
2 article 1.

3 21. The sale of cash equivalents and the sale of precious metal
4 bullion and monetized bullion to the ultimate consumer, but the sale of
5 coins or other forms of money for manufacture into jewelry or works of art
6 is subject to the tax and the gross proceeds of sales or gross income
7 derived from the redemption of any cash equivalent by the holder as a
8 means of payment for goods or services that are taxable under this article
9 is subject to the tax. For the purposes of this paragraph:

10 (a) "Cash equivalents" means items or intangibles, whether or not
11 negotiable, that are sold to one or more persons, through which a value
12 denominated in money is purchased in advance and may be redeemed in full
13 or in part for tangible personal property, intangibles or services. Cash
14 equivalents include gift cards, stored value cards, gift certificates,
15 vouchers, traveler's checks, money orders or other instruments, orders or
16 electronic mechanisms, such as an electronic code, personal identification
17 number or digital payment mechanism, or any other prepaid intangible right
18 to acquire tangible personal property, intangibles or services in the
19 future, whether from the seller of the cash equivalent or from another
20 person. Cash equivalents do not include either of the following:

21 (i) Items or intangibles that are sold to one or more persons,
22 through which a value is not denominated in money.

23 (ii) Prepaid calling cards or prepaid authorization numbers for
24 telecommunications services made taxable by subsection P of this section.

25 (b) "Monetized bullion" means coins and other forms of money that
26 are manufactured from gold, silver or other metals and that have been or
27 are used as a medium of exchange in this or another state, the United
28 States or a foreign nation.

29 (c) "Precious metal bullion" means precious metal, including gold,
30 silver, platinum, rhodium and palladium, that has been smelted or refined
31 so that its value depends on its contents and not on its form.

32 22. Motor vehicle fuel and use fuel that are subject to a tax
33 imposed under title 28, chapter 16, article 1, sales of use fuel to a
34 holder of a valid single trip use fuel tax permit issued under section
35 28-5739, sales of aviation fuel that are subject to the tax imposed under
36 section 28-8344 and sales of jet fuel that are subject to the tax imposed
37 under article 8 of this chapter.

38 23. Tangible personal property sold to a person engaged in the
39 business of leasing or renting such property under the personal property
40 rental classification if such property is to be leased or rented by such
41 person.

42 24. Tangible personal property sold in interstate or foreign
43 commerce if prohibited from being so taxed by the constitution of the
44 United States or the constitution of this state.

1 25. Tangible personal property sold to:

2 (a) A qualifying hospital as defined in section 42-5001.

3 (b) A qualifying health care organization as defined in section
4 42-5001 if the tangible personal property is used by the organization
5 solely to provide health and medical related educational and charitable
6 services.

7 (c) A qualifying health care organization as defined in section
8 42-5001 if the organization is dedicated to providing educational,
9 therapeutic, rehabilitative and family medical education training for
10 blind and visually impaired children and children with multiple
11 disabilities from the time of birth to age twenty-one.

12 (d) A qualifying community health center as defined in section
13 42-5001.

14 (e) A nonprofit charitable organization that has qualified under
15 section 501(c)(3) of the internal revenue code and that regularly serves
16 meals to the needy and indigent on a continuing basis at no cost.

17 (f) For taxable periods beginning from and after June 30, 2001, a
18 nonprofit charitable organization that has qualified under section
19 501(c)(3) of the internal revenue code and that provides residential
20 apartment housing for low income persons over sixty-two years of age in a
21 facility that qualifies for a federal housing subsidy, if the tangible
22 personal property is used by the organization solely to provide
23 residential apartment housing for low income persons over sixty-two years
24 of age in a facility that qualifies for a federal housing subsidy.

25 (g) A qualifying health sciences educational institution as defined
26 in section 42-5001.

27 (h) Any person representing or working on behalf of another person
28 described in subdivisions (a) through (g) of this paragraph if the
29 tangible personal property is incorporated or fabricated into a project
30 described in section 42-5075, subsection ~~ⓐ~~ B.

31 26. Magazines or other periodicals or other publications by this
32 state to encourage tourist travel.

33 27. Tangible personal property sold to:

34 (a) A person that is subject to tax under this article by reason of
35 being engaged in business classified under section 42-5075 or to a
36 subcontractor working under the control of a person engaged in business
37 classified under section 42-5075, if the property so sold is any of the
38 following:

39 (i) Incorporated or fabricated by the person into any real
40 property, structure, project, development or improvement as part of the
41 business.

42 (ii) Incorporated or fabricated by the person into any project
43 described in section 42-5075, subsection ~~ⓐ~~ B.

44 (iii) Used in environmental response or remediation activities
45 under section 42-5075, subsection ~~B~~ C, paragraph 6.

(b) A person that is not subject to tax under section 42-5075 and that has been provided a copy of a certificate under section 42-5009, subsection L, if the property so sold is incorporated or fabricated by the person into the real property, structure, project, development or improvement described in the certificate.

28. The sale of a motor vehicle to:

(a) A nonresident of this state if the purchaser's state of residence does not allow a corresponding use tax exemption to the tax imposed by article 1 of this chapter and if the nonresident has secured a special ninety day nonresident registration permit for the vehicle as prescribed by sections 28-2154 and 28-2154.01.

(b) An enrolled member of an Indian tribe who resides on the Indian reservation established for that tribe.

29. Tangible personal property purchased in this state by a nonprofit charitable organization that has qualified under section 501(c)(3) of the United States internal revenue code and that engages in and uses such property exclusively in programs for persons with mental or physical disabilities if the programs are exclusively for training, job placement, rehabilitation or testing.

30. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is associated with a major league baseball team or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual. This paragraph does not apply to an organization that is owned, managed or controlled, in whole or in part, by a major league baseball team, or its owners, officers, employees or agents, or by a major league baseball association or professional golfing association, or its owners, officers, employees or agents, unless the organization conducted or operated exhibition events in this state before January 1, 2018 that were exempt from taxation under section 42-5073.

31. Sales of commodities, as defined by title 7 United States Code section 2, that are consigned for resale in a warehouse in this state in or from which the commodity is deliverable on a contract for future delivery subject to the rules of a commodity market regulated by the United States commodity futures trading commission.

32. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the organization sponsors or operates a rodeo featuring primarily farm and ranch animals and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

33. Sales of propagative materials to persons who use those items to commercially produce agricultural, horticultural, viticultural or

1 floricultural crops in this state. For the purposes of this paragraph,
2 "propagative materials":

3 (a) Includes seeds, seedlings, roots, bulbs, liners, transplants,
4 cuttings, soil and plant additives, agricultural minerals, auxiliary soil
5 and plant substances, micronutrients, fertilizers, insecticides,
6 herbicides, fungicides, soil fumigants, desiccants, rodenticides,
7 adjuvants, plant nutrients and plant growth regulators.

8 (b) Except for use in commercially producing industrial hemp as
9 defined in section 3-311, does not include any propagative materials used
10 in producing any part, including seeds, of any plant of the genus
11 cannabis.

12 34. Machinery, equipment, technology or related supplies that are
13 only useful to assist a person with a physical disability as defined in
14 section 46-191 or a person who has a developmental disability as defined
15 in section 36-551 or has a head injury as defined in section 41-3201 to be
16 more independent and functional.

17 35. Sales of natural gas or liquefied petroleum gas used to propel
18 a motor vehicle.

19 36. Paper machine clothing, such as forming fabrics and dryer
20 felts, sold to a paper manufacturer and directly used or consumed in paper
21 manufacturing.

22 37. Petroleum, coke, natural gas, virgin fuel oil and electricity
23 sold to a qualified environmental technology manufacturer, producer or
24 processor as defined in section 41-1514.02 and directly used or consumed
25 in the generation or provision of on-site power or energy solely for
26 environmental technology manufacturing, producing or processing or
27 environmental protection. This paragraph shall apply for twenty full
28 consecutive calendar or fiscal years from the date the first paper
29 manufacturing machine is placed in service. In the case of an
30 environmental technology manufacturer, producer or processor who does not
31 manufacture paper, the time period shall begin with the date the first
32 manufacturing, processing or production equipment is placed in service.

33 38. Sales of liquid, solid or gaseous chemicals used in
34 manufacturing, processing, fabricating, mining, refining, metallurgical
35 operations, research and development and, beginning on January 1, 1999,
36 printing, if using or consuming the chemicals, alone or as part of an
37 integrated system of chemicals, involves direct contact with the materials
38 from which the product is produced for the purpose of causing or
39 permitting a chemical or physical change to occur in the materials as part
40 of the production process. This paragraph does not include chemicals that
41 are used or consumed in activities such as packaging, storage or
42 transportation but does not affect any deduction for such chemicals that
43 is otherwise provided by this section. For the purposes of this
44 paragraph, "printing" means a commercial printing operation and includes
45 job printing, engraving, embossing, copying and bookbinding.

39. Through December 31, 1994, personal property liquidation transactions, conducted by a personal property liquidator. From and after December 31, 1994, personal property liquidation transactions shall be taxable under this section provided that nothing in this subsection shall be construed to authorize the taxation of casual activities or transactions under this chapter. For the purposes of this paragraph:

(a) "Personal property liquidation transaction" means a sale of personal property made by a personal property liquidator acting solely on behalf of the owner of the personal property sold at the dwelling of the owner or on the death of any owner, on behalf of the surviving spouse, if any, any devisee or heir or the personal representative of the estate of the deceased, if one has been appointed.

(b) "Personal property liquidator" means a person who is retained to conduct a sale in a personal property liquidation transaction.

40. Sales of food, drink and condiment for consumption within the premises of any prison, jail or other institution under the jurisdiction of the state department of corrections, the department of public safety, the department of juvenile corrections or a county sheriff.

41. A motor vehicle and any repair and replacement parts and tangible personal property becoming a part of such motor vehicle sold to a motor carrier who is subject to a fee prescribed in title 28, chapter 16, article 4 and who is engaged in the business of leasing or renting such property.

42. Sales of:

(a) Livestock and poultry to persons engaging in the businesses of farming, ranching or producing livestock or poultry.

(b) Livestock and poultry feed, salts, vitamins and other additives for livestock or poultry consumption that are sold to persons for use or consumption by their own livestock or poultry, for use or consumption in the businesses of farming, ranching and producing or feeding livestock, poultry, or livestock or poultry products or for use or consumption in noncommercial boarding of livestock. For the purposes of this paragraph, "poultry" includes ratites.

43. Sales of implants used as growth promotants and injectable medicines, not already exempt under paragraph 8 of this subsection, for livestock or poultry owned by or in possession of persons who are engaged in producing livestock, poultry, or livestock or poultry products or who are engaged in feeding livestock or poultry commercially. For the purposes of this paragraph, "poultry" includes ratites.

44. Sales of motor vehicles at auction to nonresidents of this state for use outside this state if the vehicles are shipped or delivered out of this state, regardless of where title to the motor vehicles passes or its free on board point.

45. Tangible personal property sold to a person engaged in business and subject to tax under the transient lodging classification if the

1 tangible personal property is a personal hygiene item or articles used by
2 human beings for food, drink or condiment, except alcoholic beverages,
3 that are furnished without additional charge to and intended to be
4 consumed by the transient during the transient's occupancy.

5 46. Sales of alternative fuel, as defined in section 1-215, to a
6 used oil fuel burner who has received a permit to burn used oil or used
7 oil fuel under section 49-426 or 49-480.

8 47. Sales of 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 48. Tangible personal property sold to a commercial airline and
15 consisting of food, beverages and condiments and accessories used for
16 serving the food and beverages, if those items are to be provided without
17 additional charge to passengers for consumption in flight. For the
18 purposes of this paragraph, "commercial airline" means a person holding a
19 federal certificate of public convenience and necessity or foreign air
20 carrier permit for air transportation to transport persons, property or
21 United States mail in intrastate, interstate or foreign commerce.

22 49. Sales of alternative fuel vehicles if the vehicle was
23 manufactured as a diesel fuel vehicle and converted to operate on
24 alternative fuel and equipment that is installed in a conventional diesel
25 fuel motor vehicle to convert the vehicle to operate on an alternative
26 fuel, as defined in section 1-215.

27 50. Sales of any spirituous, vinous or malt liquor by a person that
28 is licensed in this state as a wholesaler by the department of liquor
29 licenses and control pursuant to title 4, chapter 2, article 1.

30 51. Sales of tangible personal property to be incorporated or
31 installed as part of environmental response or remediation activities
32 under section 42-5075, subsection ~~B~~ C, paragraph 6.

33 52. Sales of tangible personal property by a nonprofit organization
34 that is exempt from taxation under section 501(c)(6) of the internal
35 revenue code if the organization produces, organizes or promotes cultural
36 or civic related festivals or events and no part of the organization's net
37 earnings inures to the benefit of any private shareholder or individual.

38 53. Application services that are designed to assess or test
39 student learning or to promote curriculum design or enhancement purchased
40 by or for any school district, charter school, community college or state
41 university. For the purposes of this paragraph:

42 (a) "Application services" means software applications provided
43 remotely using hypertext transfer protocol or another network protocol.

1 (b) "Curriculum design or enhancement" means planning, implementing
2 or reporting on courses of study, lessons, assignments or other learning
3 activities.

4 54. Sales of motor vehicle fuel and use fuel to a qualified
5 business under section 41-1516 for off-road use in harvesting, processing
6 or transporting qualifying forest products removed from qualifying
7 projects as defined in section 41-1516.

8 55. Sales of repair parts installed in equipment used directly by a
9 qualified business under section 41-1516 in harvesting, processing or
10 transporting qualifying forest products removed from qualifying projects
11 as defined in section 41-1516.

12 56. Sales or other transfers of renewable energy credits or any
13 other unit created to track energy derived from renewable energy
14 resources. For the purposes of this paragraph, "renewable energy credit"
15 means a unit created administratively by the corporation commission or
16 governing body of a public power utility to track kilowatt hours of
17 electricity derived from a renewable energy resource or the kilowatt hour
18 equivalent of conventional energy resources displaced by distributed
19 renewable energy resources.

20 57. Computer data center equipment sold to the owner, operator or
21 qualified colocation tenant of a computer data center that is certified by
22 the Arizona commerce authority under section 41-1519 or an authorized
23 agent of the owner, operator or qualified colocation tenant during the
24 qualification period for use in the qualified computer data center. For
25 the purposes of this paragraph, "computer data center", "computer data
26 center equipment", "qualification period" and "qualified colocation
27 tenant" have the same meanings prescribed in section 41-1519.

28 58. Orthodontic devices dispensed by a dental professional who is
29 licensed under title 32, chapter 11 to a patient as part of the practice
30 of dentistry.

31 59. Sales of tangible personal property incorporated or fabricated
32 into a project described in section 42-5075, subsection ~~A~~ B, that is
33 located within the exterior boundaries of an Indian reservation for which
34 the owner, as defined in section 42-5075, of the project is an Indian
35 tribe or an affiliated Indian. For the purposes of this paragraph:

36 (a) "Affiliated Indian" means an individual Native American Indian
37 who is duly registered on the tribal rolls of the Indian tribe for whose
38 benefit the Indian reservation was established.

39 (b) "Indian reservation" means all lands that are within the limits
40 of areas set aside by the United States for the exclusive use and
41 occupancy of an Indian tribe by treaty, law or executive order and that
42 are recognized as Indian reservations by the United States department of
43 the interior.

44 (c) "Indian tribe" means any organized nation, tribe, band or
45 community that is recognized as an Indian tribe by the United States

1 department of the interior and includes any entity formed under the laws
2 of the Indian tribe.

3 60. Sales of works of fine art, as defined in section 44-1771, at
4 an art auction or gallery in this state to nonresidents of this state for
5 use outside this state if the vendor ships or delivers the work of fine
6 art to a destination outside this state.

7 61. Sales of coal.

8 62. Sales of tangible personal property by a marketplace seller
9 that are facilitated by a marketplace facilitator in which the marketplace
10 facilitator has remitted or will remit the applicable tax to the
11 department pursuant to section 42-5014.

12 B. In addition to the deductions from the tax base prescribed by
13 subsection A of this section, the gross proceeds of sales or gross income
14 derived from sales of the following categories of tangible personal
15 property shall be deducted from the tax base:

16 1. Machinery, or equipment, used directly in manufacturing,
17 processing, fabricating, job printing, refining or metallurgical
18 operations. The terms "manufacturing", "processing", "fabricating", "job
19 printing", "refining" and "metallurgical" as used in this paragraph refer
20 to and include those operations commonly understood within their ordinary
21 meaning. "Metallurgical operations" includes leaching, milling,
22 precipitating, smelting and refining.

23 2. Mining machinery, or equipment, used directly in the process of
24 extracting ores or minerals from the earth for commercial purposes,
25 including equipment required to prepare the materials for extraction and
26 handling, loading or transporting such extracted material to the surface.
27 "Mining" includes underground, surface and open pit operations for
28 extracting ores and minerals.

29 3. Tangible personal property sold to persons engaged in business
30 classified under the telecommunications classification, including a person
31 representing or working on behalf of such a person in a manner described
32 in section 42-5075, subsection ~~A~~ B, and consisting of central office
33 switching equipment, switchboards, private branch exchange equipment,
34 microwave radio equipment and carrier equipment including optical fiber,
35 coaxial cable and other transmission media that are components of carrier
36 systems.

37 4. Machinery, equipment or transmission lines used directly in
38 producing or transmitting electrical power, but not including
39 distribution. Transformers and control equipment used at transmission
40 substation sites constitute equipment used in producing or transmitting
41 electrical power.

42 5. Neat animals, horses, asses, sheep, ratites, swine or goats used
43 or to be used as breeding or production stock, including sales of
44 breedings or ownership shares in such animals used for breeding or
45 production.

1 6. Pipes or valves four inches in diameter or larger used to
2 transport oil, natural gas, artificial gas, water or coal slurry,
3 including compressor units, regulators, machinery and equipment, fittings,
4 seals and any other part that is used in operating the pipes or valves.

5 7. Aircraft, navigational and communication instruments and other
6 accessories and related equipment sold to:

7 (a) A person:

8 (i) Holding, or exempted by federal law from obtaining, a federal
9 certificate of public convenience and necessity for use as, in conjunction
10 with or becoming part of an aircraft to be used to transport persons for
11 hire in intrastate, interstate or foreign commerce.

12 (ii) That is certificated or licensed under federal aviation
13 administration regulations (14 Code of Federal Regulations part 121 or
14 135) as a scheduled or unscheduled carrier of persons for hire for use as
15 or in conjunction with or becoming part of an aircraft to be used to
16 transport persons for hire in intrastate, interstate or foreign commerce.

17 (iii) Holding a foreign air carrier permit for air transportation
18 for use as or in conjunction with or becoming a part of aircraft to be
19 used to transport persons, property or United States mail in intrastate,
20 interstate or foreign commerce.

21 (iv) Operating an aircraft to transport persons in any manner for
22 compensation or hire, or for use in a fractional ownership program that
23 meets the requirements of federal aviation administration regulations
24 (14 Code of Federal Regulations part 91, subpart K), including as an air
25 carrier, a foreign air carrier or a commercial operator or under a
26 restricted category, within the meaning of 14 Code of Federal Regulations,
27 regardless of whether the operation or aircraft is regulated or certified
28 under part 91, 119, 121, 133, 135, 136 or 137, or another part of 14 Code
29 of Federal Regulations.

30 (v) That will lease or otherwise transfer operational control,
31 within the meaning of federal aviation administration operations
32 specification A008, or its successor, of the aircraft, instruments or
33 accessories to one or more persons described in item (i), (ii), (iii) or
34 (iv) of this subdivision, subject to section 42-5009, subsection Q.

35 (b) Any foreign government.

36 (c) Persons who are not residents of this state and who will not
37 use such property in this state other than in removing such property from
38 this state. This subdivision also applies to corporations that are not
39 incorporated in this state, regardless of maintaining a place of business
40 in this state, if the principal corporate office is located outside this
41 state and the property will not be used in this state other than in
42 removing the property from this state.

43 8. Machinery, tools, equipment and related supplies used or
44 consumed directly in repairing, remodeling or maintaining aircraft,

1 aircraft engines or aircraft component parts by or on behalf of a
2 certificated or licensed carrier of persons or property.

3 9. Railroad rolling stock, rails, ties and signal control equipment
4 used directly to transport persons or property.

5 10. Machinery or equipment used directly to drill for oil or gas or
6 used directly in the process of extracting oil or gas from the earth for
7 commercial purposes.

8 11. Buses or other urban mass transit vehicles that are used
9 directly to transport persons or property for hire or pursuant to a
10 governmentally adopted and controlled urban mass transportation program
11 and that are sold to bus companies holding a federal certificate of
12 convenience and necessity or operated by any city, town or other
13 governmental entity or by any person contracting with such governmental
14 entity as part of a governmentally adopted and controlled program to
15 provide urban mass transportation.

16 12. Groundwater measuring devices required under section 45-604.

17 13. New machinery and equipment consisting of agricultural
18 aircraft, tractors, tractor-drawn implements, self-powered implements,
19 machinery and equipment necessary for extracting milk, and machinery and
20 equipment necessary for cooling milk and livestock, and drip irrigation
21 lines not already exempt under paragraph 6 of this subsection and that are
22 used for commercial production of agricultural, horticultural,
23 viticultural and floricultural crops and products in this state. For the
24 purposes of this paragraph:

25 (a) "New machinery and equipment" means machinery and equipment
26 that have never been sold at retail except pursuant to leases or rentals
27 that do not total two years or more.

28 (b) "Self-powered implements" includes machinery and equipment that
29 are electric-powered.

30 14. Machinery or equipment used in research and development. For
31 the purposes of this paragraph, "research and development" means basic and
32 applied research in the sciences and engineering, and designing,
33 developing or testing prototypes, processes or new products, including
34 research and development of computer software that is embedded in or an
35 integral part of the prototype or new product or that is required for
36 machinery or equipment otherwise exempt under this section to function
37 effectively. Research and development do not include manufacturing
38 quality control, routine consumer product testing, market research, sales
39 promotion, sales service, research in social sciences or psychology,
40 computer software research that is not included in the definition of
41 research and development, or other nontechnological activities or
42 technical services.

43 15. Tangible personal property that is used by either of the
44 following to receive, store, convert, produce, generate, decode, encode,
45 control or transmit telecommunications information:

1 (a) Any direct broadcast satellite television or data transmission
2 service that operates pursuant to 47 Code of Federal Regulations part 25.

3 (b) Any satellite television or data transmission facility, if both
4 of the following conditions are met:

5 (i) Over two-thirds of the transmissions, measured in megabytes,
6 transmitted by the facility during the test period were transmitted to or
7 on behalf of one or more direct broadcast satellite television or data
8 transmission services that operate pursuant to 47 Code of Federal
9 Regulations part 25.

10 (ii) Over two-thirds of the transmissions, measured in megabytes,
11 transmitted by or on behalf of those direct broadcast television or data
12 transmission services during the test period were transmitted by the
13 facility to or on behalf of those services.

14 For the purposes of subdivision (b) of this paragraph, "test period" means
15 the three hundred sixty-five day period beginning on the later of the date
16 on which the tangible personal property is purchased or the date on which
17 the direct broadcast satellite television or data transmission service
18 first transmits information to its customers.

19 16. Clean rooms that are used for manufacturing, processing,
20 fabrication or research and development, as defined in paragraph 14 of
21 this subsection, of semiconductor products. For the purposes of this
22 paragraph, "clean room" means all property that comprises or creates an
23 environment where humidity, temperature, particulate matter and
24 contamination are precisely controlled within specified parameters,
25 without regard to whether the property is actually contained within that
26 environment or whether any of the property is affixed to or incorporated
27 into real property. Clean room:

28 (a) Includes the integrated systems, fixtures, piping, movable
29 partitions, lighting and all property that is necessary or adapted to
30 reduce contamination or to control airflow, temperature, humidity,
31 chemical purity or other environmental conditions or manufacturing
32 tolerances, as well as the production machinery and equipment operating in
33 conjunction with the clean room environment.

34 (b) Does not include the building or other permanent, nonremovable
35 component of the building that houses the clean room environment.

36 17. Machinery and equipment used directly in the feeding of
37 poultry, the environmental control of housing for poultry, the movement of
38 eggs within a production and packaging facility or the sorting or cooling
39 of eggs. This exemption does not apply to vehicles used for transporting
40 eggs.

41 18. Machinery or equipment, including related structural
42 components, that is employed in connection with manufacturing, processing,
43 fabricating, job printing, refining, mining, natural gas pipelines,
44 metallurgical operations, telecommunications, producing or transmitting
45 electricity or research and development and that is used directly to meet

1 or exceed rules or regulations adopted by the federal energy regulatory
2 commission, the United States environmental protection agency, the United
3 States nuclear regulatory commission, the Arizona department of
4 environmental quality or a political subdivision of this state to prevent,
5 monitor, control or reduce land, water or air pollution.

6 19. Machinery and equipment that are sold to a person engaged in
7 the commercial production of livestock, livestock products or
8 agricultural, horticultural, viticultural or floricultural crops or
9 products in this state, including a person representing or working on
10 behalf of such a person in a manner described in section 42-5075,
11 subsection ~~A~~ B, if the machinery and equipment are used directly and
12 primarily to prevent, monitor, control or reduce air, water or land
13 pollution.

14 20. Machinery or equipment that enables a television station to
15 originate and broadcast or to receive and broadcast digital television
16 signals and that was purchased to facilitate compliance with the
17 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United
18 States Code section 336) and the federal communications commission order
19 issued April 21, 1997 (47 Code of Federal Regulations part 73). This
20 paragraph does not exempt any of the following:

21 (a) Repair or replacement parts purchased for the machinery or
22 equipment described in this paragraph.

23 (b) Machinery or equipment purchased to replace machinery or
24 equipment for which an exemption was previously claimed and taken under
25 this paragraph.

26 (c) Any machinery or equipment purchased after the television
27 station has ceased analog broadcasting, or purchased after November 1,
28 2009, whichever occurs first.

29 21. Qualifying equipment that is purchased from and after June 30,
30 2004 through June 30, 2024 by a qualified business under section 41-1516
31 for harvesting or processing qualifying forest products removed from
32 qualifying projects as defined in section 41-1516. To qualify for this
33 deduction, the qualified business at the time of purchase must present its
34 certification approved by the department.

35 C. The deductions provided by subsection B of this section do not
36 include sales of:

37 1. Expendable materials. For the purposes of this paragraph,
38 expendable materials do not include any of the categories of tangible
39 personal property specified in subsection B of this section regardless of
40 the cost or useful life of that property.

41 2. Janitorial equipment and hand tools.

42 3. Office equipment, furniture and supplies.

43 4. Tangible personal property used in selling or distributing
44 activities, other than the telecommunications transmissions described in
45 subsection B, paragraph 15 of this section.

1 5. Motor vehicles required to be licensed by this state, except
2 buses or other urban mass transit vehicles specifically exempted pursuant
3 to subsection B, paragraph 11 of this section, without regard to the use
4 of such motor vehicles.

5 6. Shops, buildings, docks, depots and all other materials of
6 whatever kind or character not specifically included as exempt.

7 7. Motors and pumps used in drip irrigation systems.

8 8. Machinery and equipment or other tangible personal property used
9 by a contractor in the performance of a contract.

10 D. In addition to the deductions from the tax base prescribed by
11 subsection A of this section, there shall be deducted from the tax base
12 the gross proceeds of sales or gross income derived from sales of
13 machinery, equipment, materials and other tangible personal property used
14 directly and predominantly to construct a qualified environmental
15 technology manufacturing, producing or processing facility as described in
16 section 41-1514.02. This subsection applies for ten full consecutive
17 calendar or fiscal years after the start of initial construction.

18 E. In computing the tax base, gross proceeds of sales or gross
19 income from retail sales of heavy trucks and trailers does not include any
20 amount attributable to federal excise taxes imposed by 26 United States
21 Code section 4051.

22 F. If a person is engaged in an occupation or business to which
23 subsection A of this section applies, the person's books shall be kept so
24 as to show separately the gross proceeds of sales of tangible personal
25 property and the gross income from sales of services, and if not so kept
26 the tax shall be imposed on the total of the person's gross proceeds of
27 sales of tangible personal property and gross income from services.

28 G. If a person is engaged in the business of selling tangible
29 personal property at both wholesale and retail, the tax under this section
30 applies only to the gross proceeds of the sales made other than at
31 wholesale if the person's books are kept so as to show separately the
32 gross proceeds of sales of each class, and if the books are not so kept,
33 the tax under this section applies to the gross proceeds of every sale so
34 made.

35 H. A person who engages in manufacturing, baling, crating, boxing,
36 barreling, canning, bottling, sacking, preserving, processing or otherwise
37 preparing for sale or commercial use any livestock, agricultural or
38 horticultural product or any other product, article, substance or
39 commodity and who sells the product of such business at retail in this
40 state is deemed, as to such sales, to be engaged in business classified
41 under the retail classification. This subsection does not apply to:

42 1. Agricultural producers who are owners, proprietors or tenants of
43 agricultural lands, orchards, farms or gardens where agricultural products
44 are grown, raised or prepared for market and who are marketing their own
45 agricultural products.

- 1 2. Businesses classified under the:
- 2 (a) Transporting classification.
- 3 (b) Utilities classification.
- 4 (c) Telecommunications classification.
- 5 (d) Pipeline classification.
- 6 (e) Private car line classification.
- 7 (f) Publication classification.
- 8 (g) Job printing classification.
- 9 (h) Prime contracting classification.
- 10 (i) Restaurant classification.

11 I. The gross proceeds of sales or gross income derived from the
12 following shall be deducted from the tax base for the retail
13 classification:

14 1. Sales made directly to the United States government or its
15 departments or agencies by a manufacturer, modifier, assembler or
16 repairer.

17 2. Sales made directly to a manufacturer, modifier, assembler or
18 repairer if such sales are of any ingredient or component part of products
19 sold directly to the United States government or its departments or
20 agencies by the manufacturer, modifier, assembler or repairer.

21 3. Overhead materials or other tangible personal property that is
22 used in performing a contract between the United States government and a
23 manufacturer, modifier, assembler or repairer, including property used in
24 performing a subcontract with a government contractor who is a
25 manufacturer, modifier, assembler or repairer, to which title passes to
26 the government under the terms of the contract or subcontract.

27 4. Sales of overhead materials or other tangible personal property
28 to a manufacturer, modifier, assembler or repairer if the gross proceeds
29 of sales or gross income derived from the property by the manufacturer,
30 modifier, assembler or repairer will be exempt under paragraph 3 of this
31 subsection.

32 J. There shall be deducted from the tax base fifty percent of the
33 gross proceeds or gross income from any sale of tangible personal property
34 made directly to the United States government or its departments or
35 agencies that is not deducted under subsection I of this section.

36 K. The department shall require every person claiming a deduction
37 provided by subsection I or J of this section to file on forms prescribed
38 by the department at such times as the department directs a sworn
39 statement disclosing the name of the purchaser and the exact amount of
40 sales on which the exclusion or deduction is claimed.

41 L. In computing the tax base, gross proceeds of sales or gross
42 income does not include:

43 1. A manufacturer's cash rebate on the sales price of a motor
44 vehicle if the buyer assigns the buyer's right in the rebate to the
45 retailer.

1 2. The waste tire disposal fee imposed pursuant to section 44-1302.
2 M. There shall be deducted from the tax base the amount received
3 from sales of solar energy devices. The retailer shall register with the
4 department as a solar energy retailer. By registering, the retailer
5 acknowledges that it will make its books and records relating to sales of
6 solar energy devices available to the department for examination.
7 N. In computing the tax base in the case of the sale or transfer of
8 wireless telecommunications equipment as an inducement to a customer to
9 enter into or continue a contract for telecommunications services that are
10 taxable under section 42-5064, gross proceeds of sales or gross income
11 does not include any sales commissions or other compensation received by
12 the retailer as a result of the customer entering into or continuing a
13 contract for the telecommunications services.
14 O. For the purposes of this section, a sale of wireless
15 telecommunications equipment to a person who holds the equipment for sale
16 or transfer to a customer as an inducement to enter into or continue a
17 contract for telecommunications services that are taxable under section
18 42-5064 is considered to be a sale for resale in the regular course of
19 business.
20 P. Retail sales of prepaid calling cards or prepaid authorization
21 numbers for telecommunications services, including sales of
22 reauthorization of a prepaid card or authorization number, are subject to
23 tax under this section.
24 Q. For the purposes of this section, the diversion of gas from a
25 pipeline by a person engaged in the business of:
26 1. Operating a natural or artificial gas pipeline, for the sole
27 purpose of fueling compressor equipment to pressurize the pipeline, is not
28 a sale of the gas to the operator of the pipeline.
29 2. Converting natural gas into liquefied natural gas, for the sole
30 purpose of fueling compressor equipment used in the conversion process, is
31 not a sale of gas to the operator of the compressor equipment.
32 R. If a seller is entitled to a deduction pursuant to subsection B,
33 paragraph 15, subdivision (b) of this section, the department may require
34 the purchaser to establish that the requirements of subsection B,
35 paragraph 15, subdivision (b) of this section have been satisfied. If the
36 purchaser cannot establish that the requirements of subsection B,
37 paragraph 15, subdivision (b) of this section have been satisfied, the
38 purchaser is liable in an amount equal to any tax, penalty and interest
39 that the seller would have been required to pay under article 1 of this
40 chapter if the seller had not made a deduction pursuant to subsection B,
41 paragraph 15, subdivision (b) of this section. Payment of the amount
42 under this subsection exempts the purchaser from liability for any tax
43 imposed under article 4 of this chapter and related to the tangible
44 personal property purchased. The amount shall be treated as transaction

1 privilege tax to the purchaser and as tax revenues collected from the
2 seller to designate the distribution base pursuant to section 42-5029.

3 S. For the purposes of section 42-5032.01, the department shall
4 separately account for revenues collected under the retail classification
5 from businesses selling tangible personal property at retail:

6 1. On the premises of a multipurpose facility that is owned, leased
7 or operated by the tourism and sports authority pursuant to title 5,
8 chapter 8.

9 2. At professional football contests that are held in a stadium
10 located on the campus of an institution under the jurisdiction of the
11 Arizona board of regents.

12 T. In computing the tax base for the sale of a motor vehicle to a
13 nonresident of this state, if the purchaser's state of residence allows a
14 corresponding use tax exemption to the tax imposed by article 1 of this
15 chapter and the rate of the tax in the purchaser's state of residence is
16 lower than the rate prescribed in article 1 of this chapter or if the
17 purchaser's state of residence does not impose an excise tax, and the
18 nonresident has secured a special ninety day nonresident registration
19 permit for the vehicle as prescribed by sections 28-2154 and 28-2154.01,
20 there shall be deducted from the tax base a portion of the gross proceeds
21 or gross income from the sale so that the amount of transaction privilege
22 tax that is paid in this state is equal to the excise tax that is imposed
23 by the purchaser's state of residence on the nonexempt sale or use of the
24 motor vehicle.

25 U. For the purposes of this section:

26 1. "Agricultural aircraft" means an aircraft that is built for
27 agricultural use for the aerial application of pesticides or fertilizer or
28 for aerial seeding.

29 2. "Aircraft" includes:

30 (a) An airplane flight simulator that is approved by the federal
31 aviation administration for use as a phase II or higher flight simulator
32 under appendix H, 14 Code of Federal Regulations part 121.

33 (b) Tangible personal property that is permanently affixed or
34 attached as a component part of an aircraft that is owned or operated by a
35 certificated or licensed carrier of persons or property.

36 3. "Other accessories and related equipment" includes aircraft
37 accessories and equipment such as ground service equipment that physically
38 contact aircraft at some point during the overall carrier operation.

39 4. "Selling at retail" means a sale for any purpose other than for
40 resale in the regular course of business in the form of tangible personal
41 property, but transfer of possession, lease and rental as used in the
42 definition of sale mean only such transactions as are found on
43 investigation to be in lieu of sales as defined without the words lease or
44 rental.

1 V. 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 the
6 fabrication, production or manufacture of 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 the performance of a contract, the cost of which is charged to an overhead
15 expense account and allocated to various contracts based on generally
16 accepted accounting principles and consistent with government contract
17 accounting 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 of supplies
22 or services that, in whole or in part, are necessary to the performance of
23 one or more government contracts, or under which any portion of the
24 contractor's obligation under one or more government contracts is
25 performed, undertaken or assumed and that includes provisions causing
26 title to overhead materials or other tangible personal property used in
27 the performance of the subcontract to pass to the government or that
28 includes provisions incorporating such title passing clauses in a
29 government contract into the subcontract.

30 Sec. 8. Section 42-5075, Arizona Revised Statutes, is amended to
31 read:

32 42-5075. Prime contracting classification; exemptions;
33 definitions

34 A. The prime contracting classification is comprised of the
35 business of prime contracting and the business of manufactured building
36 dealer. Sales for resale to another manufactured building dealer are not
37 subject to tax. Sales for resale do not include sales to a lessor of
38 manufactured buildings. The sale of a used manufactured building is not
39 taxable under this chapter. The prime contracting classification does not
40 include any work or operation performed by a person that is not required
41 to be licensed by the registrar of contractors pursuant to section
42 32-1121.

43 B. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A
44 CONSTRUCTION CONTRACT WITH AN OWNER OF REAL PROPERTY OR THE IMPROVEMENTS
45 TO REAL PROPERTY THAT DOES NOT EXCEED \$100,000 PER UNIT FOR A RESIDENTIAL

1 PROJECT OR \$1,000,000 FOR A NONRESIDENTIAL PROJECT IS NOT SUBJECT TO TAX
2 UNDER THIS SECTION. FOR THE PURPOSES OF THIS SUBSECTION:

3 1. ONLY THE CONTRACT PRICE SHALL BE USED TO DETERMINE WHETHER A
4 CONTRACT EXCEEDS THE THRESHOLD AMOUNT DESCRIBED IN THIS SUBSECTION WITH NO
5 SUBTRACTIONS FOR AMOUNTS PAID TO SUBCONTRACTORS OR ANY DEDUCTIONS OR
6 EXEMPTIONS ALLOWED UNDER THIS SECTION.

7 2. TANGIBLE PERSONAL PROPERTY THAT IS INCORPORATED OR FABRICATED
8 INTO A PROJECT DESCRIBED IN THIS SUBSECTION MAY BE SUBJECT TO THE AMOUNT
9 PRESCRIBED IN SECTION 42-5008.01.

10 3. PROJECT ELEMENTS MAY NOT BE ARTIFICIALLY SEPARATED FROM A
11 CONTRACT TO CAUSE A PROJECT TO QUALIFY FOR THE EXEMPTION UNDER THIS
12 SUBSECTION. THE DEPARTMENT HAS THE BURDEN OF PROVING THAT PROJECT ELEMENTS
13 HAVE BEEN ARTIFICIALLY SEPARATED FROM A CONTRACT.

14 4. EACH CONTRACT IS INDEPENDENT OF ANY OTHER CONTRACT, EXCEPT THAT
15 ANY CHANGE ORDER THAT DIRECTLY RELATES TO THE SCOPE OF WORK OF THE
16 ORIGINAL CONTRACT SHALL BE TREATED THE SAME AS THE ORIGINAL CONTRACT UNDER
17 THIS CHAPTER IF THE RESULTING TOTAL CONTRACT AMOUNT DOES NOT EXCEED THE
18 APPLICABLE THRESHOLD DESCRIBED IN THIS SUBSECTION BY MORE THAN TWENTY-FIVE
19 PERCENT. IF A CHANGE ORDER DIRECTLY RELATES TO THE SCOPE OF WORK OF THE
20 ORIGINAL CONTRACT AND THE RESULTING TOTAL CONTRACT PRICE EXCEEDS THE
21 APPLICABLE THRESHOLD BY MORE THAN TWENTY-FIVE PERCENT, THE ORIGINAL
22 CONTRACT AND ALL SUBSEQUENT CHANGE ORDERS ARE SUBJECT TO THE TAX UNDER
23 THIS SECTION. IF A CHANGE ORDER DOES NOT DIRECTLY RELATE TO THE SCOPE OF
24 WORK OF THE ORIGINAL CONTRACT, THE CHANGE ORDER SHALL BE TREATED AS A NEW
25 CONTRACT.

26 ~~B.~~ C. The tax base for the prime contracting classification is
27 sixty-five percent of the gross proceeds of sales or gross income derived
28 from the business. The following amounts shall be deducted from the gross
29 proceeds of sales or gross income before computing the tax base:

30 1. The sales price of land, which shall not exceed the fair market
31 value.

32 2. Sales and installation of groundwater measuring devices required
33 under section 45-604 and groundwater monitoring wells required by law,
34 including monitoring wells installed for acquiring information for a
35 permit required by law.

36 3. The sales price of furniture, furnishings, fixtures, appliances
37 and attachments that are not incorporated as component parts of or
38 attached to a manufactured building or the setup site. The sale of such
39 items may be subject to the taxes imposed by article 1 of this chapter
40 separately and distinctly from the sale of the manufactured building.

41 4. The gross proceeds of sales or gross income received from a
42 contract entered into for the modification of any building, highway, road,
43 railroad, excavation, manufactured building or other structure, project,
44 development or improvement located in a military reuse zone for providing
45 aviation or aerospace services or for a manufacturer, assembler or

1 fabricator of aviation or aerospace products within an active military
2 reuse zone after the zone is initially established or renewed under
3 section 41-1531. To be eligible to qualify for this deduction, before
4 beginning work under the contract, the prime contractor must have applied
5 for a letter of qualification from the department of revenue.

6 5. The gross proceeds of sales or gross income derived from a
7 contract to construct a qualified environmental technology manufacturing,
8 producing or processing facility, as described in section 41-1514.02, and
9 from subsequent construction and installation contracts that begin within
10 ten years after the start of initial construction. To qualify for this
11 deduction, before beginning work under the contract, the prime contractor
12 must obtain a letter of qualification from the department of revenue.
13 This paragraph shall apply for ten full consecutive calendar or fiscal
14 years after the start of initial construction.

15 6. The gross proceeds of sales or gross income from a contract to
16 provide for one or more of the following actions, or a contract for site
17 preparation, constructing, furnishing or installing machinery, equipment
18 or other tangible personal property, including structures necessary to
19 protect exempt incorporated materials or installed machinery or equipment,
20 and tangible personal property incorporated into the project, to perform
21 one or more of the following actions in response to a release or suspected
22 release of a hazardous substance, pollutant or contaminant from a facility
23 to the environment, unless the release was authorized by a permit issued
24 by a governmental authority:

25 (a) Actions to monitor, assess and evaluate such a release or a
26 suspected release.

27 (b) Excavation, removal and transportation of contaminated soil and
28 its treatment or disposal.

29 (c) Treatment of contaminated soil by vapor extraction, chemical or
30 physical stabilization, soil washing or biological treatment to reduce the
31 concentration, toxicity or mobility of a contaminant.

32 (d) Pumping and treatment or in situ treatment of contaminated
33 groundwater or surface water to reduce the concentration or toxicity of a
34 contaminant.

35 (e) The installation of structures, such as cutoff walls or caps,
36 to contain contaminants present in groundwater or soil and prevent them
37 from reaching a location where they could threaten human health or welfare
38 or the environment.

39 This paragraph does not include asbestos removal or the construction or
40 use of ancillary structures such as maintenance sheds, offices or storage
41 facilities for unattached equipment, pollution control equipment,
42 facilities or other control items required or to be used by a person to
43 prevent or control contamination before it reaches the environment.

44 7. The gross proceeds of sales or gross income that is derived from
45 a contract for the installation, assembly, repair or maintenance of

1 machinery, equipment or other tangible personal property that is either
2 deducted from the tax base of the retail classification under section
3 42-5061, subsection B or that is exempt from use tax under section
4 42-5159, subsection B and that has independent functional utility,
5 pursuant to the following provisions:

6 (a) The deduction provided in this paragraph includes the gross
7 proceeds of sales or gross income derived from all of the following:

8 (i) Any activity performed on machinery, equipment or other
9 tangible personal property with independent functional utility.

10 (ii) Any activity performed on any tangible personal property
11 relating to machinery, equipment or other tangible personal property with
12 independent functional utility in furtherance of any of the purposes
13 provided for under subdivision (d) of this paragraph.

14 (iii) Any activity that is related to the activities described in
15 items (i) and (ii) of this subdivision, including inspecting the
16 installation of or testing the machinery, equipment or other tangible
17 personal property.

18 (b) The deduction provided in this paragraph does not include gross
19 proceeds of sales or gross income from the portion of any contracting
20 activity that consists of the development of, or modification to, real
21 property in order to facilitate the installation, assembly, repair,
22 maintenance or removal of machinery, equipment or other tangible personal
23 property that is either deducted from the tax base of the retail
24 classification under section 42-5061, subsection B or exempt from use tax
25 under section 42-5159, subsection B.

26 (c) The deduction provided in this paragraph shall be determined
27 without regard to the size or useful life of the machinery, equipment or
28 other tangible personal property.

29 (d) For the purposes of this paragraph, "independent functional
30 utility" means that the machinery, equipment or other tangible personal
31 property can independently perform its function without attachment to real
32 property, other than attachment for any of the following purposes:

33 (i) Assembling the machinery, equipment or other tangible personal
34 property.

35 (ii) Connecting items of machinery, equipment or other tangible
36 personal property to each other.

37 (iii) Connecting the machinery, equipment or other tangible
38 personal property, whether as an individual item or as a system of items,
39 to water, power, gas, communication or other services.

40 (iv) Stabilizing or protecting the machinery, equipment or other
41 tangible personal property during operation by bolting, burying or
42 performing other similar nonpermanent connections to either real property
43 or real property improvements.

8. The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from transaction privilege and use tax under:

- (a) Section 42-5061, subsection A, paragraph 25, 29, 57 or 59.
- (b) Section 42-5061, subsection B.
- (c) Section 42-5159, subsection A, paragraph 13, subdivision (a), (b), (c), (d), (e), (f), (j), (k), (m) or (n) or paragraph 54 or 56.
- (d) Section 42-5159, subsection B.

9. The gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility for the raising of poultry for the production of eggs and the sorting, cooling and packaging of eggs.

10. The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state for the modification of any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent, monitor, control or reduce air, water or land pollution.

11. The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of clean rooms that are deducted from the tax base of the retail classification pursuant to section 42-5061, subsection B, paragraph 16.

12. For taxable periods beginning from and after June 30, 2001, the gross proceeds of sales or gross income derived from a contract entered into for the construction of a residential apartment housing facility that qualifies for a federal housing subsidy for low income persons over sixty-two years of age and that is owned by a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code.

13. For taxable periods beginning from and after December 31, 1996 and ending before January 1, 2017, the gross proceeds of sales or gross income derived from a contract to provide and install a solar energy device. The contractor shall register with the department as a solar energy contractor. By registering, the contractor acknowledges that it will make its books and records relating to sales of solar energy devices available to the department for examination.

14. The gross proceeds of sales or gross income derived from a contract entered into for the construction of a launch site, as defined in 14 Code of Federal Regulations section 401.5.

15. The gross proceeds of sales or gross income derived from a contract entered into for the construction of a domestic violence shelter that is owned and operated by a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code.

1 16. The gross proceeds of sales or gross income derived from
2 contracts to perform postconstruction treatment of real property for
3 termite and general pest control, including wood-destroying organisms.

4 17. The gross proceeds of sales or gross income received from
5 contracts entered into before July 1, 2006 for constructing a state
6 university research infrastructure project if the project has been
7 reviewed by the joint committee on capital review before the university
8 enters into the construction contract for the project. For the purposes
9 of this paragraph, "research infrastructure" has the same meaning
10 prescribed in section 15-1670.

11 18. The gross proceeds of sales or gross income received from a
12 contract for the construction of any building, or other structure,
13 project, development or improvement owned by a qualified business under
14 section 41-1516 for harvesting or processing qualifying forest products
15 removed from qualifying projects as defined in section 41-1516 if actual
16 construction begins before January 1, 2024. To qualify for this
17 deduction, the prime contractor must obtain a letter of qualification from
18 the Arizona commerce authority before beginning work under the contract.

19 19. Any amount of the gross proceeds of sales or gross income
20 attributable to development fees that are incurred in relation to a
21 contract for construction, development or improvement of real property and
22 that are paid by a prime contractor or subcontractor. For the purposes of
23 this paragraph:

24 (a) The attributable amount shall not exceed the value of the
25 development fees actually imposed.

26 (b) The attributable amount is equal to the total amount of
27 development fees paid by the prime contractor or subcontractor, and the
28 total development fees credited in exchange for the construction of,
29 contribution to or dedication of real property for providing public
30 infrastructure, public safety or other public services necessary to the
31 development. The real property must be the subject of the development
32 fees.

33 (c) "Development fees" means fees imposed to offset capital costs
34 of providing public infrastructure, public safety or other public services
35 to a development and authorized pursuant to section 9-463.05, section
36 11-1102 or title 48 regardless of the jurisdiction to which the fees are
37 paid.

38 20. The gross proceeds of sales or gross income derived from a
39 contract entered into for the construction of a mixed waste processing
40 facility that is located on a municipal solid waste landfill and that is
41 constructed for the purpose of recycling solid waste or producing
42 renewable energy from landfill waste. For the purposes of this paragraph:

43 (a) "Mixed waste processing facility" means a solid waste facility
44 that is owned, operated or used for the treatment, processing or disposal
45 of solid waste, recyclable solid waste, conditionally exempt small

1 quantity generator waste or household hazardous waste. For the purposes
2 of this subdivision, "conditionally exempt small quantity generator
3 waste", "household hazardous waste" and "solid waste facility" have the
4 same meanings prescribed in section 49-701, except that solid waste
5 facility does include a site that stores, treats or processes paper,
6 glass, wood, cardboard, household textiles, scrap metal, plastic,
7 vegetative waste, aluminum, steel or other recyclable material.

8 (b) "Municipal solid waste landfill" has the same meaning
9 prescribed in section 49-701.

10 (c) "Recycling" means collecting, separating, cleansing, treating
11 and reconstituting recyclable solid waste that would otherwise become
12 solid waste, but does not include incineration or other similar processes.

13 (d) "Renewable energy" has the same meaning prescribed in section
14 41-1511.

15 ~~C.~~ D. Entitlement to the deduction pursuant to subsection ~~B~~ C,
16 paragraph 7 of this section is subject to the following provisions:

17 1. A prime contractor may establish entitlement to the deduction by
18 both:

19 (a) Marking the invoice for the transaction to indicate that the
20 gross proceeds of sales or gross income derived from the transaction was
21 deducted from the base.

22 (b) Obtaining a certificate executed by the purchaser indicating
23 the name and address of the purchaser, the precise nature of the business
24 of the purchaser, the purpose for which the purchase was made, the
25 necessary facts to establish the deductibility of the property under
26 section 42-5061, subsection B, and a certification that the person
27 executing the certificate is authorized to do so on behalf of the
28 purchaser. The certificate may be disregarded if the prime contractor has
29 reason to believe that the information contained in the certificate is not
30 accurate or complete.

31 2. A person who does not comply with paragraph 1 of this subsection
32 may establish entitlement to the deduction by presenting facts necessary
33 to support the entitlement, but the burden of proof is on that person.

34 3. The department may prescribe a form for the certificate
35 described in paragraph 1, subdivision (b) of this subsection. The
36 department may also adopt rules that describe the transactions with
37 respect to which a person is not entitled to rely solely on the
38 information contained in the certificate provided in paragraph 1,
39 subdivision (b) of this subsection but must instead obtain such additional
40 information as required in order to be entitled to the deduction.

41 4. If a prime contractor is entitled to a deduction by complying
42 with paragraph 1 of this subsection, the department may require the
43 purchaser who caused the execution of the certificate to establish the
44 accuracy and completeness of the information required to be contained in
45 the certificate that would entitle the prime contractor to the deduction.

1 If the purchaser cannot establish the accuracy and completeness of the
2 information, the purchaser is liable in an amount equal to any tax,
3 penalty and interest that the prime contractor would have been required to
4 pay under article 1 of this chapter if the prime contractor had not
5 complied with paragraph 1 of this subsection. Payment of the amount under
6 this paragraph exempts the purchaser from liability for any tax imposed
7 under article 4 of this chapter. The amount shall be treated as a
8 transaction privilege tax to the purchaser and as tax revenues collected
9 from the prime contractor in order to designate the distribution base for
10 purposes of section 42-5029.

11 ~~D.~~ E. Subcontractors or others who perform modification activities
12 are not subject to tax if they can demonstrate ACCEPTANCE OF AN ARIZONA
13 FORM 5005 OR AN EQUIVALENT SUCCESSOR FORM DESIGNATED BY THE DEPARTMENT
14 INDICATING that the job was within the control of a prime contractor or
15 contractors or a dealership of manufactured buildings and that the prime
16 contractor or dealership is liable for the tax on the gross income, gross
17 proceeds of sales or gross receipts attributable to the job and from which
18 the subcontractors or others were paid.

19 ~~E.~~ F. Amounts received by a contractor for a project are excluded
20 from the contractor's gross proceeds of sales or gross income derived from
21 the business if the person who hired the contractor executes and provides
22 a certificate to the contractor stating that the person providing the
23 certificate is a prime contractor and is liable for the tax under article
24 1 of this chapter. The department shall prescribe the form of the
25 certificate. If the contractor has reason to believe that the information
26 contained on the certificate is erroneous or incomplete, the department
27 may disregard the certificate. If the person who provides the certificate
28 is not liable for the tax as a prime contractor, that person is
29 nevertheless deemed to be the prime contractor in lieu of the contractor
30 and is subject to the tax under this section on the gross receipts or
31 gross proceeds received by the contractor.

32 ~~F. Every person engaging or continuing in this state in the~~
33 ~~business of prime contracting or dealership of manufactured buildings~~
34 ~~shall present to the purchaser of such prime contracting or manufactured~~
35 ~~building a written receipt of the gross income or gross proceeds of sales~~
36 ~~from such activity and shall separately state the taxes to be paid~~
37 ~~pursuant to this section.~~

38 G. NOTWITHSTANDING SUBSECTION B OF THIS SECTION, A CONTRACT THAT
39 PRIMARILY INVOLVES CONSTRUCTION OF ANY ELECTRICITY GENERATING FACILITY OR
40 SYSTEM INCLUDING RENEWABLE ENERGY SYSTEMS INSTALLED ON ANY COMMERCIAL,
41 RESIDENTIAL OR GOVERNMENTAL PROPERTY, INCLUDING THE MAINTENANCE, REPAIR,
42 REPLACEMENT OR ALTERATION OF EXISTING IMPROVEMENTS OF AN ELECTRICITY
43 GENERATING OR DISTRIBUTION FACILITY, IS NOT SUBJECT TO TAX UNDER THIS
44 SECTION.

~~H.~~ H. For the purposes of section 42-5032.01, the department shall separately account for revenues collected under the prime contracting classification from any prime contractor engaged in the preparation or construction of a multipurpose facility, and related infrastructure, that is owned, operated or leased by the tourism and sports authority pursuant to title 5, chapter 8.

~~H.~~ I. For the purposes of section 42-5032.02, from and after September 30, 2013, the department shall separately account for revenues reported and collected under the prime contracting classification from any prime contractor engaged in the construction of any buildings and associated improvements that are for the benefit of a manufacturing facility. For the purposes of this subsection, "associated improvements" and "manufacturing facility" have the same meanings prescribed in section 42-5032.02.

~~J.~~ J. The gross proceeds of sales or gross income derived from a contract for lawn maintenance services is not subject to tax under this section if the contract does not include landscaping activities. Lawn maintenance service is a service pursuant to section 42-5061, subsection A, paragraph 1, and includes lawn mowing and edging, weeding, repairing sprinkler heads or drip irrigation heads, seasonal replacement of flowers, refreshing gravel, lawn dethatching, seeding winter lawns, leaf and debris collection and removal, tree or shrub pruning or clipping, garden and gravel raking and applying pesticides, as defined in section 3-361, and fertilizer materials, as defined in section 3-262.

~~J.~~ K. Except as provided in subsection ~~B~~ of this section, the gross proceeds of sales or gross income derived from landscaping activities is subject to tax under this section. Landscaping includes installing lawns, grading or leveling ground, installing gravel or boulders, planting trees and other plants, felling trees, removing or mulching tree stumps, removing other imbedded plants, building irrigation berms, installing railroad ties and installing underground sprinkler or watering systems.

~~K.~~ L. The portion of gross proceeds of sales or gross income attributable to the actual direct costs of providing architectural or engineering services that are incorporated in a contract is not subject to tax under this section. For the purposes of this subsection, "direct costs" means the portion of the actual costs that are directly expended in providing architectural or engineering services.

~~L.~~ M. Operating a landfill or a solid waste disposal facility is not subject to taxation under this section, including filling, compacting and creating vehicle access to and from cell sites within the landfill. Constructing roads to a landfill or solid waste disposal facility and constructing cells within a landfill or solid waste disposal facility may be deemed prime contracting under this section.

1 ~~M.~~ N. The following apply in determining the taxable situs of
2 sales of manufactured buildings:

3 1. For sales in this state where the manufactured building dealer
4 contracts to deliver the building to a setup site or to perform the setup
5 in this state, the taxable situs is the setup site.

6 2. For sales in this state where the manufactured building dealer
7 does not contract to deliver the building to a setup site or does not
8 perform the setup, the taxable situs is the location of the dealership
9 where the building is delivered to the buyer.

10 3. For sales in this state where the manufactured building dealer
11 contracts to deliver the building to a setup site that is outside this
12 state, the situs is outside this state and the transaction is excluded
13 from tax.

14 ~~N.~~ O. The gross proceeds of sales or gross income attributable to
15 a written contract for design phase services or professional services,
16 executed before modification begins and with terms, conditions and pricing
17 of all of these services separately stated in the contract from those for
18 construction phase services, is not subject to tax under this section,
19 regardless of whether the services are provided sequential to or
20 concurrent with prime contracting activities that are subject to tax under
21 this section. This subsection does not include the gross proceeds of
22 sales or gross income attributable to construction phase services. For
23 the purposes of this subsection:

24 1. "Construction phase services" means services for the execution
25 and completion of any modification, including the following:

26 (a) Administration or supervision of any modification performed on
27 the project, including team management and coordination, scheduling, cost
28 controls, submittal process management, field management, safety program,
29 close-out process and warranty period services.

30 (b) Administration or supervision of any modification performed
31 pursuant to a punch list. For the purposes of this subdivision, "punch
32 list" means minor items of modification work performed after substantial
33 completion and before final completion of the project.

34 (c) Administration or supervision of any modification performed
35 pursuant to change orders. For the purposes of this subdivision, "change
36 order" means a written instrument issued after execution of a contract for
37 modification work, providing for all of the following:

38 (i) The scope of a change in the modification work, contract for
39 modification work or other contract documents.

40 (ii) The amount of an adjustment, if any, to the guaranteed maximum
41 price as set in the contract for modification work. For the purposes of
42 this item, "guaranteed maximum price" means the amount guaranteed to be
43 the maximum amount due to a prime contractor for the performance of all
44 modification work for the project.

1 (iii) The extent of an adjustment, if any, to the contract time of
2 performance set forth in the contract.

3 (d) Administration or supervision of any modification performed
4 pursuant to change directives. For the purposes of this subdivision,
5 "change directive" means a written order directing a change in
6 modification work before agreement on an adjustment of the guaranteed
7 maximum price or contract time.

8 (e) Inspection to determine the dates of substantial completion or
9 final completion.

10 (f) Preparation of any manuals, warranties, as-built drawings,
11 spares or other items the prime contractor must furnish pursuant to the
12 contract for modification work. For the purposes of this subdivision,
13 "as-built drawing" means a drawing that indicates field changes made to
14 adapt to field conditions, field changes resulting from change orders or
15 buried and concealed installation of piping, conduit and utility services.

16 (g) Preparation of status reports after modification work has begun
17 detailing the progress of work performed, including preparation of any of
18 the following:

19 (i) Master schedule updates.

20 (ii) Modification work cash flow projection updates.

21 (iii) Site reports made on a periodic basis.

22 (iv) Identification of discrepancies, conflicts or ambiguities in
23 modification work documents that require resolution.

24 (v) Identification of any health and safety issues that have arisen
25 in connection with the modification work.

26 (h) Preparation of daily logs of modification work, including
27 documentation of personnel, weather conditions and on-site occurrences.

28 (i) Preparation of any submittals or shop drawings used by the
29 prime contractor to illustrate details of the modification work performed.

30 (j) Administration or supervision of any other activities for which
31 a prime contractor receives a certificate for payment or certificate for
32 final payment based on the progress of modification work performed on the
33 project.

34 2. "Design phase services" means services for developing and
35 completing a design for a project that are not construction phase
36 services, including the following:

37 (a) Evaluating surveys, reports, test results or any other
38 information on-site conditions for the project, including physical
39 characteristics, legal limitations and utility locations for the site.

40 (b) Evaluating any criteria or programming objectives for the
41 project to ascertain requirements for the project, such as physical
42 requirements affecting cost or projected utilization of the project.

1 (c) Preparing drawings and specifications for architectural program
2 documents, schematic design documents, design development documents,
3 modification work documents or documents that identify the scope of or
4 materials for the project.

5 (d) Preparing an initial schedule for the project, excluding the
6 preparation of updates to the master schedule after modification work has
7 begun.

8 (e) Preparing preliminary estimates of costs of modification work
9 before completion of the final design of the project, including an
10 estimate or schedule of values for any of the following:

11 (i) Labor, materials, machinery and equipment, tools, water, heat,
12 utilities, transportation and other facilities and services used in the
13 execution and completion of modification work, regardless of whether they
14 are temporary or permanent or whether they are incorporated in the
15 modifications.

16 (ii) The cost of labor and materials to be furnished by the owner
17 of the real property.

18 (iii) The cost of any equipment of the owner of the real property
19 to be assigned by the owner to the prime contractor.

20 (iv) The cost of any labor for installation of equipment separately
21 provided by the owner of the real property that has been designed,
22 specified, selected or specifically provided for in any design document
23 for the project.

24 (v) Any fee paid by the owner of the real property to the prime
25 contractor pursuant to the contract for modification work.

26 (vi) Any bond and insurance premiums.

27 (vii) Any applicable taxes.

28 (viii) Any contingency fees for the prime contractor that may be
29 used before final completion of the project.

30 (f) Reviewing and evaluating cost estimates and project documents
31 to prepare recommendations on site use, site improvements, selection of
32 materials, building systems and equipment, modification feasibility,
33 availability of materials and labor, local modification activity as
34 related to schedules and time requirements for modification work.

35 (g) Preparing the plan and procedures for selection of
36 subcontractors, including any prequalification of subcontractor
37 candidates.

38 3. "Professional services" means architect services, engineer
39 services, geologist services, land surveying services or landscape
40 architect services that are within the scope of those services as provided
41 in title 32, chapter 1 and for which gross proceeds of sales or gross
42 income has not otherwise been deducted under subsection ~~4~~ L of this
43 section.

~~0. The gross proceeds of sales or gross income derived from a contract with the owner of real property or improvements to real property for the maintenance, repair, replacement or alteration of existing property is not subject to tax under this section if the contract does not include modification activities, except as specified in this subsection. The gross proceeds of sales or gross income derived from a de minimis amount of modification activity does not subject the contract or any part of the contract to tax under this section. For the purposes of this subsection:~~

~~1. Tangible personal property that is incorporated or fabricated into a project described in this subsection may be subject to the amount prescribed in section 42-5008.01.~~

~~2. Each contract is independent of any other contract, except that any change order that directly relates to the scope of work of the original contract shall be treated the same as the original contract under this chapter, regardless of the amount of modification activities included in the change order. If a change order does not directly relate to the scope of work of the original contract, the change order shall be treated as a new contract, with the tax treatment of any subsequent change order to follow the tax treatment of the contract to which the scope of work of the subsequent change order directly relates.~~

~~P. Notwithstanding subsection 0 of this section, a contract that primarily involves surface or subsurface improvements to land and that is subject to title 28, chapter 19, 20 or 22 or title 34, chapter 2 or 6 is taxable under this section, even if the contract also includes vertical improvements. Agencies that are subject to procurement processes under those provisions shall include in the request for proposals a notice to bidders when those projects are subject to this section. This subsection does not apply to contracts with:~~

~~1. Community facilities districts, fire districts, county television improvement districts, community park maintenance districts, cotton pest control districts, hospital districts, pest abatement districts, health service districts, agricultural improvement districts, county free library districts, county jail districts, county stadium districts, special health care districts, public health services districts, theme park districts or revitalization districts.~~

~~2. Any special taxing district not specified in paragraph 1 of this subsection if the district does not substantially engage in the modification, maintenance, repair, replacement or alteration of surface or subsurface improvements to land.~~

~~Q. P.~~ Notwithstanding subsection ~~R~~ **Q**, paragraph ~~10~~ **9** of this section **AND SUBJECT TO SUBSECTION B OF THIS SECTION**, a person owning real property who enters into a contract for sale of the real property, who is responsible to the new owner of the property for modifications made to the property in the period subsequent to the transfer of title and who

1 receives a consideration for the modifications is considered a prime
2 contractor solely for purposes of taxing the gross proceeds of sale or
3 gross income received for the modifications made subsequent to the
4 transfer of title. The original owner's gross proceeds of sale or gross
5 income received for the modifications shall be determined according to the
6 following methodology:

7 1. If any part of the contract for sale of the property specifies
8 amounts to be paid to the original owner for the modifications to be made
9 in the period subsequent to the transfer of title, the amounts are
10 included in the original owner's gross proceeds of sale or gross income
11 under this section. Proceeds from the sale of the property that are
12 received after transfer of title and that are unrelated to the
13 modifications made subsequent to the transfer of title are not considered
14 gross proceeds of sale or gross income from the modifications.

15 2. If the original owner enters into an agreement separate from the
16 contract for sale of the real property providing for amounts to be paid to
17 the original owner for the modifications to be made in the period
18 subsequent to the transfer of title to the property, the amounts are
19 included in the original owner's gross proceeds of sale or gross income
20 received for the modifications made subsequent to the transfer of title.

21 3. If the original owner is responsible to the new owner for
22 modifications made to the property in the period subsequent to the
23 transfer of title and derives any gross proceeds of sale or gross income
24 from the project subsequent to the transfer of title other than a delayed
25 disbursement from escrow unrelated to the modifications, it is presumed
26 that the amounts are received for the modifications made subsequent to the
27 transfer of title unless the contrary is established by the owner through
28 its books, records and papers kept in the regular course of business.

29 4. The tax base of the original owner is computed in the same
30 manner as a prime contractor under this section.

31 ~~R.~~ Q. For the purposes of this section:

32 ~~1. "Alteration" means an activity or action that causes a direct~~
33 ~~physical change to existing property. For the purposes of this paragraph:~~

34 ~~(a) For existing property that is properly classified as class two~~
35 ~~property under section 42-12002, paragraph 1, subdivision (c) or paragraph~~
36 ~~2, subdivision (c) and that is used for residential purposes, class three~~
37 ~~property under section 42-12003 or class four property under section~~
38 ~~42-12004, this paragraph does not apply if the contract amount is more~~
39 ~~than twenty-five percent of the most recent full cash value established~~
40 ~~under chapter 13, article 2 of this title as of the date of any bid for~~
41 ~~the work or the date of the contract, whichever value is higher.~~

42 ~~(b) For all existing property other than existing property~~
43 ~~described in subdivision (a) of this paragraph, this paragraph does not~~
44 ~~apply if the contract amount is more than seven hundred fifty thousand~~
45 ~~dollars.~~

~~(c) Project elements may not be artificially separated from a contract to cause a project to qualify as an alteration. The department has the burden of proof that project elements have been artificially separated from a contract.~~

~~(d) If a project for which the owner and the person performing the work reasonably believed, at the inception of the contract, would be treated as an alteration under this paragraph and, on completion of the project, the project exceeded the applicable threshold described in either subdivision (a) or (b) of this paragraph by no more than twenty-five percent of the applicable threshold for any reason, the work performed under the contract qualifies as an alteration.~~

~~(e) A change order that directly relates to the scope of work of the original contract shall be treated as part of the original contract, and the contract amount shall include any amount attributable to a change order that directly relates to the scope of work of the original contract.~~

~~(f) Alteration does not include maintenance, repair or replacement.~~

~~2.~~ 1. "Contracting" means engaging in business as a contractor.

~~3.~~ 2. "Contractor" is synonymous with the term "builder" and means any person or organization that undertakes to or offers to undertake to, or purports to have the capacity to undertake to, or submits a bid to, or does personally or by or through others, modify any building, highway, road, railroad, excavation, manufactured building or other structure, project, development or improvement, or to do any part of such a project, including the erection of scaffolding or other structure or works in connection with such a project, and includes subcontractors and specialty contractors. For all purposes of taxation or deduction, this definition shall govern without regard to whether or not such a contractor is acting in fulfillment of a contract.

~~4.~~ 3. "Manufactured building" means a manufactured home, mobile home or factory-built building, as defined in section 41-4001.

~~5.~~ 4. "Manufactured building dealer" means a dealer who either:

(a) Is licensed pursuant to title 41, chapter 37, article 4 and who sells manufactured buildings to the final consumer.

(b) Supervises, performs or coordinates the excavation and completion of site improvements or the setup of a manufactured building, including the contracting, if any, with any subcontractor or specialty contractor for the completion of the contract.

~~6.~~ 5. "Modification":

(a) Means construction, grading and leveling ground, wreckage or demolition. ~~Modification~~

(b) Does not include:

~~(a)~~ any project described in subsection ~~0~~ B of this section.

~~(b) Any wreckage or demolition of existing property, or any other activity that is a necessary component of a project described in subsection 0 of this section.~~

~~(c) Any mobilization or demobilization related to a project described in subsection 0 of this section, such as the erection or removal of temporary facilities to be used by those persons working on the project.~~

~~7.~~ 6. "Modify" means to make a modification or cause a modification to be made.

~~8.~~ 7. "Owner" means the person that holds title to the real property or improvements to real property that is the subject of the work, as well as an agent of the title holder and any person with the authority to perform or authorize work on the real property or improvements, including a tenant and a property manager. For the purposes of subsection ~~0~~ B of this section, a person who is hired by a general contractor that is hired by an owner, or a subcontractor of a general contractor that is hired by an owner, is considered to be hired by the owner.

~~9.~~ 8. "Prime contracting" means engaging in business as a prime contractor.

~~10.~~ 9. "Prime contractor" means a contractor who supervises, performs or coordinates the modification of any building, highway, road, railroad, excavation, manufactured building or other structure, project, development or improvement, including the contracting, if any, with any subcontractors or specialty contractors and who is responsible for the completion of the contract. Except as provided in subsections ~~F~~ F and ~~P~~ P of this section, a person who owns real property, who engages one or more contractors to modify that real property and who does not itself modify that real property is not a prime contractor within the meaning of this paragraph regardless of the existence of a contract for sale or the subsequent sale of that real property.

~~11. "Replacement" means the removal from service of one component or system of existing property or tangible personal property installed in existing property, including machinery or equipment, and the installation of a new component or system or new tangible personal property, including machinery or equipment, that provides the same, a similar or an upgraded design or functionality, regardless of the contract amount and regardless of whether the existing component or system or existing tangible personal property is physically removed from the existing property.~~

10. "RESIDENTIAL PROJECT":

(a) MEANS THE VERTICAL CONSTRUCTION OF A NEW HOME, APARTMENT OR OTHER DWELLING UNIT WHERE AN INDIVIDUAL CAN REGULARLY RESIDE, OTHER THAN A HOTEL OR MANUFACTURED HOME, AND THE MAINTENANCE, REPAIR OR ALTERATION OF AN EXISTING DWELLING UNIT.

(b) DOES NOT INCLUDE RELATED OFF-SITE CONSTRUCTION, LANDSCAPING OR GRADING OR OTHER SITE PREPARATION ACTIVITIES.

~~12.~~ 11. ~~"Sale of a used manufactured building"~~ does not include a lease of a used manufactured building.

1 Sec. 9. Section 42-5159, Arizona Revised Statutes, is amended to
2 read:

3 42-5159. Exemptions

4 A. The tax levied by this article does not apply to the storage,
5 use or consumption in this state of the following described tangible
6 personal property:

7 1. Tangible personal property, sold in this state, the gross
8 receipts from the sale of which are included in the measure of the tax
9 imposed by articles 1 and 2 of this chapter.

10 2. Tangible personal property, the sale or use of which has already
11 been subjected to an excise tax at a rate equal to or exceeding the tax
12 imposed by this article under the laws of another state of the United
13 States. If the excise tax imposed by the other state is at a rate less
14 than the tax imposed by this article, the tax imposed by this article is
15 reduced by the amount of the tax already imposed by the other state.

16 3. Tangible personal property, the storage, use or consumption of
17 which the constitution or laws of the United States prohibit this state
18 from taxing or to the extent that the rate or imposition of tax is
19 unconstitutional under the laws of the United States.

20 4. Tangible personal property that directly enters into and becomes
21 an ingredient or component part of any manufactured, fabricated or
22 processed article, substance or commodity for sale in the regular course
23 of business.

24 5. Motor vehicle fuel and use fuel, the sales, distribution or use
25 of which in this state is subject to the tax imposed under title 28,
26 chapter 16, article 1, use fuel that is sold to or used by a person
27 holding a valid single trip use fuel tax permit issued under
28 section 28-5739, aviation fuel, the sales, distribution or use of which in
29 this state is subject to the tax imposed under section 28-8344, and jet
30 fuel, the sales, distribution or use of which in this state is subject to
31 the tax imposed under article 8 of this chapter.

32 6. Tangible personal property brought into this state by an
33 individual who was a nonresident at the time the property was purchased
34 for storage, use or consumption by the individual if the first actual use
35 or consumption of the property was outside this state, unless the property
36 is used in conducting a business in this state.

37 7. Purchases of implants used as growth promotants and injectable
38 medicines, not already exempt under paragraph 16 of this subsection, for
39 livestock and poultry owned by, or in possession of, persons who are
40 engaged in producing livestock, poultry, or livestock or poultry products,
41 or who are engaged in feeding livestock or poultry commercially. For the
42 purposes of this paragraph, "poultry" includes ratites.

43 8. Purchases of:

44 (a) Livestock and poultry to persons engaging in the businesses of
45 farming, ranching or producing livestock or poultry.

1 (b) Livestock and poultry feed, salts, vitamins and other additives
2 sold to persons for use or consumption in the businesses of farming,
3 ranching and producing or feeding livestock or poultry or for use or
4 consumption in noncommercial boarding of livestock. For the purposes of
5 this paragraph, "poultry" includes ratites.

6 9. Propagative materials for use in commercially producing
7 agricultural, horticultural, viticultural or floricultural crops in this
8 state. For the purposes of this paragraph, "propagative materials":
9

10 (a) Includes seeds, seedlings, roots, bulbs, liners, transplants,
11 cuttings, soil and plant additives, agricultural minerals, auxiliary soil
12 and plant substances, micronutrients, fertilizers, insecticides,
13 herbicides, fungicides, soil fumigants, desiccants, rodenticides,
adjuvants, plant nutrients and plant growth regulators.

14 (b) Except for use in commercially producing industrial hemp as
15 defined in section 3-311, does not include any propagative materials used
16 in producing any part, including seeds, of any plant of the genus
17 cannabis.

18 10. Tangible personal property not exceeding \$200 in any one month
19 purchased by an individual at retail outside the continental limits of the
20 United States for the individual's own personal use and enjoyment.

21 11. Advertising supplements that are intended for sale with
22 newspapers published in this state and that have already been subjected to
23 an excise tax under the laws of another state in the United States that
24 equals or exceeds the tax imposed by this article.

25 12. Materials that are purchased by or for publicly funded
26 libraries including school district libraries, charter school libraries,
27 community college libraries, state university libraries or federal, state,
28 county or municipal libraries for use by the public as follows:

29 (a) Printed or photographic materials, beginning August 7, 1985.

30 (b) Electronic or digital media materials, beginning July 17, 1994.

31 13. Tangible personal property purchased by:

32 (a) A hospital organized and operated exclusively for charitable
33 purposes, no part of the net earnings of which inures to the benefit of
34 any private shareholder or individual.

35 (b) A hospital operated by this state or a political subdivision of
36 this state.

37 (c) A licensed nursing care institution or a licensed residential
38 care institution or a residential care facility operated in conjunction
39 with a licensed nursing care institution or a licensed kidney dialysis
40 center, which provides medical services, nursing services or health
41 related services and is not used or held for profit.

42 (d) A qualifying health care organization, as defined in section
43 42-5001, if the tangible personal property is used by the organization
44 solely to provide health and medical related educational and charitable
45 services.

(e) A qualifying health care organization as defined in section 42-5001 if the organization is dedicated to providing educational, therapeutic, rehabilitative and family medical education training for blind and visually impaired children and children with multiple disabilities from the time of birth to age twenty-one.

(f) A nonprofit charitable organization that has qualified under section 501(c)(3) of the United States internal revenue code and that engages in and uses such property exclusively in programs for persons with mental or physical disabilities if the programs are exclusively for training, job placement, rehabilitation or testing.

(g) A person that is subject to tax under this chapter by reason of being engaged in business classified under section 42-5075, or a subcontractor working under the control of a person that is engaged in business classified under section 42-5075, if the tangible personal property is any of the following:

(i) Incorporated or fabricated by the person into a structure, project, development or improvement in fulfillment of a contract.

(ii) Incorporated or fabricated by the person into any project described in section 42-5075, subsection ~~B~~ B.

(iii) Used in environmental response or remediation activities under section 42-5075, subsection ~~B~~ C, paragraph 6.

(h) A person that is not subject to tax under section 42-5075 and that has been provided a copy of a certificate described in section 42-5009, subsection L, if the property purchased is incorporated or fabricated by the person into the real property, structure, project, development or improvement described in the certificate.

(i) A nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code if the property is purchased from the parent or an affiliate organization that is located outside this state.

(j) A qualifying community health center as defined in section 42-5001.

(k) A nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that regularly serves meals to the needy and indigent on a continuing basis at no cost.

(l) A person engaged in business under the transient lodging classification if the property is a personal hygiene item or articles used by human beings for food, drink or condiment, except alcoholic beverages, which are furnished without additional charge to and intended to be consumed by the transient during the transient's occupancy.

(m) For taxable periods beginning from and after June 30, 2001, a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that provides residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy, if the tangible

personal property is used by the organization solely to provide residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy.

(n) A qualifying health sciences educational institution as defined in section 42-5001.

(o) A person representing or working on behalf of any person described in subdivision (a), (b), (c), (d), (e), (f), (i), (j), (k), (m) or (n) of this paragraph, if the tangible personal property is incorporated or fabricated into a project described in section 42-5075, subsection ~~A~~ B.

14. Commodities, as defined by title 7 United States Code section 2, that are consigned for resale in a warehouse in this state in or from which the commodity is deliverable on a contract for future delivery subject to the rules of a commodity market regulated by the United States commodity futures trading commission.

15. Tangible personal property sold by:

(a) Any nonprofit organization organized and operated exclusively for charitable purposes and recognized by the United States internal revenue service under section 501(c)(3) of the internal revenue code.

(b) A nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is associated with a major league baseball team or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual. This subdivision does not apply to an organization that is owned, managed or controlled, in whole or in part, by a major league baseball team, or its owners, officers, employees or agents, or by a major league baseball association or professional golfing association, or its owners, officers, employees or agents, unless the organization conducted or operated exhibition events in this state before January 1, 2018 that were exempt from transaction privilege tax under section 42-5073.

(c) A nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the organization sponsors or operates a rodeo featuring primarily farm and ranch animals and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

16. Drugs and medical oxygen, including delivery hose, mask or tent, regulator and tank, on the prescription of a member of the medical, dental or veterinarian profession who is licensed by law to administer such substances.

17. Prosthetic appliances, as defined in section 23-501, prescribed or recommended by a person who is licensed, registered or otherwise

1 professionally credentialed as a physician, dentist, podiatrist,
2 chiropractor, naturopath, homeopath, nurse or optometrist.

3 18. Prescription eyeglasses and contact lenses.

4 19. Insulin, insulin syringes and glucose test strips.

5 20. Hearing aids as defined in section 36-1901.

6 21. Durable medical equipment that has a centers for medicare and
7 medicaid services common procedure code, is designated reimbursable by
8 medicare, is prescribed by a person who is licensed under title 32,
9 chapter 7, 13, 17 or 29, can withstand repeated use, is primarily and
10 customarily used to serve a medical purpose, is generally not useful to a
11 person in the absence of illness or injury and is appropriate for use in
12 the home.

13 22. Food, as provided in and subject to the conditions of article 3
14 of this chapter and sections 42-5074 and 42-6017.

15 23. Items purchased with United States department of agriculture
16 coupons issued under the supplemental nutrition assistance program
17 pursuant to the food and nutrition act of 2008 (P.L. 88-525; 78 Stat. 703;
18 7 United States Code sections 2011 through 2036b) by the United States
19 department of agriculture food and nutrition service or food instruments
20 issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat.
21 3603; P.L. 99-661, section 4302; P.L. 111-296; 42 United States Code
22 section 1786).

23 24. Food and drink provided without monetary charge by a taxpayer
24 that is subject to section 42-5074 to its employees for their own
25 consumption on the premises during the employees' hours of employment.

26 25. Tangible personal property that is used or consumed in a
27 business subject to section 42-5074 for human food, drink or condiment,
28 whether simple, mixed or compounded.

29 26. Food, drink or condiment and accessory tangible personal
30 property that are acquired for use by or provided to a school district or
31 charter school if they are to be either served or prepared and served to
32 persons for consumption on the premises of a public school in the school
33 district or on the premises of the charter school during school hours.

34 27. Lottery tickets or shares purchased pursuant to title 5,
35 chapter 5.1, article 1.

36 28. Textbooks, sold by a bookstore, that are required by any state
37 university or community college.

38 29. Magazines, other periodicals or other publications produced by
39 this state to encourage tourist travel.

40 30. Paper machine clothing, such as forming fabrics and dryer
41 felts, purchased by a paper manufacturer and directly used or consumed in
42 paper manufacturing.

43 31. Coal, petroleum, coke, natural gas, virgin fuel oil and
44 electricity purchased by a qualified environmental technology
45 manufacturer, producer or processor as defined in section 41-1514.02 and

1 directly used or consumed in the generation or provision of on-site power
 2 or energy solely for environmental technology manufacturing, producing or
 3 processing or environmental protection. This paragraph shall apply for
 4 twenty full consecutive calendar or fiscal years from the date the first
 5 paper manufacturing machine is placed in service. In the case of an
 6 environmental technology manufacturer, producer or processor who does not
 7 manufacture paper, the time period shall begin with the date the first
 8 manufacturing, processing or production equipment is placed in service.

9 32. Motor vehicles that are removed from inventory by a motor
 10 vehicle dealer as defined in section 28-4301 and that are provided to:

11 (a) Charitable or educational institutions that are exempt from
 12 taxation under section 501(c)(3) of the internal revenue code.

13 (b) Public educational institutions.

14 (c) State universities or affiliated organizations of a state
 15 university if no part of the organization's net earnings inures to the
 16 benefit of any private shareholder or individual.

17 33. Natural gas or liquefied petroleum gas used to propel a motor
 18 vehicle.

19 34. Machinery, equipment, technology or related supplies that are
 20 only useful to assist a person with a physical disability as defined in
 21 section 46-191 or a person who has a developmental disability as defined
 22 in section 36-551 or has a head injury as defined in section 41-3201 to be
 23 more independent and functional.

24 35. Liquid, solid or gaseous chemicals used in manufacturing,
 25 processing, fabricating, mining, refining, metallurgical operations,
 26 research and development and, beginning on January 1, 1999, printing, if
 27 using or consuming the chemicals, alone or as part of an integrated system
 28 of chemicals, involves direct contact with the materials from which the
 29 product is produced for the purpose of causing or permitting a chemical or
 30 physical change to occur in the materials as part of the production
 31 process. This paragraph does not include chemicals that are used or
 32 consumed in activities such as packaging, storage or transportation but
 33 does not affect any exemption for such chemicals that is otherwise
 34 provided by this section. For the purposes of this paragraph, "printing"
 35 means a commercial printing operation and includes job printing,
 36 engraving, embossing, copying and bookbinding.

37 36. Food, drink and condiment purchased for consumption within the
 38 premises of any prison, jail or other institution under the jurisdiction
 39 of the state department of corrections, the department of public safety,
 40 the department of juvenile corrections or a county sheriff.

41 37. A motor vehicle and any repair and replacement parts and
 42 tangible personal property becoming a part of such motor vehicle sold to a
 43 motor carrier who is subject to a fee prescribed in title 28, chapter 16,
 44 article 4 and who is engaged in the business of leasing or renting such
 45 property.

38. Tangible personal property that is or directly enters into and becomes an ingredient or component part of cards used as prescription plan identification cards.

39. Overhead materials or other tangible personal property that is used in performing a contract between the United States government and a manufacturer, modifier, assembler or repairer, including property used in performing a subcontract with a government contractor who is a manufacturer, modifier, assembler or repairer, to which title passes to the government under the terms of the contract or subcontract. For the purposes of this paragraph:

(a) "Overhead materials" means tangible personal property, the gross proceeds of sales or gross income derived from which would otherwise be included in the retail classification, that is used or consumed in the performance of a contract, the cost of which is charged to an overhead expense account and allocated to various contracts based on generally accepted accounting principles and consistent with government contract accounting standards.

(b) "Subcontract" means an agreement between a contractor and any person who is not an employee of the contractor for furnishing of supplies or services that, in whole or in part, are necessary to the performance of one or more government contracts, or under which any portion of the contractor's obligation under one or more government contracts is performed, undertaken or assumed, and that includes provisions causing title to overhead materials or other tangible personal property used in the performance of the subcontract to pass to the government or that includes provisions incorporating such title passing clauses in a government contract into the subcontract.

40. Through December 31, 1994, tangible personal property sold pursuant to a personal property liquidation transaction, as defined in section 42-5061. From and after December 31, 1994, tangible personal property sold pursuant to a personal property liquidation transaction, as defined in section 42-5061, if the gross proceeds of the sales were included in the measure of the tax imposed by article 1 of this chapter or if the personal property liquidation was a casual activity or transaction.

41. Wireless telecommunications equipment that is held for sale or transfer to a customer as an inducement to enter into or continue a contract for telecommunications services that are taxable under section 42-5064.

42. Alternative fuel, as defined in section 1-215, purchased by a used oil fuel burner who has received a permit to burn used oil or used oil fuel under section 49-426 or 49-480.

43. Tangible personal property purchased by a commercial airline and consisting of food, beverages and condiments and accessories used for serving the food and beverages, if those items are to be provided without additional charge to passengers for consumption in flight. For the

1 purposes of this paragraph, "commercial airline" means a person holding a
2 federal certificate of public convenience and necessity or foreign air
3 carrier permit for air transportation to transport persons, property or
4 United States mail in intrastate, interstate or foreign commerce.

5 44. Alternative fuel vehicles if the vehicle was manufactured as a
6 diesel fuel vehicle and converted to operate on alternative fuel and
7 equipment that is installed in a conventional diesel fuel motor vehicle to
8 convert the vehicle to operate on an alternative fuel, as defined in
9 section 1-215.

10 45. Gas diverted from a pipeline, by a person engaged in the
11 business of:

12 (a) Operating a natural or artificial gas pipeline, and used or
13 consumed for the sole purpose of fueling compressor equipment that
14 pressurizes the pipeline.

15 (b) Converting natural gas into liquefied natural gas, and used or
16 consumed for the sole purpose of fueling compressor equipment used in the
17 conversion process.

18 46. Tangible personal property that is excluded, exempt or
19 deductible from transaction privilege tax pursuant to section 42-5063.

20 47. Tangible personal property purchased to be incorporated or
21 installed as part of environmental response or remediation activities
22 under section 42-5075, subsection ~~B~~ C, paragraph 6.

23 48. Tangible personal property sold by a nonprofit organization
24 that is exempt from taxation under section 501(c)(6) of the internal
25 revenue code if the organization produces, organizes or promotes cultural
26 or civic related festivals or events and no part of the organization's net
27 earnings inures to the benefit of any private shareholder or individual.

28 49. Prepared food, drink or condiment donated by a restaurant as
29 classified in section 42-5074, subsection A to a nonprofit charitable
30 organization that has qualified under section 501(c)(3) of the internal
31 revenue code and that regularly serves meals to the needy and indigent on
32 a continuing basis at no cost.

33 50. Application services that are designed to assess or test
34 student learning or to promote curriculum design or enhancement purchased
35 by or for any school district, charter school, community college or state
36 university. For the purposes of this paragraph:

37 (a) "Application services" means software applications provided
38 remotely using hypertext transfer protocol or another network protocol.

39 (b) "Curriculum design or enhancement" means planning, implementing
40 or reporting on courses of study, lessons, assignments or other learning
41 activities.

42 51. Motor vehicle fuel and use fuel to a qualified business under
43 section 41-1516 for off-road use in harvesting, processing or transporting
44 qualifying forest products removed from qualifying projects as defined in
45 section 41-1516.

1 52. Repair parts installed in equipment used directly by a
2 qualified business under section 41-1516 in harvesting, processing or
3 transporting qualifying forest products removed from qualifying projects
4 as defined in section 41-1516.

5 53. Renewable energy credits or any other unit created to track
6 energy derived from renewable energy resources. For the purposes of this
7 paragraph, "renewable energy credit" means a unit created administratively
8 by the corporation commission or governing body of a public power entity
9 to track kilowatt hours of electricity derived from a renewable energy
10 resource or the kilowatt hour equivalent of conventional energy resources
11 displaced by distributed renewable energy resources.

12 54. Computer data center equipment sold to the owner, operator or
13 qualified colocation tenant of a computer data center that is certified by
14 the Arizona commerce authority under section 41-1519 or an authorized
15 agent of the owner, operator or qualified colocation tenant during the
16 qualification period for use in the qualified computer data center. For
17 the purposes of this paragraph, "computer data center", "computer data
18 center equipment", "qualification period" and "qualified colocation
19 tenant" have the same meanings prescribed in section 41-1519.

20 55. Coal acquired from an owner or operator of a power plant by a
21 person who is responsible for refining coal if both of the following
22 apply:

23 (a) The transfer of title or possession of the coal is for the
24 purpose of refining the coal.

25 (b) The title or possession of the coal is transferred back to the
26 owner or operator of the power plant after completion of the coal refining
27 process. For the purposes of this subdivision, "coal refining process"
28 means the application of a coal additive system that aids the reduction of
29 power plant emissions during the combustion of coal and the treatment of
30 flue gas.

31 56. Tangible personal property incorporated or fabricated into a
32 project described in section 42-5075, subsection ~~Ⓟ~~ B, that is located
33 within the exterior boundaries of an Indian reservation for which the
34 owner, as defined in section 42-5075, of the project is an Indian tribe or
35 an affiliated Indian. For the purposes of this paragraph:

36 (a) "Affiliated Indian" means an individual Native American Indian
37 who is duly registered on the tribal rolls of the Indian tribe for whose
38 benefit the Indian reservation was established.

39 (b) "Indian reservation" means all lands that are within the limits
40 of areas set aside by the United States for the exclusive use and
41 occupancy of an Indian tribe by treaty, law or executive order and that
42 are recognized as Indian reservations by the United States department of
43 the interior.

44 (c) "Indian tribe" means any organized nation, tribe, band or
45 community that is recognized as an Indian tribe by the United States

department of the interior and includes any entity formed under the laws of the Indian tribe.

57. Cash equivalents, precious metal bullion and monetized bullion purchased by the ultimate consumer, but coins or other forms of money for manufacture into jewelry or works of art are subject to tax, and tangible personal property that is purchased through the redemption of any cash equivalent by the holder as a means of payment for goods that are subject to tax under this article is subject to tax. For the purposes of this paragraph:

(a) "Cash equivalents" means items, whether or not negotiable, that are sold to one or more persons, through which a value denominated in money is purchased in advance and that may be redeemed in full or in part for tangible personal property, intangibles or services. Cash equivalents include gift cards, stored value cards, gift certificates, vouchers, traveler's checks, money orders or other tangible instruments or orders. Cash equivalents do not include either of the following:

(i) Items that are sold to one or more persons and through which a value is not denominated in money.

(ii) Prepaid calling cards for telecommunications services.

(b) "Monetized bullion" means coins and other forms of money that are manufactured from gold, silver or other metals and that have been or are used as a medium of exchange in this or another state, the United States or a foreign nation.

(c) "Precious metal bullion" means precious metal, including gold, silver, platinum, rhodium and palladium, that has been smelted or refined so that its value depends on its contents and not on its form.

B. In addition to the exemptions allowed by subsection A of this section, the following categories of tangible personal property are also exempt:

1. Machinery, or equipment, used directly in manufacturing, processing, fabricating, job printing, refining or metallurgical operations. The terms "manufacturing", "processing", "fabricating", "job printing", "refining" and "metallurgical" as used in this paragraph refer to and include those operations commonly understood within their ordinary meaning. "Metallurgical operations" includes leaching, milling, precipitating, smelting and refining.

2. Machinery, or equipment, used directly in the process of extracting ores or minerals from the earth for commercial purposes, including equipment required to prepare the materials for extraction and handling, loading or transporting such extracted material to the surface. "Mining" includes underground, surface and open pit operations for extracting ores and minerals.

3. Tangible personal property sold to persons engaged in business classified under the telecommunications classification under section 42-5064, including a person representing or working on behalf of such a

1 person in a manner described in section 42-5075, subsection ~~B~~ B, and
 2 consisting of central office switching equipment, switchboards, private
 3 branch exchange equipment, microwave radio equipment and carrier equipment
 4 including optical fiber, coaxial cable and other transmission media that
 5 are components of carrier systems.

6 4. Machinery, equipment or transmission lines used directly in
 7 producing or transmitting electrical power, but not including
 8 distribution. Transformers and control equipment used at transmission
 9 substation sites constitute equipment used in producing or transmitting
 10 electrical power.

11 5. Neat animals, horses, asses, sheep, ratites, swine or goats used
 12 or to be used as breeding or production stock, including sales of
 13 breedings or ownership shares in such animals used for breeding or
 14 production.

15 6. Pipes or valves four inches in diameter or larger used to
 16 transport oil, natural gas, artificial gas, water or coal slurry,
 17 including compressor units, regulators, machinery and equipment, fittings,
 18 seals and any other part that is used in operating the pipes or valves.

19 7. Aircraft, navigational and communication instruments and other
 20 accessories and related equipment sold to:

21 (a) A person:

22 (i) Holding, or exempted by federal law from obtaining, a federal
 23 certificate of public convenience and necessity for use as, in conjunction
 24 with or becoming part of an aircraft to be used to transport persons for
 25 hire in intrastate, interstate or foreign commerce.

26 (ii) That is certificated or licensed under federal aviation
 27 administration regulations (14 Code of Federal Regulations part 121 or
 28 135) as a scheduled or unscheduled carrier of persons for hire for use as
 29 or in conjunction with or becoming part of an aircraft to be used to
 30 transport persons for hire in intrastate, interstate or foreign commerce.

31 (iii) Holding a foreign air carrier permit for air transportation
 32 for use as or in conjunction with or becoming a part of aircraft to be
 33 used to transport persons, property or United States mail in intrastate,
 34 interstate or foreign commerce.

35 (iv) Operating an aircraft to transport persons in any manner for
 36 compensation or hire, or for use in a fractional ownership program that
 37 meets the requirements of federal aviation administration regulations (14
 38 Code of Federal Regulations part 91, subpart K), including as an air
 39 carrier, a foreign air carrier or a commercial operator or under a
 40 restricted category, within the meaning of 14 Code of Federal Regulations,
 41 regardless of whether the operation or aircraft is regulated or certified
 42 under part 91, 119, 121, 133, 135, 136 or 137, or another part of 14 Code
 43 of Federal Regulations.

44 (v) That will lease or otherwise transfer operational control,
 45 within the meaning of federal aviation administration operations

1 specification A008, or its successor, of the aircraft, instruments or
2 accessories to one or more persons described in item (i), (ii), (iii) or
3 (iv) of this subdivision, subject to section 42-5009, subsection Q.

4 (b) Any foreign government.

5 (c) Persons who are not residents of this state and who will not
6 use such property in this state other than in removing such property from
7 this state. This subdivision also applies to corporations that are not
8 incorporated in this state, regardless of maintaining a place of business
9 in this state, if the principal corporate office is located outside this
10 state and the property will not be used in this state other than in
11 removing the property from this state.

12 8. Machinery, tools, equipment and related supplies used or
13 consumed directly in repairing, remodeling or maintaining aircraft,
14 aircraft engines or aircraft component parts by or on behalf of a
15 certificated or licensed carrier of persons or property.

16 9. Rolling stock, rails, ties and signal control equipment used
17 directly to transport persons or property.

18 10. Machinery or equipment used directly to drill for oil or gas or
19 used directly in the process of extracting oil or gas from the earth for
20 commercial purposes.

21 11. Buses or other urban mass transit vehicles that are used
22 directly to transport persons or property for hire or pursuant to a
23 governmentally adopted and controlled urban mass transportation program
24 and that are sold to bus companies holding a federal certificate of
25 convenience and necessity or operated by any city, town or other
26 governmental entity or by any person contracting with such governmental
27 entity as part of a governmentally adopted and controlled program to
28 provide urban mass transportation.

29 12. Groundwater measuring devices required under section 45-604.

30 13. New machinery and equipment consisting of agricultural
31 aircraft, tractors, tractor-drawn implements, self-powered implements,
32 machinery and equipment necessary for extracting milk, and machinery and
33 equipment necessary for cooling milk and livestock, and drip irrigation
34 lines not already exempt under paragraph 6 of this subsection and that are
35 used for commercial production of agricultural, horticultural,
36 viticultural and floricultural crops and products in this state. For the
37 purposes of this paragraph:

38 (a) "New machinery and equipment" means machinery or equipment that
39 has never been sold at retail except pursuant to leases or rentals that do
40 not total two years or more.

41 (b) "Self-powered implements" includes machinery and equipment that
42 are electric-powered.

43 14. Machinery or equipment used in research and development. For
44 the purposes of this paragraph, "research and development" means basic and
45 applied research in the sciences and engineering, and designing,

1 developing or testing prototypes, processes or new products, including
 2 research and development of computer software that is embedded in or an
 3 integral part of the prototype or new product or that is required for
 4 machinery or equipment otherwise exempt under this section to function
 5 effectively. Research and development do not include manufacturing
 6 quality control, routine consumer product testing, market research, sales
 7 promotion, sales service, research in social sciences or psychology,
 8 computer software research that is not included in the definition of
 9 research and development, or other nontechnological activities or
 10 technical services.

11 15. Tangible personal property that is used by either of the
 12 following to receive, store, convert, produce, generate, decode, encode,
 13 control or transmit telecommunications information:

14 (a) Any direct broadcast satellite television or data transmission
 15 service that operates pursuant to 47 Code of Federal Regulations part 25.

16 (b) Any satellite television or data transmission facility, if both
 17 of the following conditions are met:

18 (i) Over two-thirds of the transmissions, measured in megabytes,
 19 transmitted by the facility during the test period were transmitted to or
 20 on behalf of one or more direct broadcast satellite television or data
 21 transmission services that operate pursuant to 47 Code of Federal
 22 Regulations part 25.

23 (ii) Over two-thirds of the transmissions, measured in megabytes,
 24 transmitted by or on behalf of those direct broadcast television or data
 25 transmission services during the test period were transmitted by the
 26 facility to or on behalf of those services.

27 For the purposes of subdivision (b) of this paragraph, "test period" means
 28 the three hundred sixty-five day period beginning on the later of the date
 29 on which the tangible personal property is purchased or the date on which
 30 the direct broadcast satellite television or data transmission service
 31 first transmits information to its customers.

32 16. Clean rooms that are used for manufacturing, processing,
 33 fabrication or research and development, as defined in paragraph 14 of
 34 this subsection, of semiconductor products. For the purposes of this
 35 paragraph, "clean room" means all property that comprises or creates an
 36 environment where humidity, temperature, particulate matter and
 37 contamination are precisely controlled within specified parameters,
 38 without regard to whether the property is actually contained within that
 39 environment or whether any of the property is affixed to or incorporated
 40 into real property. Clean room:

41 (a) Includes the integrated systems, fixtures, piping, movable
 42 partitions, lighting and all property that is necessary or adapted to
 43 reduce contamination or to control airflow, temperature, humidity,
 44 chemical purity or other environmental conditions or manufacturing

1 tolerances, as well as the production machinery and equipment operating in
2 conjunction with the clean room environment.

3 (b) Does not include the building or other permanent, nonremovable
4 component of the building that houses the clean room environment.

5 17. Machinery and equipment that are used directly in the feeding
6 of poultry, the environmental control of housing for poultry, the movement
7 of eggs within a production and packaging facility or the sorting or
8 cooling of eggs. This exemption does not apply to vehicles used for
9 transporting eggs.

10 18. Machinery or equipment, including related structural
11 components, that is employed in connection with manufacturing, processing,
12 fabricating, job printing, refining, mining, natural gas pipelines,
13 metallurgical operations, telecommunications, producing or transmitting
14 electricity or research and development and that is used directly to meet
15 or exceed rules or regulations adopted by the federal energy regulatory
16 commission, the United States environmental protection agency, the United
17 States nuclear regulatory commission, the Arizona department of
18 environmental quality or a political subdivision of this state to prevent,
19 monitor, control or reduce land, water or air pollution.

20 19. Machinery and equipment that are used in the commercial
21 production of livestock, livestock products or agricultural,
22 horticultural, viticultural or floricultural crops or products in this
23 state, including production by a person representing or working on behalf
24 of such a person in a manner described in section 42-5075, subsection
25 ~~⊖~~ B, if the machinery and equipment are used directly and primarily to
26 prevent, monitor, control or reduce air, water or land pollution.

27 20. Machinery or equipment that enables a television station to
28 originate and broadcast or to receive and broadcast digital television
29 signals and that was purchased to facilitate compliance with the
30 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United
31 States Code section 336) and the federal communications commission order
32 issued April 21, 1997 (47 Code of Federal Regulations part 73). This
33 paragraph does not exempt any of the following:

34 (a) Repair or replacement parts purchased for the machinery or
35 equipment described in this paragraph.

36 (b) Machinery or equipment purchased to replace machinery or
37 equipment for which an exemption was previously claimed and taken under
38 this paragraph.

39 (c) Any machinery or equipment purchased after the television
40 station has ceased analog broadcasting, or purchased after November 1,
41 2009, whichever occurs first.

42 21. Qualifying equipment that is purchased from and after June 30,
43 2004 through June 30, 2024 by a qualified business under section 41-1516
44 for harvesting or processing qualifying forest products removed from
45 qualifying projects as defined in section 41-1516. To qualify for this

1 exemption, the qualified business must obtain and present its
2 certification from the Arizona commerce authority at the time of purchase.

3 22. Machinery, equipment, materials and other tangible personal
4 property used directly and predominantly to construct a qualified
5 environmental technology manufacturing, producing or processing facility
6 as described in section 41-1514.02. This paragraph applies for ten full
7 consecutive calendar or fiscal years after the start of initial
8 construction.

9 C. The exemptions provided by subsection B of this section do not
10 include:

11 1. Expendable materials. For the purposes of this paragraph,
12 expendable materials do not include any of the categories of tangible
13 personal property specified in subsection B of this section regardless of
14 the cost or useful life of that property.

15 2. Janitorial equipment and hand tools.

16 3. Office equipment, furniture and supplies.

17 4. Tangible personal property used in selling or distributing
18 activities, other than the telecommunications transmissions described in
19 subsection B, paragraph 15 of this section.

20 5. Motor vehicles required to be licensed by this state, except
21 buses or other urban mass transit vehicles specifically exempted pursuant
22 to subsection B, paragraph 11 of this section, without regard to the use
23 of such motor vehicles.

24 6. Shops, buildings, docks, depots and all other materials of
25 whatever kind or character not specifically included as exempt.

26 7. Motors and pumps used in drip irrigation systems.

27 8. Machinery and equipment or tangible personal property used by a
28 contractor in the performance of a contract.

29 D. The following shall be deducted in computing the purchase price
30 of electricity by a retail electric customer from a utility business:

31 1. Revenues received from sales of ancillary services, electric
32 distribution services, electric generation services, electric transmission
33 services and other services related to providing electricity to a retail
34 electric customer who is located outside this state for use outside this
35 state if the electricity is delivered to a point of sale outside this
36 state.

37 2. Revenues received from providing electricity, including
38 ancillary services, electric distribution services, electric generation
39 services, electric transmission services and other services related to
40 providing electricity with respect to which the transaction privilege tax
41 imposed under section 42-5063 has been paid.

42 E. The tax levied by this article does not apply to the purchase of
43 solar energy devices from a retailer that is registered with the
44 department as a solar energy retailer or a solar energy contractor.

1 F. The following shall be deducted in computing the purchase price
2 of electricity by a retail electric customer from a utility business:

3 1. Fees charged by a municipally owned utility to persons
4 constructing residential, commercial or industrial developments or
5 connecting residential, commercial or industrial developments to a
6 municipal utility system or systems if the fees are segregated and used
7 only for capital expansion, system enlargement or debt service of the
8 utility system or systems.

9 2. Reimbursement or contribution compensation to any person or
10 persons owning a utility system for property and equipment installed to
11 provide utility access to, on or across the land of an actual utility
12 consumer if the property and equipment become the property of the utility.
13 This deduction shall not exceed the value of such property and equipment.

14 G. The tax levied by this article does not apply to the purchase
15 price of electricity, natural gas or liquefied petroleum gas by:

16 1. A qualified manufacturing or smelting business. A utility that
17 claims this deduction shall report each month, on a form prescribed by the
18 department, the name and address of each qualified manufacturing or
19 smelting business for which this deduction is taken. This paragraph
20 applies to gas transportation services. For the purposes of this
21 paragraph:

22 (a) "Gas transportation services" means the services of
23 transporting natural gas to a natural gas customer or to a natural gas
24 distribution facility if the natural gas was purchased from a supplier
25 other than the utility.

26 (b) "Manufacturing" means the performance as a business of an
27 integrated series of operations that places tangible personal property in
28 a form, composition or character different from that in which it was
29 acquired and transforms it into a different product with a distinctive
30 name, character or use. Manufacturing does not include job printing,
31 publishing, packaging, mining, generating electricity or operating a
32 restaurant.

33 (c) "Qualified manufacturing or smelting business" means one of the
34 following:

35 (i) A business that manufactures or smelts tangible products in
36 this state, of which at least fifty-one percent of the manufactured or
37 smelted products will be exported out of state for incorporation into
38 another product or sold out of state for a final sale.

39 (ii) A business that derives at least fifty-one percent of its
40 gross income from the sale of manufactured or smelted products
41 manufactured or smelted by the business.

42 (iii) A business that uses at least fifty-one percent of its square
43 footage in this state for manufacturing or smelting and business
44 activities directly related to manufacturing or smelting.

1 (iv) A business that employs at least fifty-one percent of its
2 workforce in this state in manufacturing or smelting and business
3 activities directly related to manufacturing or smelting.

4 (v) A business that uses at least fifty-one percent of the value of
5 its capitalized assets in this state, as reflected on the business's books
6 and records, for manufacturing or smelting and business activities
7 directly related to manufacturing or smelting.

8 (d) "Smelting" means to melt or fuse a metalliferous mineral, often
9 with an accompanying chemical change, usually to separate the metal.

10 2. A business that operates an international operations center in
11 this state and that is certified by the Arizona commerce authority
12 pursuant to section 41-1520.

13 H. A city or town may exempt proceeds from sales of paintings,
14 sculptures or similar works of fine art if such works of fine art are sold
15 by the original artist. For the purposes of this subsection, fine art
16 does not include an art creation such as jewelry, macrame, glasswork,
17 pottery, woodwork, metalwork, furniture or clothing if the art creation
18 has a dual purpose, both aesthetic and utilitarian, whether sold by the
19 artist or by another person.

20 I. For the purposes of subsection B of this section:

21 1. "Agricultural aircraft" means an aircraft that is built for
22 agricultural use for the aerial application of pesticides or fertilizer or
23 for aerial seeding.

24 2. "Aircraft" includes:

25 (a) An airplane flight simulator that is approved by the federal
26 aviation administration for use as a phase II or higher flight simulator
27 under appendix H, 14 Code of Federal Regulations part 121.

28 (b) Tangible personal property that is permanently affixed or
29 attached as a component part of an aircraft that is owned or operated by a
30 certificated or licensed carrier of persons or property.

31 3. "Other accessories and related equipment" includes aircraft
32 accessories and equipment such as ground service equipment that physically
33 contact aircraft at some point during the overall carrier operation.

34 J. For the purposes of subsection D of this section, "ancillary
35 services", "electric distribution service", "electric generation service",
36 "electric transmission service" and "other services" have the same
37 meanings prescribed in section 42-5063.

38 Sec. 10. Section 42-6004, Arizona Revised Statutes, as amended by
39 Laws 2019, chapter 163, section 23 and chapter 189, section 3, is amended
40 to read:

41 42-6004. Exemption from municipal tax; definitions

42 A. A city, town or special taxing district shall not levy a
43 transaction privilege, sales, use or other similar tax on:

44 1. Exhibition events in this state sponsored, conducted or operated
45 by a nonprofit organization that is exempt from taxation under section

1 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the
2 organization is associated with a major league baseball team or a national
3 touring professional golfing association and no part of the organization's
4 net earnings inures to the benefit of any private shareholder or
5 individual. This paragraph does not apply to an organization that is
6 owned, managed or controlled, in whole or in part, by a major league
7 baseball team, or its owners, officers, employees or agents, or by a major
8 league baseball association or professional golfing association, or its
9 owners, officers, employees or agents, unless the organization conducted
10 or operated exhibition events in this state before January 1, 2018 that
11 were exempt from state transaction privilege tax under section 42-5073.

12 2. Interstate telecommunications services, which include that
13 portion of telecommunications services, such as subscriber line service,
14 allocable by federal law to interstate telecommunications service.

15 3. Sales of warranty or service contracts.

16 4. Sales of motor vehicles to nonresidents of this state for use
17 outside this state if the motor vehicle dealer ships or delivers the motor
18 vehicle to a destination outside this state.

19 5. Interest on finance contracts.

20 6. Dealer documentation fees on the sales of motor vehicles.

21 7. Orthodontic devices dispensed by a dental professional who is
22 licensed under title 32, chapter 11 to a patient as part of the practice
23 of dentistry.

24 8. Sales of internet access services to the person's subscribers
25 and customers. For the purposes of this paragraph:

26 (a) "Internet" means the computer and telecommunications facilities
27 that comprise the interconnected worldwide network of networks that employ
28 the transmission control protocol or internet protocol, or any predecessor
29 or successor protocol, to communicate information of all kinds by wire or
30 radio.

31 (b) "Internet access" means a service that enables users to access
32 content, information, electronic mail or other services over the internet.
33 Internet access does not include telecommunication services provided by a
34 common carrier.

35 9. The gross proceeds of sales or gross income retained by the
36 Arizona exposition and state fair board from ride ticket sales at the
37 annual Arizona state fair.

38 10. Leasing real property between affiliated companies, businesses,
39 persons or reciprocal insurers. For the purposes of this paragraph:

40 (a) "Affiliated companies, businesses, persons or reciprocal
41 insurers" means the lessor holds a controlling interest in the lessee, the
42 lessee holds a controlling interest in the lessor, affiliated persons hold
43 a controlling interest in both the lessor and the lessee, or an unrelated
44 person holds a controlling interest in both the lessor and lessee.

1 (b) "Affiliated persons" means members of the individual's family
2 or persons who have ownership or control of a business entity.

3 (c) "Controlling interest" means direct or indirect ownership of at
4 least eighty percent of the voting shares of a corporation or of the
5 interests in a company, business or person other than a corporation.

6 (d) "Members of the individual's family" means the individual's
7 spouse and brothers and sisters, whether by whole or half blood, including
8 adopted persons, ancestors and lineal descendants.

9 (e) "Reciprocal insurer" has the same meaning prescribed in section
10 20-762.

11 11. The gross proceeds of sales or gross income derived from a
12 contract for the installation, assembly, repair or maintenance of
13 machinery, equipment or other tangible personal property that is described
14 in section 42-5061, subsection B and that has independent functional
15 utility, pursuant to the following provisions:

16 (a) The deduction provided in this paragraph includes the gross
17 proceeds of sales or gross income derived from all of the following:

18 (i) Any activity performed on machinery, equipment or other
19 tangible personal property with independent functional utility.

20 (ii) Any activity performed on any tangible personal property
21 relating to machinery, equipment or other tangible personal property with
22 independent functional utility in furtherance of any of the purposes
23 provided for under subdivision (d) of this paragraph.

24 (iii) Any activity that is related to the activities described in
25 items (i) and (ii) of this subdivision, including inspecting the
26 installation of or testing the machinery, equipment or other tangible
27 personal property.

28 (b) The deduction provided in this paragraph does not include gross
29 proceeds of sales or gross income from the portion of any contracting
30 activity that consists of the development of, or modification to, real
31 property in order to facilitate the installation, assembly, repair,
32 maintenance or removal of machinery, equipment or other tangible personal
33 property described in section 42-5061, subsection B.

34 (c) The deduction provided in this paragraph shall be determined
35 without regard to the size or useful life of the machinery, equipment or
36 other tangible personal property.

37 (d) For the purposes of this paragraph, "independent functional
38 utility" means that the machinery, equipment or other tangible personal
39 property can independently perform its function without attachment to real
40 property, other than attachment for any of the following purposes:

41 (i) Assembling the machinery, equipment or other tangible personal
42 property.

43 (ii) Connecting items of machinery, equipment or other tangible
44 personal property to each other.

(iii) Connecting the machinery, equipment or other tangible personal property, whether as an individual item or as a system of items, to water, power, gas, communication or other services.

(iv) Stabilizing or protecting the machinery, equipment or other tangible personal property during operation by bolting, burying or performing other dissimilar nonpermanent connections to either real property or real property improvements.

12. The leasing or renting of certified ignition interlock devices installed pursuant to the requirements prescribed by section 28-1461. For the purposes of this paragraph, "certified ignition interlock device" has the same meaning prescribed in section 28-1301.

13. Computer data center equipment sold to the owner, operator or qualified colocation tenant of a computer data center that is certified by the Arizona commerce authority under section 41-1519 or an authorized agent of the owner, operator or qualified colocation tenant during the qualification period for use in the qualified computer data center. For the purposes of this paragraph, "computer data center", "computer data center equipment", "qualification period" and "qualified colocation tenant" have the same meanings prescribed in section 41-1519.

~~14. The gross proceeds of sales or gross income derived from a contract with the owner of real property or improvements to real property for the maintenance, repair, replacement or alteration of existing property, except as specified in this paragraph. The gross proceeds of sales or gross income derived from a de minimis amount of modification activity does not subject the contract or any part of the contract to tax. For the purposes of this paragraph:~~

~~(a) Each contract is independent of another contract, except that any change order that directly relates to the scope of work of the original contract shall be treated the same as the original contract under this paragraph, regardless of the amount of modification activities included in the change order. If a change order does not directly relate to the scope of work of the original contract, the change order shall be treated as a new contract, with the tax treatment of any subsequent change order to follow the tax treatment of the contract to which the scope of work of the subsequent change order directly relates.~~

~~(b) Any term not defined in this paragraph that is defined in section 42-5075 has the same meaning prescribed in section 42-5075.~~

~~(c) This paragraph does not apply to a contract that primarily involves surface or subsurface improvements to land and that is subject to title 28, chapter 19, 20 or 22 or title 34, chapter 2 or 6 even if the contract also includes vertical improvements. If a city or town imposes a tax on contracts that are subject to procurement processes under those provisions, the city or town shall include in the request for proposals a notice to bidders when those projects are subject to the tax. This subdivision does not apply to contracts with:~~

~~(i) Community facilities districts, fire districts, county television improvement districts, community park maintenance districts, cotton pest control districts, hospital districts, pest abatement districts, health service districts, agricultural improvement districts, county free library districts, county jail districts, county stadium districts, special health care districts, public health services districts, theme park districts or revitalization districts.~~

~~(ii) Any special taxing district not specified in item (i) of this subdivision if the district does not substantially engage in the modification, maintenance, repair, replacement or alteration of surface or subsurface improvements to land.~~

14. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A CONSTRUCTION CONTRACT WITH AN OWNER OF REAL PROPERTY OR THE IMPROVEMENTS TO REAL PROPERTY THAT DOES NOT EXCEED \$100,000 PER UNIT FOR A RESIDENTIAL PROJECT OR \$1,000,000 FOR A NONRESIDENTIAL PROJECT. FOR THE PURPOSES OF THIS PARAGRAPH:

(a) ONLY THE CONTRACT PRICE SHALL BE USED TO DETERMINE WHETHER A CONTRACT EXCEEDS THE THRESHOLD AMOUNT DESCRIBED IN THIS PARAGRAPH WITH NO SUBTRACTIONS FOR AMOUNTS PAID TO SUBCONTRACTORS OR ANY DEDUCTIONS OR EXEMPTIONS ALLOWED UNDER SECTION 42-5075.

(b) TANGIBLE PERSONAL PROPERTY THAT IS INCORPORATED OR FABRICATED INTO A PROJECT DESCRIBED IN THIS PARAGRAPH MAY BE SUBJECT TO THE AMOUNT PRESCRIBED IN SECTION 42-5008.01.

(c) PROJECT ELEMENTS MAY NOT BE ARTIFICIALLY SEPARATED FROM A CONTRACT TO CAUSE A PROJECT TO QUALIFY FOR THE EXEMPTION UNDER THIS PARAGRAPH. THE DEPARTMENT HAS THE BURDEN OF PROVING THAT PROJECT ELEMENTS HAVE BEEN ARTIFICIALLY SEPARATED FROM A CONTRACT.

(d) EACH CONTRACT IS INDEPENDENT OF ANY OTHER CONTRACT, EXCEPT THAT ANY CHANGE ORDER THAT DIRECTLY RELATES TO THE SCOPE OF WORK OF THE ORIGINAL CONTRACT SHALL BE TREATED THE SAME AS THE ORIGINAL CONTRACT UNDER THIS PARAGRAPH IF THE RESULTING TOTAL CONTRACT AMOUNT DOES NOT EXCEED THE APPLICABLE THRESHOLD DESCRIBED IN THIS PARAGRAPH BY MORE THAN TWENTY-FIVE PERCENT. IF THE RESULTING TOTAL CONTRACT PRICE EXCEEDS THE APPLICABLE THRESHOLD BY MORE THAN TWENTY-FIVE PERCENT, THE ORIGINAL CONTRACT AND ALL SUBSEQUENT CHANGE ORDERS ARE SUBJECT TO THE TAX ON CONTRACTING. IF A CHANGE ORDER DOES NOT DIRECTLY RELATE TO THE SCOPE OF WORK OF THE ORIGINAL CONTRACT, THE CHANGE ORDER SHALL BE TREATED AS A NEW CONTRACT.

15. A CONTRACT THAT PRIMARILY INVOLVES CONSTRUCTION OF ANY ELECTRICITY GENERATING FACILITY OR SYSTEM INCLUDING RENEWABLE ENERGY SYSTEMS INSTALLED ON ANY COMMERCIAL, RESIDENTIAL OR GOVERNMENTAL PROPERTY, INCLUDING THE MAINTENANCE, REPAIR, REPLACEMENT OR ALTERATION OF EXISTING IMPROVEMENTS OF AN ELECTRICITY GENERATING OR DISTRIBUTION FACILITY.

~~15.~~ 16. Monitoring services relating to an alarm system as defined in section 32-101.

1 ~~16.~~ 17. Tangible personal property, job printing or publications
2 sold to or purchased by, or tangible personal property leased, rented or
3 licensed for use to or by, a qualifying health sciences educational
4 institution as defined in section 42-5001.

5 ~~17.~~ 18. The transfer of title or possession of coal back and forth
6 between an owner or operator of a power plant and a person who is
7 responsible for refining coal if both of the following apply:

8 (a) The transfer of title or possession of the coal is for the
9 purpose of refining the coal.

10 (b) The title or possession of the coal is transferred back to the
11 owner or operator of the power plant after completion of the coal refining
12 process. For the purposes of this subdivision, "coal refining process"
13 means the application of a coal additive system that aids the reduction of
14 power plant emissions during the combustion of coal and the treatment of
15 flue gas.

16 ~~18.~~ 19. Tangible personal property incorporated or fabricated into
17 a project described in paragraph 14 of this subsection, that is located
18 within the exterior boundaries of an Indian reservation for which the
19 owner, as defined in section 42-5075, of the project is an Indian tribe or
20 an affiliated Indian. For the purposes of this paragraph:

21 (a) "Affiliated Indian" means an individual Native American Indian
22 who is duly registered on the tribal rolls of the Indian tribe for whose
23 benefit the Indian reservation was established.

24 (b) "Indian reservation" means all lands that are within the limits
25 of areas set aside by the United States for the exclusive use and
26 occupancy of an Indian tribe by treaty, law or executive order and that
27 are recognized as Indian reservations by the United States department of
28 the interior.

29 (c) "Indian tribe" means any organized nation, tribe, band or
30 community that is recognized as an Indian tribe by the United States
31 department of the interior and includes any entity formed under the laws
32 of that Indian tribe.

33 ~~19.~~ 20. The charges for the leasing or renting of space to make
34 attachments to utility poles as follows:

35 (a) By a person that is engaged in the business of providing or
36 furnishing electrical services or telecommunication services or that is a
37 cable operator.

38 (b) To a person that is engaged in the business of providing or
39 furnishing electrical services or telecommunication services or that is a
40 cable operator.

41 ~~20.~~ 21. Until March 1, 2017, the gross proceeds of sales or gross
42 income derived from entry fees paid by participants for events that
43 consist of a run, walk, swim or bicycle ride or a similar event, or any
44 combination of these events.

~~21.~~ 22. The gross proceeds of sales or gross income derived from entry fees paid by participants for events that are operated or conducted by nonprofit organizations that are exempt from taxation under section 501(c)(3) of the internal revenue code and of which no part of the organization's net earnings inures to the benefit of any private shareholder or individual, if the event consists of a run, walk, swim or bicycle ride or a similar event, or any combination of these events.

B. A city, town or other taxing jurisdiction shall not levy a transaction privilege, sales, use, franchise or other similar tax or fee, however denominated, on natural gas or liquefied petroleum gas used to propel a motor vehicle.

C. A city, town or other taxing jurisdiction shall not levy a transaction privilege, sales, gross receipts, use, franchise or other similar tax or fee, however denominated, on gross proceeds of sales or gross income derived from any of the following:

1. A motor carrier's use on the public highways in this state if the motor carrier is subject to a fee prescribed in title 28, chapter 16, article 4.

2. Leasing, renting or licensing a motor vehicle subject to and on which the fee has been paid under title 28, chapter 16, article 4.

3. The sale of a motor vehicle and any repair and replacement parts and tangible personal property becoming a part of such motor vehicle to a motor carrier who is subject to a fee prescribed in title 28, chapter 16, article 4 and who is engaged in the business of leasing, renting or licensing such property.

4. Incarcerating or detaining in a privately operated prison, jail or detention facility prisoners who are under the jurisdiction of the United States, this state or any other state or a political subdivision of this state or of any other state.

5. Transporting for hire persons, freight or property by light motor vehicles subject to a fee under title 28, chapter 15, article 4.

6. Any amount attributable to development fees that are incurred in relation to the construction, development or improvement of real property and paid by the taxpayer as defined in the model city tax code or by a contractor providing services to the taxpayer. For the purposes of this paragraph:

(a) The attributable amount shall not exceed the value of the development fees actually imposed.

(b) The attributable amount is equal to the total amount of development fees paid by the taxpayer or by a contractor providing services to the taxpayer and the total development fees credited in exchange for the construction of, contribution to or dedication of real property for providing public infrastructure, public safety or other public services necessary to the development. The real property must be the subject of the development fees.

1 (c) "Development fees" means fees imposed to offset capital costs
2 of providing public infrastructure, public safety or other public services
3 to a development and authorized pursuant to section 9-463.05, section
4 11-1102 or title 48 regardless of the jurisdiction to which the fees are
5 paid.

6 7. Any amount attributable to fees collected by transportation
7 network companies issued a permit pursuant to section 28-9552.

8 8. Transporting for hire persons by transportation network company
9 drivers on transactions involving transportation network services as
10 defined in section 28-9551.

11 9. Transporting for hire persons by vehicle for hire companies that
12 are issued permits pursuant to section 28-9503.

13 10. Transporting for hire persons by vehicle for hire drivers on
14 transactions involving vehicle for hire services as defined in section
15 28-9501.

16 D. A city, town or other taxing jurisdiction shall not levy a
17 transaction privilege, sales, use, franchise or other similar tax or fee,
18 however denominated, in excess of one-tenth of one percent of the value of
19 the entire product mined, smelted, extracted, refined, produced or
20 prepared for sale, profit or commercial use, on persons engaged in the
21 business of mineral processing, except to the extent that the tax is
22 computed on the gross proceeds or gross income from sales at retail.

23 E. In computing the tax base, any city, town or other taxing
24 jurisdiction shall not include in the gross proceeds of sales or gross
25 income:

26 1. A manufacturer's cash rebate on the sales price of a motor
27 vehicle if the buyer assigns the buyer's right in the rebate to the
28 retailer.

29 2. The waste tire disposal fee imposed pursuant to section 44-1302.

30 F. A city or town shall not levy a use tax on the storage, use or
31 consumption of tangible personal property in the city or town by a school
32 district or charter school.

33 G. A city, town or taxing jurisdiction shall not levy a transaction
34 privilege, sales, gross receipts, use, franchise or other similar tax or
35 fee, however denominated, on gross proceeds of sales or gross income
36 derived from over-the-top services. For the purposes of this subsection,
37 "over-the-top services" means audio or video programming services that are
38 received by the purchaser by means of an internet connection, regardless
39 of the technology used, that include linear or live programming and that
40 are generally considered comparable to programming provided by a radio or
41 television broadcast station and includes related on-demand programming
42 that is provided at no additional charge, regardless of whether the
43 services are provided independently or packaged with other audio or video
44 programming.

45 H. For the purposes of this section:

1 1. "Cable operator" has the same meaning prescribed in section
2 9-505 and includes a video service provider.

3 2. "Electrical services" means transmitting or distributing
4 electricity, electric lights, current or power over lines, wires or
5 cables.

6 3. "RESIDENTIAL PROJECT" HAS THE SAME MEANING PRESCRIBED IN SECTION
7 42-5075.

8 ~~3.~~ 4. "Telecommunication services" means transmitting or relaying
9 sound, visual image, data, information, images or material over lines,
10 wires or cables by radio signal, light beam, telephone, telegraph or other
11 electromagnetic means.

12 ~~4.~~ 5. "Utility pole" means any wooden, metal or other pole used
13 for utility purposes and the pole's appurtenances that are attached or
14 authorized for attachment by the person controlling the pole.

15 Sec. 11. Section 42-6004, Arizona Revised Statutes, as amended by
16 Laws 2019, chapter 163, section 24 and chapter 189, section 4, is amended
17 to read:

18 42-6004. Exemption from municipal tax; definitions

19 A. A city, town or special taxing district shall not levy a
20 transaction privilege, sales, use or other similar tax on:

21 1. Exhibition events in this state sponsored, conducted or operated
22 by a nonprofit organization that is exempt from taxation under section
23 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the
24 organization is associated with a major league baseball team or a national
25 touring professional golfing association and no part of the organization's
26 net earnings inures to the benefit of any private shareholder or
27 individual. This paragraph does not apply to an organization that is
28 owned, managed or controlled, in whole or in part, by a major league
29 baseball team, or its owners, officers, employees or agents, or by a major
30 league baseball association or professional golfing association, or its
31 owners, officers, employees or agents, unless the organization conducted
32 or operated exhibition events in this state before January 1, 2018 that
33 were exempt from state transaction privilege tax under section 42-5073.

34 2. Interstate telecommunications services, which include that
35 portion of telecommunications services, such as subscriber line service,
36 allocable by federal law to interstate telecommunications service.

37 3. Sales of warranty or service contracts.

38 4. Sales of motor vehicles to nonresidents of this state for use
39 outside this state if the motor vehicle dealer ships or delivers the motor
40 vehicle to a destination outside this state.

41 5. Interest on finance contracts.

42 6. Dealer documentation fees on the sales of motor vehicles.

43 7. Orthodontic devices dispensed by a dental professional who is
44 licensed under title 32, chapter 11 to a patient as part of the practice
45 of dentistry.

1 8. Sales of internet access services to the person's subscribers
2 and customers. For the purposes of this paragraph:

3 (a) "Internet" means the computer and telecommunications facilities
4 that comprise the interconnected worldwide network of networks that employ
5 the transmission control protocol or internet protocol, or any predecessor
6 or successor protocol, to communicate information of all kinds by wire or
7 radio.

8 (b) "Internet access" means a service that enables users to access
9 content, information, electronic mail or other services over the internet.
10 Internet access does not include telecommunication services provided by a
11 common carrier.

12 9. The gross proceeds of sales or gross income retained by the
13 Arizona exposition and state fair board from ride ticket sales at the
14 annual Arizona state fair.

15 10. Leasing real property between affiliated companies, businesses,
16 persons or reciprocal insurers. For the purposes of this paragraph:

17 (a) "Affiliated companies, businesses, persons or reciprocal
18 insurers" means the lessor holds a controlling interest in the lessee, the
19 lessee holds a controlling interest in the lessor, affiliated persons hold
20 a controlling interest in both the lessor and the lessee, or an unrelated
21 person holds a controlling interest in both the lessor and lessee.

22 (b) "Affiliated persons" means members of the individual's family
23 or persons who have ownership or control of a business entity.

24 (c) "Controlling interest" means direct or indirect ownership of at
25 least eighty percent of the voting shares of a corporation or of the
26 interests in a company, business or person other than a corporation.

27 (d) "Members of the individual's family" means the individual's
28 spouse and brothers and sisters, whether by whole or half blood, including
29 adopted persons, ancestors and lineal descendants.

30 (e) "Reciprocal insurer" has the same meaning prescribed in section
31 20-762.

32 11. The gross proceeds of sales or gross income derived from a
33 contract for the installation, assembly, repair or maintenance of
34 machinery, equipment or other tangible personal property that is described
35 in section 42-5061, subsection B and that has independent functional
36 utility, pursuant to the following provisions:

37 (a) The deduction provided in this paragraph includes the gross
38 proceeds of sales or gross income derived from all of the following:

39 (i) Any activity performed on machinery, equipment or other
40 tangible personal property with independent functional utility.

41 (ii) Any activity performed on any tangible personal property
42 relating to machinery, equipment or other tangible personal property with
43 independent functional utility in furtherance of any of the purposes
44 provided for under subdivision (d) of this paragraph.

1 (iii) Any activity that is related to the activities described in
2 items (i) and (ii) of this subdivision, including inspecting the
3 installation of or testing the machinery, equipment or other tangible
4 personal property.

5 (b) The deduction provided in this paragraph does not include gross
6 proceeds of sales or gross income from the portion of any contracting
7 activity that consists of the development of, or modification to, real
8 property in order to facilitate the installation, assembly, repair,
9 maintenance or removal of machinery, equipment or other tangible personal
10 property described in section 42-5061, subsection B.

11 (c) The deduction provided in this paragraph shall be determined
12 without regard to the size or useful life of the machinery, equipment or
13 other tangible personal property.

14 (d) For the purposes of this paragraph, "independent functional
15 utility" means that the machinery, equipment or other tangible personal
16 property can independently perform its function without attachment to real
17 property, other than attachment for any of the following purposes:

18 (i) Assembling the machinery, equipment or other tangible personal
19 property.

20 (ii) Connecting items of machinery, equipment or other tangible
21 personal property to each other.

22 (iii) Connecting the machinery, equipment or other tangible
23 personal property, whether as an individual item or as a system of items,
24 to water, power, gas, communication or other services.

25 (iv) Stabilizing or protecting the machinery, equipment or other
26 tangible personal property during operation by bolting, burying or
27 performing other dissimilar nonpermanent connections to either real
28 property or real property improvements.

29 12. The leasing or renting of certified ignition interlock devices
30 installed pursuant to the requirements prescribed by section 28-1461. For
31 the purposes of this paragraph, "certified ignition interlock device" has
32 the same meaning prescribed in section 28-1301.

33 13. Computer data center equipment sold to the owner, operator or
34 qualified colocation tenant of a computer data center that is certified by
35 the Arizona commerce authority under section 41-1519 or an authorized
36 agent of the owner, operator or qualified colocation tenant during the
37 qualification period for use in the qualified computer data center. For
38 the purposes of this paragraph, "computer data center", "computer data
39 center equipment", "qualification period" and "qualified colocation
40 tenant" have the same meanings prescribed in section 41-1519.

41 ~~14. The gross proceeds of sales or gross income derived from a~~
42 ~~contract with the owner of real property or improvements to real property~~
43 ~~for the maintenance, repair, replacement or alteration of existing~~
44 ~~property, except as specified in this paragraph. The gross proceeds of~~
45 ~~sales or gross income derived from a de minimis amount of modification~~

~~activity does not subject the contract or any part of the contract to tax. For the purposes of this paragraph:~~

~~(a) Each contract is independent of another contract, except that any change order that directly relates to the scope of work of the original contract shall be treated the same as the original contract under this paragraph, regardless of the amount of modification activities included in the change order. If a change order does not directly relate to the scope of work of the original contract, the change order shall be treated as a new contract, with the tax treatment of any subsequent change order to follow the tax treatment of the contract to which the scope of work of the subsequent change order directly relates.~~

~~(b) Any term not defined in this paragraph that is defined in section 42-5075 has the same meaning prescribed in section 42-5075.~~

~~(c) This paragraph does not apply to a contract that primarily involves surface or subsurface improvements to land and that is subject to title 28, chapter 19, 20 or 22 or title 34, chapter 2 or 6 even if the contract also includes vertical improvements. If a city or town imposes a tax on contracts that are subject to procurement processes under those provisions, the city or town shall include in the request for proposals a notice to bidders when those projects are subject to the tax. This subdivision does not apply to contracts with:~~

~~(i) Community facilities districts, fire districts, county television improvement districts, community park maintenance districts, cotton pest control districts, hospital districts, pest abatement districts, health service districts, agricultural improvement districts, county free library districts, county jail districts, county stadium districts, special health care districts, public health services districts, theme park districts or revitalization districts.~~

~~(ii) Any special taxing district not specified in item (i) of this subdivision if the district does not substantially engage in the modification, maintenance, repair, replacement or alteration of surface or subsurface improvements to land.~~

14. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A CONSTRUCTION CONTRACT WITH AN OWNER OF REAL PROPERTY OR THE IMPROVEMENTS TO REAL PROPERTY THAT DOES NOT EXCEED \$100,000 PER UNIT FOR A RESIDENTIAL PROJECT OR \$1,000,000 FOR A NONRESIDENTIAL PROJECT. FOR THE PURPOSES OF THIS PARAGRAPH:

(a) ONLY THE CONTRACT PRICE SHALL BE USED TO DETERMINE WHETHER A CONTRACT EXCEEDS THE THRESHOLD AMOUNT DESCRIBED IN THIS PARAGRAPH WITH NO SUBTRACTIONS FOR AMOUNTS PAID TO SUBCONTRACTORS OR ANY DEDUCTIONS OR EXEMPTIONS ALLOWED UNDER SECTION 42-5075.

(b) TANGIBLE PERSONAL PROPERTY THAT IS INCORPORATED OR FABRICATED INTO A PROJECT DESCRIBED IN THIS PARAGRAPH MAY BE SUBJECT TO THE AMOUNT PRESCRIBED IN SECTION 42-5008.01.

(c) PROJECT ELEMENTS MAY NOT BE ARTIFICIALLY SEPARATED FROM A CONTRACT TO CAUSE A PROJECT TO QUALIFY FOR THE EXEMPTION UNDER THIS PARAGRAPH. THE DEPARTMENT HAS THE BURDEN OF PROVING THAT PROJECT ELEMENTS HAVE BEEN ARTIFICIALLY SEPARATED FROM A CONTRACT.

(d) EACH CONTRACT IS INDEPENDENT OF ANY OTHER CONTRACT, EXCEPT THAT ANY CHANGE ORDER THAT DIRECTLY RELATES TO THE SCOPE OF WORK OF THE ORIGINAL CONTRACT SHALL BE TREATED THE SAME AS THE ORIGINAL CONTRACT UNDER THIS PARAGRAPH IF THE RESULTING TOTAL CONTRACT AMOUNT DOES NOT EXCEED THE APPLICABLE THRESHOLD DESCRIBED IN THIS PARAGRAPH BY MORE THAN TWENTY-FIVE PERCENT. IF THE RESULTING TOTAL CONTRACT PRICE EXCEEDS THE APPLICABLE THRESHOLD BY MORE THAN TWENTY-FIVE PERCENT, THE ORIGINAL CONTRACT AND ALL SUBSEQUENT CHANGE ORDERS ARE SUBJECT TO THE TAX ON CONTRACTING. IF A CHANGE ORDER DOES NOT DIRECTLY RELATE TO THE SCOPE OF WORK OF THE ORIGINAL CONTRACT, THE CHANGE ORDER SHALL BE TREATED AS A NEW CONTRACT.

15. A CONTRACT THAT PRIMARILY INVOLVES CONSTRUCTION OF ANY ELECTRICITY GENERATING FACILITY OR SYSTEM INCLUDING RENEWABLE ENERGY SYSTEMS INSTALLED ON ANY COMMERCIAL, RESIDENTIAL OR GOVERNMENTAL PROPERTY, INCLUDING THE MAINTENANCE, REPAIR, REPLACEMENT OR ALTERATION OF EXISTING IMPROVEMENTS OF AN ELECTRICITY GENERATING OR DISTRIBUTION FACILITY.

~~15.~~ 16. Monitoring services relating to an alarm system as defined in section 32-101.

~~16.~~ 17. Tangible personal property, job printing or publications sold to or purchased by, or tangible personal property leased, rented or licensed for use to or by, a qualifying health sciences educational institution as defined in section 42-5001.

~~17.~~ 18. The sale of coal.

~~18.~~ 19. Tangible personal property incorporated or fabricated into a project described in paragraph 14 of this subsection, that is located within the exterior boundaries of an Indian reservation for which the owner, as defined in section 42-5075, of the project is an Indian tribe or an affiliated Indian. For the purposes of this paragraph:

(a) "Affiliated Indian" means an individual Native American Indian who is duly registered on the tribal rolls of the Indian tribe for whose benefit the Indian reservation was established.

(b) "Indian reservation" means all lands that are within the limits of areas set aside by the United States for the exclusive use and occupancy of an Indian tribe by treaty, law or executive order and that are recognized as Indian reservations by the United States department of the interior.

(c) "Indian tribe" means any organized nation, tribe, band or community that is recognized as an Indian tribe by the United States department of the interior and includes any entity formed under the laws of that Indian tribe.

~~19.~~ 20. The charges for the leasing or renting of space to make attachments to utility poles as follows:

1 (a) By a person that is engaged in the business of providing or
2 furnishing electrical services or telecommunication services or that is a
3 cable operator.

4 (b) To a person that is engaged in the business of providing or
5 furnishing electrical services or telecommunication services or that is a
6 cable operator.

7 ~~20.~~ 21. Until March 1, 2017, the gross proceeds of sales or gross
8 income derived from entry fees paid by participants for events that
9 consist of a run, walk, swim or bicycle ride or a similar event, or any
10 combination of these events.

11 ~~21.~~ 22. The gross proceeds of sales or gross income derived from
12 entry fees paid by participants for events that are operated or conducted
13 by nonprofit organizations that are exempt from taxation under section
14 501(c)(3) of the internal revenue code and of which no part of the
15 organization's net earnings inures to the benefit of any private
16 shareholder or individual, if the event consists of a run, walk, swim or
17 bicycle ride or a similar event, or any combination of these events.

18 B. A city, town or other taxing jurisdiction shall not levy a
19 transaction privilege, sales, use, franchise or other similar tax or fee,
20 however denominated, on natural gas or liquefied petroleum gas used to
21 propel a motor vehicle.

22 C. A city, town or other taxing jurisdiction shall not levy a
23 transaction privilege, sales, gross receipts, use, franchise or other
24 similar tax or fee, however denominated, on gross proceeds of sales or
25 gross income derived from any of the following:

26 1. A motor carrier's use on the public highways in this state if
27 the motor carrier is subject to a fee prescribed in title 28, chapter 16,
28 article 4.

29 2. Leasing, renting or licensing a motor vehicle subject to and on
30 which the fee has been paid under title 28, chapter 16, article 4.

31 3. The sale of a motor vehicle and any repair and replacement parts
32 and tangible personal property becoming a part of such motor vehicle to a
33 motor carrier who is subject to a fee prescribed in title 28, chapter 16,
34 article 4 and who is engaged in the business of leasing, renting or
35 licensing such property.

36 4. Incarcerating or detaining in a privately operated prison, jail
37 or detention facility prisoners who are under the jurisdiction of the
38 United States, this state or any other state or a political subdivision of
39 this state or of any other state.

40 5. Transporting for hire persons, freight or property by light
41 motor vehicles subject to a fee under title 28, chapter 15, article 4.

42 6. Any amount attributable to development fees that are incurred in
43 relation to the construction, development or improvement of real property
44 and paid by the taxpayer as defined in the model city tax code or by a

1 contractor providing services to the taxpayer. For the purposes of this
2 paragraph:

3 (a) The attributable amount shall not exceed the value of the
4 development fees actually imposed.

5 (b) The attributable amount is equal to the total amount of
6 development fees paid by the taxpayer or by a contractor providing
7 services to the taxpayer and the total development fees credited in
8 exchange for the construction of, contribution to or dedication of real
9 property for providing public infrastructure, public safety or other
10 public services necessary to the development. The real property must be
11 the subject of the development fees.

12 (c) "Development fees" means fees imposed to offset capital costs
13 of providing public infrastructure, public safety or other public services
14 to a development and authorized pursuant to section 9-463.05, section
15 11-1102 or title 48 regardless of the jurisdiction to which the fees are
16 paid.

17 7. Any amount attributable to fees collected by transportation
18 network companies issued a permit pursuant to section 28-9552.

19 8. Transporting for hire persons by transportation network company
20 drivers on transactions involving transportation network services as
21 defined in section 28-9551.

22 9. Transporting for hire persons by vehicle for hire companies that
23 are issued permits pursuant to section 28-9503.

24 10. Transporting for hire persons by vehicle for hire drivers on
25 transactions involving vehicle for hire services as defined in section
26 28-9501.

27 D. A city, town or other taxing jurisdiction shall not levy a
28 transaction privilege, sales, use, franchise or other similar tax or fee,
29 however denominated, in excess of one-tenth of one percent of the value of
30 the entire product mined, smelted, extracted, refined, produced or
31 prepared for sale, profit or commercial use, on persons engaged in the
32 business of mineral processing, except to the extent that the tax is
33 computed on the gross proceeds or gross income from sales at retail.

34 E. In computing the tax base, any city, town or other taxing
35 jurisdiction shall not include in the gross proceeds of sales or gross
36 income:

37 1. A manufacturer's cash rebate on the sales price of a motor
38 vehicle if the buyer assigns the buyer's right in the rebate to the
39 retailer.

40 2. The waste tire disposal fee imposed pursuant to section 44-1302.

41 F. A city or town shall not levy a use tax on the storage, use or
42 consumption of tangible personal property in the city or town by a school
43 district or charter school.

44 G. A city, town or taxing jurisdiction shall not levy a transaction
45 privilege, sales, gross receipts, use, franchise or other similar tax or

1 fee, however denominated, on gross proceeds of sales or gross income
 2 derived from over-the-top services. For the purposes of this subsection,
 3 "over-the-top services" means audio or video programming services that are
 4 received by the purchaser by means of an internet connection, regardless
 5 of the technology used, that include linear or live programming and that
 6 are generally considered comparable to programming provided by a radio or
 7 television broadcast station and includes related on-demand programming
 8 that is provided at no additional charge, regardless of whether the
 9 services are provided independently or packaged with other audio or video
 10 programming.

11 H. For the purposes of this section:

12 1. "Cable operator" has the same meaning prescribed in section
 13 9-505 and includes a video service provider.

14 2. "Electrical services" means transmitting or distributing
 15 electricity, electric lights, current or power over lines, wires or
 16 cables.

17 3. "RESIDENTIAL PROJECT" HAS THE SAME MEANING PRESCRIBED IN SECTION
 18 42-5075.

19 ~~3.~~ 4. "Telecommunication services" means transmitting or relaying
 20 sound, visual image, data, information, images or material over lines,
 21 wires or cables by radio signal, light beam, telephone, telegraph or other
 22 electromagnetic means.

23 ~~4.~~ 5. "Utility pole" means any wooden, metal or other pole used
 24 for utility purposes and the pole's appurtenances that are attached or
 25 authorized for attachment by the person controlling the pole.

26 Sec. 12. Section 49-290, Arizona Revised Statutes, is amended to
 27 read:

28 49-290. Exemption from permit requirements; definition

29 A. Notwithstanding any other statute, a person who performs a
 30 remedial action or a portion of a remedial action that has been approved
 31 by the department if that action or portion is conducted in compliance
 32 with this article is not subject to any requirement to obtain any permit
 33 or approval that may otherwise be required by the department.

34 B. Except as prescribed in subsection D of this section, a person
 35 who conducts a portion of a remedial action, where that portion is
 36 entirely on site and is conducted in compliance with this article, may be
 37 exempted from a requirement to obtain any other state or local permit or
 38 approval, other than any requirement of title 45, at the written request
 39 of the person conducting the remedial action. The written request shall
 40 identify the specific permit to be exempted and the reasons the exemption
 41 is requested. The permit may be exempted if the director finds both of
 42 the following:

43 1. The requirement does not arise out of any permit or regulatory
 44 program that is required pursuant to the laws of the United States.

1 2. The requirement presents a substantial impediment to effective
2 performance of the remedial action selected by the department.

3 C. The director may waive any regulatory requirement adopted
4 pursuant to this title with respect to a site or portion of a site as part
5 of a record of decision adopted pursuant to section 49-287.04 for that
6 site or portion of a site if the regulatory requirement conflicts with the
7 implementation of the selected remedy, provided that the waiver does not
8 result in adverse impacts to public health or the environment. No waiver
9 may be granted under this subsection if it is prohibited by federal law or
10 if the waiver would jeopardize the continued delegation to the state of
11 authority to implement a federal environmental program.

12 D. Discharge of wastewater to off-site publicly owned treatment
13 works and sewer systems does not constitute an activity conducted entirely
14 on site for purposes of subsection B of this section.

15 E. The director shall give written notice of any request for
16 exemption made pursuant to subsection B of this section to the remedial
17 action coordinator designated pursuant to subsection G of this section by
18 the governmental entity whose permit requirements are the subject of the
19 request. Before making any finding pursuant to subsection B of this
20 section, the director or the director's designee shall meet and confer
21 with the remedial action coordinator and the person conducting the
22 remedial action to identify alternatives to exemption.

23 F. Any finding made by the director pursuant to subsection B of
24 this section shall be in writing. The governmental entity whose permit
25 requirement is preempted as a result of such finding is not liable for
26 property damage, personal injury damage or violations of state or local
27 law resulting from the exemption. The director shall notify the affected
28 governmental entity of any finding made pursuant to subsection B of this
29 section. A finding of the director made pursuant to subsection B of this
30 section is a final administrative decision as defined in section 41-1092
31 and is subject to judicial review pursuant to title 12, chapter 7,
32 article 6.

33 G. Each city, town and county shall designate a remedial action
34 coordinator who shall have responsibility for monitoring and facilitating
35 any remedial actions conducted within its jurisdiction. The designated
36 remedial action coordinator shall:

37 1. Regularly consult, as needed, with the department and the person
38 conducting a remedial action throughout the duration of the remedial
39 action.

40 2. Expedite the processing and issuance of permits, approvals or
41 other authorizations required by the governmental entity represented by
42 the remedial action coordinator, to facilitate the prompt conduct of a
43 remedial action.

1 3. Provide information to the department and the person conducting
2 the remedial action regarding applicable requirements of the governmental
3 entity represented by the remedial action coordinator and the potential
4 for waiver of such requirements.

5 H. In order to encourage remediation activities under this article
6 and to conserve the fund, neither this state nor any county that imposes
7 an excise or similar tax that is levied at a rate applied as a percentage
8 of the rates on each business class subject to the tax imposed by title
9 42, chapter 5, article 1 may impose a tax on the sale or purchase of
10 tangible personal property incorporated or fabricated into any real
11 property, structure, project, development or improvement under a contract
12 specified in section 42-5075, subsection ~~B~~ C, paragraph 6.

13 I. For purposes of this section, "on site" means the areal extent
14 of contamination and all suitable areas in close proximity to the
15 contamination that are reasonably necessary for implementation of the
16 remedial action.

17 Sec. 13. Retroactivity; applicability

18 A. This act applies retroactively to contracts entered into from
19 and after June 30, 2021.

20 B. For contracts that were bid or entered into, or for any other
21 binding obligation executed, from and after December 31, 2014 and before
22 July 1, 2021:

23 1. A person may treat the contract as a contract that is taxable
24 under 42-5075, Arizona Revised Statutes, in effect before the effective
25 date of this act, and model city tax code section 415 or 417.

26 2. A person shall be held harmless from any additional tax, penalty
27 and interest if the department of revenue determines under audit that the
28 person's treatment of the contract as either subject to tax under section
29 42-5075, Arizona Revised Statutes, in effect before the effective date of
30 this act, or excludable from tax under section 42-5075, subsection B or G,
31 as added by this act, or section 42-5075, subsection O or P, Arizona
32 Revised Statutes, in effect before the effective date of this act, was
33 incorrect. This paragraph applies to determinations under the model city
34 tax code sections 415 and 417.

35 3. A claim for a refund is not allowed for any tax paid under
36 section 42-5075, Arizona Revised Statutes, in effect before the effective
37 date of this act, and model city tax code sections 415 and 417 or
38 excludable from tax under section 42-5075, subsection B or G, as added by
39 this act, or section 42-5075, subsection O or P, Arizona Revised Statutes,
40 in effect before the effective date of this act, or model city tax code
41 section 415 or 416.

1 Sec. 14. Conditional enactment

2 Section 42-5061, Arizona Revised Statutes, as amended by Laws 2019,
3 chapter 273, section 8 and chapter 288, section 2 and this act, and
4 section 42-6004, Arizona Revised Statutes, as amended by Laws 2019,
5 chapter 163, section 24 and chapter 189, section 4 and this act, become
6 effective on the date prescribed by Laws 2018, chapter 263, section 5 but
7 only on the occurrence of the condition prescribed by Laws 2018, chapter
8 265, section 5.



Action Report

File #: 21-056

AGENDA TITLE:

Discussion of Draft Ordinance 2021-01, Referred from the Planning Commission, to Amend the Town Zoning Ordinance to Prohibit Recreational Marijuana Establishments

STAFF CONTACT:

TOWN *Of* **PARADISE VALLEY**



STAFF REPORT

TO: Mayor Bien-Willner and Town Council Members

FROM: Jill Keimach, Town Manager
Deborah Robberson, Acting Town Attorney

DATE: February 11, 2021

DEPARTMENT: Town Attorney
Deborah Robberson, Acting Town Attorney 480-348-3691

AGENDA TITLE:

Discuss Draft Ordinance 2021-01, referred from the Planning Commission, to amend the Town Zoning Ordinance to prohibit recreational marijuana establishments.

RECOMMENDATION:

Discuss Draft Ordinance 2021-01 to amend the Town Zoning Ordinance to prohibit recreational marijuana establishments and set Ordinance for a public hearing at February 25, 2021 Council meeting.

SUMMARY STATEMENT:

Arizona voters passed the Smart and Safe Arizona Act ballot initiative (Proposition 207) at the November 3, 2020 general election, legalizing recreational marijuana in Arizona. Previously, the Arizona Medical Marijuana Act allowed operation of nonprofit medical marijuana dispensaries. Proposition 207 allows for a much broader variety of marijuana establishments, including recreational marijuana dispensaries.

More specifically, Proposition 207 authorizes the possession, consumption, purchase, processing, manufacturing or transporting of marijuana by an individual who is at least twenty-one (21) years of age; allows a nonprofit medical marijuana dispensary or other non-dispensary applicant to apply to the Department of Health Services to become a licensed marijuana establishment authorized to engage in the retail sale, cultivation and manufacturing of marijuana; and allows the Department, or another entity designated by the Department, to become a marijuana testing facility to test the potency of marijuana and detect any harmful contaminants.

Proposition 207 authorizes marijuana establishments and testing facilities to use chemical extraction or chemical synthesis, including butane and other flammable gases, to extract marijuana concentrate, which poses a threat to the health, safety and security of the community and increases the responsibilities of law enforcement and other Town departments to respond to violations of state and local laws, including building, electrical and fire codes.

Proposition 207 permits cities and towns to enact ordinances prohibiting [recreational] “marijuana establishments” and “marijuana testing facilities.” The amended Sections in the Arizona Revised Statutes are as follows: Section 36-2817, Arizona Revised Statutes; Title 36, Arizona Revised Statutes, By Adding Chapter 28.2; Title 42, Chapter 5, Arizona Revised Statutes, By Adding Article 10; Title 43, Chapter 1, Article 1, Arizona Revised Statutes, By Adding Section 43-108; Relating To The Responsible Adult Use, Regulation And Taxation Of Marijuana.

Based on the lack of any appropriate retail zoning districts in the Town, the potential high-volume quick trip traffic that might be generated from a marijuana establishment or marijuana testing facility, and in order to protect public health, safety, and welfare of the Town, the Town staff recommended to the Town Council that the Town should consider adopting revisions to the Town Zoning Ordinance that would prohibit marijuana establishments and/or marijuana testing facilities in the Town. At its October 8, 2020 open meeting the Council approved Resolution No. 2020-30, which referred the review of the draft ordinance to the Planning Commission. The Planning Commission has reviewed the draft ordinance and recommends that the Council approve the draft ordinance. There were no significant concerns or changes suggested by the Commission.

To prohibit [recreational] marijuana establishments and testing facilities in the Town a change in Section 1027 of the Town Zoning Ordinance is recommended. Existing Section 1027 prohibits a number of types of marijuana-related uses and facilities such as: (1) Medical Marijuana Designated Caregiver Cultivation Sites; (2) Medical Marijuana Dispensary Offsite Cultivation Sites; and (3) Medical Marijuana Infusion Facilities. The amendment to Section 1027, along with new definitions in Section 201, will apply the same prohibition that exists for a number of medical marijuana related facilities and uses to “marijuana establishments” and “marijuana testing facilities.”

Further, the ordinance is drafted with an emergency clause to make the ordinance effective immediately upon passage in order to preserve and protect the public peace, health, and safety.

BUDGETARY IMPACT:

None.

ATTACHMENT(S):

- A. Staff Report
- B. Ordinance Number 2021-01
- C. Presentation

When recorded, return to:
Paradise Valley Town Attorney
6401 East Lincoln Drive
Paradise Valley, Arizona 85253

ORDINANCE NUMBER 2021-01

AN ORDINANCE OF THE TOWN OF PARADISE VALLEY, ARIZONA RELATING TO THE REGULATION OF RECREATIONAL MARIJUANA; ESTABLISHING A PURPOSE; SETTING FORTH DEFINITIONS; PROHIBITING MARIJUANA ESTABLISHMENTS AND/OR MARIJUANA TESTING FACILITIES; AMENDING THE ZONING ORDINANCE OF THE TOWN OF PARADISE VALLEY, ARTICLE II – DEFINITIONS AND SECTION 1027; SETTING FORTH VIOLATIONS; PROVIDING FOR ENFORCEMENT AND PENALTIES; AND DECLARING AN EMERGENCY

WHEREAS, marijuana contains tetrahydrocannabinol (“THC”), which remains on Schedule I of the Controlled Substances Act pursuant to 21 U.S.C. § 811 et al. and any possession and use is a violation of federal law pursuant to 21 U.S.C. § 841 et. al.;

WHEREAS, the Arizona Medical Marijuana Act, Arizona Revised Statutes Sections § 36-2801 et al., and Title 9, Chapter 17 of the Arizona Administrative Code allow the establishment and operation of nonprofit medical marijuana dispensaries in Town according to a prescribed statutory and regulatory process;

WHEREAS, the statewide ballot measure I-23-2020, known as “Smart and Safe Arizona Act” was certified as Proposition 207 placed on the November 3, 2020 general election ballot and adopted by the voters of Arizona. Prop 207 contains provisions authorizing the possession, consumption, purchase, processing, manufacturing or transporting of marijuana by an individual who is at least twenty-one (21) years of age; authorizing possession, transport, cultivation or processing of marijuana plants in a primary residence by adults over 21 years or older; allowing a nonprofit medical marijuana dispensary or other non-dispensary applicant to apply to the Department of Health Services to become a licensed marijuana establishment authorized to engage in the retail sale, cultivation and manufacturing of marijuana; and allowing the Department, or another entity designated by the Department, to become a marijuana testing facility to test the potency of marijuana and detect any harmful contaminants;

WHEREAS, the Town finds that Proposition 207 authorizes marijuana establishments and testing facilities to use chemical extraction or chemical synthesis, including butane and other flammable gases, to extract marijuana concentrate, which poses a threat to the health, safety and security of the community and increases the responsibilities of law enforcement

and other Town departments to respond to violations of state and local laws, including building, electrical and fire codes;

WHEREAS, the Town seeks to protect public health, safety, and welfare by prohibiting marijuana establishments and/or marijuana testing facilities in the Town;

WHEREAS, this ordinance is adopted to protect the health, safety, and welfare of the community. Except as allowed by law for personal, private use, the Town prohibits the retail sale, cultivation, and manufacturing of marijuana or marijuana products in the Town. Nothing in this ordinance is intended to promote or condone the sale, cultivation, manufacture, transport, production, distribution, possession, or use of marijuana or marijuana products in violation of any applicable law.

WHEREAS, the immediate operation of the provisions of this ordinance is necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, and this ordinance shall be in full force and effective from and after its passage by the Council.

BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PARADISE VALLEY, ARIZONA:

Section 1. Article II of the Zoning Ordinance is hereby amended as follows with deletions shown as ~~striketroughs~~ and additions shown in **bold type**:

Article II. DEFINITIONS

Section 201.

For the purpose of this Ordinance, certain terms and words are hereby defined. Words used in the present tense shall include the future; the singular number shall include the plural, the singular; the word "building" shall include the word "structure;" the word "lot" shall include the word "plot;" and the word "shall" is mandatory.

Accessory Building / Structure⁵⁶⁴: A subordinate building, the use of which is incidental to that of the dominant use of the main building, or premises, including residential staff quarters; provided, however, that neither a building nor an enclosure for horses is an accessory building.

Alley: A public thoroughfare which affords only a secondary means of access to abutting property.

Anomaly: ⁵⁴⁸ A natural occurring, localized surface deviation from the natural land contour. Anomalies may include outcroppings, ridges, craters, or washes. When an anomaly affects the Open Space Criteria measurement for a building or structure, the Town Manager or designee shall eliminate the anomaly from the calculation and interpolate a simulated natural grade between the contour on each side of the anomaly for use when measuring the height of the building or structure.

Apartment House: See "Dwelling, Multiple."

Area of Jurisdiction: The boundaries of Paradise Valley.

Assisted Living Home: A dwelling shared as a primary residence by persons who are disabled, as defined in Arizona Revised Statutes §41-1491, who do not meet the definition of "family" as set forth in this section, who live together as a single housekeeping unit in an environment in which staff persons provide supervisory care, personal care and/or custodial care for the residents. This definition shall not apply to a home for the developmentally disabled as regulated by Arizona Revised Statutes §36-582.

Basement: A story having more than one-half (1/2) its height below natural grade.

Building: Any structure for the shelter, support or enclosure of persons, animals, or property; and when separated by dividing walls without openings, each portion of such building, so separated, shall be deemed a separate building.

Camper: A camper is a unit designed for travel, recreational, and vacation uses, which may be placed upon or attached to a vehicle.

Cluster Plan (CP) District: A development approach that may be used in the R-43 or R-35 Cluster Plan zoning district that retains the same house per acre ratio as the R-43 or R-35, zoning districts permitting reduced lot sizes in order to allow undeveloped land to be preserved as open space. This approach may be utilized to preserve natural features or provide greater than normal setbacks from heavily traveled thoroughfares.

Country Club: A use of land, with traditional accessory uses, the primary purpose of which is for playing golf, tennis, handball or other similar recreational activities. Memberships or fees may be required for participation.

DHS: The Arizona Department of Health Services.

DHS Rules and Regulations: The adopted regulations of DHS relating to the provisions of Title 36, A.R.S. § 36-2801 et seq.

Dwelling: Any building, or portion thereof, which is designed or used exclusively for residential purposes.

Dwelling, Single-Family: A building designed for occupancy by one (1) family.

Dwelling, Two-Family: A building designed for occupancy by two (2) families.

Dwelling, Multiple: A building or portion thereof designed for occupancy by three (3) or more families.

Dwelling Unit: One (1) or more rooms in a dwelling designed for occupancy by one (1) family for living purposes and having its own cooking and sanitary facilities.

Elevation: Height above mean sea level (MSL) as established by the United States Coast and Geologic Survey.

Encroachment Line: Boundaries shown on Plates 7 & 8 of Volume I, Indian Bend Wash Report prepared by the U. S. Army Corps of Engineers which show lateral limits or lines along streams within which in the direction of the stream no structure of fill may be added without reducing the natural flood carrying capacity of the stream and its flood plain. Their location should be such that the natural floodway between them will handle a designated floodflow. The encroachment lines will be based upon the volumetric flow rate of a 100-year flood.

Family: An individual or two (2) or more persons related by blood or marriage or a group of not more than five (5) persons, excluding residential staff, who need not be related by blood or marriage living together as a housekeeping unit.

Fifty-year Flood: A flood that has a two percent (2%) chance of occurring in any one year based upon the criteria established by the Arizona Water Commission.

Finished Grade: The prepared elevation of the ground surface under a structure and within the lot setback lines.

Flood or Flood Waters: A temporary overflow of water on lands not normally covered by water.

Flood Plain: The relatively flat areas or low lands adjoining the channel of a watercourse, or areas where drainage is or may be restricted by manmade structures which have been or may be covered partially or wholly by floodwater, but shall compose an area not less than that area contained between the fifty-year flood line and the one hundred year flood line.

Floodplain Board: The Town Council of the Town of Paradise Valley.

Floodplain Regulations: The codes, ordinances, and other regulations relating to the use of land and construction within the channel and floodplain areas, including zoning ordinances, subdivision regulations, building codes, setback requirements, open area regulations and similar methods of control affecting the use and development of the areas.

Floodway: The channel of the stream or body of water and that portion of the flood plain that is inundated by a flood and therefore used to carry the flow of the flood.

Floor Area, Total: The area under roof added to the floor area of any second story. The total floor area also includes any courtyard areas, the solid portion(s) of trellises and/or open weave roofs, and all area under roof in accessory buildings such as gazebos, ramadas and other accessory buildings. The total floor area excludes the floor area of any fully subterranean portions of a building.

Floor Area Ratio: The total floor area divided by the total lot area.

Frontage: All property on one (1) side of a street between two (2) intersecting streets (crossing or terminating) measured along the line of the street, or, if the street is dead end, then all of the property abutting on one (1) side between an intersecting street and the dead end of the street including property fronting on a cul-de-sac.

Garage, Private: Any accessory building designed or used for the storage of motor-driven vehicles.

Garage, Public: A building or portion thereof, other than a private or storage garage, designed or used for servicing, repairing, equipping, hiring, selling or storing motor-driven vehicles.

Garage, Storage: A building or portion thereof designed or used exclusively for housing of four (4) or more motor-driven vehicles.

Golf Course: A tract of land laid out with at least nine holes for playing a game of golf and improved with tees, greens, fairways, and hazards. A golf course may include a clubhouse and associated uses.

Grade Slope: The degree of rise or descent of the ground surface. Please refer to illustration 201.

Guardgate: A manually, mechanically, or electrically controlled gate device built as a free-standing structure or in conjunction with a guardhouse in compliance with all the terms granted in a special use permit, and located on a private road as shown on the site plan approved with the special use permit, for the purpose of regulating and monitoring pedestrian and/or vehicular traffic into a subdivision or neighborhood and promoting security within the subdivision or neighborhood.

Guardhouse: A building built in compliance with all building codes of the Town of Paradise Valley and all the terms granted in a special use permit and located on a private road or on private property adjacent to a private road as shown on the site plan approved with the special use permit, for the purpose of manually or electronically regulating and monitoring pedestrian and/or vehicular traffic into a subdivision or neighborhood and promoting security with the subdivision or neighborhood; provided, however, a guardhouse shall not be designed or used for sleeping or living purposes.

Guest Ranch: A building or group of buildings containing two (2) or more guest units, other than a hotel, motel or resort hotel, and having outdoor recreational facilities such as horseback riding, swimming, tennis courts, shuffleboard courts, barbecue and picnic facilities.

Guest House: An accessory building of one or more rooms designed for occupancy by not more than one family. A guest house shall have its own sanitary facilities.

Height Measurement: The height of a building or structure is measured based on the following criteria: 1) The vertical distance from the lowest point of the natural grade below the structure to the highest point of the structure. Maximum building height varies with lot size. See Article X for detail; and 2) The Open Space Criteria which limits allowable building height near the perimeter of the lot. See definition of Open Space Criteria.

Hillside Development Area: Any parcel of land in which any portion of the parcel lies within the areas marked in Figure II and any other parcel with a building site slope of ten percent (10%) or greater, measured as a vertical rise of ten (10) feet in a horizontal distance of 100 feet.

Home Occupation: An occupation, profession, or other business activity conducted at a residence.

Hotel: A building in which lodging is provided and offered to the public for compensation and which is open to transient guests.

Institution: A building or buildings occupied by a non-profit corporation or a non-profit establishment for public use.

Loading Space: A permanently-maintained space on the same lot as the main building accessible to a street or alley and not less than ten (10) feet in width, twenty (20) feet in length, and fourteen (14) feet in height.

Lot: A parcel of land occupied or intended for occupancy by one main building, together with any accessory buildings including the open spaces required by this Ordinance and having either:

- a. adequate frontage upon a public street, or
- b. adequate and recorded access to a public street by a private road as defined by this ordinance.

Lot Area: The area bounded by the recorded property description of a lot, excluding any dedicated right of way, street or alley, and excluding any private road for which a Special Use Permit has been granted.

Lot, Corner: A lot adjoining two (2) or more streets at their intersection.

Lot, Depth of: The main horizontal distance between the front and rear lot lines.

Lot, Double Frontage: A lot having a frontage on two (2) non-intersection streets, as distinguished from a corner lot.

Lot, Interior: A lot other than a corner.

Lot, Key: A lot adjacent to a corner lot having its side lot line in common with the rear lot line of the corner lot and facing on the street which forms a side boundary of the corner lot.

Lot Lines: The lines bounding a lot.

Lot of Record: A lot which is a part of a subdivision, the plat of which has been recorded in the office of the Clerk of Maricopa County Recorder's office; or parcel of land, the deed of which is recorded in the office of the County Recorder.

Lot Width: The diameter of the circle described in Section 6-3-5.G of the Town Code. Minimum lot widths are shown on Table 1001-A1.

Marijuana Establishment: An entity licensed by DHS, or any other authority, to operate any or all of the following:

- (1) A single retail location at which the licensee may sell marijuana and marijuana products to consumers, cultivate marijuana and manufacture marijuana products.**
- (2) A single off-site cultivation location at which the licensee may cultivate marijuana, process marijuana and manufacture marijuana products, but from which marijuana and marijuana products may not be transferred or sold to consumers.**
- (3) A single off-site location at which the licensee may manufacture marijuana products and package and store marijuana and marijuana products, but from which marijuana and marijuana products may not be transferred or sold to consumers.**

Marijuana Testing Facility: DHS or its successor agency or any other entity that is licensed by DHS or any other authority to analyze the potency of marijuana and test marijuana for harmful contaminants.

Medical Marijuana: Marijuana or cannabis, including all parts of any plant of the genus cannabis whether growing or not, and the seeds of such plant, approved under state law for treatment of persons suffering from debilitating medical conditions, as designated in A.R.S. § 36-2801 et seq. and the DHS rules and regulations.

Medical Marijuana Cultivation: The process by which a person grows a medical marijuana plant as allowed by A.R.S. § 36-2801 et seq. and the DHS rules and regulations.

Medical Marijuana Designated Caregiver Cultivation: The cultivation of medical marijuana by a designated caregiver, as defined in A.R.S. § 36-2801 et seq. and 36-2804 et seq.

Medical Marijuana Dispensary: A non-profit entity, as defined in A.R.S. § 36-2801(11), that acquires, possesses, transfers, transports, supplies, sells or dispenses marijuana or related supplies and educational materials to qualifying patients, caregivers or dispensary agents, as defined in A.R.S. § 36-2801(2).

Medical Marijuana Dispensary Offsite Cultivation Site: A building, dwelling, or structure used for the cultivation or storage of medical marijuana for use by a medical marijuana dispensary, as designated in Arizona Revised Statutes, Title 36, A.R.S. § 36-2801 et seq. or DHS rules and regulations.

Medical Marijuana Infusion Facility: A facility that incorporates medical marijuana into consumable/edible goods by means of cooking, blending or incorporation.

Medical Marijuana Qualifying Patient Cultivation: Cultivation of medical marijuana by a qualifying patient, as defined in A.R.S. § 36-2801(13), who is authorized to cultivate marijuana plants pursuant to the provisions of A.R.S. § 36-2801 et seq. and 36-2804 et seq.

Microwave Antenna: A device for the reception and amplification of microwave frequency electromagnetic energy, typically in the shape of a shallow dish, and which may be mounted on a permanent, temporary, or portable structure.

Mobile Home: A mobile home is a unit which : a) is not self-propelled, b) may be placed upon or attached to a vehicle, c) is constructed in such a manner as to permit occupancy as a dwelling or sleeping place for one or more persons, and d) is or may be used as a conveyance upon streets or highways.

Motel: Any building or group of buildings containing guest rooms or dwelling units, some or all of which have a separate entrance leading directly from the outside of the building with garage or parking space located on the lot and designed, used, or intended wholly or in part for the accommodation of automobile transients. Motel includes motor court, motor lodge, and tourist court, but not trailer court, guest ranch or resort hotel.

Motor Home: A self-propelled vehicle capable of being used for the living, sleeping, eating, or accommodation of persons.

Natural Grade: The elevation of the ground surface in its natural state before man-made alterations.

One-hundred-year Flood: A flood that has one per cent chance of occurring in any one year based upon the criteria established by the Arizona Water Commission.

Open Space: Land and water areas retained for active or passive recreation purposes or for essentially undeveloped areas retained for the purpose of resource protection or preservation.

Open Space Criteria: This criterion maintains view corridors around the perimeter of the lot by further limiting building height near property lines. Maximum allowable structure height shall not exceed a plane beginning at 16 feet above the natural grade, at 20 feet setback from all property lines and sloping upward at a 20% angle, perpendicular to the nearest property line. See Article X for detail and refer to Figure 1001-2 for example.

Open Space Preserve District (OSP): This Zoning District is intended to preserve and protect in perpetuity undeveloped real property and developed real property that can be returned to its natural state, , including scenic and conservation easements, on and around the Mountain Preserve in the Town of Paradise Valley, with the goal of preserving the natural landscape, desert plants, wildlife, and the scenic beauty of mountain areas of the Town.

Parking Lot: A parcel of land devoted to unenclosed parking spaces.

Parking Space: A permanently surfaced area, enclosed or unenclosed, having an area of not less than one hundred eighty (180) square feet, together with a driveway connecting the parking space with a street or alley and permitting ingress and egress of an automobile.

Person: Any individual or his agent, firm, partnership, association, corporation, or agent of the aforementioned groups, or the state or any agency or political subdivision thereof.

Private Road: Where this Ordinance refers to the term “Private Road” any such Private Road shall meet and be in compliance with the following criteria:

- (1) The minimum right-of-way width shall be fifty (50) feet.
- (2) Where the said private road is to provide access to one or two residences, driving surface shall not be less than 16 feet in width and shall be covered at a minimum with a 4-inch depth of aggregate base course meeting Town Standards (Article 5-6 of the Town Code) or a minimum of a 4-inch depth of decomposed granite.
- (3) Where access to a public road for three (3) or more residences is to be provided by way of a private road, all standards and requirements for subdivisions as contained in the Code and Ordinances of the Town of Paradise Valley shall apply, and such private road shall be subject to those conditions imposed by reason of the issuance of a use permit in accordance with the Code and Ordinances of the Town of Paradise Valley.
- (4) All private roads, for so long as they shall remain private, shall be maintained to the foregoing standards, and in the event the Town of Paradise Valley is required to perform any maintenance upon the same for the health and welfare of the people of the Town of Paradise Valley, the said Town may assess the cost thereof against the party, his heirs, executors, administrators, legatees and assigns, having applied for a residential building permit utilizing the provisions of this sub-paragraph (b); agreement thereto by such applicant shall be a condition of issuance of any residential building permit.

Public/Quasi Public: Structures and uses principally of an institutional nature and serving a public need, such as religious institutions, schools, libraries, governmental offices, museums, post offices, police and fire stations, public utilities, and other public services that provide governmental, educational, institutional, cultural, recreational, religious, or

other similar types of public services, but not including the operation of a public bar, restaurant or recreational facility as a commercial enterprise.

Resort: A resort is a facility, operated under a single unified management structure, containing guest units primarily for the temporary residency of persons in a physical setting that provides a high level of guest amenities, recreational opportunities and a quality of design that may include architectural features, extensive open space and landscaping.

R-175 District: This district is intended to promote and preserve—a very low-density residential character and maintain open space and natural features. The principal land use is single-family dwellings and uses incidental or accessory thereto. Lot size of at least 175,000 sq. ft. is required in this District.

R-43 District: This district is intended to promote and preserve a low-density residential character and maintain open space and natural features. The principal land use is single-family dwellings and uses incidental or accessory thereto. Lot size of at least 43,560 sq. ft is required in this district.

R-35 District: This district is intended to promote and preserve residential development associated with the desert landscape. The minimum size, although less than one acre, still results in a low density of population. The principal land use is single-family dwellings and uses incidental or accessory thereto. Lot size of at least 35,000 sq. ft. is required in this district.

R35A District: This district only applies to portions of previously annexed subdivisions known as Firebrand Ranch and Mountain View Estates Replat, as shown on the Zoning Map. This district is intended to promote and preserve residential development associated with the desert landscape. The minimum size, although less than one acre, still results in a low density of population. The principal land use is single-family dwellings and uses incidental or accessory thereto. Lot size of at least 35, 000 sq. ft. is required in this District.

R-18 District: This district is intended to promote and preserve residential development associated with the desert landscape. The principal land use is single-family dwellings and uses incidental or accessory thereto. Lot size of at least 18,000 sq. ft is required in this district.

R-18 A District: This district applies to previously annexed subdivisions known as Arcadia Square, Orange Valley Estates No. 3, Grosse Point Two, Quail Vista and to certain portions of Firebrand Ranch and Mountain View Estates Replat, as shown on the Zoning Map. The principal land use is single-family dwellings and uses incidental or accessory thereto. Lot size of at least 18,000 sq. ft. is required in this district.

R-10 District: This district applies to previously annexed subdivisions known as Mountain Shadows East, Mountain Shadows West, and Colonia Miramonte. This district is intended for single-family dwellings and uses incidental or accessory thereto, with a lot size of at least 10,000 square feet.

Residential Staff: An accessory building occupied only by a person employed for a substantial portion of his time in the performance of domestic or agricultural tasks on the premises, and by the immediate family of such person. Residential staff quarters may have cooking facilities, and may not be rented for profit.

School: Unless otherwise specified, the term "school and college" shall be limited to private or public places of general instruction and shall not include nursery schools, dancing schools, riding academies, or trade or specialized vocational schools.

Service Station: Any building or premises used principally for the storing, dispensing or offering for sale at retail of automobile fuels or oils.

Shopping Center: A group of stores planned and designed for the site on which it is built, functioning as a unit, with off-street parking provided on the property as an integral part of the unit.

Sign: Any device for visual communication including political handbills and posters but not including any flag, badge or insignia of a government or governmental agency, nor of any civic, charitable, religious, patriotic, fraternal or similar organization.

a. Area of Sign:

(1) Free-standing Letters Sign: The area of such sign is ninety percent (90%) of the area enclosed within the smallest regular geometric figure needed to encompass all letters, insignias or symbols.

(2) Other Signs: The area of other signs is the total area within the outer edge of the sign.

(3) Computations: In every event, computation of all allowable sign area includes

all existing signs on the premises, whether such signs be conforming or valid nonconforming under the terms of this Ordinance. Identifying street numbers shall not be computed as part of the total sign area.

b. Banner sign: Means a canvas, flexible plastic device or other cloth material which can be supported and mounted by the use of ropes and intended for visual communication, and directly related to activities on site.

c. Double-faced sign means a sign with two faces; in computing the number of signs, a double-faced sign shall be considered as two (2) signs.

d. Free-standing Letters Sign: A sign composed of letters superimposed on a wall.

- e. Indirect lighting means a source of external illumination located a distance away from the sign which lights the sign, but which is itself not visible to persons viewing the sign from any ordinary position of view.
- f. Internal lighting means a source of illumination which is entirely within the sign and is not visible.
- g. Non-commercial sign means a sign for the expression of a personal communication such as religious, philosophical, or political views.
- h. Permanent Sign: Any sign which is intended to be of a lasting and enduring nature, remaining unchanged in character and position and affixed in a permanent manner to the ground, wall or building; made of or composed of materials of such quality that the sign will not deteriorate in appearance due to exposure to wind, rain, sun or the passage of time.
- i. Temporary Sign: Any sign not permanently attached to the ground, wall, or building; made of or composed of materials of such quality that the sign will not deteriorate in appearance due to exposure to wind, rain, sun or the passage of time.

Stable: Any building or structure used to house or provide shelter for horses, provided that when a stable building is used for additional purposes, including by way of example, but not limited to, housing of horse attendants, etc., only the portions of the building used for the housing of horses and/or the keeping of feed or tack shall be deemed stable area; remaining portions of the building shall be deemed accessory building area. The term, "stable", shall not include within the scope of its definition what is commonly referred to as a corral.

Story: That portion of a building, other than a basement included between the surface of any floor and the surface of the floor next above it, or, if there be no floor above it, then the space between the floor and the ceiling next above it.

Story, Half: A space under a sloping roof which has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level, and in which space not more than two-thirds (2/3) of the floor is finished off for use. The half story containing independent apartment or living quarters shall be counted as a full story.

Street, Public: A passageway for general use of pedestrian or vehicular traffic, established as such by governmental authority.

Street, Private: Any other passageway for pedestrian or vehicular traffic.

Street Line: A dividing line between a lot, tract or parcel of land and a contiguous street (right-of-way).

Structural Alterations: Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any complete rebuilding of the roof.

Structure: Anything constructed or erected, the use of which requires a fixed location on the ground.

SUP District R-18 CP Single-Family Residential District: A residential subdivision approved by prior Special Use Permit only and applicable only to those subdivisions known as Cheney Estates (and only a portion thereof) and Via Vista.

Time-Share Project: A project in which a purchaser receives the right in perpetuity, for life or for a term of years to the recurrent, exclusive use or occupancy of a lot, parcel, unit or segment of real property, annually or on some other periodic basis for a period of time that has been or will be allotted from the use or occupancy periods into which the project has been divided.

Trailer, Transport: Any vehicle so constructed that is suitable for being attached to a motor vehicle and capable of being used for transporting goods, materials, equipment, boats, vehicles, or livestock.

Use: The purpose for which land or a building is occupied, maintained, arranged, designed or intended.

Use, Accessory: A subordinate use customarily incident to and conducted on the same lot with the principal use or building including bona fide residential staff quarters.

Watercourse: Any lake, river, stream, wash, arroyo, channel or other body of water having banks and bed through which waters flow at least periodically. The term may include specifically designated areas in which substantial flood damage may occur.

Yard: An open space at grade level between the setback line and the nearest parallel lot line, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein.

Yard, Front: A yard extending across the front width of a lot and being the minimum horizontal distance between the right-of-way line and the front setback line.

Yard, Rear: A yard extending across the rear width of a lot and being the minimum horizontal distance between the rear lot line and the rear setback line. On both corner lots and interior lots the rear yard shall in all cases be at the opposite end of the lot from the front yard.

Yard, Side: A yard between the side setback line and the side lot line of a lot and extending from the front yard to the rear yard, and being the minimum horizontal distance between a side lot line and the side setback line. An interior side yard is defined as the side yard adjacent to a common lot line.

ZONING ORDINANCE

Figure 201
Grade Slope



Section 2. Article X, Section 1027, of the Zoning Ordinance is hereby amended as follows with deletions shown as ~~striketroughs~~ and additions shown in **bold type**:

Section 1027. Prohibition of Specific Types of Medical Marijuana Facilities **and Other Marijuana-related Facilities or Uses.**

The following specified types of medical marijuana facilities, as defined in Article II, Section 201, are hereby prohibited within any use district within the Town of Paradise Valley and are specifically excluded from being considered an allowed home occupation under Article XVI of this Zoning Ordinance: (1) Medical Marijuana Designated Caregiver Cultivation Site; (2) Medical Marijuana Dispensary Offsite Cultivation Site; and (3) Medical Marijuana Infusion Facility. Medical Marijuana Qualifying Patient Cultivation ~~within~~ the Town of Paradise Valley shall be prohibited if a Medical Marijuana Dispensary receives a registration certificate from DHS for any location within the Town of Paradise Valley or within twenty-five (25) miles of the residence of a Qualifying Patient living in the Town of Paradise Valley. **Except as otherwise required by law, (1) Marijuana Establishments and (2) Marijuana Testing Facilities, each as defined in Article II, Section 201, are hereby prohibited within any use district within the Town of Paradise Valley and are specifically excluded from being considered an allowed home occupation under Article XVI of this Zoning Ordinance.**

Section 3. Any person violating any provision of this Ordinance shall be guilty of a Class 1 misdemeanor, and may be fined an amount up to \$2,500, or imprisoned for a period up to 6 months, or both. Each day that any violation continues shall be a separate offense punishable as above-described or by civil sanction.

Section 4. If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of these amendments to the Town Code adopted herein by reference

is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Section 5. Emergency. Whereas Proposition 207 authorizes marijuana establishments and testing facilities which may include, but is not limited to, dangers such as the use of chemical extraction or chemical synthesis, as described above, which possess a threat to the public's health, safety, security and peace and increase the responsibilities of law enforcement and other Town departments to respond to violations of state and local laws, the immediate operation of the provisions of this ordinance is necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, and this ordinance shall be in full force and effective from and after its passage by the Council.

PASSED AND ADOPTED by the Mayor and Council of the Town of Paradise Valley, Arizona, this _____ day of _____, 2021.

Jerry Bien-Willner, Mayor

SIGNED AND ATTESTED TO THIS ____ DAY OF _____, 2021.

ATTEST:

Duncan Miller, Town Clerk

APPROVED AS TO FORM:

Deborah Robberson, Acting Town Attorney

TOWN OF PARADISE VALLEY

Draft Ordinance Prohibiting Recreational Marijuana Establishments

**Town Council Study Session
February 11, 2021**



Key Question

- Receive Council input on draft Ordinance 2021-01, referred by the Planning Commission, regarding prohibiting marijuana establishments and testing facilities in the Town.
- Does Council wish to have Ordinance 2021-01 set for a public hearing and Council action at the February 25 Council meeting?

Background

- Proposition 207, also known as the Smart and Safe Act, was approved by voters at the November 2020 General Election. Gov. Ducey signed the legislation, which is now effective.
- Prop 207 legalizes the adult use of recreational marijuana:
 - Authorizes possession, consumption, purchase, processing, manufacturing or transporting of marijuana by an individual who is at least twenty-one (21) years of age
- Prop 207 allows authorizes DHS to issue licenses to nonprofit medical marijuana dispensaries or other dispensary applicants become a marijuana establishment authorized to engage in the retail sale, cultivation and manufacturing of marijuana

Background (cont'd)

- Prop 2017 allows DHS, or another entity designated by the DHS, to become a marijuana testing facility to test the potency of marijuana and detect any harmful contaminants.
- Proposition 207 authorizes marijuana establishments and testing facilities to use chemical extraction or chemical synthesis, including butane and other flammable gases, to extract marijuana concentrate, which poses a threat to the health, safety and security of the community and increases the responsibilities of law enforcement and other City departments to respond to violations of state and local laws, including building, electrical, and fire codes.
- Prop 207 allows Town to prohibit marijuana establishments and/or marijuana testing facilities in the Town

Draft Ordinance 2021-01

Zoning Ordinance changes to prohibit [recreational] marijuana establishments and testing facilities.

- 1) Section 1027 – adds “marijuana establishments” and “marijuana testing facilities” to the list of prohibited marijuana-related facilities

Section 1027. Prohibition of Specific Types of Medical Marijuana Facilities **and Other Marijuana-related Facilities or Uses.**

The following specified types of medical marijuana facilities, as defined in Article II, Section 201, are hereby prohibited within any use district within the Town of Paradise Valley and are specifically excluded from being considered an allowed home occupation under Article XVI of this Zoning Ordinance: (1) Medical Marijuana Designated Caregiver Cultivation Site; (2) Medical Marijuana Dispensary Offsite Cultivation Site; and (3) Medical Marijuana Infusion Facility. Medical Marijuana Qualifying Patient Cultivation **within** the Town of Paradise Valley shall be prohibited if a Medical Marijuana Dispensary receives a registration certificate from DHS for any location within the Town of Paradise Valley or within twenty-five (25) miles of the residence of a Qualifying Patient living in the Town of Paradise Valley. **Except as otherwise required by law, (1) Marijuana Establishments and (2) Marijuana Testing Facilities, each as defined in Article II, Section 201, are hereby prohibited within any use district within the Town of Paradise Valley and are specifically excluded from being considered an allowed home occupation under Article XVI of this Zoning Ordinance.**

Ordinance 2021-01 (cont'd)

2) Section 201 – definitions added:

Marijuana Establishment: An entity licensed by DHS, or any other authority, to operate any or all of the following:

(1) A single retail location at which the licensee may sell marijuana and marijuana products to consumers, cultivate marijuana and manufacture marijuana products.

(2) A single off-site cultivation location at which the licensee may cultivate marijuana, process marijuana and manufacture marijuana products, but from which marijuana and marijuana products may not be transferred or sold to consumers.

(3) A single off-site location at which the licensee may manufacture marijuana products and package and store marijuana and marijuana products, but from which marijuana and marijuana products may not be transferred or sold to consumers.

Marijuana Testing Facility: DHS or its successor agency or any other entity that is licensed by DHS or any other authority to analyze the potency of marijuana and test marijuana for harmful contaminants.

Recommendation

- Based on the lack of any appropriate retail zoning districts in the Town, the potential high-volume quick trip traffic that might be generated from a marijuana establishment or marijuana testing facility, and in order to protect public health, safety, and welfare of the Town, the Town staff recommends that the Town Council consider adopting revisions to the Town Zoning Ordinance that would prohibit marijuana establishments and/or marijuana testing facilities in the Town

Next Steps

- Receive input from Council at this Study Session
- Bring Ordinance 2021-01 for public hearing and Council action at Feb. 25 Council meeting

Key Question

- Receive Council input on draft Ordinance 2021-01, referred by the Planning Commission, regarding prohibiting marijuana establishments and testing facilities in the Town.
- Does Council wish to have Ordinance 2021-01 set for a public hearing and Council action at the February 25 Council meeting?



Action Report

File #: 21-052

AGENDA TITLE:

Arizona Association of Chiefs of Police (AACOP) presentation

RECOMMENDATION:

Receive a presentation from AACOP President Michael Soelberg

STAFF CONTACT:

TOWN *Of* **PARADISE VALLEY**



STAFF REPORT

TO: Mayor Bien-Willner and Town Council Members

FROM: Jill Keimach, Town Manager
Peter Wingert, Chief of Police

DATE: February 11, 2021

DEPARTMENT: Police Department
Peter Wingert, Chief of Police, 480 948-7411

AGENDA TITLE:
Arizona Association of Chiefs of Police (AACOP) presentation

RECOMMENDATION:
Receive a presentation from AACOP President Michael Soelberg

SUMMARY STATEMENT:
Arizona Association of Chiefs of Police President Michael Soelberg will discuss current issues in Arizona policing.

BUDGETARY IMPACT:
There is no budgetary impact to receiving this presentation.

ATTACHMENT(S):
Staff report



Town of Paradise Valley

6401 E Lincoln Dr
Paradise Valley, AZ 85253

Action Report

File #: 21-030



**JOINT TOWN COUNCIL PLANNING COMMISSION MEETING
6401 E. LINCOLN DRIVE
PARADISE VALLEY, ARIZONA 85253
MINUTES
THURSDAY, JANUARY 21, 2021**

1. CALL TO ORDER / ROLL CALL

Mayor Bien-Willner called to order the Joint Town Council Planning Commission Meeting for Thursday, January 21, 2021 at 6:00 p.m. in the Town Hall Boardroom and through remote participation as authorized by Resolution 2020-08.

COUNCIL MEMBERS PRESENT

Mayor Jerry Bien-Willner attended by video conference
Vice Mayor Mark Stanton attended by video conference
Council Member Ellen Andeen attended by video conference
Council Member Paul Dembow attended by video conference
Council Member Scott Moore attended by video conference
Council Member Julie Pace attended by video conference
Council Member Anna Thomasson attended by video conference

PLANNING COMMISSIONERS PRESENT

Chair Jonathan Wainwright attended by video conference
Commissioner Thomas Campbell attended by video conference
Commissioner Charles Covington attended by video conference
Commissioner Pamela Georgelos attended by video conference
Commissioner Orme Lewis was not present
Commissioner Jim Rose attended by video conference
Commissioner Daran Wastchak attended by video conference

STAFF MEMBERS PRESENT

Town Attorney Jill Keimach attended by video conference
Acting Town Attorney Deborah Robberson attended by video conference
Town Engineer Paul Mood attended by video conference
Community Development Director Lisa Collins attended by video conference
Town Clerk Duncan Miller

2. STUDY SESSION

21-023 Discussion of Building Pad Heights for Non-Hillside Lots

Mayor Bien-Willner welcomed the commission and residents.

Note: Minutes of Town Council meetings are prepared in accordance with the provisions of Arizona Revised Statutes. These minutes are intended to be an accurate reflection of action taken and direction given by the Town Council and are not verbatim transcripts. Video recordings of the meetings along with staff reports and presentations are available online (www.paradisevalleyaz.gov) and are on file in the Office of the Town Clerk. Persons with disabilities who experience difficulties accessing this information may request accommodation by calling 480-948-7411 (voice) or 480-348-1811 (TDD).

Community Development Director Lisa Collins stated that the purpose of the meeting was to provide information related to building pad heights, applicable Town Codes, resident concerns, and summarize feedback from residents and the development community.

Town Engineer Paul Mood provided a historical background for building pad height and summarized how code provisions have been interpreted over time. He presented examples of how pad heights on non-hillside properties are measured.

He presented potential Town Code clarifications and interpretations for the Planning Commission and Town Council to consider as well as potential Town Code Amendments.

Mr. Mood responded to questions from the Town Council and Planning Commission.

Resident Phil Hagenah expressed concern about perceived changes regarding how grading and pad heights for new homes have been measured in recent years. He said it appears that new homes are raised higher than neighboring homes creating drainage problems and altering the character of neighborhoods.

Resident Phyllis Peshkin offered comments about grading and drainage concerns on non-hillside properties. She suggested that the Cherokee Wash should be deepened as part of a potential CIP project.

The Town Council and Planning Commission discussed the review process moving forward. There was consensus for the Planning Commission to consider staff's recommendations regarding pad height interpretations and Code amendments as well as other potential improvements. It was agreed that the Planning Commission would develop a review timeline and report back to the Town Council.

A motion was made at 8:50 PM by Council Member Moore, seconded by Vice Mayor Stanton, to go into executive session to discuss item 21-019 The motion carried by the following vote:

Aye: 7 - Mayor Bien-Willner
Vice Mayor Stanton
Council Member Andeen
Council Member Dembow
Council Member Moore
Council Member Pace
Council Member Thomasson

3. EXECUTIVE SESSION

- 21-019 Discussion or consultation with the Town representatives concerning negotiations for the purchase, sale, or condemnation of real property in the vicinity of 7100 E Lincoln Drive as authorized by A.R.S. §38 431.03(A)(7), discussion or consultation with the Town Attorney to consider the Town's position and provide instruction regarding Development Agreement negotiations related to the Smoke Tree Resort authorized by A.R.S. §38 431.03(A)(4), and/or legal advice regarding Special Use Permit zoning as authorized by A.R.S. §38 431.03(A)(3.)**

COUNCIL MEMBERS PRESENT

Mayor Jerry Bien-Willner attended by video conference
Vice Mayor Mark Stanton attended by video conference
Council Member Ellen Andeen attended by video conference
Council Member Paul Dembow attended by video conference
Council Member Scott Moore attended by video conference
Council Member Julie Pace attended by video conference
Council Member Anna Thomasson attended by video conference

STAFF MEMBERS PRESENT

Town Attorney Jill Keimach attended by video conference
Acting Town Attorney Deborah Robberson attended by video conference
Community Development Director Lisa Collins attended by video conference
Town Clerk Duncan Miller

Mayor Bien-Willner reconvened the meeting at 9:10 PM

21-021 Discussion of Committee, Commission, and Board Appointment Process

Town Clerk Duncan Miller briefed the Town Council on the proposed process and timeline for the volunteer committee recruitment and appointment.

The Council provided the following direction:

- Contact residents who applied last year to determine if they are still interested in being considered. Inform them of the number of vacancies. Invite them to update their application in case there are any changes and notify them that they will meet with the Council again.
- Contact all new applicants to confirm their application has been received and invite them to submit a CV if they would like.
- Contact the Chair of each committee and invite them to submit in writing any feedback or

suggestions they may have concerning desired skillsets that would benefit the committee.

- The applicant interviews would be conducted in public, applicant qualifications would be discussed in executive session, and nomination and appointments would be done in public.
- Interviews would be scheduled on February 11, February 25, and March 11. Appointments would be made on March 25. Terms will begin on April 1.

4. ADJOURN

A motion was made by Council Member Moore, seconded by Council Member Pace, to adjourn. The motion carried by the following vote:

Aye: 7 - Mayor Bien-Willner
Vice Mayor Stanton
Council Member Andeen
Council Member Dembow
Council Member Moore
Council Member Pace
Council Member Thomasson

Mayor Bien-Willner adjourned the meeting at 9:48 PM.

TOWN OF PARADISE VALLEY

SUBMITTED BY:

Duncan Miller, Town Clerk

STATE OF ARIZONA)

:ss.

COUNTY OF MARICOPA)

CERTIFICATION

I, Duncan Miller, Town Clerk of the Town of Paradise Valley, Arizona hereby certify that the following is a full, true, and correct copy of the minutes of the regular meeting of the Paradise Valley Town Council held on Thursday, January 21, 2021.

I further certify that said Municipal Corporation is duly organized and existing. The meeting was properly called and held and that a quorum was present.

Duncan Miller, Town Clerk



Town of Paradise Valley

6401 E Lincoln Dr
Paradise Valley, AZ 85253

Action Report

File #: 21-048



**TOWN COUNCIL MEETING
6401 E. LINCOLN DRIVE
PARADISE VALLEY, ARIZONA 85253
MINUTES
THURSDAY, JANUARY 28, 2021**

1. CALL TO ORDER / ROLL CALL

Mayor Bien-Willner called to order the Town Council Meeting for Thursday, January 28, 2021 at 3:04 p.m. in the Town Hall Boardroom and through remote participation as authorized by Resolution 2020-08.

COUNCIL MEMBERS PRESENT

Mayor Jerry Bien-Willner attended by video conference
Vice Mayor Mark Stanton attended by video conference
Council Member Ellen Andeen attended by video conference
Council Member Paul Dembow attended by video conference
Council Member Scott Moore attended by video conference
Council Member Julie Pace attended by video conference
Council Member Anna Thomasson attended by video conference

STAFF MEMBERS PRESENT

Town Attorney Jill Keimach attended by video conference
Acting Town Attorney Deborah Robberson attended by video conference
Town Clerk Duncan Miller
Community Development Director Lisa Collins attended by video conference

A motion was made at 3:04 PM by Council Member Dembow, seconded by Council Member Andeen, to go into executive session to discuss items 21-033 and 21-032. The motion carried by the following vote:

Aye: 7 - Mayor Bien-Willner
Vice Mayor Stanton
Council Member Andeen
Council Member Dembow
Council Member Moore
Council Member Pace
Council Member Thomasson

2. EXECUTIVE SESSION

21-033 Discussion or consultation with the Town Attorney for legal advice regarding ordinances related to fence-walls, setbacks, and frontage requirements as authorized by A.R.S. §38 431.03(A)(3).

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- 21-032** Review and discussion of applicants for Town Attorney legal services contract as authorized by A.R.S. §38 431.03(A)(1) and consultation with and possible direction to the Town Attorney regarding negotiations relating to legal services contract A.R.S. §38 431.03(A)(4).
- 21-031** Discussion or consultation with the Town Attorney for legal advice regarding pending legislation affecting short-term rentals and other pending legislation as authorized by A.R.S. §38 431.03(A)(3).
- 21-026** Discussion and possible direction regarding Town Manager employment agreement as authorized by A.R.S. §38 431.03(A)(1) and A.R.S. §38 431.03(A)(4).
- 21-025** The Town Council may go into executive session at one or more times during the meeting as needed to confer with the Town Attorney for legal advice regarding any of the items listed on the agenda as authorized by A.R.S. §38-431.03(A)(3).

3. STUDY SESSION ITEMS

COUNCIL MEMBERS PRESENT

Mayor Jerry Bien-Willner attended by video conference
Vice Mayor Mark Stanton attended by video conference
Council Member Ellen Andeen attended by video conference
Council Member Paul Dembow attended by video conference
Council Member Scott Moore attended by video conference
Council Member Julie Pace attended by video conference
Council Member Anna Thomasson attended by video conference

STAFF MEMBERS PRESENT

Town Attorney Jill Keimach attended by video conference
Acting Town Attorney Deborah Robberson attended by video conference
Town Clerk Duncan Miller
Chief of Police Peter Wingert attended by video conference
Public Works Director Brent Skoglund attended by video conference
CFO Douglas Allen attended by video conference
CIO Steven Brunasso attended by video conference
Town Engineer Paul Mood attended by video conference
Senior Planning George Burton

Mayor Bien-Willner reconvened the study session at 4:40 PM

There was Town Council consensus to re-order the agenda and consider Agenda Item 14 – Manager Reports at this time.

Town Manager Keimach and Doug Cole, Highground Public Affairs, briefed the Town Council on legislation pending in the Arizona Legislature. He focused on prime contracting, tourism marketing authorities, photo radar, and short-term rental legislation. There was Council consensus to direct staff to prepare a Resolution formalizing the Town's position on these bills and schedule it for a vote at the next meeting.

21-017 Discussion of Five Star Development Project Area C Replat

Senior Planner George Burton presented a request by Five Star Development to Replat Area C of the development project located at 7000 E Lincoln Drive. The Replat would reduce the number of Resort Branded properties from 39 to 32 lots. He stated that the modified lot lines may require relocation of utility stub-outs, there would be no expense or out of pocket costs to the Town associated with the Replat, and the Replat does not change the resort fees or Five Star Development's other financial obligations.

Richard Frazee, representing Five Star Development, responded to questions regarding fire and water utility infrastructure construction related to Area C.

He stated that Per Article 6-9 of the Town Code, a replat is a non-administrative land modification which follows the final plat process and requires Town Council review and approval. As a result, the Town Council must act on the replat within forty (40) days from when staff deems the application complete (with the 40th day being February 14, 2021).

Ms. Keimach announced that the Replat was scheduled for action later in the meeting.

21-041 Discussion of Regulations for Walls, View Fences, and Combination View Fences

Community Development Director Lisa Collins briefed the Town Council on Code provisions related to walls, view fences, and combination view fences. She stated that the current code language can be confusing and lead to difficulty in determining front and side yards as well as unclear definitions of walls and fence types. She provided options to clarify code definitions which would improve consistency in how the Code is interpreted.

There was Council consensus to refer this matter to the Planning Commission for review and input from the development community and residents.

Mayor Bien-Willner recessed the meeting at 5:45 PM

4. BREAK

5. RECONVENE FOR REGULAR MEETING

Mayor Bien-Willner reconvened the meeting at 6:00 PM.

6. ROLL CALL**COUNCIL MEMBERS PRESENT**

Mayor Jerry Bien-Willner attended by video conference
Vice Mayor Mark Stanton attended by video conference
Council Member Ellen Andeen attended by video conference
Council Member Paul Dembow attended by video conference
Council Member Scott Moore attended by video conference
Council Member Julie Pace attended by video conference
Council Member Anna Thomasson attended by video conference

STAFF MEMBERS PRESENT

Town Attorney Jill Keimach attended by video conference
Acting Town Attorney Deborah Robberson attended by video conference
Town Clerk Duncan Miller
Town Engineer Paul Mood attended by video conference
Public Works Director Brent Skoglund attended by video conference
Chief of Police Peter Wingert attended by video conference
Chief Information Officer Steven Brunasso attended by video conference
Chief Financial Officer Douglas Allen attended by video conference
Community Development Director Lisa Collins attended by video conference
Senior Planner George Burton

7. PLEDGE OF ALLEGIANCE*

Mayor Bien-Willner led the Pledge of Allegiance.

8. PRESENTATIONS

There were no presentations.

9. CALL TO THE PUBLIC

Future resident David Lorsch announced that he is purchasing one of the lots in the Five Star Development Area C and asked for the Town Council to approve the Replat so construction could begin.

10. CONSENT AGENDA

Town Manager Keimach summarized the items on the Consent Agenda.

- | | |
|---------------|--|
| 21-028 | Minutes of Town Council Meeting December 3, 2020 |
| 21-029 | Minutes of Town Council Meeting January 14, 2021 |
| 21-034 | Award of Contract (CON-21-156-ENG) to Michael Baker |

International, Inc. in an Amount Not to Exceed \$159,595.00 for Sanitary Sewer Flow Monitoring and Analysis Per the Town's Intergovernmental Agreement with the City of Scottsdale for Wastewater Treatment

Recommendation: Award contract CON-21-156-ENG in an amount not to exceed \$159,595.00 with Michael Baker International, Inc. for sanitary sewer flow monitoring and analysis per the Town's Intergovernmental Agreement with the City of Scottsdale for wastewater treatment.

21-009 Authorize Staff to Conduct a Fee Study and Schedule a Hearing for Police Department Off-duty Fees

Recommendation: Direct staff to review hourly off-duty police officer rate; consider the addition of off-duty fees currently absorbed by the Town; add these fees to the Master Fee Schedule.

A motion was made by Council Member Pace, seconded by Council Member Andeen, to approve the Consent Agenda. The motion carried by the following vote:

Aye: 7 - Mayor Bien-Willner
Council Member Andeen
Council Member Dembow
Council Member Moore
Council Member Pace
Vice Mayor Stanton
Council Member Thomasson

11. PUBLIC HEARINGS

There were no public hearings.

12. ACTION ITEMS

21-018 Approval of Five Star Development Project Area C Replat Located at 7000 E Lincoln Drive

Planner George Burton presented the request to replat Five Star Development Project Area C located at 7000 E Lincoln Drive. He stated that the Replat would reduce the number of Resort Branded properties from 39 to 32 lots. He summarized the recommended stipulations.

Future resident Cindy Lubin spoke in favor of the Replat. She owns one of the lots and would like construction to begin as soon as possible.

Richard Frazee responded to questions regarding timing, when the plat can be recorded, and when construction would start.

A motion was made by Council Member Dembow, seconded by Council Member Pace, to approve the Five Star Development Project Area C Replat (RP-21-01) subject to the following stipulations:

- 1. The replat must be recorded with the Maricopa County Recorder's Office, insubstantial compliance with the "Replat Amended 7000 East Lincoln – Parcel C –Amended IV" replat map, Sheets 1 – 3, prepared by CVL Consultants, and dated December 28, 2020.**
- 2. Prior to release of additional building permits for Area C, the following items must be completed:**
 - a. The Private Right-of-Way Easement and Agreement must be updated and recorded to reflect the changes in the replat. The updated Private Right-of-Way Easement and Agreement must be submitted for Town review and is subject to Town approval.**
 - b. The Shared Facilities Easement Agreements (one agreement for existing Lots 15 and 16 now changing to Lots 18 and 19 and the other agreement for existing Lots 17 and 18 now changing to Lots 20 and 21) must be updated and recorded to reflect the changes in the replat. Both updated Shared Facilities Easement Agreements must be submitted for Town review and are subject to Town approval.**
 - c. The applicant must provide updated plans and documents identifying the location of existing and revised utility stub locations. The updated utility plans and documents must be submitted for Town review and are subject to Town approval.**
- 3. Within 60 days of approval of the replat map, the applicant shall submit Mylars and an electronic version in a pdf format for the Town's permanent record.**

The motion carried by the following vote:

Aye: 7 - Mayor Bien-Willner
Vice Mayor Stanton
Council Member Andeen
Council Member Dembow
Council Member Moore
Council Member Pace
Vice Mayor Stanton
Council Member Thomasson

13. FUTURE AGENDA ITEMS

21-027 Consideration of Requests for Future Agenda Items

Town Manager Keimach summarized the future agenda schedule.

14. MAYOR / COUNCIL / MANAGER COMMENTS

Town Manager Keimach and Town Council Members provided committee updates and announced upcoming events.

15. STUDY SESSION CONTINUED

21-039 Discussion and Possible Direction Regarding the FY2020/21 Monthly Financial Update No. 4 for January 2021, including: Investment Services; use of CIP Proceeds Series 2020; Auditor Recommendations from FY2019/20; PSPRS Unfunded Liability; FY2020/21 Revenue and Expenditure Updates; and Considerations for Easing into / out of Budget Priorities.

Chief Financial Officer Douglas Allen presented an update on cash and investments, recommendations related to the FY 2019-2020 financial audit, PSPRS Unfunded Liability, revenues and expenditures through December, and recommended budget adjustments.

The Council was supportive of staff's recommendations regarding:

1. adding to the list of approved brokers and banks for investment services;
2. drawing from the 2020 Series bonds for reimbursement of certain capital improvements
3. proceeding with the FY 2019/2020 external auditor's recommendations regarding Court receivables
4. continue with the Town's goal of paying down PSPRS unfunded liability as soon as practicable
5. transferring money from departmental operating contingencies to fund the next tier of budget priorities

Ms. Keimach stated that staff would prepare a budget resolution for the February 11 consent agenda.

A motion was made at 7:52 PM by Vice Mayor Stanton, seconded by Council Member Andeen, to go into executive session to discuss item 21-026. The motion carried by the following vote:

Aye: 7 - Mayor Bien-Willner
Vice Mayor Stanton
Council Member Andeen
Council Member Dembow
Council Member Moore
Council Member Pace
Council Member Thomasson

16. ADJOURN

A motion was made by Council Member Dembow, seconded by Council Member Andeen, to adjourn. The motion carried by the following vote:

Aye: 7 - Mayor Bien-Willner
Vice Mayor Stanton
Council Member Andeen
Council Member Dembow
Council Member Moore
Council Member Pace
Council Member Thomasson

Mayor Bien-Willner adjourned the meeting at 8:15 PM.

TOWN OF PARADISE VALLEY

SUBMITTED BY:

Duncan Miller, Town Clerk

STATE OF ARIZONA)
COUNTY OF MARICOPA) :ss.

CERTIFICATION

I, Duncan Miller, Town Clerk of the Town of Paradise Valley, Arizona hereby certify that the following is a full, true, and correct copy of the minutes of the regular meeting of the Paradise Valley Town Council held on Thursday, January 28, 2021.

I further certify that said Municipal Corporation is duly organized and existing. The meeting was properly called and held and that a quorum was present.

Duncan Miller, Town Clerk



Action Report

File #: 21-055

AGENDA TITLE:

Adoption of Resolution 2021-02 Amending the Fiscal Year 2020/21 Budget

RECOMMENDATION:

Adopt Resolution Number 2021-02.

STAFF CONTACT:

TOWN *Of* PARADISE VALLEY



STAFF REPORT

TO: Mayor Bien-Willner and Town Council Members

FROM: Jill Keimach, Town Manager
Douglas Allen, CFO

DATE: February 11, 2021

AGENDA TITLE:

Approve Resolution 2021-02 Amending the Fiscal Year 2020/21 Budget

SUMMARY STATEMENT:

The attached Resolution 2021-02 contains priorities presented at the January 28, 2021 Town Council work session. Town management presented recurring revenues continue to rebound with recommendations and the Mayor & Council gave consideration and staff direction to prepare a resolution to ease into reopening budget priorities and programs.

As part of the FY2020/21 budget process, Town Council reviewed each department and program budget and priorities with the respective Director. The final adopted budget incorporated a tiered plan to monitor revenues and expenditure priorities to be flexible and adaptive to fluidly transition operations as revenues rebound or demands shift.

“Priority One” expenditures represent the base budget for primary services with spending authority effective July 1. **“Priorities Two and Three”** contingencies are designed to keep pace with demands that are poised to resume the direction the Town was heading in February 2020 that will be assessed and potentially eased into in the second and third quarters of FY2020/21, respectively;

I. REOPENING PROGRAMS

A. As outlined in the FY2020/21 budget, beginning July 1, 2020:

- Spending authority was approved for **Priority One** programs;
- **Priority Two** and **Three** programs were set in a contingency account with:
 - **Priority Two** to be assessed in October 2020; and
 - **Priority Three** in January-March 2021 timeframe.

B. Importance of Adopting Budget Contingencies

- The FY2021 Adopted department budgets have a mechanism to fluidly transition back to their 2019 service levels as the Town's revenues rebound.
- By placing Priorities in contingencies, the Town has the flexibility to ease into them as revenues rebound and are available.
- Had the Mayor and Council not budgeted contingencies, then by state law, the Town would not be able to reopen these programs, at these levels, this fiscal year and would need to wait until next fiscal year.

The Table below presents the adopted contingencies, by priority, for the "operating fund". The operating fund is a combination of the "General fund" and the "Highway User Revenue Fund (HURF)".

OPERATING FUND - Adopted Contingencies for Council Considerations as Revenues Rebound				
PURPOSE (General Fund Only)	Adopted Contingency Budget Priority:			
	Total	One	Two	Three
Operating contingency	\$ 804,058	\$ 600,000	\$ 68,000	\$ 136,058
Department Priorities 2	595,906	-	595,906	-
Department Priorities 3	3,221,042	-	-	3,221,042
PSPRS unfunded liability	5,400,000	-	2,400,000	3,000,000
Tourism (ES revenue based contract)	1,087,741	-	-	1,087,741
Legal services	250,000	250,000	-	-
Merit program	460,000	-	230,000	230,000
HR programs and study	90,000	55,000	-	35,000
Town-wide fee study	28,000	-	28,000	-
Total Adopted Contingencies	\$ 11,936,747	\$ 905,000	\$ 3,321,906	\$ 7,709,841

C. Rebounding Revenues and Easing into Reopening Programs

Additional funding sources that materialized in FY2020/21 include, but not limited to:

- A favorable closing of FY2019/20 driven by many strategic actions taken by the Mayor & Town Council and Town Management at the onset of COVID19 in March 2020;
- Federal grant funding for public safety from the state AZCares funds; and
- A localized rebound in retail transaction privilege (sales) boosted by internet sales and reopening of hospitality business in Paradise Valley.

This is supported by:

- Construction and development continuing to be strong; and
- "State shared" and all other contractual revenues remaining steady.

November 5, 2020 - Resolution 2020-34:

- With recurring revenues rebounding and various non-recurring funding sources becoming available to the Town; on October 22, 2020 the Mayor and Town Council gave consideration and approved Resolution 2020-34 to easing into opening budget priorities.
- The vast minority of the \$4.1 million of expenditures of this resolution are considered recurring operations (\$338,438) with \$2.4 million for the PSPRS unfunded liability and \$1.1 million for the Lincoln mill and overlay project.
- Resolution 2020-34 reopened departmental programs such as contractual general plan services, technology upgrades, a sign truck, seasonal overtime for the post office, service awards, the town reporter, additional hours for part-time professional staff; and town-wide programs including a fee study, partial restatement of the employee merit program, funding for the PSPRS unfunded liability, funding for the Lincoln mill and overlay project, and operational contingency funds.

February 11, 2021 – Resolution 2021-02:

- With recurring revenues continuing to rebound; at the January 28, 2021 Town Council work session, the Mayor and Council gave consideration and staff direction to prepare resolution 2021-02 to ease into reopening budget priorities and programs
- The vast minority of the \$4.6 million of expenditures are considered recurring operations (\$406,421); with \$3.0 million for the payment of the PSPRS unfunded liability and \$1.2 million to fully fund the Lincoln mill and overlay project.
- Resolution 2021-02, as presented, would reopen human resource studies (handbook and policy reviews), the full employee merit program, and add an Emergency manager position in the police department; with additional funding encumbered for the PSPRS unfunded liability, funding for the Lincoln mill and overlay project, and operational contingency funds.

The table below shows the allocations moved from the adopted contingencies to the operating budgets. The remaining \$2.3 million unallocated contingencies are scheduled to be part of the FY2021/22 budget process.

OPERATING FUND - Adopted Contingencies Allocated and Available to Operating Budgets				
PURPOSE (General Fund Only)	Unallocated Remains in Contingency	Resolution Allocation to Operating Budgets		
		Res. 2020-17 6/11/20	Res. 2020-34 11/5/20	Res. 2021-02 Recommended
Operating contingency	\$ -	\$ 600,000	\$ 68,000	\$ 136,058
Department Priorities 2	309,960	-	245,583	40,363
Department Priorities 3	915,494	-	1,152,774	1,152,774
PSPRS unfunded liability	-	-	2,400,000	3,000,000
Tourism (ES revenue based contract)	1,087,741	-	-	-
Legal services	-	250,000	-	-
Merit program	-	-	230,000	230,000
HR programs and study	-	55,000	-	35,000
Town-wide fee study	-	-	28,000	-
Total Adopted Contingencies	\$ 2,313,195	\$ 905,000	\$ 4,124,357	\$ 4,594,195

B. January 28, 2021 Council meeting:

When presenting recommendations for the February Budget Amendment in Resolution 2021-02, management gave the following assurances:

- Management is confident current financial conditions can sustain the following recommendations set forth in resolution 2021-02;
- Using an “easing in” approach helps the Town to remain cautious, flexible, adaptable and focused on delivering high quality services that are sustainable;
- Management is cautious not to over extend the Town’s commitments or restrict the Town’s ability to pause or pull back on programs or services if warranted to mitigate and an unforeseen economic crisis.

Management considers these and other factors before recommending to Council to reopen programs:

- Sustainability and impact of overall Town operations;
- One-time revenues are **not** used for recurring programs;
- Recurring revenues can be used for capital, contractual and other one-time expenditures; and
- Continue to maintain an appropriate level of Emergency Reserves for unforeseen emergencies.

The Table below demonstrates that opening recurring programs is supported by recurring revenues.

RECURRING EXPENDITURES OPERATING BUDGET - as Amended (General fund + HURF)				
	Recommended Amended Budget	Recurring Revenue Rebound Level and Date		
		Level 1.0 6/11/20	Level 1.5 11/5/20	Level 2.0 <i>Recommended</i>
Recurring operating expenditures	\$ 20,625,166	\$ 20,016,365	\$ 338,438	\$ 270,363
Operating contingencies	1,109,058	905,000	68,000	136,058
Recurring operating revenues	22,692,140	16,983,020	2,717,700	2,991,420
Available for non-operating needs	\$ 957,916	\$ (3,938,345)	\$ 2,311,262	\$ 2,584,999

III. PREPARED AND CAUTIOUS OF DOWNTURNS

A. Ready for the next economic shock - 2021

Though the Town is not out of the COVID19 recovery, by maintaining a structurally balanced budget with recurring expenditures not exceed recurring revenues; and using non-recurring revenues for capital improvements, non-recurring programs, and payment of the PSPRS unfunded liability; the Town has maintained a low debt ratio and kept many contingencies and safety nets intact if needed for short term support again.

Should the Town experience another sudden and unforeseen economic downturn, there is plenty of recent history to pull from. Since it hasn’t been a full year, Management’s initial mitigating actions to a crisis would be similar to those taken in March 2020 in response to COVID19, including budget cuts and reductions in service that were identified, but were not necessary to implement in 2020.

B. Mitigating Actions 2020

In March 2020, the Town experienced sharp revenue drops that were abrupt, extremely deep with the duration for rebound and recovery very uncertain.

From July 2019 through February 2020, the Town's had experienced elevated tourism and was on-track to exceed its minimum revenue goal for the fiscal year ending June 30, 2020. Though the Town could sustain a 25% drop in tourism the rest of that fiscal year and meet the minimum revenue goal, the drop-in tourism was much deeper and detrimental to the next year's fiscal health.

To maintain the high standard of Town services, Town Management and all Departments identified various mitigating financing options to address this pause in revenue, with other possible collateral short falls over the longer-term and discussed with the Mayor and Council who had additional ideas to mitigate the crisis.

The following actions were implemented before April 2020:

- Froze all non-essential vacancies and other non-essential spending
- Held PSPRS Unfunded liability cash payments
- Deferred road maintenance where roads were in good condition
- Private placement (low rate) to hedge cash flow of reimbursements of CIP
- Participated in the AZ state work share program
- AZDEMA program / FEMA reimbursement efforts
- Aligned staffing duties with demands and skill sets, not just job title
- Project teams: Reopening, Recovery, Best Practices, Continuity Planning
- Departments prioritized and continue to reduce expenditures on a tiered approach
- Continually updated revenue projections and analysis as data is available
- Assessed policies, reserves and set asides for clarity and safety
- Recalibrated costs and use of non-general fund sources
- Planned a dynamic resumption to full activities, yet remained ready to cut-back if necessary

C. Contingency Planning – Strategic Revenue Plan 2019

In June 2019, the Town Council adopted the Town's first strategic revenue plan that is similar to a "stress test".

The Strategic Revenue Plan was inspired by a Mayor's initiative and the long-standing traditions of Paradise Valley's values and directives for fiscal prudence and stability. This report brings together an ASU graduate students' "Paradise Valley Revenue Risk Assessment" study, GFOA recommended practices, the Town's revenue analysis, and the annual financial forecast and budget preparation.

The Strategic Revenue Plan looks at specific revenue trends, their basis and how likely risk factors could influence their performance and would impact the Town's governmental operations, obligation repayments and capital improvement plans. This helps to determine the Town's ability to withstand shocks and stress in revenues while maintaining services over a recovery period.

By using the stress test from the Strategic Revenue Plan, Town staff was well prepared to mitigate the shock to the revenue in March 2020.

The graph below was used during the FY2021 budget process to illustrate what a revenue rebound would look like as with an “L, U, or V curve” economic recovery. Management has updated these models.



D. Fortunate and Strong Financial Position

The Town's financial position is not fortunate by luck, but by design. The following factors have allowed for the navigation through troubled times.

- Previous and current Mayor & Council and Management foresight and conserving resources
- Supportive residents and customers
- Adaptive staff
- Enterprises predominately self-sufficient
- Low debt
- Desirable community to live
- Good road conditions and maintenance schedule
- Healthy fleet and a reserve to finance
- Strong emergency reserve
- Aggressive PSPRS UAAL payments (low debt)
- Court supplemental grants healthy
- Flexible Private Placement (line of credit)
- Construction remains steady

ATTACHMENT(S):

Resolution 2021-02 Amending the FY2020/21 Budget

RESOLUTION NUMBER 2021-02

**A RESOLUTION OF THE MAYOR AND COUNCIL OF
THE TOWN OF PARADISE VALLEY, ARIZONA
AMENDING THE FISCAL YEAR 2020/21 ADOPTED
BUDGET.**

WHEREAS, the Fiscal Year 2020/21 budget was adopted by Resolution 2020-17 on June 11, 2020;

WHEREAS, the budget incorporated a tiered plan to monitor revenues and priorities to be flexible and adaptive to fluidly transition operations as revenues rebound or demands shift;

WHEREAS, “Priority One” expenditures represent the base budget for primary services with spending authority effective July 1; “Priorities Two and Three” contingencies are designed to keep pace with demands that are poised to resume the direction the Town was heading in February 2020 that will be assessed and potentially eased into in the second and third quarters of FY2020/21, respectively;

WHEREAS, budget amendments are consistent with Generally Accepted Accounting Principles (GAAP) and recommended budgeted practices;

WHEREAS, the Town of Paradise Valley’s Adopted Financial Management Policies requires the approval of the Town Council for the use contingency accounts in excess of \$25,000;

WHEREAS, the Town of Paradise Valley’s Adopted Financial Management Policies requires the approval of the Town Council for shifts in appropriations within funds and in departments exceeding \$50,000;

WHEREAS, the Town of Paradise Valley’s Adopted Financial Management Policies require that amendments to the capital improvement fund be approved by the Town Council;

WHEREAS, adjustments do not increase the total budget or enable the Town Council to increase spending in excess of the Adopted Budget or the Annual Expenditure Limitation;

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Paradise Valley, Arizona, as follows:

Section 1. Record the FY2020/21 budget amendment for “Priority Two and Three Spending Authority” and provide operating budget authority for \$1,187,774 for non-recurring expenditures and \$406,421 recurring expenditures as listed below.

PRIORITY TWO & THREE Spending Authority		Current Budget	Budget Increase	Budget Reduction	Amended Budget
Description					
Non-recurring expenditures					
1	HR programs and study	\$ 55,000	\$ 35,000	-	\$ 90,000
2	Pavement program - Lincoln mill and overlay	1,152,774	1,152,774	-	2,305,548
Total non-recurring expenditures		1,207,774	1,187,774	-	2,395,548
Recurring expenditures					-
3	Operating contingency	668,000	136,058	-	804,058
4	Merit program fully unfrozen	26,030	230,000	-	256,030
5	Police - Emergency manager position (partial year)	-	40,363	-	40,363
Total recurring expenditures		694,030	406,421	-	1,100,451
Contingencies for priorities:					
6	Priority two spending authority	350,323	-	\$ (40,363)	309,960
7	Priority three spending authority	6,557,069	-	(1,553,832)	5,003,237
Total contingencies for priorities		6,907,392	-	(1,594,195)	5,313,197

Section 2. Record the FY2019-20 budget amendment for a “Priority Three Spending Authority” in the amount of \$3,000,000 to encumber resources for payments toward the Public Safety Personnel Retirement System (“PSPRS”); with actual timing of payments pending economic factors and further Mayor and Council direction.

Spending Authority Requiring further Council Direction		Current Budget	Budget Increase	Budget Reduction	Amended Budget
Description					
Non-recurring expenditures					
1	Police - PSPRS Unfunded liability	2,400,000	3,000,000	-	5,400,000
Total non-recurring expenditures		2,400,000	3,000,000	-	5,400,000
Contingencies for priorities:					
2	Priority three spending authority	5,003,237	-	(3,000,000)	2,003,237
Total contingencies for priorities		5,003,237	-	(3,000,000)	2,003,237

PASSED, ADOPTED AND APPROVED by the Town Council of the Town of Paradise Valley this 11th day of February 2021.

TOWN OF PARADISE VALLEY
a municipal corporation

Jerry Bien-Willner,
Mayor

APPROVED AS TO FORM:

ATTEST:

Deborah Robberson,
Acting Town Attorney

Duncan Miller,
Town Clerk



Action Report

File #: 21-057

AGENDA TITLE:

Award of Contract for Public Relations Professional Services with S+C Communications for one-year with 4 one-year extensions for an annual amount not to exceed \$30,000

RECOMMENDATION:

Award a contract for public relations professional services to S+C Communications (Scutari and Cieslak, Inc.) for one-year and providing for up to four one-year extensions at an hourly rate of \$200/hour, not to exceed \$30,000 annually.

STAFF CONTACT:

TOWN *Of* **PARADISE VALLEY**



STAFF REPORT

TO: Mayor Bien-Willner and Town Council Members

FROM: Jill Keimach, Town Manager
Deborah Robberson, Acting Town Attorney

DATE: February 11, 2021

DEPARTMENT: Town Manager
Jill Keimach, 480.348.3533

AGENDA TITLE:

Public Relations Professional Services Contract with S+C Communications for one-year with 4 one-year extensions for an annual amount not to exceed \$30,000

SUMMARY STATEMENT:

Given its limited government model, the Town of Paradise Valley does not have permanent staff with the capacity to respond effectively and efficiently to requests from the media and/or proactively send out information on social media or create press releases on PV activities and topics of interest to our residents and businesses. As one example, the Town currently needs assistance in distributing a video produced in-house by the PVPD Community Resource Officer Steven McGhee. The video demonstrates the need to change current State legislation to return local control in order to mitigate neighborhood impacts of Short Term Rentals and Party Houses in Paradise Valley and throughout the State.

The competitive procurement process sought Request for Quotations (RFQ) from qualified firms interested in providing public relations services to the Town. Specifically, it sought a PR consultant to develop a strategic communications plan to educate the public about high-profile development projects and other Town issues. Services would include distilling Town regulations, responsibilities, and obligations, public sector procedures, and other information into clear press releases, website information and other media formats. Services would be requested on an as-needed basis, for an hourly rate (rather than monthly stipend) and the Town made no guarantee as to the amount of services the consultant(s) would be asked to provide.

Pursuant to Council direction to obtain recommendations, written quotations were solicited from three firms based on recommendations through Council direction by Vice-Mayor Mark Stanton and Legislative Lobbyist Doug Cole. Quotations were requested on August 24, 2020, with proposals due to the Town by January 4, 2021. Two firms submitted proposals: S+C Communications and Gordon C. James. Both firms were determined to be highly qualified and were interviewed on January 13, 2021. The

interview and evaluation committee included four staff members most likely to work directly with a PR consultant: Town Manager Jill Keimach, Town Clerk Duncan Miller, Manager and Council Executive Assistant Sarah Meland, and the Town Procurement Coordinator Peggy Ferrin.

Each firm was asked to address the following information in their submittal:

1. Firm's management and Organization Capabilities
2. Qualifications and Experience of their Firm, key people who will be responsible for performing the work under the contract
3. List 3 specific references that may be contacted
4. Provide a sample of written work similar to the requested Scope of Services
5. Provide a website link with sample of content Firm has created
6. Provide a price proposal. Offerors were asked to provide fully loaded hourly labor rates for positions identified.

In response to potential conflicts of interest, Gordon C. James did not have a legal conflict but did have a current client who is a developer in Paradise Valley. S+C Communications had no legal conflict of interest, although previously worked in Paradise Valley for Fire Services, and has worked previously with Doug Cole on State legislative matters. The review committee felt this would be a positive relationship to further enhance the communication and coordination on the Town's high priority legislative efforts, such as STRs, Photo Enforcement, and Tourism activities in support of our resorts.

BACKGROUND:

The solicitation process utilized would be appropriate for Public Relations Services up to \$50,000. The draft contract limits expenditures to \$30,000, although staff anticipates the first-year will be even less. This level of proposal review and evaluation was preferred for this type of professional service. Consequently, staff used the following procurement policy for solicitation, evaluation and selection of the successful proposer.

SECTION 1.3 PURCHASES OF TWENTY-FIVE THOUSAND (\$25,000) BUT LESS THAN \$50,000

A. Purchases of **twenty-five thousand (\$25,000) but less than fifty thousand (\$50,000)** shall be made in accordance with the following procedures:

1. The Requesting Department shall solicit at least three (3) written Quotations or proposals, which may be received by mail, facsimile or e-mail provided it bears the signature of an authorized agent of the bidder or proposer. Whenever practicable, the Town's standard Request for Quotations (RFQ) or Request for Proposals (RFP) document shall be utilized; at a minimum, all bids or proposals should be submitted on the vendor's letterhead or official documentation. If a contract is required for the procurement, either a standard contract shall be attached or the Town Procurement Officer and the Town Attorney's Office shall review the solicitation prior to issuance. Written Quotations or proposals shall be documented in the procurement file.
2. The Requesting Department may solicit Quotations or proposals from all vendors on the bidder's list maintained by the State of Arizona through ProcureAZ, if any, but at a minimum, those bidders or proposers who have

specifically requested an opportunity to submit a Quotation or proposal for the specific material, service or construction being requested at that time.

3. Award shall be made to the lowest cost Responsive and Responsible bidder or highest scoring Responsive and Responsible proposer. The amount of any applicable transaction privilege or use tax, and shipping or freight cost shall be a factor in determining the cost of the bid or proposal.
4. Whenever required, bidders or proposers shall submit Quotations or proposals on the form issued with the Request for Quotation or Proposal, and the Quotations and proposals shall be recorded and placed in the procurement file.
5. If only one Responsive and Responsible Quotation or proposal is received, a statement shall be included in the procurement file explaining the basis for determining that the price and/or proposal is fair and reasonable.

BUDGETARY IMPACT:

The submitted proposals were evaluated and the committee found both firms to be qualified. S+C proposed an hourly rate of \$200 for both partners and Gordon C. James had a fee of \$250 for main partner and \$150 for support staff, with a minimum fee of \$2,000 per project.

RECOMMENDATION:

Staff recommends Council approve a contract with S+C Communications (Scutari and Cieslak, Inc.) for one-year and providing for up to four one-year extensions at an hourly rate of \$200/hour, not to exceed \$30,000 annually.

ATTACHMENT(S):

- A. Staff Report
- B. Services Agreement
- C. Procurement Summary

SERVICES AGREEMENT
with
SCUTARI AND CIESLAK, INC.

This Services Agreement ("Agreement") is entered into and effective between the TOWN OF PARADISE VALLEY, an Arizona municipal corporation ("Town") and SCUTARI AND CIESLAK, INC. d/b/a S+C COMMUNICATIONS, whose principal place of business is 4144 North 44th Street, Suite A-2, Phoenix, Arizona 85018 ("Consultant") (individually "Party" and collectively "Parties") as of the ____day of February ____, 2021 ("Effective Date").

RECITALS

- A. Town desires to contract with Consultant to provide public relations and media services (the Project); and
- B. Town desires to retain the services of Consultant to perform certain specific duties and produce the specific work as set forth in the attached **Exhibit A**, Project Scope of Services ("Scope of Services"); and
- C. Consultant desires to do, perform and carry out in a satisfactory and proper manner, as determined by the Town, the services set forth in this Agreement, including all exhibits ("Services"); and
- D. Town and Consultant desire to memorialize their agreement with this document.

AGREEMENT

The Parties hereby agree as follows:

- 1. **Recitals.** The recitals set forth above are not merely recitals, but form an integral part of this Agreement and are hereby incorporated.
- 2. **Key Personnel; Other Consultants and Subconsultants.**
 - 1.1 Services. Consultant will provide all Services necessary to assure the Project and the Scope of Services are completed timely and efficiently consistent within Project requirements, including, but not limited to, working in close interaction and interfacing with Town and its designated employees, and working closely with others, including other consultants or vendors, retained by the Town.
 - 1.2 No Delegation or Assignment. Consultant shall not delegate any duty under this Agreement, and no right or interest in this Agreement shall be assigned by Consultant to any successor entity or third party, including but not limited to an affiliated successor or purchaser of Consultant or its assets, without prior written permission of the Town. The Town, at its option, may cancel this Agreement in the event Consultant undertakes a delegation or assignment without first obtaining the Town's written approval. Consultant agrees and acknowledges that it would not be unreasonable for the Town to decline to approve a delegation or assignment that results in a material change to the services provided under this Agreement or an increased cost to the Town.
- 2. **Contract Term; Renewal.** The term of this Agreement commences upon the Effective Date and continues for a period of one (1) year, unless sooner terminated as provided herein. The Town may, at its option and with the approval of the Consultant, extend the term of this Agreement an additional four (4) years in one-year increments or as otherwise agreed to by the Parties. In no event shall the term of this Agreement, including all extensions, exceed five (5) years.
- 3. **Consultant's Work.**
 - 3.1 Standard. Consultant must perform Services in accordance with the standards of due diligence, care, and quality prevailing among Consultants having substantial experience with the successful

furnishing of Services for projects that are equivalent in size, scope, quality, and other criteria under the Project and identified in this Agreement.

3.2. Independent Consultant Status. Consultant shall be an independent consultant and shall have responsibility for and control over the details and means of providing the Services under this Agreement.

3.3. Licensing. Consultant warrants that:

- a. Consultant currently holds all appropriate and required licenses, registrations and other approvals necessary for the lawful furnishing of Services ("Approvals"); and
- b. Neither Consultant nor any Subconsultant has been debarred or otherwise legally excluded from contracting with any federal, state, or local governmental entity ("Debarment").
 - (1) Town is under no obligation to ascertain or confirm the existence or issuance of any Approvals or Debarments, or to examine Consultant's contracting ability.
 - (2) Consultant must notify Town immediately if any Approvals or Debarment changes during the Agreement's duration. The failure of the Consultant to notify Town as required will constitute a material default under the Agreement.

3.4. Compliance.

- a. Services will be furnished in compliance with applicable federal, state, county and local statutes, rules, regulations, ordinances, building codes, life safety codes, and other standards and criteria designated by Town.
- b. Consultant must not discriminate against any employee or applicant for employment on the basis of race, color, religion, sex, national origin, age, marital status, U.S. military veteran status or any disability. Consultant will require any Sub-consultant to be bound to the same requirements as stated within this section. Consultant, and on behalf of any subconsultants, warrants compliance with this section.

3.5. Work Product.

- a. Ownership. Upon receipt of payment for Services furnished, Consultant grants to Town exclusive ownership of and all copyrights, if any, to communication plans, media plans, evaluations, reports, drawings, manuals, as defined in the United States Copyright Act, 17 U.S.C § 101, *et seq.*, and other intellectual work product as may be applicable ("Work Product").
 - (1) This grant is effective whether the Work Product is on paper (e.g., a "hard copy"), in electronic format, or in some other form.
 - (2) Consultant warrants, and agrees to indemnify, hold harmless and defend Town for, from and against any claim that any Work Product infringes on third-party proprietary interests.
- b. Delivery. Consultant will deliver to Town copies of the preliminary and completed Work Product promptly as they are prepared or as otherwise instructed by the Town.
- c. Town Use.
 - (1) Town may reuse the Work Product at its sole discretion.
 - (2) In the event the Work Product is used for another project without further consultations with Consultant, the Town agrees to indemnify and hold Consultant harmless from any claim arising out of the Work Product.
 - (3) In such case, Town will also remove any seal and title block from the Work Product.

4. Compensation for the Project.

- 5.1 Compensation. Consultant will be paid on an hourly basis for Services at the rate of Two Hundred dollars (\$200) per hour. Services rendered by the Consultant, including those furnished by any Subconsultants, shall not exceed Thirty Thousand Dollars (\$30,000)).

5. Billings and Payment.

5.1 Applications.

- a. Consultant will submit invoices (each, a "Payment Application") to Town's Project Manager and Town will remit payments based upon the Payment Application as stated below.
- b. The period covered by each Payment Application will be one month or as otherwise agreed upon by the Parties.

5.2 Payment.

- a. After a full and complete Payment Application is received, Town will process and remit payment within 30 days.
- b. Payment may be subject to or conditioned upon Town's receipt of:
 - (1) Completed work generated by Consultant and its Subconsultants; and
 - (2) Unconditional waivers and releases on final payment from all Subconsultants as Town may reasonably request to assure the Project will be free of claims arising 5

5.3 Review and Withholding. Town's Project Manager will timely review and certify Payment Applications.

- a. If the Payment Application is rejected, the Project Manager will issue a written listing of the items not approved for payment.
- b. Town may withhold an amount sufficient to pay expenses that Town reasonably expects to incur in correcting the deficiency or deficiencies rejected for payment.

6. Termination.

6.1 For Convenience. Town may terminate this Agreement for convenience, without cause, by delivering a written termination notice stating the effective termination date.

- a. Consultant will be equitably compensated for Services furnished prior to receipt of the termination notice.
- b. Consultant will also be similarly compensated for any approved effort expended, and approved costs incurred, that are directly associated with Project closeout and delivery of the required items to the Town.

6.2 For Cause. Town may terminate this Agreement for cause if Consultant fails to cure any breach of this Agreement within seven (7) days after receipt of written notice specifying the breach.

- a. Consultant will not be entitled to further payment until after Town has determined its damages. If Town's damages resulting from the breach, as determined by Town, are less than the equitable amount due but not paid Consultant for Services furnished, Town will pay the amount due to Consultant, less Town's damages, in accordance with the provisions of Sec. 5.
- b. If Town's direct damages exceed amounts otherwise due to Consultant, Consultant must pay the difference to Town immediately upon demand.

7. Conflict. Consultant acknowledges this Agreement is subject to A.R.S. § 38-511, which allows for cancellation of this Agreement in the event any person who is significantly involved in initiating,

negotiating, securing, drafting, or creating the Agreement on Town's behalf becomes an employee, agent, or Consultant of any other Party to this Agreement.

8. **Insurance and Indemnification.** For the duration of the term of this Agreement, Consultant shall procure and maintain insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of all tasks or work necessary to complete the Project and provide Services. Such insurance shall cover Consultant, its agent(s), representative(s), employee(s) and any Subconsultants.

8.1 **Minimum Scope and Limit of Insurance.** Coverage must be at least as broad as:

- a. Commercial General Liability (CGL): Insurance Services Office Form CG 00 01 093 or equivalent thereof, with an unimpaired limit of not less than **\$1,000,000** for each occurrence, \$2,000,000 Products and Completed Operations Annual Aggregate, and a \$2,000,000 General Aggregate Limit. The policy shall cover liability arising from premises, operations, contractual liability, independent consultants, products-completed operations, personal injury, broad form property coverage, XCU hazards if requested by the Town, and advertising injury. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. This commercial general liability insurance must include a separation of insurance provision.
- b. Automobile Liability: A Business Automobile Liability Insurance policy providing a liability limit of at least \$1,000,000 each occurrence and covering Consultant's owned, non-owned and hired automobiles assigned to or used in the performance of Consultant's Services under this Agreement.
- d. Worker's Compensation: Consultant shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Consultant's employees engaged in the performance Services under this Agreement, and shall also maintain Employer Liability Insurance of not less than \$500,000 for each accident, \$500,000 disease for each employee and \$1,000,000 disease policy limit.

8.2 Indemnification.

- a. To the fullest extent permitted by law, Consultant must pay, defend, indemnify, and hold harmless Town and its elected officials, officers, employees and agents (each, an "Indemnified Party," collectively, the "Indemnified Parties") for, from, and against any and all claims, demands, actions, damages, judgments, settlements, personal injury (including sickness, disease, death, and bodily harm), property damage (including loss of use), infringement, governmental action and all other losses and expenses, including attorneys' fees and litigation expenses (each, a "Demand or Expense" collectively "Demands or Expenses") asserted by a third-party (i.e. a person or entity other than Town or Consultant) and that arises out of or results from the breach of this Agreement by the Consultant or the Consultant's negligent actions, errors or omissions (including any Subconsultant or Subconsultant or other person or firm employed by Consultant), whether sustained before or after completion of the Project.
- b. This indemnity and hold harmless provision applies even if a Demand or Expense is in part due to the Indemnified Party's negligence or breach of a responsibility under this Agreement, but in that event, Consultant will be liable only to the extent the Demand or Expense results from the negligence or breach of a responsibility of Consultant or of any person or entity for whom Consultant is responsible.
- c. Consultant is not required to indemnify any Indemnified Parties for, from, or against any Demand or Expense resulting from the Indemnified Party's sole negligence or other fault solely attributable to the Indemnified Party.

- d. Insurance provisions set forth in this Agreement are separate and independent from the Indemnification requirements and provisions of this Agreement and shall not be construed in any way to limit the scope and magnitude of the Indemnification requirements and provisions. The Indemnification requirements and provisions of this Agreement shall not be construed in any way to limit the scope and magnitude and applicability of the insurance provisions.
- 8.3 **Other Insurance Provisions.** The insurance policies required by the Section above must contain, or be endorsed to contain the following insurance provisions:
- a. **The Town, its officers, officials, employees and volunteers are to be covered as additional insureds** of the CGL and automobile policies for any liability arising from or in connection with the performance of all Services and/or tasks or work necessary to complete the Project as herein defined. Such liability may arise, but is not limited to, liability for materials, parts or equipment furnished in connection with any tasks, or work performed by Consultant or on its behalf and for liability arising from automobiles owned, leased, hired or borrowed on behalf of the Consultant. General liability coverage can be provided in the form of an endorsement to the Consultant's existing insurance policies, provided such endorsement is at least as broad as ISO Form CG 20 10, 11 85 or both CG 20 10 and CG 23 37, if later revisions are used.
- b. For any claims related to this Project, the **Consultant's insurance coverage shall be primary insurance** with respect to the Town, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Town, its officers, officials, employees or volunteers shall be in excess of the Consultant's insurance and shall not contribute with it.
- c. Each insurance policy required by this Section shall provide that coverage shall not be canceled, except after providing notice to the Town.
- 8.4 **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best rating of no less than A+, unless the Consultant has obtained prior approval from the Town stating that a non-conforming insurer is acceptable to the Town.
- 8.5 **Waiver of Subrogation.** **Consultant hereby agrees to waive its rights of subrogation which any insurer may acquire** from Consultant by virtue of the payment of any loss. Consultant agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. The Workers' Compensation Policy shall be endorsed with a waiver of subrogation in favor of the Town for all work performed by the Consultant, its employees, agent(s) and subconsultant(s).
- 8.6 **Verification of Coverage.** Within 15 days of the Effective Date of this Agreement or before work begins, whichever is earlier, Consultant shall furnish the Town with original certificates and amendatory endorsements, or copies of any applicable insurance language making the coverage required by this Agreement effective. All certificates and endorsements must be received and approved by the Town before work commences. Failure to obtain, submit or secure the Town's approval of the required insurance policies, certificates or endorsements prior to the Town's agreement that work may commence shall not waive the Consultant's obligations to obtain and verify insurance coverage as otherwise provided in this Section. The Town reserves the right to require complete, certified copies of all required insurance policies, including any endorsements or amendments, required by this Agreement at any time during the Term stated herein.
- Consultant's failure to obtain, submit or secure the Town's approval of the required insurance policies, certificates or endorsements shall not be considered a Force Majeure or defense for any failure by the Consultant to comply with the terms and conditions of the Agreement, including any schedule for performance or completion of the Project.
- 8.7 **Subconsultants.** Consultant shall require and shall verify that all subconsultants maintain insurance meeting all requirements of this Agreement.

8.8 Special Risk or Circumstances. The Town reserves the right to modify these insurance requirements, including any limits of coverage, based on the nature of the risk, prior experience, insurer, coverage or other circumstances unique to the Consultant, the Project or the insurer.

9. **E-verify, Records and Audits.** To the extent applicable under A.R.S. § 41-4401, the Consultant warrants compliance and that of its subconsultants with all federal immigration laws and regulations that relate to their employees and compliance with the E-verify requirements under A.R.S. § 23-214(A). The Consultant or subconsultant's breach of this warranty shall be deemed a material breach of the Agreement and may result in the termination of the Agreement by the Town under the terms of this Agreement. The Town retains the legal right to randomly inspect the papers and records of the other Party to ensure that the other Party is complying with the above-mentioned warranty. The Consultant and subconsultant warrant to keep their respective papers and records open for random inspection during normal business hours by the other Party. The Parties shall cooperate with the Town's random inspections, including granting the inspecting Party entry rights onto their respective properties to perform the random inspections and waiving their respective rights to keep such papers and records confidential.

10. **Boycott of Israel Prohibited:** To the extent A.R.S. § 35-393 et seq. is applicable to this Agreement, Consultant warrants that it is not and will not participate in prohibited activity during the Term or any renewal or extension Term in contravention of the statute. A.R.S. § 35-393 prohibits the Town from contracting in an amount of \$100,000 or more with a for-profit company that is participating in a boycott of goods and services from Israel.

11. **Notices.**

11.1 A notice, request or other communication that is required or permitted under this Agreement (each a "Notice") will be effective only if:

- a. The Notice is in writing; and
- b. Delivered in person or by overnight courier service (delivery charges prepaid), certified or registered mail (return receipt requested). Delivery by e-mail or facsimile is not sufficient.
- c. Notice will be deemed to have been delivered to the person to whom it is addressed as of the date of receipt, if:
 - (1) Received on a business day before 5:00 p.m. at the address for Notices identified for the Party in this Agreement by U.S. Mail, hand delivery, or overnight courier service; or
 - (2) As of the next business day after receipt, if received after 5:00 p.m.
- d. The burden of proof of the place and time of delivery is upon the Party giving the Notice.
- e. Digitalized signatures and copies of signatures will have the same effect as original signatures.

11.2 Representatives.

- a. Consultant. Consultant's representative (the "Consultant's Representative") authorized to act on Consultant's behalf with respect to the Project, and his or her address for Notice delivery is:

c/o

- b. Town. The Town's representative ("Town's Representative") authorized to act on Town's behalf, and his or her address for Notice delivery is:

Town of Paradise Valley
c/o Jill Keimach
6401 E. Lincoln Drive
Paradise Valley, Arizona 85253

With required copy to:

Town Attorney
Town of Paradise Valley
6401 East Lincoln Drive
Paradise Valley, Arizona 85253

- c. Concurrent Notices.

- (1) All notices to Town's representative must be given concurrently to Town Manager and Town Attorney.
- (2) A notice will not be deemed to have been received by Town's representative until the time that it has also been received by the Town Manager and the Town Attorney.
- (3) Town may appoint one or more designees for the purpose of receiving notice by delivery of a written notice to Consultant identifying the designee(s) and their respective addresses for notices.

- d. Changes. Consultant or Town may change its representative or information on Notice, by giving Notice of the change in accordance with this section at least seven (7) days prior to the change.

12. Additional Provisions.

- 12.1 Integration. This Agreement contains the entire agreement between Town and Consultant and supersedes all prior conversations and negotiations between the Parties regarding the Services or this Agreement.

12.2 Interpretation.

- a. The Parties fairly negotiated the Agreement's provisions to the extent they believed necessary and with the legal representation they deemed appropriate.
- b. The Parties are of equal bargaining position and this Agreement must be construed equally between the Parties without consideration of which of the Parties may have drafted this Agreement.
- c. The Agreement will be interpreted in accordance with the laws of the State of Arizona.

- 12.3 Survival. Except as specifically provided otherwise in this Agreement, each warranty, representation, indemnification and hold harmless provision, insurance requirement, and every other right, remedy and responsibility of a Party, will survive completion of the Project, or the earlier termination of this Agreement.

- 12.4 Amendment. No amendment to this Agreement will be binding unless in writing and executed by the Parties. Any amendment may be subject to Town Council approval.

- 12.5 **Remedies.** All rights and remedies provided in this Agreement are cumulative and the exercise of any one or more right or remedy will not affect any other rights or remedies under this Agreement or applicable law.
- 12.6 **Right to Assurance.** Whenever one Party to this Agreement in good faith has reason to question the other Party's intent to perform, he may demand that the other Party give a written assurance of his intent to perform. In the event that a demand is made and no written assurance is given within five (5) days, the demanding Party may treat this failure as an anticipatory repudiation of the Agreement.
- 12.6 **Severability.** If any provision of this Agreement is voided or found unenforceable, that determination will not affect the validity of the other provisions, and the voided or unenforceable provision will be reformed to conform with applicable law.
- 12.7 **Counterparts.** This Agreement may be executed in counterparts, and all counterparts will together comprise one instrument.

14. **Project Manager.** The Town's Project Manager for the Project is:

Name: Jill Keimach

Contact: jkeimach@paradisevalleyaz.gov; (480)348-3533

15. **Dispute Resolution.** Each claim, controversy and dispute (each a "Dispute") between Consultant and Town will be resolved in accordance with **Exhibit C**. The final determination will be made by the Town.

16. **Exhibits.** The following exhibits, with reference to the term in which they are first referenced, are incorporated by this reference.

Exhibit A Scope of Services

Exhibit B Dispute Resolution

The Parties enter into this Agreement effective as of the date shown above.

(Signatures on the following page)

Town of Paradise Valley,
an Arizona municipal corporation

By: Jill Keimach
Its: Town Manager

ATTEST:

Duncan, Miller, Town Clerk (SEAL)

APPROVED AS TO FORM:

Deborah Robberson, Acting Town Attorney

SCUTARI AND CIESLAK, INC.,
an Arizona corporation

By: _____
Its: _____

EXHIBIT A
Services Agreement
Scutari and Cieslak, Inc.

SCOPE OF SERVICES

- Conduct a Discovery Session with PARADISE VALLEY key team members to immerse ourselves in your community, your target audiences, your goals and objectives. This Discovery Session helps build the foundation of a communications plan that will resonate with PARADISE VALLEY'S key audiences and targets.
- Draft and edit a Key Message Ladder
- Develop an Earned Media Plan to build a calendar of stories every month in targeted media outlets
- Partner with PARADISE VALLEY to assist in drafting media statements, which could include timely, relevant press releases, Op Eds, LinkedIn blogs and story pitches.
- Help coordinate media interviews when needed.
- Participate in monthly Zoom meetings or when needed.
- Provide PR counsel and advice.

EXHIBIT B
Services Agreement
Scutari and Cieslak, Inc.

DISPUTE RESOLUTION

1. Disputes.

- 1.1 Commitment. The Parties commit to resolving all disputes promptly, equitably, and in a good-faith, cost-effective manner.
- 1.2 Application. The provisions of this Exhibit will be used by the Parties to resolve all controversies, claims, or disputes ("Dispute") arising out of or related to this Agreement, including Disputes regarding any alleged breaches of this Agreement.
- 1.3 Initiation. A Party may initiate a Dispute by delivery of written notice of the Dispute, including the specifics of the Dispute, to the Representative of the other Party as required in this Agreement.
- 1.4 Informal Resolution. When a Dispute notice is given, the Parties will designate a member of their senior management who will be authorized to expeditiously resolve the Dispute.
 - a. The Parties will provide each other with reasonable access during normal business hours to any and all non-privileged records, information and data pertaining to any Dispute in order to assist in resolving the Dispute as expeditiously and cost effectively as possible;
 - b. The Parties' senior managers will meet within 10 business days to discuss and attempt to resolve the Dispute promptly, equitably, and in a good faith manner, and
 - c. The Senior Managers will agree to subsequent meetings if both Parties agree that further meetings are necessary to reach a resolution of the Dispute.

2. Arbitration.

- 2.1 Rules. If the Parties are unable to resolve the Dispute by negotiation within 30 days from the Dispute notice, and unless otherwise informal discussions are extended by the mutual agreement, the Dispute will be decided by binding arbitration in accordance with applicable Rules of the American Arbitration Association ("AAA"), as amended herein. Although the arbitration will be conducted in accordance with AAA Rules, it will not be administered by the AAA, but will be heard independently.
 - a. The Parties will exercise best efforts to select an arbitrator within five business days after agreement for arbitration. If the Parties have not agreed upon an arbitrator within this period, the Parties will submit the selection of the arbitrator to one of the principals of the mediation firm of Scott & Skelly, LLC, (or other law firm amenable to the Parties) who will then select the arbitrator. The Parties will equally share the fees and costs incurred in the selection of the arbitrator.
 - b. The arbitrator selected must be an attorney with at least 15 years' experience with commercial or municipal legal matters in Maricopa County, Arizona, be independent, impartial, and not have engaged in any business for or adverse to either Party for at least 10 years.
- 2.2 Discovery. The extent and the time set for discovery will be as determined by the arbitrator. Each Party must, however, within 10 days of selection of an arbitrator deliver to the other Party copies of all documents in the delivering Party's possession that are relevant to the dispute.

- 2.3 Hearing. The arbitration hearing will be held within 90 days of the appointment of the arbitrator. The arbitration hearing, all proceedings, and all discovery will be conducted in Paradise Valley, Arizona unless otherwise agreed by the Parties or required as a result of witness location. Telephonic hearings and other reasonable arrangements may be used to minimize costs.
- 2.4 Award. At the arbitration hearing, each Party will submit its position to the arbitrator, evidence to support that position, and the exact award sought in this matter with specificity. The arbitrator must select the award sought by one of the Parties as the final judgment and may not independently alter or modify the awards sought by the Parties, fashion any remedy, or make any equitable order. The arbitrator has no authority to consider or award punitive damages.
- 2.5 Final Decision. The Arbitrator's decision should be rendered within 15 days after the arbitration hearing is concluded. This decision will be final and binding on the Parties.
- 2.6 Costs. The prevailing Party may enter the arbitration decision in any court having jurisdiction in order to convert it to a judgment. The non-prevailing Party will pay all of the prevailing Party's arbitration costs and expenses, including reasonable attorney's fees and costs.

3. **Services to Continue Pending Dispute.** Unless otherwise agreed to in writing, Consultant must continue to perform and maintain progress of required Services during any Dispute resolution or arbitration proceedings, and Town will continue to make payment to Consultant in accordance with this Agreement.

4. **Exceptions.**

- 4.1 Third Party Claims. Town and Consultant are not required to arbitrate any third-party claim, cross-claim, counter claim, or other claim or defense of a third party who is not obligated by contract to arbitrate disputes with Town and Consultant.
- 4.2 Liens. Town or Consultant may commence and prosecute a civil action to contest a lien or stop notice, or enforce any lien or stop notice, but only to the extent the lien or stop notice the Party seeks to enforce is enforceable under Arizona Law, including, without limitation, an action under A.R.S. § 33-420, without the necessity of initiating or exhausting the procedures of this Exhibit.
- 4.3 Governmental Actions. This Exhibit does not apply to, and must not be construed to require arbitration of, any claims, actions or other process filed or issued by Town of Paradise Valley Community Development Department or any other agency of Town acting in its governmental permitting or other regulatory capacity.



PROCUREMENT SUMMARY

PROCUREMENT TYPE: Formal Written Quotes

PROCUREMENT TITLE: Public Relations Firms

DATE: Quotes were requested on August 24, 2020 **Due date:** January 4, 2021

CONTRACT TYPE: On call as needed one-year agreement

CONTRACT ANNUAL VALUE (EST.): \$25,000 -\$49,000

VENDOR LIST: Three firms were asked to provide written proposals, S+C Communications, Gordon C. James and OH Partners. All three firms stated they could return a proposal by the due date. OH Partner did not return a quote and was contacted again with no response.

PROPOSALS RECEIVED: Two (2) responses were received in response to the procurement. The respondents were: S+C Communications and Gordon C. James.

REQUESTED SCOPE OF WORK: The Town of Paradise Valley is seeking competitive written quotes from qualified and interested consultants to provide Public Relations services. The Town is looking for a consultant to develop a strategic communications plan to educate the public about high-profile development projects and other Town issues. Services will include distilling contractual obligations, public sector procedures, and other information into clear press releases, website information and other media formats. Services will be requested on an as-needed, basis, and the Town makes no guarantee as to the amount of services the consultant(s) will be asked to provide.

EVALUATION COMMITTEE: The Evaluation Committee composed of the following team members:

Jill Keimach – Town Manager
Duncan Miller – Town Clerk

Sarah Meland – Executive Assistant
Peggy Ferrin – Procurement Coordinator

PROPOSAL EVALUATION: Each firm was asked to address the following information in their proposal:

- I. Firm's management and Organization Capabilities
- II. Qualifications and Experience of their Firm, key people who will be responsible for performing the work under the contract
- III. List 3 specific references that may be contacted
- IV. Provide a sample of written work similar to the requested Scope of Services
- V. Provide a website link with sample of content Firm has created
- VI. Provide a price proposal. Offerors were asked to provide fully loaded hourly labor rates for positions identified

The submitted proposals were evaluated and the committee found both firms to be qualified. S+C proposed an hourly rate of \$200 for both partners and Gordon C. James had a fee of \$250 for main partner and \$150 for support staff with a minimum fee of \$2000 per project.

REFERENCES:

S+C Communications - Cushman & Wakefield, Arizona Commerce Authority, Korean Air, City of Mesa, Valley Metro and Town of PV – Fire.

Gordon C. James – Arizona Public Service, Pfizer, Inc., and Triwest Healthcare Alliance.

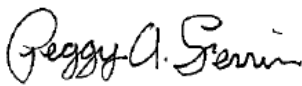
PRESENTATION/INTERVIEWS: The Evaluation Committee found it advantageous to hold presentation/interviews to clarify the cost consideration, conflict of interests and to meet the proposed team members.

RECOMMENDATION:

The firms were evaluated to select the most responsible offer whose proposal is determined in writing to be the most advantageous based on the evaluation criteria listed.

The evaluation team found S+C Communications proposal and qualified team member to be the best fit for the Town based on their overall responsiveness, previous experience, experience with social media and knowledge of the town's current situations. They had experience with Short term rentals (STR) and new the language and had no possible conflict of interests within the Town. S+C had no minimum fee and is willing to work with the Town. S+C Communications examples of work, including a website they developed, and their references were impressive.

The Evaluation Committee recommends S+C Communications.



Peggy A. Ferrin, CPPB, Procurement Coordinator

January 24, 2021

Date



Action Report

File #: 21-061

AGENDA TITLE:

Approval of Legal Services Engagement Agreement with Crockett Law Group

RECOMMENDATION:

Approve engagement agreement with Crockett Law Group

STAFF CONTACT:

TOWN *Of* **PARADISE VALLEY**



STAFF REPORT

TO: Mayor Bien-Willner and Town Council Members

FROM: Deborah Robberson, Acting Town Attorney

DATE: February 11, 2021

DEPARTMENT: Town Attorney
Deborah Robberson, 480.348.3609

AGENDA TITLE:
Legal Services Engagement Agreement with Crockett Law Group

RECOMMENDATION:
Approve engagement agreement with Crockett Law Group

SUMMARY STATEMENT:

In June 2020, EPCOR Water Arizona, Inc. filed a case with the Arizona Corporation Commission requesting a rate increase and possible consolidation of 11 water districts, including the Paradise Valley Water District (Docket No. WS-01303A-20-0177) ("Rate Case"). The other districts are: Agua Fria, Anthem, Chaparral, Havasu, Mohave, North Mohave, Sun City, Sun City West, Tubac, and Willow Valley.

Generally, EPCOR has requested a \$1,646,942 total revenue increase for its Paradise Valley Water District, which would equate to a 15.49% increase in revenues. As a stand-alone district, EPCOR estimates that a typical residential water customer with a 5/8 inch meter using 17,323 gallons per month would see a \$17.26 monthly increase in their bill. Because PV customers typically have larger meter sizes and higher water usage, EPCOR has also provided an analysis that shows that a residential customer with a 1 inch meter using 51,778 gallons per month would see a \$34.22 per month increase.

EPCOR has also presented four scenarios whereby the water districts would be consolidated and thus have rates that are blended and spread out evenly among a larger block of customers. Only one of the scenarios, Scenario 4-Total Consolidation, has the Paradise Valley District consolidated with other EPCOR Districts. If total consolidation were to be instituted by the Corporation Commission, EPCOR estimates the impact on a PV residential customer with a 1 inch meter using 51,778 gallons per month would be an \$84.99 per month increase.

Due to the large lot sizes in the Town the typical resident of Paradise Valley has an average monthly water usage that is far greater than the average use in all of the other

EPCOR water districts. Thus, rate tiers proposed by EPCOR under full consolidation scenarios will have the vast majority of the Town residents paying the higher per gallon rates that are in the top (punitive) tiers of the projected rate structure.

In October, the Town Council adopted Resolution 2020-29, which authorized the Town to intervene in the rate case and to oppose consolidation. The Town Attorney filed a motion to intervene on the Town's and its residents' behalf and also retained outside legal counsel to assist in the case due to the specialized nature of utility rate cases. Due to a conflict of interest which developed, that attorney was unable to continue to represent the Town.

This item is a request to approve a legal retainer agreement with the Crockett Law Group (Jeff Crockett) to represent the Town in the pending Rate Case. Mr. Crockett has specialized expertise in these matters, having represented clients in rate cases before the Arizona Corporation Commission for nearly 30 years. The Town will continue to argue against consolidation and will argue that the proposed rate tiers are not appropriate for the Paradise Valley Water District. Mr. Crockett also represents six resorts located in the Town of Paradise in opposing consolidation. The Town and the Resorts are able to share 50/50 in Mr. Crockett's fees for work that jointly benefits both parties, as well as fees for the expert witness retained by Mr. Crockett, John Thornton.

POTENTIAL FUTURE CONFLICT:

With the selection of Jeff Crockett to jointly represent the Town and the Paradise Valley Resorts, there is a potential and unlikely risk that a positional conflict could arise between the Town and the resorts, if the Town sought to shift more of revenue requirement to commercial (resorts) customers. The Town has not taken that position in the past. In proceeding with the engagement of Mr. Crockett, it is the assumption of staff that:

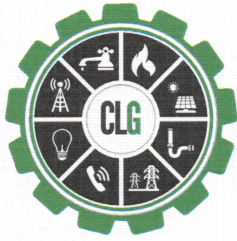
1. The Town would continue the direction taken in the past not to advocate to move revenue requirement from one customer class to another (i.e., commercial versus residential);
2. The Town would continue to focus its efforts against PV being a part of any consolidation of water districts and opposing reduction in residential rate tiers; and
3. In the event that the Town finds it may have a conflict, the Town would change attorneys at the direction of Town Council.

BUDGETARY IMPACT:

The course of litigation is hard to predict, but it is currently estimated that the Town's legal fees for Mr. Crockett's representation will be approximately \$25,000, plus additional expert witness fees of approximately \$10,000.

ATTACHMENT(S):

- A. Staff Report
- B. Crockett Law Group Engagement Agreement



CROCKETT LAW GROUP

Jeffrey W. Crockett

Attorney at Law

direct 602.441.2775

fax 602.466.3493

mobile 602.999.4188

email jeff@jeffcrockettllaw.com

February 4, 2021

VIA E-MAIL AND U.S. MAIL

Deborah Robberson, Acting Town Attorney
TOWN OF PARADISE VALLEY
6401 East Lincoln Drive
Paradise Valley, Arizona 85253
E-mail: drobberson@paradisevalleyaz.gov

Re: Fee Agreement for Representation by Crockett Law Group PLLC

Dear Debby:

Thank you for selecting Crockett Law Group PLLC ("CLG") to represent the Town of Paradise Valley ("Paradise Valley" or the "Town") in the pending EPCOR Water Arizona, Inc. rate case filed in Docket WS-01303A-20-0177 (the "EPCOR Rate Case"). CLG's representation of the Town will be limited to the matter described in the preceding sentence. This engagement letter replaces and supersedes the earlier engagement letter dated January 20, 2021.

The purpose of this letter is to set forth and confirm the terms and conditions of CLG's legal representation of Paradise Valley. I encourage you to bring to my attention at any time any questions or concerns you may have regarding CLG's service or fees. As we have discussed, Paradise Valley understands and agrees that in connection with this representation, CLG will also be jointly representing Sanctuary Camelback Mountain Resort & Spa, JW Marriott Camelback Inn, Omni Scottsdale Resort & Spa at Montelucia, Andaz Scottsdale Resort & Spa, Mountain Shadows Resort Scottsdale, and The Ritz-Carlton Paradise Valley in the EPCOR Rate Case. The Town further understands and agrees that in connection with this joint representation, the entities jointly represented by CLG will not seek to assert that revenue requirement in the EPCOR Rate Case should be moved from one customer class to another.

Paradise Valley has retained CLG on an hourly basis and my hourly rate for this engagement is \$375. Services rendered prior to the Town's signing of this engagement letter are subject to the terms of this letter. In addition to hourly fees for legal services, CLG will charge for certain out-of-pocket costs incurred in representing Paradise Valley. Charges for long distance telephone calls, fax charges, in-office copying, ordinary postage and deliveries made by in-house staff are included as part of the hourly rate. However, if CLG incurs other costs including but not limited

CROCKETT LAW GROUP PLLC

2198 East Camelback Road • Suite 305
Phoenix, Arizona 85016

www.jeffcrockettllaw.com

to filing fees, transcript fees, deposition fees, copying charges from third party vendors or government agencies, expert witness fees, computer-assisted legal research fees, delivery service charges, service-of-process fees, travel costs, meals and hotel accommodations, those items will be billed separately. CLG may require that Paradise Valley pay a third party providing such services directly or advance to CLG the estimated cost of such services prior to incurring those expenses on the Town's behalf.

CLG will send statements for professional fees and expenses to Paradise Valley on a monthly basis. The monthly statements will identify the services performed, the fees charged for those services, and any costs or expenses incurred. Paradise Valley agrees to make payment to CLG within 30 days of the Town's receipt of the statement and in accordance with the Town's standard billing process. CLG reserves the right to suspend performing services and to promptly move to withdraw from representing Paradise Valley upon a failure to timely pay a statement.

Paradise Valley may terminate this representation at any time by notifying CLG in writing. The Town's termination of the representation will not affect its responsibility for payment of outstanding statements and/or accrued fees and expenses incurred before termination or in connection with an orderly transition of the matter.

CLG may withdraw from this representation if Paradise Valley does not fulfill its obligations under this agreement, including the obligation to pay legal fees and expenses, or as permitted or required under any applicable standards of professional conduct or rules of court, or upon reasonable written notice to the Town.

I may send Paradise Valley pleadings, documents, correspondence, electronic communications and other information during this representation. These copies will be the Town's file copies and I would urge you to retain them for your records. Paradise Valley agrees that the work product of CLG and its staff, including notes, research and documents which it prepares, are the property of the firm. It is CLG's policy to destroy all client files, including all documents and materials therein, five years after CLG closes the files following completion of each matter. This file destruction procedure is automatic and Paradise Valley will not receive any further notice prior to the destruction of the files. Accordingly, the Town should maintain its own files relating to the matter which CLG is handling.

I am very pleased and privileged to work with Paradise Valley. Occasionally, CLG may provide lists of representative clients to legal or other publications and/or may use a client's name in CLG's marketing materials. If this is acceptable to the Town, please check the box under the acceptance below.

Deborah Robberson, Acting Town Attorney
TOWN OF PARADISE VALLEY
February 4, 2021
Page 3

Please review this letter carefully. If the terms and conditions of representation and the billing arrangements meet with the Town's approval, please sign the enclosed copy of this letter and return it to me. As always, please call me if you have any questions or concerns.

Very truly yours,

CROCKETT LAW GROUP PLLC



Jeffrey W. Crockett

ACCEPTANCE

I have reviewed the foregoing engagement letter and agree on behalf of the Town of Paradise Valley to the terms and conditions of representation and the billing arrangements set forth therein.

☐ By checking the box, I agree that CLG may provide the Town's name as a representative client of CLG to legal or other publications and/or may use the Town's name in CLG's marketing materials.

TOWN OF PARADISE VALLEY

By: _____

Its: _____

Date: _____



Action Report

File #: 21-060

AGENDA TITLE:

Approval of Town Position of Support or Opposition of State Legislative Summary of Bills Relevant to Paradise Valley

RECOMMENDATION:

Provide direction and approve Summary of State Legislation and Recommendations for Council Adoption during Town Council Meeting.

STAFF CONTACT:

TOWN *Of* **PARADISE VALLEY**



STAFF REPORT

TO: Mayor Bien-Willner and Town Council Members

FROM: Jill Keimach, Town Manager

DATE: February 11, 2021

DEPARTMENT: Town Manager
Jill Keimach, 480.348.3533

AGENDA TITLE:

Approval of Town Position of Support or Opposition of State Legislative Summary of Bills Relevant to Paradise Valley

SUMMARY STATEMENT:

The Town of Paradise Valley annually develops a Legislative Agenda to outline and reaffirm the Town's legislative priorities for the year. The Town Council then meets with its Legislators from District 28 to go over the Town priorities. This year this meeting was held on January 4, 2021 with District 28 legislators Senator Christine March, and Representatives Kelli Butler and Aaron Lieberman to discuss with the Mayor and Council the impact of Short-Term Rentals, the continued need for Electronic Photo Enforcement in a limited government organization like Paradise Valley, the need for diversified TPT Sales Tax for Prime Contracting and a Tourism Marketing Authorization bill.

The Town's Legislative Contract Lobbyist, Doug Cole updated the Town Council during a Study Session on January 28th. Council gave direction during that meeting to return with recommendations so the Council could formally support and oppose bills most relevant to the values previously articulated by the Paradise Valley Town Council.

In addition to the bills discussed during the last meeting, the Police Chief has requested formal opposition to three bills that on the surface look to preempt Police Department 'defunding'. The unintended consequence of these bills is that if the police department is reduced any amount, 10% or at 25% depending on the bill, they the Attorney General would investigate and potentially reduce the amount of State Shared Revenue the Town receives by the amount the Police Department Budget is reduced. In Paradise Valley, the large payments to payoff the Town's unfunded pension liabilities in the Police Department may considered a budget reduction which would significantly impact the Town finances if an equal amount would be withheld from State Share Revenue when the Town stops needing to make those payments.

BUDGETARY IMPACT:

None at this time, although Short-Term Rental bills, if not locally regulated will continue to take Town resources to respond to party houses and other unruly and disruptive behaviors.

The legislation intended to preempt “defunding” of Police departments if adopted may have the unintended consequence of restricting State Shared revenue if Paradise Valley reduces the Police Department budget as the Town has effectively paid off its unfunded pension liabilities. PSPRS Unfunded Liabilities payments recorded in PD have ranged from \$1,000,000 to \$9,000,000 in a single year with a total of \$18,000,000 from 2016/17 to 2019/20. \$0 has been paid in FY2020/21 to date. This fluctuation would be problematic as drafted in the legislation. Further, the year-to-year fluctuation of vehicles and equipment replacement and capital expenditures would be problematic if included in the formula.

RECOMMENDATION:

Provide direction and approve Summary of State Legislation and Recommendations for Council Adoption during Town Council Meeting.

ATTACHMENT(S):

- A. Staff Report
- B. Summary of State Legislation and Recommendations for Council Adoption
- C. Bills

Summary of Legislation and Recommendations for Council Consideration February 11, 2021

Short-Term Rentals

SB1379 Relating to Short-Term Rentals, Enforcement (Sen. Mesnard)

Considered the Industry Bill. Allows a City or Town to adopt and enforce ordinances, related to public health and safety, traffic control and nuisance related to noise, protection of welfare, nuisance in same manner as other homes. Restricts the maximum number of adult occupants at any one time to no more than 2/bedroom up to 4 bedrooms plus 2 per 1,000 sf over 3,000 sf of home. Allows local civil penalties of \$1,000 every 30 days for not providing contact information. Requires liability insurance. First sponsor: Sen. Mesnard

Recommend Partial Oppose, Doesn't go far enough

HB 2285 Online Home Sharing: Repeal

Repeals statutes prohibiting municipalities and counties from prohibiting vacation rentals or short-term rentals and limiting the restrictions that municipalities and counties may place on those rentals to a list of specified purposes. Repeals the online lodging marketplace transaction privilege tax classification, and the requirement for online lodging marketplaces to register with the Department of Revenue for payment of transaction privilege taxes on online lodging transactions. Repeals the requirement for online lodging operators to have a current transaction privilege tax license and related civil penalties for noncompliance. Repeals the Joint Legislative Study Committee on Transient Lodging.

ARS Titles Affected: [5](#) [15](#) [42](#)

First sponsor: Rep. Lieberman (D - Dist 28)

Others: Rep. Bolick (R - Dist 20) , Rep. Butler (D - Dist 28) , Sen. Marsh (D - Dist 28) , Rep. Teran (D - Dist 30)

Recommend Support (Full Repeal of 2016 SB1350)

HB 2481 Short-Term Rentals; Enforcement; Penalties

Modifies the list of regulations that counties and municipalities are authorized to impose on vacation rentals or short-term rentals to include requiring the owner of a vacation rental or short-term rental to license or register with the county or municipality, and restricting the occupancy of a vacation rental or short-term rental to the lesser of the occupancy limit of the county or municipality or 2 adults per bedroom plus 2 additional adults. Vacation rentals and short-term rentals cannot advertise to exceed the occupancy limit of the dwelling or for any nonresidential use. Counties and municipalities are authorized to impose a civil penalty for each day a property is in violation of this

advertisement prohibition. An online lodging operator that falsifies information to an online lodging marketplace is guilty of a petty offense. A county or municipality cannot prohibit the operation of a vacation rental or short-term rental based solely on its status as a vacation rental or short-term rental if the owner of the vacation rental or short-term rental, as of May 1, 2021, has a valid transaction privilege tax license, and as of June 2, 2021, has provided the owner's or the owner's designee's contact information to the county or municipality in which the vacation rental or short-term rental is located, if required by ordinance.

ARS Titles Affected: [9](#) [11](#) [42](#)

First sponsor: Rep. Kavanagh (R - Dist 23)

Others: Sen. Alston (D - Dist 24) , Sen. Barto (R - Dist 15) , Rep. Butler (D - Dist 28) , Sen. Engel (D - Dist 10) , Rep. Jermaine (D - Dist 18) , Rep. Kaiser (R - Dist 15) , Rep. Lieberman (D - Dist 28) , Rep. Longdon (D - Dist 24) , Sen. Marsh (D - Dist 28) , Rep. Shah (D - Dist 24)

Recommend Support (Last Year's Sen. Kate Brophy McGee's SB 1554 that passed Senate 23-5)

HB 2482 Regulation; Short-Term Rentals

Modifies the list of regulations that counties and municipalities are authorized to impose on vacation rentals or short-term rentals to include: requiring contact information for the owner of the rental to be posted on the front door or in another location on the property that is visible and accessible to the public; restricting the maximum number of adult occupants allowed on the property at one time to the lesser of the occupancy limit established by the county or municipality or no more than 2 adults per bedroom, up to 4 bedrooms, plus 2 additional adults per 1,000 square feet of livable space in excess of 3,000 square feet of livable space; requiring the installation of safety and monitoring equipment that monitors and detects noise and notifies the owner if noise is unreasonable or in violation of a noise ordinance; prohibiting smoking outside within 100 feet of a residential structure; restricting occupants from checking in without the presence of the owner or the owner's designee; and prohibiting occupants from parking on public or private streets if on-property parking is available. Vacation rentals and short-term rentals cannot advertise to exceed the occupancy limit of the dwelling or for any nonresidential use, and are required to display the transaction privilege tax license in any online advertisement for rental of the unit. Establishes penalties for violations.

ARS Titles Affected: [9](#) [11](#)

First sponsor: Rep. Kavanagh (R - Dist 23)

Recommend Oppose (Last year's Rep. Kavanagh's HB 2875 that failed on the House floor 25-35)

HCR 2011 Short-Term Rentals; Vacation Rentals

The 2022 general election ballot is to carry the question of whether to amend the state Constitution to repeal statutes prohibiting municipalities and counties from prohibiting vacation rentals or short-term rentals and limiting the restrictions that municipalities and counties may place on those rentals to a list of specified purposes. Land use laws the regulate a vacation rental or short-term rental are excluded from statute entitling a property owner to just compensation if existing rights to use private real property are reduced by the enactment of any land use law enacted after the date the property is transferred to the owner and the action reduces the fair market value of the property.

ARS Titles Affected: 99

First sponsor: Rep. Lieberman (D - Dist 28)

Others: Rep. Butler (D - Dist 28) , Sen. Marsh (D - Dist 28) , Rep. Pawlik (D - Dist 17) , Rep. Shah (D - Dist 24) , Rep. Teran (D - Dist 30)

Recommend Support (Full Repeal of 2016 SB1350 to be sent to the 2022 ballot and by-passing the Governor)

Construction Sales Tax

HB 2211 TPT; Prime Contracting; Exemptions; Certificates

Various changes to statutes relating to transaction privilege taxes (TPT) for prime contracting. The definitions of "modification" and "alteration" for the purpose of computing the tax base for the prime contracting classification of TPT are modified. A certificate that a contractor provides to a person stating that the contractor is liable for any amount of transaction privilege taxes due is valid for a period of up to one year. After the certificate expires, the contractor is allowed to execute and provide to the person a new certificate. The Department of Revenue (DOR) is required to prescribe a form for a certificate to be used by a prime contractor that is subject to TPT for purchasing tangible personal property, the purchase price of which was excluded from the tax base under the retail classification of TPT. The prime contractor is required to obtain the certificate from DOR, and the certificate is valid for up to one year. After the certificate expires, the contractor is allowed to obtain a new certificate. Applies to contracts entered into beginning January 1, 2022.

ARS Titles Affected: [42](#)

First sponsor: Rep. Cobb (R - Dist 5)

Others: Rep. Bolick (R - Dist 20) , Rep. Toma (R - Dist 22)

Recommend Oppose (Cobb's bill from previous year that would be detrimental to the Town)

SB 1721 TPT: Prime Contracting Classification

The gross proceeds of sales or gross income derived from a construction contract with an owner of real property or the improvements to real property that does not exceed \$100,000 per unit for a "residential project" (defined) or \$1 million for a nonresidential

project is not subject to tax under the prime contracting classification of transaction privilege taxes, and is required to be exempt from municipal transaction privilege and use taxes. Only the contract price is used to determine whether a contract exceeds the threshold amount described in this paragraph with no subtractions for amounts paid to subcontractors or any deductions or exemptions allowed. Project elements cannot be artificially separated from a contract to cause a project to qualify for this exemption. The Department of Revenue has the burden of proving that project elements have been artificially separated from a contract. A contract that primarily involves construction of any electricity generating facility or system installed on any commercial, residential or governmental property, including the maintenance, repair, replacement or alteration of existing improvements of an electricity generating or distribution facility, is not subject to tax under the prime contracting classification of transaction privilege taxes. Retroactive to contracts entered into beginning July 1, 2021. Establishes provisions for application to contracts that were bid or entered into from January 1, 2015 through July 1, 2021.

ARS Titles Affected: [41](#) [42](#)

First sponsor: Sen. Fann (R - Dist 1)

Recommend Support

Electronic Traffic Enforcement

SB 1419 Highway Video Surveillance; Prohibition

The state and political subdivisions are prohibited from conducting "highway video surveillance" (defined) on a controlled access highway or on a sidewalk. A person who suffers an injury as a result of a violation of this prohibition is entitled to damages of at least \$1,000 for each violation, plus costs and reasonable attorney fees. Statutes authorizing and regulating photo enforcement are repealed.

ARS Titles Affected: [28](#)

First sponsor: Sen. Rogers (R - Dist 6)

Recommend Oppose

Preemption for Police Department 'Defunding'

HB 2310 Municipalities; counties; law enforcement budgets

Triggered by a 10% reduction of a law enforcement agency's budget. The AG would investigate within 30 days to verify the 10% reduction. If confirmed, the AG would require municipality to restore the budget within thirty days or AG would notify the state treasurer who would redistribute state shared monies in an equal amount to the reduction.

First sponsor: Sen. Rogers (R - Dist 6)

Representatives Roberts: Barton, Biasiucci, Blackman, Bolick, Bowers, Burges, Carroll, Chaplik, Cobb, Dunn, Fillmore, Fincham, Grantham, Griffin, Hoffman, Kaiser, Kavanagh, Nguyen, Nutt, Osborne, Parker, Payne, Pingerelli, Toma, Wilmeth

Recommend Oppose, Potential loss of State Shared Revenue with fluctuating unfunded pension payments

HB2420 law enforcement budget; reduction; certification This is a budget certification by the state of a county or municipality law enforcement budget. The reduction must be tied to reduced revenues or be subject to state shared revenue withholding.

First sponsor: Representatives Carroll, Wilmeth

Recommend Oppose, Potential loss of State Shared Revenue with fluctuating unfunded pension payments

SB1333 law enforcement; budget reduction; prohibition

This is similar to HB2310, but is triggered at any level of reduction to a PD budget. The state treasurer would withhold the same amount from the municipality's state shared revenues. A 25% reduction would see a withholding of the entire police department budget by the state treasurer until restoration. This bill provides exemptions for employee related expenses (health care or pension). It does authorize a county sheriff to assume law enforcement functions if the municipality's budget is reduced by 25%. Funds withheld by the treasurer under this bill would be available to the county sheriff in the form of grants.

First sponsor: Gowan

Recommend Oppose, Potential loss of State Shared Revenue with fluctuating Police Budgets

Tourism Marketing Authorities

HB 2161 AND SB1101 Tourism Marketing Authorities (Both bills are the same)

Establishes a new chapter in Title 9 (Cities and Towns) and a new chapter in Title 11 (Counties) allowing the governing body of one or more municipalities and/or of a county with a population of less than 2 million persons (all but Maricopa County) to adopt a resolution, on presentation of a petition signed by the owners of at least 67 percent of the transient lodging rooms in the geographic area, forming a tourism marketing authority to promote and enhance tourism in that geographic area. Establishes powers and duties of a tourism marketing authority, including authorization to levy an assessment of up to \$5 per room on transient lodging rooms sold per night. A tourism marketing authority is governed by a board of directors, and budgeting, recordkeeping and reporting requirements for the board are specified. Establishes a process for termination of a tourism marketing authority. Emergency clause.

ARS Titles Affected: [9](#) [11](#)

First sponsor: Rep. Kaiser (R - Dist 15) and Sen. Pace (R - Dist 25)

Others: Rep. Blackman (R - Dist 6) , Rep. Chaplik (R - Dist 23) , Rep. Cobb (R - Dist 5) , Rep. Weninger (R - Dist 17) and Sen. Bowie (D - Dist 18)

Recommend Support (Last year's TMA bill that Experience Scottsdale and the Arizona Lodging and Tourism Association would like the Town to support)

*Sponsorship has changed since the bill was introduced

REFERENCE TITLE: **tourism marketing authorities.**

State of Arizona
House of Representatives
Fifty-fifth Legislature
First Regular Session
2021

HB 2161

*Introduced by
Representatives Kaiser: Blackman, Cobb, Weninger

AN ACT

AMENDING TITLE 9, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 14; AMENDING
TITLE 11, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 15; RELATING TO
TOURISM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 9, Arizona Revised Statutes, is amended by adding
3 chapter 14, to read:

4 CHAPTER 14

5 TOURISM MARKETING AUTHORITY

6 ARTICLE 1. GENERAL PROVISIONS

7 9-1501. Definitions

8 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 1. "AUTHORITY" MEANS A TOURISM MARKETING AUTHORITY THAT IS FORMED
10 PURSUANT TO THIS CHAPTER.

11 2. "BOARD" MEANS THE BOARD OF DIRECTORS OF A TOURISM MARKETING
12 AUTHORITY.

13 3. "GOVERNING BODY" MEANS THE BODY OR BOARD THAT BY LAW IS
14 CONSTITUTED AS THE LEGISLATIVE DEPARTMENT OF THE MUNICIPALITY OR COUNTY.

15 4. "MUNICIPALITY" MEANS A CITY OR TOWN.

16 5. "TRANSIENT LODGING ROOM" MEANS A ROOM THAT IS INTENDED FOR
17 TRANSIENT OCCUPANCY IN A HOTEL OR MOTEL, INCLUDING AN INN, TOURIST HOME OR
18 HOUSE, DUDE RANCH OR RESORT.

19 9-1502. Petition; approval; formation

20 A. ON PRESENTATION OF A PETITION PURSUANT TO THIS SECTION, THE
21 GOVERNING BODY OF ONE OR MORE MUNICIPALITIES OR ONE OR MORE MUNICIPALITIES
22 AND A COUNTY WITH A POPULATION OF LESS THAN TWO MILLION PERSONS MAY ADOPT
23 A RESOLUTION FORMING A TOURISM MARKETING AUTHORITY CONSISTING OF THE
24 PROPERTY WITHIN THE CORPORATE BOUNDARIES OF THE AUTHORITY AS DESCRIBED IN
25 THE PETITION. THE PETITION FOR THE FORMATION OF THE AUTHORITY SHALL
26 INCLUDE AND IDENTIFY THE FOLLOWING:

27 1. THE GEOGRAPHIC BOUNDARIES OF THE AUTHORITY.

28 2. THE NONPROFIT TOURISM PROMOTION ORGANIZATION THAT THE
29 MUNICIPALITY AND COUNTY, IF APPLICABLE, WILL CONTRACT WITH TO PROVIDE THE
30 TOURISM MARKETING SERVICES FOR THE AUTHORITY.

31 3. A STATEMENT THAT THE TOURISM MARKETING AUTHORITY WILL PROMOTE
32 AND ENHANCE TOURISM IN THE AUTHORITY.

33 4. THE AMOUNT OF THE ASSESSMENT STATED IN DOLLARS PER ROOM PER
34 NIGHT ON THE TRANSIENT LODGING ROOMS WITHIN THE BOUNDARIES OF THE
35 AUTHORITY AND THE TRANSIENT LODGING FACILITIES TO BE ASSESSED.

36 5. A DESCRIPTION OF THE AUTHORITY'S OBLIGATION TO REPORT ANNUALLY
37 TO THE GOVERNING BODY OF EACH MUNICIPALITY AND COUNTY THAT IS
38 PARTICIPATING IN THE AUTHORITY.

39 6. A STATEMENT THAT THE AUTHORITY MAY BE TERMINATED BY PETITION OF
40 THE TRANSIENT LODGING ROOM OWNERS OR LEGALLY AUTHORIZED REPRESENTATIVES
41 AND SHALL TERMINATE AFTER TEN YEARS UNLESS RENEWED BY FURTHER ACTION BY
42 PETITION TO AND APPROVAL OF ONE OR MORE OF THE GOVERNING BODIES
43 PARTICIPATING IN THE AUTHORITY.

44 B. IF A PETITION PRESCRIBED BY SUBSECTION A OF THIS SECTION IS
45 SIGNED BY THE OWNERS OR LEGALLY AUTHORIZED REPRESENTATIVES OF AT LEAST

SIXTY-SEVEN PERCENT OF THE TRANSIENT LODGING ROOMS WITHIN THE GEOGRAPHIC AREA OF THE AUTHORITY, AND INCLUDES TWO OR MORE PROPERTIES WITH TRANSIENT LODGING ROOMS, THE GOVERNING BODY OF EACH PARTICIPATING MUNICIPALITY AND COUNTY BY AFFIRMATIVE VOTE MAY APPROVE THE FORMATION OF THE AUTHORITY. ON APPROVAL OF EACH PARTICIPATING MUNICIPALITY AND COUNTY, THE AUTHORITY IS ESTABLISHED.

9-1503. Authority powers and duties; contracts; assessments

A. ON ESTABLISHMENT OF THE AUTHORITY, THE GOVERNING BODY OF EACH MUNICIPALITY AND COUNTY PARTICIPATING IN THE AUTHORITY SHALL:

1. CONTRACT WITH A RECOGNIZED TOURISM PROMOTION AGENCY IN THE MUNICIPALITY AND COUNTY THAT IS A NONPROFIT CORPORATION EXEMPT FROM TAXATION UNDER SECTION 501(c)(6) OF THE INTERNAL REVENUE CODE AND THAT HAS BEEN IN CONTINUOUS EXISTENCE FOR AT LEAST FIVE YEARS. IF THERE IS NO RECOGNIZED TOURISM PROMOTION AGENCY IN THE MUNICIPALITY THAT HAS BEEN IN CONTINUOUS EXISTENCE FOR THE PRECEDING FIVE YEARS, THE MUNICIPALITY SHALL CONTRACT WITH A RECOGNIZED TOURISM PROMOTION AGENCY IN THE MUNICIPALITY AND COUNTY THAT IS A NONPROFIT CORPORATION EXEMPT FROM TAXATION UNDER SECTION 501(c)(6) OF THE INTERNAL REVENUE CODE AND THAT HAS BEEN IN CONTINUOUS EXISTENCE FOR AT LEAST TWO YEARS. IF THERE IS NO RECOGNIZED TOURISM PROMOTION AGENCY IN THE MUNICIPALITY, THE MUNICIPALITY MAY CONTRACT WITH THE MUNICIPALITY'S TOURISM PROMOTION OFFICE. THE CONTRACT SHALL PROVIDE THAT THE MUNICIPALITY AND ANY PARTICIPATING COUNTY SHALL DISTRIBUTE TO THE RECOGNIZED TOURISM PROMOTION AGENCY ALL MONIES THAT ARE RECEIVED FROM ASSESSMENTS COLLECTED PURSUANT TO THIS CHAPTER.

2. ENTER INTO INTERGOVERNMENTAL AGREEMENTS AS PRESCRIBED IN TITLE 11, CHAPTER 7, ARTICLE 3 FOR THE PURPOSES OF SUPPORTING THE AUTHORITY.

B. THE AUTHORITY SHALL ESTABLISH, CHARGE AND COLLECT ASSESSMENTS ON TRANSIENT LODGING ROOMS. THE AUTHORITY MAY LEVY AN ASSESSMENT OF NOT MORE THAN \$5 PER ROOM SOLD PER NIGHT ON THE TRANSIENT LODGING ROOMS IN THE AUTHORITY. THE ASSESSMENT RATE OR RATES MAY BE TIERED BASED ON THE AVERAGE DAILY ROOM RATE FOR THE AFFECTED TRANSIENT LODGING.

C. THE TRANSIENT LODGING ROOM OWNER OR LEGALLY AUTHORIZED REPRESENTATIVE SHALL PAY THE ASSESSMENT TO THE DEPARTMENT OF REVENUE AT THE SAME TIME AS PAYING THE TRANSACTION PRIVILEGE TAX UNDER SECTION 42-5014. IF THE TRANSIENT LODGING ROOM OWNER FOR ANY REASON DOES NOT PAY TRANSACTION PRIVILEGE TAX, THE ASSESSMENT IMPOSED BY THIS CHAPTER IS DUE AND PAYABLE TO THE DEPARTMENT, AND IS DELINQUENT IF NOT PAID, AS PROVIDED IN SECTION 42-5014, SUBSECTION A. THE DEPARTMENT SHALL REPORT TO THE STATE TREASURER THE AMOUNT OF MONIES COLLECTED PURSUANT TO THIS SUBSECTION.

D. THE STATE TREASURER SHALL TRANSMIT TO THE TREASURER OR OFFICER EXERCISING THE FUNCTIONS OF TREASURER OF THE PARTICIPATING MUNICIPALITY OR COUNTY, IF APPLICABLE, EACH MONTH, BEGINNING WITH THE THIRD CALENDAR MONTH AFTER THE DATE SPECIFIED IN THE PETITION FOR THE AUTHORITY, THE AMOUNT COLLECTED FROM PROPERTIES WITHIN THE AUTHORITY. THE MUNICIPAL LOCATION OF

1 A PROPERTY IN THE AUTHORITY IS THE SAME MUNICIPALITY FROM WHICH THE
 2 DEPARTMENT OF REVENUE RECEIVES THE MUNICIPAL TRANSIENT LODGING TAX
 3 ASSESSED PURSUANT TO TITLE 42, CHAPTER 6. THE DEPARTMENT OF REVENUE SHALL
 4 SEPARATELY ACCOUNT FOR THE MONIES PAID UNDER THIS CHAPTER AND SHALL
 5 DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, THE NET REVENUES
 6 COLLECTED UNDER THIS CHAPTER IN THE STATE GENERAL FUND.

7 E. THE BOARD AND ANY MUNICIPALITY OR COUNTY THAT IS PARTICIPATING
 8 IN THE AUTHORITY SHALL SUPPLY THE DEPARTMENT OF REVENUE AND THE STATE
 9 TREASURER WITH ALL REQUESTED INFORMATION NECESSARY TO ADMINISTER THIS
 10 SECTION.

11 9-1504. Authority governance; limitation; meetings; report

12 A. THE BOARD OF DIRECTORS OF THE RECOGNIZED TOURISM PROMOTION
 13 AGENCY SHALL GOVERN THE AUTHORITY AND AT LEAST ONE MEMBER OF ONE OR MORE
 14 OF THE GOVERNING BODIES SHALL PARTICIPATE IN THE AUTHORITY. THE AUTHORITY
 15 MAY EMPLOY STAFF AND CONSULTANTS, REIMBURSE A MUNICIPALITY OR COUNTY FOR
 16 STAFF, SERVICES AND FACILITIES SUPPLIED BY THE MUNICIPALITY OR COUNTY,
 17 ENTER INTO CONTRACTS AND ACCEPT GRANTS.

18 B. THE AUTHORITY MAY NOT FINANCE OR FACILITATE THE ACQUISITION,
 19 MAINTENANCE, CONSTRUCTION OR OPERATION OF A HOTEL, MOTEL, RESORT OR OTHER
 20 TRANSIENT LODGING OR ANY SPORTS OR ENTERTAINMENT FACILITY.

21 C. THE AUTHORITY AND ITS BOARD SHALL MAINTAIN THE RECORDS OF THE
 22 AUTHORITY, INCLUDING RECORDS OF ITS ACCOUNTS SHOWING ALL MONIES RECEIVED
 23 AND DISBURSED AND ITS ANNUAL BUDGET, AND SHALL KEEP THE AUTHORITY'S MONIES
 24 AND OPERATIONS SEPARATE FROM THE TOURISM PROMOTION AGENCY'S OTHER MONIES
 25 AND ACTIVITIES. THE BOARD SHALL COMPLY WITH TITLE 38, CHAPTER 3, ARTICLE
 26 3.1 AND TITLE 39, CHAPTER 1.

27 D. THE BOARD SHALL REPORT AT LEAST ANNUALLY TO THE GOVERNING BODIES
 28 OF THE PARTICIPATING MUNICIPALITIES AND COUNTY ON THE ACTIVITIES AND
 29 EXPENDITURES OF THE AUTHORITY AND THE IMPACTS OF THE AUTHORITY'S
 30 EXPENDITURES AND ACTIVITIES.

31 9-1505. Termination; petition; renewal; modification of
 32 boundaries

33 A. AN AUTHORITY MAY BE TERMINATED AT ANY TIME ON PRESENTATION OF A
 34 PETITION THAT IS SIGNED BY THE OWNERS OR LEGALLY AUTHORIZED
 35 REPRESENTATIVES OF AT LEAST FIFTY-ONE PERCENT OF THE TRANSIENT LODGING
 36 ROOMS WITHIN THE GEOGRAPHIC AREA OF THE AUTHORITY. ON RECEIPT OF A
 37 PETITION, THE GOVERNING BODY OF EACH PARTICIPATING MUNICIPALITY AND COUNTY
 38 SHALL TERMINATE ITS PARTICIPATION IN THE AUTHORITY AND NOTIFY THE
 39 DEPARTMENT OF REVENUE, WHICH SHALL CEASE COLLECTING ANY ASSESSMENT.

40 B. AN AUTHORITY SHALL TERMINATE TEN YEARS AFTER ITS FORMATION
 41 UNLESS ONE OR MORE MUNICIPALITIES OR ONE OR MORE MUNICIPALITIES AND A
 42 COUNTY BY PETITION AS PRESCRIBED BY SECTION 9-1502 AND BY RESOLUTION
 43 APPROVE THE RENEWAL OF THE AUTHORITY BEFORE ITS TERMINATION. AN AUTHORITY
 44 MAY BE RENEWED AND ITS BOUNDARIES MODIFIED IF FEWER THAN ALL OF THE
 45 ORIGINAL ENTITIES RESOLVE TO RENEW THEIR PARTICIPATION IN THE AUTHORITY

1 EXCEPT THAT AN AUTHORITY MUST INCLUDE AT LEAST ONE MUNICIPALITY. ON
2 APPROVAL OF ONE OR MORE GOVERNING BODIES' RESOLUTIONS, THE AUTHORITY IS
3 RENEWED FOR TEN ADDITIONAL YEARS. AN AUTHORITY MAY CONTINUE TO BE RENEWED
4 EVERY TEN YEARS THEREAFTER.

5 Sec. 2. Title 11, Arizona Revised Statutes, is amended by adding
6 chapter 15, to read:

7 CHAPTER 15
8 TOURISM MARKETING AUTHORITY
9 ARTICLE 1. GENERAL PROVISIONS

10 11-2001. Definitions

11 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

12 1. "AUTHORITY" MEANS A TOURISM MARKETING AUTHORITY THAT IS FORMED
13 PURSUANT TO THIS CHAPTER.

14 2. "BOARD" MEANS THE BOARD OF DIRECTORS OF A TOURISM MARKETING
15 AUTHORITY.

16 3. "GOVERNING BODY" MEANS THE BOARD OF SUPERVISORS OF A COUNTY.

17 4. "TRANSIENT LODGING ROOM" MEANS A ROOM THAT IS INTENDED FOR
18 TRANSIENT OCCUPANCY IN A HOTEL OR MOTEL, INCLUDING AN INN, TOURIST HOME OR
19 HOUSE, DUDE RANCH OR RESORT.

20 11-2002. Petition; approval; formation

21 A. ON PRESENTATION OF A PETITION PURSUANT TO THIS SECTION, THE
22 GOVERNING BODY OF A COUNTY WITH A POPULATION OF LESS THAN TWO MILLION
23 PERSONS MAY ADOPT A RESOLUTION FORMING A TOURISM MARKETING AUTHORITY
24 CONSISTING OF ALL OF THE PROPERTY WITHIN THE BOUNDARIES OF THE COUNTY.
25 THE PETITION FOR THE FORMATION OF THE AUTHORITY SHALL INCLUDE AND IDENTIFY
26 THE FOLLOWING:

27 1. THE GEOGRAPHIC BOUNDARIES OF THE AUTHORITY.

28 2. THE NONPROFIT TOURISM PROMOTION ORGANIZATION THAT THE COUNTY
29 WILL CONTRACT WITH TO PROVIDE THE TOURISM MARKETING SERVICES FOR THE
30 AUTHORITY.

31 3. A STATEMENT THAT THE TOURISM MARKETING AUTHORITY WILL PROMOTE
32 AND ENHANCE TOURISM IN THE AUTHORITY.

33 4. THE AMOUNT OF THE ASSESSMENT STATED IN DOLLARS PER ROOM PER
34 NIGHT ON THE TRANSIENT LODGING ROOMS WITHIN THE BOUNDARIES OF THE
35 AUTHORITY AND THE TRANSIENT LODGING FACILITIES TO BE ASSESSED.

36 5. A DESCRIPTION OF THE AUTHORITY'S OBLIGATION TO REPORT ANNUALLY
37 TO THE GOVERNING BODY OF THE COUNTY THAT IS PARTICIPATING IN THE
38 AUTHORITY.

39 6. A STATEMENT THAT THE AUTHORITY MAY BE TERMINATED BY PETITION OF
40 THE TRANSIENT LODGING ROOM OWNERS OR LEGALLY AUTHORIZED REPRESENTATIVES
41 AND SHALL TERMINATE AFTER TEN YEARS UNLESS RENEWED BY FURTHER ACTION BY
42 PETITION TO AND APPROVAL OF THE GOVERNING BODY.

43 B. IF A PETITION PRESCRIBED BY SUBSECTION A OF THIS SECTION IS
44 SIGNED BY THE OWNERS OR LEGALLY AUTHORIZED REPRESENTATIVES OF AT LEAST
45 SIXTY-SEVEN PERCENT OF THE TRANSIENT LODGING ROOMS WITHIN THE GEOGRAPHIC

1 AREA OF THE AUTHORITY, AND INCLUDES TWO OR MORE PROPERTIES WITH TRANSIENT
2 LODGING ROOMS, THE GOVERNING BODY OF THE COUNTY BY AFFIRMATIVE VOTE MAY
3 APPROVE THE FORMATION OF THE AUTHORITY. ON APPROVAL OF THE COUNTY, THE
4 AUTHORITY IS ESTABLISHED.

5 11-2003. Authority powers and duties; contracts; assessments

6 A. ON ESTABLISHMENT OF THE AUTHORITY, THE GOVERNING BODY OF THE
7 COUNTY PARTICIPATING IN THE AUTHORITY SHALL:

8 1. CONTRACT WITH A RECOGNIZED TOURISM PROMOTION AGENCY IN THE
9 COUNTY THAT IS A NONPROFIT CORPORATION EXEMPT FROM TAXATION UNDER SECTION
10 501(c)(6) OF THE INTERNAL REVENUE CODE AND THAT HAS BEEN IN CONTINUOUS
11 EXISTENCE FOR AT LEAST FIVE YEARS. IF THERE IS NO RECOGNIZED TOURISM
12 PROMOTION AGENCY IN THE COUNTY THAT HAS BEEN IN CONTINUOUS EXISTENCE FOR
13 THE PRECEDING FIVE YEARS, THE COUNTY SHALL CONTRACT WITH A RECOGNIZED
14 TOURISM PROMOTION AGENCY IN THE COUNTY THAT IS A NONPROFIT CORPORATION
15 EXEMPT FROM TAXATION UNDER SECTION 501(c)(6) OF THE INTERNAL REVENUE CODE
16 AND THAT HAS BEEN IN CONTINUOUS EXISTENCE FOR AT LEAST TWO YEARS. IF
17 THERE IS NO RECOGNIZED TOURISM PROMOTION AGENCY IN THE COUNTY, THE COUNTY
18 MAY CONTRACT WITH THE COUNTY'S TOURISM PROMOTION OFFICE. THE CONTRACT
19 SHALL PROVIDE THAT THE COUNTY SHALL DISTRIBUTE TO THE RECOGNIZED TOURISM
20 PROMOTION AGENCY ALL MONIES THAT ARE RECEIVED FROM ASSESSMENTS COLLECTED
21 PURSUANT TO THIS CHAPTER.

22 2. ENTER INTO INTERGOVERNMENTAL AGREEMENTS AS PRESCRIBED IN
23 CHAPTER 7, ARTICLE 3 OF THIS TITLE FOR THE PURPOSES OF SUPPORTING THE
24 AUTHORITY.

25 B. THE AUTHORITY SHALL ESTABLISH, CHARGE AND COLLECT ASSESSMENTS ON
26 TRANSIENT LODGING ROOMS. THE AUTHORITY MAY LEVY AN ASSESSMENT OF NOT MORE
27 THAN \$5 PER ROOM SOLD PER NIGHT ON THE TRANSIENT LODGING ROOMS IN THE
28 AUTHORITY. THE ASSESSMENT RATE OR RATES MAY BE TIERED BASED ON THE
29 AVERAGE DAILY ROOM RATE FOR THE AFFECTED TRANSIENT LODGING.

30 C. THE TRANSIENT LODGING ROOM OWNER OR LEGALLY AUTHORIZED
31 REPRESENTATIVE SHALL PAY THE ASSESSMENT TO THE DEPARTMENT OF REVENUE AT
32 THE SAME TIME AS PAYING THE TRANSACTION PRIVILEGE TAX UNDER SECTION
33 42-5014. IF THE TRANSIENT LODGING ROOM OWNER FOR ANY REASON DOES NOT PAY
34 TRANSACTION PRIVILEGE TAX, THE ASSESSMENT IMPOSED BY THIS CHAPTER IS DUE
35 AND PAYABLE TO THE DEPARTMENT, AND IS DELINQUENT IF NOT PAID, AS PROVIDED
36 IN SECTION 42-5014, SUBSECTION A. THE DEPARTMENT SHALL REPORT TO THE
37 STATE TREASURER THE AMOUNT OF MONIES COLLECTED PURSUANT TO THIS
38 SUBSECTION.

39 D. THE STATE TREASURER SHALL TRANSMIT TO THE TREASURER OR OFFICER
40 EXERCISING THE FUNCTIONS OF TREASURER OF THE PARTICIPATING COUNTY EACH
41 MONTH, BEGINNING WITH THE THIRD CALENDAR MONTH AFTER THE DATE SPECIFIED IN
42 THE PETITION FOR THE AUTHORITY, THE AMOUNT COLLECTED FROM PROPERTIES
43 WITHIN THE AUTHORITY. THE DEPARTMENT OF REVENUE SHALL SEPARATELY ACCOUNT
44 FOR THE MONIES PAID UNDER THIS CHAPTER AND SHALL DEPOSIT, PURSUANT TO

1 SECTIONS 35-146 AND 35-147, THE NET REVENUES COLLECTED UNDER THIS CHAPTER
2 IN THE STATE GENERAL FUND.

3 E. THE BOARD AND THE COUNTY THAT IS PARTICIPATING IN THE AUTHORITY
4 SHALL SUPPLY THE DEPARTMENT OF REVENUE AND THE STATE TREASURER WITH ALL
5 REQUESTED INFORMATION NECESSARY TO ADMINISTER THIS SECTION.

6 11-2004. Authority governance; limitation; meetings; report

7 A. THE BOARD OF DIRECTORS OF THE RECOGNIZED TOURISM PROMOTION
8 AGENCY SHALL GOVERN THE AUTHORITY AND AT LEAST ONE MEMBER OF THE GOVERNING
9 BODY SHALL PARTICIPATE IN THE AUTHORITY. THE AUTHORITY MAY EMPLOY STAFF
10 AND CONSULTANTS, REIMBURSE A COUNTY FOR STAFF, SERVICES AND FACILITIES
11 SUPPLIED BY THE COUNTY, ENTER INTO CONTRACTS AND ACCEPT GRANTS.

12 B. THE AUTHORITY MAY NOT FINANCE OR FACILITATE THE ACQUISITION,
13 MAINTENANCE, CONSTRUCTION OR OPERATION OF A HOTEL, MOTEL, RESORT OR OTHER
14 TRANSIENT LODGING OR ANY SPORTS OR ENTERTAINMENT FACILITY.

15 C. THE AUTHORITY AND ITS BOARD SHALL MAINTAIN THE RECORDS OF THE
16 AUTHORITY, INCLUDING RECORDS OF ITS ACCOUNTS SHOWING ALL MONIES RECEIVED
17 AND DISBURSED AND ITS ANNUAL BUDGET, AND SHALL KEEP THE AUTHORITY'S MONIES
18 AND OPERATIONS SEPARATE FROM THE TOURISM PROMOTION AGENCY'S OTHER MONIES
19 AND ACTIVITIES. THE BOARD SHALL COMPLY WITH TITLE 38, CHAPTER 3, ARTICLE
20 3.1 AND TITLE 39, CHAPTER 1.

21 D. THE BOARD SHALL REPORT AT LEAST ANNUALLY TO THE GOVERNING BODY
22 OF THE COUNTY ON THE ACTIVITIES AND EXPENDITURES OF THE AUTHORITY AND THE
23 IMPACTS OF THE AUTHORITY'S EXPENDITURES AND ACTIVITIES.

24 11-2005. Termination; petition; renewal; modification of
25 boundaries

26 A. AN AUTHORITY MAY BE TERMINATED AT ANY TIME ON PRESENTATION OF A
27 PETITION THAT IS SIGNED BY THE OWNERS OR LEGALLY AUTHORIZED
28 REPRESENTATIVES OF AT LEAST FIFTY-ONE PERCENT OF THE TRANSIENT LODGING
29 ROOMS WITHIN THE GEOGRAPHIC AREA OF THE AUTHORITY. ON RECEIPT OF A
30 PETITION, THE GOVERNING BODY OF THE COUNTY SHALL TERMINATE ITS
31 PARTICIPATION IN THE AUTHORITY AND NOTIFY THE DEPARTMENT OF REVENUE, WHICH
32 SHALL CEASE COLLECTING ANY ASSESSMENT.

33 B. AN AUTHORITY SHALL TERMINATE TEN YEARS AFTER ITS FORMATION
34 UNLESS A COUNTY BY PETITION AS PRESCRIBED BY SECTION 11-2002 AND BY
35 RESOLUTION APPROVE THE RENEWAL OF THE AUTHORITY BEFORE ITS TERMINATION.
36 ON APPROVAL OF THE GOVERNING BODY'S RESOLUTION, THE AUTHORITY IS RENEWED
37 FOR TEN ADDITIONAL YEARS. AN AUTHORITY MAY CONTINUE TO BE RENEWED EVERY
38 TEN YEARS THEREAFTER.

39 Sec. 3. Emergency

40 This act is an emergency measure that is necessary to preserve the
41 public peace, health or safety and is operative immediately as provided by
42 law.

REFERENCE TITLE: TPT; prime contracting; exemptions; certificates

State of Arizona
House of Representatives
Fifty-fifth Legislature
First Regular Session
2021

HB 2211

Introduced by
Representatives Cobb: Bolick, Toma

AN ACT

AMENDING SECTIONS 42-5008.01, 42-5009 AND 42-5075, ARIZONA REVISED
STATUTES; RELATING TO TRANSACTION PRIVILEGE AND USE TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 42-5008.01, Arizona Revised Statutes, is amended
3 to read:

4 42-5008.01. Liability for amounts equal to retail transaction
5 privilege tax due

6 A. A person that is either a prime contractor subject to tax under
7 section 42-5075 or a subcontractor working under the control of such a
8 prime contractor, that purchases tangible personal property, the purchase
9 price of which was excluded from the tax base under the retail
10 classification under section 42-5061, subsection A, paragraph 27 or was
11 excluded from the use tax under section 42-5159, subsection A, paragraph
12 13, subdivision (g) at the time of purchase, and that incorporates or
13 fabricates the tangible personal property into a project described in
14 section 42-5075, subsection 0 is liable for an amount equal to any tax
15 that a seller would have been required to pay under section 42-5061 and
16 this article as follows:

17 1. The amount of liability shall be calculated and reported based
18 on the location of the project and the taxes imposed under this chapter
19 and chapter 6 of this title.

20 2. All deductions, exemptions and exclusions for the cost of
21 tangible personal property provided in section 42-5075 apply to the
22 tangible personal property incorporated or fabricated into the project.

23 3. This subsection does not apply to tangible personal property
24 that is incorporated or fabricated into any project under a contract that
25 would otherwise be excluded from the tax base under section 42-5075,
26 without regard to section 42-5075, subsection 0.

27 4. The amount of liability shall be reported within the reporting
28 period that includes the month in which the person incorporates or
29 fabricates the tangible personal property into the project.

30 5. The person is not liable for the amount if the contractor who
31 hired the person executes and provides to the person a certificate stating
32 that the contractor providing the certificate is liable for any amount due
33 under this subsection. The department shall prescribe the form of the
34 certificate. If the person has reason to believe that the information
35 contained on the certificate is erroneous or incomplete, the department
36 may disregard the certificate. The contractor providing the certificate
37 is liable for the amount that otherwise would be due from the person under
38 this subsection. A CERTIFICATE PROVIDED TO A PERSON PURSUANT TO THIS
39 PARAGRAPH IS VALID FOR A PERIOD OF NOT MORE THAN ONE YEAR. AFTER THE
40 CERTIFICATE EXPIRES, THE CONTRACTOR MAY EXECUTE AND PROVIDE TO THE PERSON
41 A NEW CERTIFICATE.

42 B. A person that purchased tangible personal property, the purchase
43 price of which was excluded from the tax base under section 42-5061,
44 subsection A, paragraph 27 or was excluded from the use tax under section
45 42-5159, subsection A, paragraph 13, subdivision (g) at the time of

purchase, that subsequently cancels its transaction privilege tax license and that uses, consumes, sells or discards the tangible personal property is liable for an amount of tax determined under this subsection. For the purposes of this subsection:

1. If the tangible personal property is incorporated or fabricated into a project described in section 42-5075, subsection 0, or otherwise used or consumed by the person, the amount of liability shall be calculated and reported based on the person's purchase price of the tangible personal property, the location of the project, use or consumption and the taxes imposed under this chapter and chapter 6 of this title.

2. If the tangible personal property is sold in a manner that is not subject to tax under this chapter or is discarded, the amount shall be calculated and reported based on the payment received by the person, the location of the person's principal place of business in this state and the taxes imposed under this chapter and chapter 6 of this title.

3. The person is not liable under this subsection for any amount if the person discards the tangible personal property and does not receive payment of any kind.

4. The amount of liability shall be reported on or before the business day preceding the last business day of the month following the month in which the person uses the tangible personal property in a manner described in paragraph 1 or 2 of this subsection. No amount is due under this subsection at any time that the person stores the tangible personal property without using it in a manner described in paragraph 1 or 2 of this subsection.

5. All deductions, exemptions and exclusions for the cost of tangible personal property provided in section 42-5075 apply to the tangible personal property incorporated or fabricated into a project described in section 42-5075, subsection 0.

6. This subsection does not apply to tangible personal property that is incorporated or fabricated into any project under a contract that would otherwise be excluded from the tax base under section 42-5075, without regard to section 42-5075, subsection 0.

7. The person is not liable for the amount if the contractor who hired the person executes and provides to the person a certificate stating that the contractor providing the certificate is liable for any amount due under this subsection for tangible personal property incorporated or fabricated into a project described in section 42-5075, subsection 0. The department shall prescribe the form of the certificate. If the person has reason to believe that the information contained on the certificate is erroneous or incomplete, the department may disregard the certificate. The contractor providing the certificate is liable for the amount that otherwise would be due from the person under this subsection. A CERTIFICATE PROVIDED TO A PERSON PURSUANT TO THIS PARAGRAPH IS VALID FOR A

1 PERIOD OF NOT MORE THAN ONE YEAR. AFTER THE CERTIFICATE EXPIRES, THE
2 CONTRACTOR MAY EXECUTE AND PROVIDE TO THE PERSON A NEW CERTIFICATE.

3 C. A person that fails to report or pay any amount due under
4 subsection A or B of this section is liable for interest in a manner
5 consistent with section 42-1123 and penalties in a manner consistent with
6 section 42-1125.

7 D. If a person has paid an amount described in this section on
8 tangible personal property that the person reasonably believed to be
9 described IN section 42-5075, subsection 0 and a final determination is
10 made that section 42-5075, subsection 0 does not apply, the person is
11 entitled to an offset for the amount paid under this section against the
12 amount of tax liability assessed under this chapter and chapter 6 of this
13 title.

14 Sec. 2. Section 42-5009, Arizona Revised Statutes, is amended to
15 read:

16 42-5009. Certificates establishing deductions; liability for
17 making false certificate

18 A. A person who conducts any business classified under article 2 of
19 this chapter may establish entitlement to the allowable deductions from
20 the tax base of that business by both:

21 1. Marking the invoice for the transaction to indicate that the
22 gross proceeds of sales or gross income derived from the transaction was
23 deducted from the tax base.

24 2. Obtaining a certificate executed by the purchaser indicating the
25 name and address of the purchaser, the precise nature of the business of
26 the purchaser, the purpose for which the purchase was made, the necessary
27 facts to establish the appropriate deduction and the tax license number of
28 the purchaser to the extent the deduction depends on the purchaser
29 conducting business classified under article 2 of this chapter and a
30 certification that the person executing the certificate is authorized to
31 do so on behalf of the purchaser. The certificate may be disregarded if
32 the seller has reason to believe that the information contained in the
33 certificate is not accurate or complete.

34 B. A person who does not comply with subsection A of this section
35 may establish entitlement to the deduction by presenting facts necessary
36 to support the entitlement, but the burden of proof is on that person.

37 C. The department may prescribe a form for the certificate
38 described in subsection A of this section. Under such rules as it may
39 prescribe, the department may also describe transactions with respect to
40 which a person is not entitled to rely solely on the information contained
41 in the certificate provided for in subsection A of this section but must
42 instead obtain such additional information as required by the rules in
43 order to be entitled to the deduction.

1 D. If a seller is entitled to a deduction by complying with
2 subsection A of this section, the department may require the purchaser
3 that caused the execution of the certificate to establish the accuracy and
4 completeness of the information required to be contained in the
5 certificate that would entitle the seller to the deduction. If the
6 purchaser cannot establish the accuracy and completeness of the
7 information, the purchaser is liable in an amount equal to any tax,
8 penalty and interest that the seller would have been required to pay under
9 this article if the seller had not complied with subsection A of this
10 section. Payment of the amount under this subsection exempts the
11 purchaser from liability for any tax imposed under article 4 of this
12 chapter. The amount shall be treated as tax revenues collected from the
13 seller in order to designate the distribution base for purposes of section
14 42-5029.

15 E. If a seller is entitled to a deduction by complying with
16 subsection B of this section, the department may require the purchaser to
17 establish the accuracy and completeness of the information provided to the
18 seller that entitled the seller to the deduction. If the purchaser cannot
19 establish the accuracy and completeness of the information, the purchaser
20 is liable in an amount equal to any tax, penalty and interest that the
21 seller would have been required to pay under this article if the seller
22 had not complied with subsection B of this section. Payment of the amount
23 under this subsection exempts the purchaser from liability for any tax
24 imposed under article 4 of this chapter. The amount shall be treated as
25 tax revenues collected from the seller in order to designate the
26 distribution base for purposes of section 42-5029.

27 F. The department may prescribe a form for a certificate used to
28 establish entitlement to the deductions described in section 42-5061,
29 subsection A, paragraph 46 and section 42-5063, subsection B, paragraph 3.
30 Under rules the department may prescribe, the department may also require
31 additional information for the seller to be entitled to the deduction. If
32 a seller is entitled to the deductions described in section 42-5061,
33 subsection A, paragraph 46 and section 42-5063, subsection B, paragraph 3,
34 the department may require the purchaser who executed the certificate to
35 establish the accuracy and completeness of the information contained in
36 the certificate that would entitle the seller to the deduction. If the
37 purchaser cannot establish the accuracy and completeness of the
38 information, the purchaser is liable in an amount equal to any tax,
39 penalty and interest that the seller would have been required to pay under
40 this article. Payment of the amount under this subsection exempts the
41 purchaser from liability for any tax imposed under article 4 of this
42 chapter. The amount shall be treated as tax revenues collected from the
43 seller in order to designate the distribution base for purposes of section
44 42-5029.

1 G. If a seller claims a deduction under section 42-5061,
2 subsection A, paragraph 25 and establishes entitlement to the deduction
3 with an exemption letter that the purchaser received from the department
4 and the exemption letter was based on a contingent event, the department
5 may require the purchaser that received the exemption letter to establish
6 the satisfaction of the contingent event within a reasonable time. If the
7 purchaser cannot establish the satisfaction of the event, the purchaser is
8 liable in an amount equal to any tax, penalty and interest that the seller
9 would have been required to pay under this article if the seller had not
10 been furnished the exemption letter. Payment of the amount under this
11 subsection exempts the purchaser from liability for any tax imposed under
12 article 4 of this chapter. The amount shall be treated as tax revenues
13 collected from the seller in order to designate the distribution base for
14 purposes of section 42-5029. For the purposes of this subsection,
15 "reasonable time" means a time limitation that the department determines
16 and that does not exceed the time limitations pursuant to section 42-1104.

17 H. The department shall prescribe forms for certificates used to
18 establish the satisfaction of the criteria necessary to qualify the sale
19 of a motor vehicle for the deductions described in section 42-5061,
20 subsection A, paragraph 14, paragraph 28, subdivision (a) and paragraph 44
21 and subsection U. Except as provided in subsection J of this section, to
22 establish entitlement to these deductions, a motor vehicle dealer shall
23 retain:

24 1. A valid certificate as prescribed by this subsection completed
25 by the purchaser and obtained prior to the issuance of the nonresident
26 registration permit authorized by section 28-2154.

27 2. A copy of the nonresident registration permit authorized by
28 section 28-2154.

29 3. A legible copy of a current valid driver license issued to the
30 purchaser by another state or foreign country that indicates an address
31 outside of this state. For the sale of a motor vehicle to a nonresident
32 entity, the entity's representative must have a current valid driver
33 license issued by the same jurisdiction as that in which the entity is
34 located.

35 4. For the purposes of the deduction provided by section 42-5061,
36 subsection A, paragraph 14, a certificate documenting the delivery of the
37 motor vehicle to an out-of-state location.

38 I. Notwithstanding subsection A, paragraph 2 of this section, if a
39 motor vehicle dealer has established entitlement to a deduction by
40 complying with subsection H of this section, the department may require
41 the purchaser who executed the certificate to establish the accuracy and
42 completeness of the information contained in the certificate that entitled
43 the motor vehicle dealer to the deduction. If the purchaser cannot
44 establish the accuracy and completeness of the information, the purchaser
45 is liable in an amount equal to any tax, penalty and interest that the

1 motor vehicle dealer would have been required to pay under this article
2 and under articles IV and V of the model city tax code as defined in
3 section 42-6051. Payment of the amount under this subsection exempts the
4 purchaser from liability for any tax imposed under article 4 of this
5 chapter and any tax imposed under article VI of the model city tax code as
6 defined in section 42-6051. The amount shall be treated as tax revenues
7 collected from the motor vehicle dealer in order to designate the
8 distribution base for purposes of section 42-5029.

9 J. To establish entitlement to the deduction described in section
10 42-5061, subsection A, paragraph 44, a public consignment auction dealer
11 as defined in section 28-4301 shall submit the valid certificate
12 prescribed by subsection H of this section to the department and retain a
13 copy for its records.

14 K. Notwithstanding any other law, compliance with subsection H of
15 this section by a motor vehicle dealer entitles the motor vehicle dealer
16 to the exemption provided in section 42-6004, subsection A, paragraph 4.

17 L. The department shall prescribe a form for a certificate to be
18 used by a person that is not subject to tax under section 42-5075 when the
19 person is engaged by a contractor that is subject to tax under section
20 42-5075 for a project that is taxable under section 42-5075. The
21 certificate permits the person purchasing tangible personal property to be
22 incorporated or fabricated by the person into any real property,
23 structure, project, development or improvement to provide documentation to
24 a retailer that the sale of tangible personal property qualifies for the
25 deduction under section 42-5061, subsection A, paragraph 27,
26 subdivision (b). A prime contractor shall obtain the certificate from the
27 department and shall provide a copy to any such person working on the
28 project. The prime contractor shall obtain a new certificate for each
29 project to which this subsection applies. For the purposes of this
30 subsection, the following apply:

31 1. The person that is not subject to tax under section 42-5075 may
32 use the certificate issued pursuant to this subsection only with respect
33 to tangible personal property that will be incorporated into a project for
34 which the gross receipts are subject to tax under section 42-5075.

35 2. The department shall issue the certificate to the prime
36 contractor on receiving sufficient documentation to establish that the
37 prime contractor meets the requirements of this subsection.

38 3. If any person uses the certificate provided under this
39 subsection to purchase tangible personal property to be used in a project
40 that is not subject to tax under section 42-5075, the person is liable in
41 an amount equal to any tax, penalty and interest that the seller would
42 have been required to pay under this article if the seller had not
43 complied with subsection A of this section. Payment of the amount under
44 this section exempts the person from liability for any tax imposed under

1 article 4 of this chapter. The amount shall be sourced under section
2 42-5040, subsection A, paragraph 2.

3 M. Notwithstanding any other law, compliance with subsection L of
4 this section by a person that is not subject to tax under section 42-5075
5 entitles the person to the exemption allowed by section 465,
6 subsection (k) of the model city tax code when purchasing tangible
7 personal property to be incorporated or fabricated by the person into any
8 real property, structure, project, development or improvement.

9 N. The requirements of subsections A and B of this section do not
10 apply to owners, proprietors or tenants of agricultural lands or farms who
11 sell livestock or poultry feed that is grown or raised on their lands to
12 any of the following:

13 1. Persons who feed their own livestock or poultry.

14 2. Persons who are engaged in the business of producing livestock
15 or poultry commercially.

16 3. Persons who are engaged in the business of feeding livestock or
17 poultry commercially or who board livestock noncommercially.

18 O. A vendor who has reason to believe that a certificate prescribed
19 by this section is not accurate or complete will not be relieved of the
20 burden of proving entitlement to the exemption. A vendor that accepts a
21 certificate in good faith will be relieved of the burden of proof and the
22 purchaser may be required to establish the accuracy of the claimed
23 exemption. If the purchaser cannot establish the accuracy and
24 completeness of the information provided in the certificate, the purchaser
25 is liable for an amount equal to the transaction privilege tax, penalty
26 and interest that the vendor would have been required to pay if the vendor
27 had not accepted the certificate.

28 P. Notwithstanding any other law, an online lodging operator, as
29 defined in section 42-5076, shall be entitled to an exclusion from any
30 applicable taxes for any online lodging transaction, as defined in section
31 42-5076, facilitated by an online lodging marketplace, as defined in
32 section 42-5076, for which the online lodging operator has obtained from
33 the online lodging marketplace written notice that the online lodging
34 marketplace is registered with the department to collect applicable taxes
35 for all online lodging transactions facilitated by the online lodging
36 marketplace, and transaction history documenting tax collected by the
37 online lodging marketplace, pursuant to section 42-5005, subsection L.

38 Q. The department shall prescribe the form of a certificate to be
39 used by a person purchasing an aircraft to document eligibility for a
40 deduction pursuant to section 42-5061, subsection B, paragraph 7,
41 subdivision (a), item (v) or an exemption pursuant to section 42-5159,
42 subsection B, paragraph 7, subdivision (a), item (v), relating to
43 aircraft. The person must provide this certificate and documentation
44 confirming that the operational control of the aircraft has been
45 transferred or will be transferred immediately after the purchase to one

1 or more persons described in section 42-5061, subsection B, paragraph 7,
 2 subdivision (a), item (i), (ii), (iii) or (iv) or section 42-5159,
 3 subsection B, paragraph 7, subdivision (a), item (i), (ii), (iii) or (iv).
 4 Operational control of the aircraft must be transferred for at least fifty
 5 percent of the aircraft's flight hours. If such operational control is
 6 not transferred for at least fifty percent of the aircraft's flight hours
 7 during the recapture period, the owner of the aircraft is liable for an
 8 amount equal to any tax that the seller or purchaser would have been
 9 required to pay under this chapter at the time of the sale, plus penalty
 10 and interest. The recapture period begins on the date that operational
 11 control of the aircraft is first transferred and ends on the later of the
 12 date the aircraft is fully depreciated for federal income tax purposes or
 13 five years after operational control was first transferred. For the
 14 purposes of this subsection, operational control of the aircraft must be
 15 within the meaning of federal aviation administration operations
 16 specification A008, or its successor, except that:

17 1. If it is determined that operational control has been
 18 transferred for less than fifty percent but more than forty percent of the
 19 aircraft's flight hours, the owner of the aircraft is liable for an amount
 20 equal to any tax that the seller or purchaser would have been required to
 21 pay under this chapter at the time of the sale, plus interest.

22 2. If the aircraft is sold during the recapture period, the seller
 23 is not liable for the amount determined pursuant to this subsection unless
 24 the operational control of the aircraft had not been transferred for at
 25 least fifty percent of the aircraft's flight hours at the time of the
 26 sale.

27 R. THE DEPARTMENT SHALL PRESCRIBE A FORM FOR A CERTIFICATE TO BE
 28 USED BY A PRIME CONTRACTOR THAT IS SUBJECT TO TAX UNDER SECTION 42-5075
 29 FOR PURCHASING TANGIBLE PERSONAL PROPERTY, THE PURCHASE PRICE OF WHICH WAS
 30 EXCLUDED FROM THE TAX BASE UNDER THE RETAIL CLASSIFICATION UNDER SECTION
 31 42-5061, SUBSECTION A, PARAGRAPH 27. THE PRIME CONTRACTOR SHALL OBTAIN
 32 THE CERTIFICATE FROM THE DEPARTMENT. A CERTIFICATE OBTAINED PURSUANT TO
 33 THIS SUBSECTION IS VALID FOR A PERIOD OF NOT MORE THAN ONE YEAR. AFTER
 34 THE CERTIFICATE EXPIRES, THE PRIME CONTRACTOR MAY OBTAIN A NEW
 35 CERTIFICATE.

36 Sec. 3. Section 42-5075, Arizona Revised Statutes, is amended to
 37 read:

38 42-5075. Prime contracting classification; exemptions;
 39 definitions

40 A. The prime contracting classification is comprised of the
 41 business of prime contracting and the business of manufactured building
 42 dealer. Sales for resale to another manufactured building dealer are not
 43 subject to tax. Sales for resale do not include sales to a lessor of
 44 manufactured buildings. The sale of a used manufactured building is not
 45 taxable under this chapter. The prime contracting classification does not

1 include any work or operation performed by a person that is not required
2 to be licensed by the registrar of contractors pursuant to section
3 32-1121.

4 B. The tax base for the prime contracting classification is
5 sixty-five percent of the gross proceeds of sales or gross income derived
6 from the business. The following amounts shall be deducted from the gross
7 proceeds of sales or gross income before computing the tax base:

8 1. The sales price of land, which shall not exceed the fair market
9 value.

10 2. Sales and installation of groundwater measuring devices required
11 under section 45-604 and groundwater monitoring wells required by law,
12 including monitoring wells installed for acquiring information for a
13 permit required by law.

14 3. The sales price of furniture, furnishings, fixtures, appliances
15 and attachments that are not incorporated as component parts of or
16 attached to a manufactured building or the setup site. The sale of such
17 items may be subject to the taxes imposed by article 1 of this chapter
18 separately and distinctly from the sale of the manufactured building.

19 4. The gross proceeds of sales or gross income received from a
20 contract entered into for the modification of any building, highway, road,
21 railroad, excavation, manufactured building or other structure, project,
22 development or improvement located in a military reuse zone for providing
23 aviation or aerospace services or for a manufacturer, assembler or
24 fabricator of aviation or aerospace products within an active military
25 reuse zone after the zone is initially established or renewed under
26 section 41-1531. To be eligible to qualify for this deduction, before
27 beginning work under the contract, the prime contractor must have applied
28 for a letter of qualification from the department of revenue.

29 5. The gross proceeds of sales or gross income derived from a
30 contract to construct a qualified environmental technology manufacturing,
31 producing or processing facility, as described in section 41-1514.02, and
32 from subsequent construction and installation contracts that begin within
33 ten years after the start of initial construction. To qualify for this
34 deduction, before beginning work under the contract, the prime contractor
35 must obtain a letter of qualification from the department of revenue.
36 This paragraph shall apply for ten full consecutive calendar or fiscal
37 years after the start of initial construction.

38 6. The gross proceeds of sales or gross income from a contract to
39 provide for one or more of the following actions, or a contract for site
40 preparation, constructing, furnishing or installing machinery, equipment
41 or other tangible personal property, including structures necessary to
42 protect exempt incorporated materials or installed machinery or equipment,
43 and tangible personal property incorporated into the project, to perform
44 one or more of the following actions in response to a release or suspected
45 release of a hazardous substance, pollutant or contaminant from a facility

1 to the environment, unless the release was authorized by a permit issued
2 by a governmental authority:

3 (a) Actions to monitor, assess and evaluate such a release or a
4 suspected release.

5 (b) Excavation, removal and transportation of contaminated soil and
6 its treatment or disposal.

7 (c) Treatment of contaminated soil by vapor extraction, chemical or
8 physical stabilization, soil washing or biological treatment to reduce the
9 concentration, toxicity or mobility of a contaminant.

10 (d) Pumping and treatment or in situ treatment of contaminated
11 groundwater or surface water to reduce the concentration or toxicity of a
12 contaminant.

13 (e) The installation of structures, such as cutoff walls or caps,
14 to contain contaminants present in groundwater or soil and prevent them
15 from reaching a location where they could threaten human health or welfare
16 or the environment.

17 This paragraph does not include asbestos removal or the construction or
18 use of ancillary structures such as maintenance sheds, offices or storage
19 facilities for unattached equipment, pollution control equipment,
20 facilities or other control items required or to be used by a person to
21 prevent or control contamination before it reaches the environment.

22 7. The gross proceeds of sales or gross income that is derived from
23 a contract for the installation, assembly, repair or maintenance of
24 machinery, equipment or other tangible personal property that is either
25 deducted from the tax base of the retail classification under section
26 42-5061, subsection B or that is exempt from use tax under section
27 42-5159, subsection B and that has independent functional utility,
28 pursuant to the following provisions:

29 (a) The deduction provided in this paragraph includes the gross
30 proceeds of sales or gross income derived from all of the following:

31 (i) Any activity performed on machinery, equipment or other
32 tangible personal property with independent functional utility.

33 (ii) Any activity performed on any tangible personal property
34 relating to machinery, equipment or other tangible personal property with
35 independent functional utility in furtherance of any of the purposes
36 provided for under subdivision (d) of this paragraph.

37 (iii) Any activity that is related to the activities described in
38 items (i) and (ii) of this subdivision, including inspecting the
39 installation of or testing the machinery, equipment or other tangible
40 personal property.

41 (b) The deduction provided in this paragraph does not include gross
42 proceeds of sales or gross income from the portion of any contracting
43 activity that consists of the development of, or modification to, real
44 property in order to facilitate the installation, assembly, repair,
45 maintenance or removal of machinery, equipment or other tangible personal

1 property that is either deducted from the tax base of the retail
2 classification under section 42-5061, subsection B or exempt from use tax
3 under section 42-5159, subsection B.

4 (c) The deduction provided in this paragraph shall be determined
5 without regard to the size or useful life of the machinery, equipment or
6 other tangible personal property.

7 (d) For the purposes of this paragraph, "independent functional
8 utility" means that the machinery, equipment or other tangible personal
9 property can independently perform its function without attachment to real
10 property, other than attachment for any of the following purposes:

11 (i) Assembling the machinery, equipment or other tangible personal
12 property.

13 (ii) Connecting items of machinery, equipment or other tangible
14 personal property to each other.

15 (iii) Connecting the machinery, equipment or other tangible
16 personal property, whether as an individual item or as a system of items,
17 to water, power, gas, communication or other services.

18 (iv) Stabilizing or protecting the machinery, equipment or other
19 tangible personal property during operation by bolting, burying or
20 performing other similar nonpermanent connections to either real property
21 or real property improvements.

22 8. The gross proceeds of sales or gross income attributable to the
23 purchase of machinery, equipment or other tangible personal property that
24 is exempt from or deductible from transaction privilege and use tax under:

25 (a) Section 42-5061, subsection A, paragraph 25, 29, 57 or 59.

26 (b) Section 42-5061, subsection B.

27 (c) Section 42-5159, subsection A, paragraph 13, subdivision (a),
28 (b), (c), (d), (e), (f), (j), (k), (m) or (n) or paragraph 54 or 56.

29 (d) Section 42-5159, subsection B.

30 9. The gross proceeds of sales or gross income received from a
31 contract for the construction of an environmentally controlled facility
32 for the raising of poultry for the production of eggs and the sorting,
33 cooling and packaging of eggs.

34 10. The gross proceeds of sales or gross income that is derived
35 from a contract entered into with a person who is engaged in the
36 commercial production of livestock, livestock products or agricultural,
37 horticultural, viticultural or floricultural crops or products in this
38 state for the modification of any building, highway, road, excavation,
39 manufactured building or other structure, project, development or
40 improvement used directly and primarily to prevent, monitor, control or
41 reduce air, water or land pollution.

42 11. The gross proceeds of sales or gross income that is derived
43 from the installation, assembly, repair or maintenance of clean rooms that
44 are deducted from the tax base of the retail classification pursuant to
45 section 42-5061, subsection B, paragraph 16.

1 12. For taxable periods beginning from and after June 30, 2001, the
2 gross proceeds of sales or gross income derived from a contract entered
3 into for the construction of a residential apartment housing facility that
4 qualifies for a federal housing subsidy for low income persons over
5 sixty-two years of age and that is owned by a nonprofit charitable
6 organization that has qualified under section 501(c)(3) of the internal
7 revenue code.

8 13. For taxable periods beginning from and after December 31, 1996
9 and ending before January 1, 2017, the gross proceeds of sales or gross
10 income derived from a contract to provide and install a solar energy
11 device. The contractor shall register with the department as a solar
12 energy contractor. By registering, the contractor acknowledges that it
13 will make its books and records relating to sales of solar energy devices
14 available to the department for examination.

15 14. The gross proceeds of sales or gross income derived from a
16 contract entered into for the construction of a launch site, as defined in
17 14 Code of Federal Regulations section 401.5.

18 15. The gross proceeds of sales or gross income derived from a
19 contract entered into for the construction of a domestic violence shelter
20 that is owned and operated by a nonprofit charitable organization that has
21 qualified under section 501(c)(3) of the internal revenue code.

22 16. The gross proceeds of sales or gross income derived from
23 contracts to perform postconstruction treatment of real property for
24 termite and general pest control, including wood-destroying organisms.

25 17. The gross proceeds of sales or gross income received from
26 contracts entered into before July 1, 2006 for constructing a state
27 university research infrastructure project if the project has been
28 reviewed by the joint committee on capital review before the university
29 enters into the construction contract for the project. For the purposes
30 of this paragraph, "research infrastructure" has the same meaning
31 prescribed in section 15-1670.

32 18. The gross proceeds of sales or gross income received from a
33 contract for the construction of any building, or other structure,
34 project, development or improvement owned by a qualified business under
35 section 41-1516 for harvesting or processing qualifying forest products
36 removed from qualifying projects as defined in section 41-1516 if actual
37 construction begins before January 1, 2024. To qualify for this
38 deduction, the prime contractor must obtain a letter of qualification from
39 the Arizona commerce authority before beginning work under the contract.

40 19. Any amount of the gross proceeds of sales or gross income
41 attributable to development fees that are incurred in relation to a
42 contract for construction, development or improvement of real property and
43 that are paid by a prime contractor or subcontractor. For the purposes of
44 this paragraph:

1 (a) The attributable amount shall not exceed the value of the
2 development fees actually imposed.

3 (b) The attributable amount is equal to the total amount of
4 development fees paid by the prime contractor or subcontractor, and the
5 total development fees credited in exchange for the construction of,
6 contribution to or dedication of real property for providing public
7 infrastructure, public safety or other public services necessary to the
8 development. The real property must be the subject of the development
9 fees.

10 (c) "Development fees" means fees imposed to offset capital costs
11 of providing public infrastructure, public safety or other public services
12 to a development and authorized pursuant to section 9-463.05, section
13 11-1102 or title 48 regardless of the jurisdiction to which the fees are
14 paid.

15 20. The gross proceeds of sales or gross income derived from a
16 contract entered into for the construction of a mixed waste processing
17 facility that is located on a municipal solid waste landfill and that is
18 constructed for the purpose of recycling solid waste or producing
19 renewable energy from landfill waste. For the purposes of this paragraph:

20 (a) "Mixed waste processing facility" means a solid waste facility
21 that is owned, operated or used for the treatment, processing or disposal
22 of solid waste, recyclable solid waste, conditionally exempt small
23 quantity generator waste or household hazardous waste. For the purposes
24 of this subdivision, "conditionally exempt small quantity generator
25 waste", "household hazardous waste" and "solid waste facility" have the
26 same meanings prescribed in section 49-701, except that solid waste
27 facility does include a site that stores, treats or processes paper,
28 glass, wood, cardboard, household textiles, scrap metal, plastic,
29 vegetative waste, aluminum, steel or other recyclable material.

30 (b) "Municipal solid waste landfill" has the same meaning
31 prescribed in section 49-701.

32 (c) "Recycling" means collecting, separating, cleansing, treating
33 and reconstituting recyclable solid waste that would otherwise become
34 solid waste, but does not include incineration or other similar processes.

35 (d) "Renewable energy" has the same meaning prescribed in section
36 41-1511.

37 C. Entitlement to the deduction pursuant to subsection B, paragraph
38 7 of this section is subject to the following provisions:

39 1. A prime contractor may establish entitlement to the deduction by
40 both:

41 (a) Marking the invoice for the transaction to indicate that the
42 gross proceeds of sales or gross income derived from the transaction was
43 deducted from the base.

1 (b) Obtaining a certificate executed by the purchaser indicating
2 the name and address of the purchaser, the precise nature of the business
3 of the purchaser, the purpose for which the purchase was made, the
4 necessary facts to establish the deductibility of the property under
5 section 42-5061, subsection B, and a certification that the person
6 executing the certificate is authorized to do so on behalf of the
7 purchaser. The certificate may be disregarded if the prime contractor has
8 reason to believe that the information contained in the certificate is not
9 accurate or complete.

10 2. A person who does not comply with paragraph 1 of this subsection
11 may establish entitlement to the deduction by presenting facts necessary
12 to support the entitlement, but the burden of proof is on that person.

13 3. The department may prescribe a form for the certificate
14 described in paragraph 1, subdivision (b) of this subsection. The
15 department may also adopt rules that describe the transactions with
16 respect to which a person is not entitled to rely solely on the
17 information contained in the certificate provided in paragraph 1,
18 subdivision (b) of this subsection but must instead obtain such additional
19 information as required in order to be entitled to the deduction.

20 4. If a prime contractor is entitled to a deduction by complying
21 with paragraph 1 of this subsection, the department may require the
22 purchaser who caused the execution of the certificate to establish the
23 accuracy and completeness of the information required to be contained in
24 the certificate that would entitle the prime contractor to the deduction.
25 If the purchaser cannot establish the accuracy and completeness of the
26 information, the purchaser is liable in an amount equal to any tax,
27 penalty and interest that the prime contractor would have been required to
28 pay under article 1 of this chapter if the prime contractor had not
29 complied with paragraph 1 of this subsection. Payment of the amount under
30 this paragraph exempts the purchaser from liability for any tax imposed
31 under article 4 of this chapter. The amount shall be treated as a
32 transaction privilege tax to the purchaser and as tax revenues collected
33 from the prime contractor in order to designate the distribution base for
34 purposes of section 42-5029.

35 D. Subcontractors or others who perform modification activities are
36 not subject to tax if they can demonstrate that the job was within the
37 control of a prime contractor or contractors or a dealership of
38 manufactured buildings and that the prime contractor or dealership is
39 liable for the tax on the gross income, gross proceeds of sales or gross
40 receipts attributable to the job and from which the subcontractors or
41 others were paid.

42 E. Amounts received by a contractor for a project are excluded from
43 the contractor's gross proceeds of sales or gross income derived from the
44 business if the person who hired the contractor executes and provides a
45 certificate to the contractor stating that the person providing the

1 certificate is a prime contractor and is liable for the tax under article
2 1 of this chapter. The department shall prescribe the form of the
3 certificate. If the contractor has reason to believe that the information
4 contained on the certificate is erroneous or incomplete, the department
5 may disregard the certificate. If the person who provides the certificate
6 is not liable for the tax as a prime contractor, that person is
7 nevertheless deemed to be the prime contractor in lieu of the contractor
8 and is subject to the tax under this section on the gross receipts or
9 gross proceeds received by the contractor. A CERTIFICATE PROVIDED TO A
10 CONTRACTOR PURSUANT TO THIS SUBSECTION IS VALID FOR A PERIOD OF NOT MORE
11 THAN ONE YEAR. AFTER THE CERTIFICATE EXPIRES, THE PERSON MAY EXECUTE AND
12 PROVIDE TO THE CONTRACTOR A NEW CERTIFICATE.

13 F. Every person engaging or continuing in this state in the
14 business of prime contracting or dealership of manufactured buildings
15 shall present to the purchaser of such prime contracting or manufactured
16 building a written receipt of the gross income or gross proceeds of sales
17 from such activity and shall separately state the taxes to be paid
18 pursuant to this section.

19 G. For the purposes of section 42-5032.01, the department shall
20 separately account for revenues collected under the prime contracting
21 classification from any prime contractor engaged in the preparation or
22 construction of a multipurpose facility, and related infrastructure, that
23 is owned, operated or leased by the tourism and sports authority pursuant
24 to title 5, chapter 8.

25 H. For the purposes of section 42-5032.02, from and after
26 September 30, 2013, the department shall separately account for revenues
27 reported and collected under the prime contracting classification from any
28 prime contractor engaged in the construction of any buildings and
29 associated improvements that are for the benefit of a manufacturing
30 facility. For the purposes of this subsection, "associated improvements"
31 and "manufacturing facility" have the same meanings prescribed in section
32 42-5032.02.

33 I. The gross proceeds of sales or gross income derived from a
34 contract for lawn maintenance services is not subject to tax under this
35 section if the contract does not include landscaping activities. Lawn
36 maintenance service is a service pursuant to section 42-5061, subsection
37 A, paragraph 1, and includes lawn mowing and edging, weeding, repairing
38 sprinkler heads or drip irrigation heads, seasonal replacement of flowers,
39 refreshing gravel, lawn dethatching, seeding winter lawns, leaf and debris
40 collection and removal, tree or shrub pruning or clipping, garden and
41 gravel raking and applying pesticides, as defined in section 3-361, and
42 fertilizer materials, as defined in section 3-262.

43 J. Except as provided in subsection 0 of this section, the gross
44 proceeds of sales or gross income derived from landscaping activities is
45 subject to tax under this section. Landscaping includes installing lawns,

1 grading or leveling ground, installing gravel or boulders, planting trees
2 and other plants, felling trees, removing or mulching tree stumps,
3 removing other imbedded plants, building irrigation berms, installing
4 railroad ties and installing underground sprinkler or watering systems.

5 K. The portion of gross proceeds of sales or gross income
6 attributable to the actual direct costs of providing architectural or
7 engineering services that are incorporated in a contract is not subject to
8 tax under this section. For the purposes of this subsection, "direct
9 costs" means the portion of the actual costs that are directly expended in
10 providing architectural or engineering services.

11 L. Operating a landfill or a solid waste disposal facility is not
12 subject to taxation under this section, including filling, compacting and
13 creating vehicle access to and from cell sites within the landfill.
14 Constructing roads to a landfill or solid waste disposal facility and
15 constructing cells within a landfill or solid waste disposal facility may
16 be deemed prime contracting under this section.

17 M. The following apply in determining the taxable situs of sales of
18 manufactured buildings:

19 1. For sales in this state where the manufactured building dealer
20 contracts to deliver the building to a setup site or to perform the setup
21 in this state, the taxable situs is the setup site.

22 2. For sales in this state where the manufactured building dealer
23 does not contract to deliver the building to a setup site or does not
24 perform the setup, the taxable situs is the location of the dealership
25 where the building is delivered to the buyer.

26 3. For sales in this state where the manufactured building dealer
27 contracts to deliver the building to a setup site that is outside this
28 state, the situs is outside this state and the transaction is excluded
29 from tax.

30 N. The gross proceeds of sales or gross income attributable to a
31 written contract for design phase services or professional services,
32 executed before modification begins and with terms, conditions and pricing
33 of all of these services separately stated in the contract from those for
34 construction phase services, is not subject to tax under this section,
35 regardless of whether the services are provided sequential to or
36 concurrent with prime contracting activities that are subject to tax under
37 this section. This subsection does not include the gross proceeds of
38 sales or gross income attributable to construction phase services. For
39 the purposes of this subsection:

40 1. "Construction phase services" means services for the execution
41 and completion of any modification, including the following:

42 (a) Administration or supervision of any modification performed on
43 the project, including team management and coordination, scheduling, cost
44 controls, submittal process management, field management, safety program,
45 close-out process and warranty period services.

1 (b) Administration or supervision of any modification performed
2 pursuant to a punch list. For the purposes of this subdivision, "punch
3 list" means minor items of modification work performed after substantial
4 completion and before final completion of the project.

5 (c) Administration or supervision of any modification performed
6 pursuant to change orders. For the purposes of this subdivision, "change
7 order" means a written instrument issued after execution of a contract for
8 modification work, providing for all of the following:

9 (i) The scope of a change in the modification work, contract for
10 modification work or other contract documents.

11 (ii) The amount of an adjustment, if any, to the guaranteed maximum
12 price as set in the contract for modification work. For the purposes of
13 this item, "guaranteed maximum price" means the amount guaranteed to be
14 the maximum amount due to a prime contractor for the performance of all
15 modification work for the project.

16 (iii) The extent of an adjustment, if any, to the contract time of
17 performance set forth in the contract.

18 (d) Administration or supervision of any modification performed
19 pursuant to change directives. For the purposes of this subdivision,
20 "change directive" means a written order directing a change in
21 modification work before agreement on an adjustment of the guaranteed
22 maximum price or contract time.

23 (e) Inspection to determine the dates of substantial completion or
24 final completion.

25 (f) Preparation of any manuals, warranties, as-built drawings,
26 spares or other items the prime contractor must furnish pursuant to the
27 contract for modification work. For the purposes of this subdivision,
28 "as-built drawing" means a drawing that indicates field changes made to
29 adapt to field conditions, field changes resulting from change orders or
30 buried and concealed installation of piping, conduit and utility services.

31 (g) Preparation of status reports after modification work has begun
32 detailing the progress of work performed, including preparation of any of
33 the following:

34 (i) Master schedule updates.

35 (ii) Modification work cash flow projection updates.

36 (iii) Site reports made on a periodic basis.

37 (iv) Identification of discrepancies, conflicts or ambiguities in
38 modification work documents that require resolution.

39 (v) Identification of any health and safety issues that have arisen
40 in connection with the modification work.

41 (h) Preparation of daily logs of modification work, including
42 documentation of personnel, weather conditions and on-site occurrences.

43 (i) Preparation of any submittals or shop drawings used by the
44 prime contractor to illustrate details of the modification work performed.

1 (j) Administration or supervision of any other activities for which
2 a prime contractor receives a certificate for payment or certificate for
3 final payment based on the progress of modification work performed on the
4 project.

5 2. "Design phase services" means services for developing and
6 completing a design for a project that are not construction phase
7 services, including the following:

8 (a) Evaluating surveys, reports, test results or any other
9 information on-site conditions for the project, including physical
10 characteristics, legal limitations and utility locations for the site.

11 (b) Evaluating any criteria or programming objectives for the
12 project to ascertain requirements for the project, such as physical
13 requirements affecting cost or projected utilization of the project.

14 (c) Preparing drawings and specifications for architectural program
15 documents, schematic design documents, design development documents,
16 modification work documents or documents that identify the scope of or
17 materials for the project.

18 (d) Preparing an initial schedule for the project, excluding the
19 preparation of updates to the master schedule after modification work has
20 begun.

21 (e) Preparing preliminary estimates of costs of modification work
22 before completion of the final design of the project, including an
23 estimate or schedule of values for any of the following:

24 (i) Labor, materials, machinery and equipment, tools, water, heat,
25 utilities, transportation and other facilities and services used in the
26 execution and completion of modification work, regardless of whether they
27 are temporary or permanent or whether they are incorporated in the
28 modifications.

29 (ii) The cost of labor and materials to be furnished by the owner
30 of the real property.

31 (iii) The cost of any equipment of the owner of the real property
32 to be assigned by the owner to the prime contractor.

33 (iv) The cost of any labor for installation of equipment separately
34 provided by the owner of the real property that has been designed,
35 specified, selected or specifically provided for in any design document
36 for the project.

37 (v) Any fee paid by the owner of the real property to the prime
38 contractor pursuant to the contract for modification work.

39 (vi) Any bond and insurance premiums.

40 (vii) Any applicable taxes.

41 (viii) Any contingency fees for the prime contractor that may be
42 used before final completion of the project.

43 (f) Reviewing and evaluating cost estimates and project documents
44 to prepare recommendations on site use, site improvements, selection of
45 materials, building systems and equipment, modification feasibility,

1 availability of materials and labor, local modification activity as
2 related to schedules and time requirements for modification work.

3 (g) Preparing the plan and procedures for selection of
4 subcontractors, including any prequalification of subcontractor
5 candidates.

6 3. "Professional services" means architect services, engineer
7 services, geologist services, land surveying services or landscape
8 architect services that are within the scope of those services as provided
9 in title 32, chapter 1 and for which gross proceeds of sales or gross
10 income has not otherwise been deducted under subsection K of this section.

11 0. The gross proceeds of sales or gross income derived from a
12 contract with the owner of real property or improvements to real property
13 for the maintenance, repair, replacement or alteration of existing
14 property is not subject to tax under this section if the contract does not
15 include modification activities, except as specified in this subsection.
16 The gross proceeds of sales or gross income derived from a de minimis
17 amount of modification activity does not subject the contract or any part
18 of the contract to tax under this section. For the purposes of this
19 subsection:

20 1. Tangible personal property that is incorporated or fabricated
21 into a project described in this subsection may be subject to the amount
22 prescribed in section 42-5008.01.

23 2. Each contract is independent of any other contract, except that
24 any change order that directly relates to the scope of work of the
25 original contract shall be treated the same as the original contract under
26 this chapter, regardless of the amount of modification activities included
27 in the change order. If a change order does not directly relate to the
28 scope of work of the original contract, the change order shall be treated
29 as a new contract, with the tax treatment of any subsequent change order
30 to follow the tax treatment of the contract to which the scope of work of
31 the subsequent change order directly relates.

32 P. Notwithstanding subsection 0 of this section, a contract that
33 primarily involves surface or subsurface improvements to land and that is
34 subject to title 28, chapter 19, 20 or 22 or title 34, chapter 2 or 6 is
35 taxable under this section, even if the contract also includes vertical
36 improvements. Agencies that are subject to procurement processes under
37 those provisions shall include in the request for proposals a notice to
38 bidders when those projects are subject to this section. This subsection
39 does not apply to contracts with:

40 1. Community facilities districts, fire districts, county
41 television improvement districts, community park maintenance districts,
42 cotton pest control districts, hospital districts, pest abatement
43 districts, health service districts, agricultural improvement districts,
44 county free library districts, county jail districts, county stadium

1 districts, special health care districts, public health services
2 districts, theme park districts or revitalization districts.

3 2. Any special taxing district not specified in paragraph 1 of this
4 subsection if the district does not substantially engage in the
5 modification, maintenance, repair, replacement or alteration of surface or
6 subsurface improvements to land.

7 Q. Notwithstanding subsection R, paragraph 10 of this section, a
8 person owning real property who enters into a contract for sale of the
9 real property, who is responsible to the new owner of the property for
10 modifications made to the property in the period subsequent to the
11 transfer of title and who receives a consideration for the modifications
12 is considered a prime contractor solely for purposes of taxing the gross
13 proceeds of sale or gross income received for the modifications made
14 subsequent to the transfer of title. The original owner's gross proceeds
15 of sale or gross income received for the modifications shall be determined
16 according to the following methodology:

17 1. If any part of the contract for sale of the property specifies
18 amounts to be paid to the original owner for the modifications to be made
19 in the period subsequent to the transfer of title, the amounts are
20 included in the original owner's gross proceeds of sale or gross income
21 under this section. Proceeds from the sale of the property that are
22 received after transfer of title and that are unrelated to the
23 modifications made subsequent to the transfer of title are not considered
24 gross proceeds of sale or gross income from the modifications.

25 2. If the original owner enters into an agreement separate from the
26 contract for sale of the real property providing for amounts to be paid to
27 the original owner for the modifications to be made in the period
28 subsequent to the transfer of title to the property, the amounts are
29 included in the original owner's gross proceeds of sale or gross income
30 received for the modifications made subsequent to the transfer of title.

31 3. If the original owner is responsible to the new owner for
32 modifications made to the property in the period subsequent to the
33 transfer of title and derives any gross proceeds of sale or gross income
34 from the project subsequent to the transfer of title other than a delayed
35 disbursement from escrow unrelated to the modifications, it is presumed
36 that the amounts are received for the modifications made subsequent to the
37 transfer of title unless the contrary is established by the owner through
38 its books, records and papers kept in the regular course of business.

39 4. The tax base of the original owner is computed in the same
40 manner as a prime contractor under this section.

41 R. For the purposes of this section:

42 1. "Alteration":

43 (a) Means an activity or action that causes a direct physical
44 change to existing property AND THAT DOES NOT INCREASE THE SQUARE FOOTAGE
45 OF THE EXISTING PROPERTY. ~~For the purposes of this paragraph:~~

~~(a) For existing property that is properly classified as class two property under section 42-12002, paragraph 1, subdivision (c) or paragraph 2, subdivision (c) and that is used for residential purposes, class three property under section 42-12003 or class four property under section 42-12004, this paragraph does not apply if the contract amount is more than twenty-five percent of the most recent full cash value established under chapter 13, article 2 of this title as of the date of any bid for the work or the date of the contract, whichever value is higher.~~

~~(b) For all existing property other than existing property described in subdivision (a) of this paragraph, this paragraph does not apply if the contract amount is more than seven hundred fifty thousand dollars.~~

~~(c) Project elements may not be artificially separated from a contract to cause a project to qualify as an alteration. The department has the burden of proof that project elements have been artificially separated from a contract.~~

~~(d) If a project for which the owner and the person performing the work reasonably believed, at the inception of the contract, would be treated as an alteration under this paragraph and, on completion of the project, the project exceeded the applicable threshold described in either subdivision (a) or (b) of this paragraph by no more than twenty-five percent of the applicable threshold for any reason, the work performed under the contract qualifies as an alteration.~~

~~(e) a change order that directly relates to the scope of work of the original contract shall be treated as part of the original contract, and the contract amount shall include any amount attributable to a change order that directly relates to the scope of work of the original contract.~~

~~(f) Alteration~~

~~(b) Does not include maintenance, repair or replacement.~~

~~2. "Contracting" means engaging in business as a contractor.~~

~~3. "Contractor" is synonymous with the term "builder" and means any person or organization that undertakes to or offers to undertake to, or purports to have the capacity to undertake to, or submits a bid to, or does personally or by or through others, modify any building, highway, road, railroad, excavation, manufactured building or other structure, project, development or improvement, or to do any part of such a project, including the erection of scaffolding or other structure or works in connection with such a project, and includes subcontractors and specialty contractors. For all purposes of taxation or deduction, this definition shall govern without regard to whether or not such a contractor is acting in fulfillment of a contract.~~

~~4. "Manufactured building" means a manufactured home, mobile home or factory-built building, as defined in section 41-4001.~~

1 5. "Manufactured building dealer" means a dealer who either:

2 (a) Is licensed pursuant to title 41, chapter 37, article 4 and who
3 sells manufactured buildings to the final consumer.

4 (b) Supervises, performs or coordinates the excavation and
5 completion of site improvements or the setup of a manufactured building,
6 including the contracting, if any, with any subcontractor or specialty
7 contractor for the completion of the contract.

8 6. "Modification" means construction, grading and leveling ground,
9 wreckage, ~~or~~ demolition OR OTHER ACTIVITIES OR ACTIONS THAT INCREASE THE
10 SQUARE FOOTAGE OF THE EXISTING PROPERTY. Modification does not include:

11 (a) Any project described in subsection 0 of this section.

12 (b) Any wreckage or demolition of existing property, or any other
13 activity that is a necessary component of a project described in
14 subsection 0 of this section.

15 (c) Any mobilization or demobilization related to a project
16 described in subsection 0 of this section, such as the erection or removal
17 of temporary facilities to be used by those persons working on the
18 project.

19 7. "Modify" means to make a modification or cause a modification to
20 be made.

21 8. "Owner" means the person that holds title to the real property
22 or improvements to real property that is the subject of the work, as well
23 as an agent of the title holder and any person with the authority to
24 perform or authorize work on the real property or improvements, including
25 a tenant and a property manager. For the purposes of subsection 0 of this
26 section, a person who is hired by a general contractor that is hired by an
27 owner, or a subcontractor of a general contractor that is hired by an
28 owner, is considered to be hired by the owner.

29 9. "Prime contracting" means engaging in business as a prime
30 contractor.

31 10. "Prime contractor" means a contractor who supervises, performs
32 or coordinates the modification of any building, highway, road, railroad,
33 excavation, manufactured building or other structure, project, development
34 or improvement, including the contracting, if any, with any subcontractors
35 or specialty contractors and who is responsible for the completion of the
36 contract. Except as provided in subsections E and Q of this section, a
37 person who owns real property, who engages one or more contractors to
38 modify that real property and who does not itself modify that real
39 property is not a prime contractor within the meaning of this paragraph
40 regardless of the existence of a contract for sale or the subsequent sale
41 of that real property.

42 11. "Replacement" means the removal from service of one component
43 or system of existing property or tangible personal property installed in
44 existing property, including machinery or equipment, and the installation
45 of a new component or system or new tangible personal property, including

1 machinery or equipment, that provides the same, a similar or an upgraded
2 design or functionality, regardless of the contract amount and regardless
3 of whether the existing component or system or existing tangible personal
4 property is physically removed from the existing property.

5 12. "Sale of a used manufactured building" does not include a lease
6 of a used manufactured building.

7 Sec. 4. Applicability

8 This act applies to contracts entered into from and after
9 December 31, 2021.

REFERENCE TITLE: online home sharing; repeal

State of Arizona
House of Representatives
Fifty-fifth Legislature
First Regular Session
2021

HB 2285

Introduced by
Representatives Lieberman: Bolding, Butler, Terán, Senator Marsh

AN ACT

REPEALING SECTIONS 5-900.39, 11-269.17, 15-1650.01 AND 42-1125.02, ARIZONA REVISED STATUTES; AMENDING SECTIONS 42-2003, 42-5005, 42-5009, 42-5010 AND 42-5014, ARIZONA REVISED STATUTES; REPEALING SECTION 42-5042, ARIZONA REVISED STATUTES; AMENDING SECTION 42-5061, AS AMENDED BY LAWS 2019, CHAPTER 273, SECTION 7 AND CHAPTER 288, SECTION 1; AMENDING SECTION 42-5061, AS AMENDED BY LAWS 2019, CHAPTER 273, SECTION 8 AND CHAPTER 288, SECTION 2; AMENDING SECTION 42-5070, ARIZONA REVISED STATUTES; REPEALING SECTION 42-5076, ARIZONA REVISED STATUTES; AMENDING SECTION 42-5159, ARIZONA REVISED STATUTES; REPEALING SECTIONS 42-6009 AND 42-6013, ARIZONA REVISED STATUTES; AMENDING SECTIONS 42-6102, 42-6108, 42-6108.01, 42-12003 AND 42-12004, ARIZONA REVISED STATUTES; REPEALING LAWS 2016, CHAPTER 208, SECTIONS 14, 15 AND 16; RELATING TO ONLINE LODGING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Repeal

3 Sections 9-500.39, 11-269.17, 15-1650.01 and 42-1125.02, Arizona
4 Revised Statutes, are repealed.

5 Sec. 2. Section 42-2003, Arizona Revised Statutes, is amended to
6 read:

7 42-2003. Authorized disclosure of confidential information

8 A. Confidential information relating to:

9 1. A taxpayer may be disclosed to the taxpayer, its successor in
10 interest or a designee of the taxpayer who is authorized in writing by the
11 taxpayer. A principal corporate officer of a parent corporation may
12 execute a written authorization for a controlled subsidiary.

13 2. A corporate taxpayer may be disclosed to any principal officer,
14 any person designated by a principal officer or any person designated in a
15 resolution by the corporate board of directors or other similar governing
16 body. If a corporate officer signs a statement under penalty of perjury
17 representing that the officer is a principal officer, the department may
18 rely on the statement until the statement is shown to be false. For the
19 purposes of this paragraph, "principal officer" includes a chief executive
20 officer, president, secretary, treasurer, vice president of tax, chief
21 financial officer, chief operating officer or chief tax officer or any
22 other corporate officer who has the authority to bind the taxpayer on
23 matters related to state taxes.

24 3. A partnership may be disclosed to any partner of the
25 partnership. This exception does not include disclosure of confidential
26 information of a particular partner unless otherwise authorized.

27 4. A limited liability company may be disclosed to any member of
28 the company or, if the company is manager-managed, to any manager.

29 5. An estate may be disclosed to the personal representative of the
30 estate and to any heir, next of kin or beneficiary under the will of the
31 decedent if the department finds that the heir, next of kin or beneficiary
32 has a material interest that will be affected by the confidential
33 information.

34 6. A trust may be disclosed to the trustee or trustees, jointly or
35 separately, and to the grantor or any beneficiary of the trust if the
36 department finds that the grantor or beneficiary has a material interest
37 that will be affected by the confidential information.

38 7. A government entity may be disclosed to the head of the entity
39 or a member of the governing board of the entity, or any employee of the
40 entity who has been delegated the authorization in writing by the head of
41 the entity or the governing board of the entity.

42 8. Any taxpayer may be disclosed if the taxpayer has waived any
43 rights to confidentiality either in writing or on the record in any
44 administrative or judicial proceeding.

1 9. The name and taxpayer identification numbers of persons issued
2 direct payment permits may be publicly disclosed.

3 10. Any taxpayer may be disclosed during a meeting or telephone
4 call if the taxpayer is present during the meeting or telephone call and
5 authorizes the disclosure of confidential information.

6 B. Confidential information may be disclosed to:

7 1. Any employee of the department whose official duties involve tax
8 administration.

9 2. The office of the attorney general solely for its use in
10 preparation for, or in an investigation that may result in, any proceeding
11 involving tax administration before the department or any other agency or
12 board of this state, or before any grand jury or any state or federal
13 court.

14 3. The department of liquor licenses and control for its use in
15 determining whether a spirituous liquor licensee has paid all transaction
16 privilege taxes and affiliated excise taxes incurred as a result of the
17 sale of spirituous liquor, as defined in section 4-101, at the licensed
18 establishment and imposed on the licensed establishments by this state and
19 its political subdivisions.

20 4. Other state tax officials whose official duties require the
21 disclosure for proper tax administration purposes if the information is
22 sought in connection with an investigation or any other proceeding
23 conducted by the official. Any disclosure is limited to information of a
24 taxpayer who is being investigated or who is a party to a proceeding
25 conducted by the official.

26 5. The following agencies, officials and organizations, if they
27 grant substantially similar privileges to the department for the type of
28 information being sought, pursuant to statute and a written agreement
29 between the department and the foreign country, agency, state, Indian
30 tribe or organization:

31 (a) The United States internal revenue service, alcohol and tobacco
32 tax and trade bureau of the United States treasury, United States bureau
33 of alcohol, tobacco, firearms and explosives of the United States
34 department of justice, United States drug enforcement agency and federal
35 bureau of investigation.

36 (b) A state tax official of another state.

37 (c) An organization of states, federation of tax administrators or
38 multistate tax commission that operates an information exchange for tax
39 administration purposes.

40 (d) An agency, official or organization of a foreign country with
41 responsibilities that are comparable to those listed in subdivision (a),
42 (b) or (c) of this paragraph.

1 (e) An agency, official or organization of an Indian tribal
2 government with responsibilities comparable to the responsibilities of the
3 agencies, officials or organizations identified in subdivision (a), (b) or
4 (c) of this paragraph.

5 6. The auditor general, in connection with any audit of the
6 department subject to the restrictions in section 42-2002, subsection D.

7 7. Any person to the extent necessary for effective tax
8 administration in connection with:

9 (a) The processing, storage, transmission, destruction and
10 reproduction of the information.

11 (b) The programming, maintenance, repair, testing and procurement
12 of equipment for purposes of tax administration.

13 (c) The collection of the taxpayer's civil liability.

14 8. The office of administrative hearings relating to taxes
15 administered by the department pursuant to section 42-1101, but the
16 department shall not disclose any confidential information without the
17 taxpayer's written consent:

18 (a) Regarding income tax or withholding tax.

19 (b) On any tax issue relating to information associated with the
20 reporting of income tax or withholding tax.

21 9. The United States treasury inspector general for tax
22 administration for the purpose of reporting a violation of internal
23 revenue code section 7213A (26 United States Code section 7213A),
24 unauthorized inspection of returns or return information.

25 10. The financial management service of the United States treasury
26 department for use in the treasury offset program.

27 11. The United States treasury department or its authorized agent
28 for use in the state income tax levy program and in the electronic federal
29 tax payment system.

30 12. The Arizona commerce authority for its use in:

31 (a) Qualifying renewable energy operations for the tax incentives
32 under section 42-12006.

33 (b) Qualifying businesses with a qualified facility for income tax
34 credits under sections 43-1083.03 and 43-1164.04.

35 (c) Fulfilling its annual reporting responsibility pursuant to
36 section 41-1511, subsections U and V and section 41-1512, subsections U
37 and V.

38 (d) Certifying computer data centers for tax relief under section
39 41-1519.

40 13. A prosecutor for purposes of section 32-1164, subsection C.

41 14. The office of the state fire marshal for use in determining
42 compliance with and enforcing title 37, chapter 9, article 5.

43 15. The department of transportation for its use in administering
44 taxes, surcharges and penalties prescribed by title 28.

1 16. The Arizona health care cost containment system administration
2 for its use in administering nursing facility provider assessments.

3 17. The department of administration risk management division and
4 the office of the attorney general if the information relates to a claim
5 against this state pursuant to section 12-821.01 involving the department
6 of revenue.

7 18. Another state agency if the taxpayer authorizes the disclosure
8 of confidential information in writing, including an authorization that is
9 part of an application form or other document submitted to the agency.

10 19. The department of economic security for its use in determining
11 whether an employer has paid all amounts due under the unemployment
12 insurance program pursuant to title 23, chapter 4.

13 20. The department of health services for its use in determining ~~if~~
14 ~~WHETHER~~ a medical marijuana dispensary is in compliance with the tax
15 requirements of ~~title 42,~~ chapter 5 ~~OF THIS TITLE~~ for purposes of section
16 36-2806, subsection A.

17 C. Confidential information may be disclosed in any state or
18 federal judicial or administrative proceeding pertaining to tax
19 administration pursuant to the following conditions:

20 1. One or more of the following circumstances must apply:

21 (a) The taxpayer is a party to the proceeding.

22 (b) The proceeding arose out of, or in connection with, determining
23 the taxpayer's civil or criminal liability, or the collection of the
24 taxpayer's civil liability, with respect to any tax imposed under this
25 title or title 43.

26 (c) The treatment of an item reflected on the taxpayer's return is
27 directly related to the resolution of an issue in the proceeding.

28 (d) Return information directly relates to a transactional
29 relationship between a person who is a party to the proceeding and the
30 taxpayer and directly affects the resolution of an issue in the
31 proceeding.

32 2. Confidential information may not be disclosed under this
33 subsection if the disclosure is prohibited by section 42-2002, subsection
34 C or D.

35 D. Identity information may be disclosed for purposes of notifying
36 persons entitled to tax refunds if the department is unable to locate the
37 persons after reasonable effort.

38 E. The department, on the request of any person, shall provide the
39 names and addresses of bingo licensees as defined in section 5-401, verify
40 whether or not a person has a privilege license and number, a tobacco
41 product distributor's license and number or a withholding license and
42 number or disclose the information to be posted on the department's
43 website or otherwise publicly accessible pursuant to section 42-1124,
44 subsection F and section 42-3401.

1 F. A department employee, in connection with the official duties
2 relating to any audit, collection activity or civil or criminal
3 investigation, may disclose return information to the extent that
4 disclosure is necessary to obtain information that is not otherwise
5 reasonably available. These official duties include the correct
6 determination of and liability for tax, the amount to be collected or the
7 enforcement of other state tax revenue laws.

8 G. Confidential information relating to transaction privilege tax,
9 use tax, severance tax, jet fuel excise and use tax and any other tax
10 collected by the department on behalf of any jurisdiction may be disclosed
11 to any county, city or town tax official if the information relates to a
12 taxpayer who is or may be taxable by a county, city or town or who may be
13 subject to audit by the department pursuant to section 42-6002. Any
14 taxpayer information that is released by the department to the county,
15 city or town:

16 1. May be used only for internal purposes, including audits. ~~If~~
17 ~~there is a legitimate business need relating to enforcing laws,~~
18 ~~regulations and ordinances pursuant to section 9-500.39 or 11-269.17, a~~
19 ~~county, city or town tax official may redisclose transaction privilege tax~~
20 ~~information relating to a vacation rental or short-term rental property~~
21 ~~owner or online lodging operator from the new license report and license~~
22 ~~update report, subject to the following:~~

23 ~~(a) The information redisclosed is limited to the following:~~
24 ~~(i) The transaction privilege tax license number.~~
25 ~~(ii) The type of organization or ownership of the business.~~
26 ~~(iii) The legal business name and doing business as name, if~~
27 ~~different from the legal name.~~
28 ~~(iv) The business mailing address, tax record physical location~~
29 ~~address, telephone number, email address and fax number.~~
30 ~~(v) The date the business started in this state, the business~~
31 ~~description and the North American industry classification system code.~~
32 ~~(vi) The name, address and telephone number for each owner,~~
33 ~~partner, corporate officer, member, managing member or official of the~~
34 ~~employing unit.~~

35 ~~(b) Redisclosure is limited to nonelected officials in other units~~
36 ~~within the county, city or town. The information may not be redisclosed~~
37 ~~to an elected official or the elected official's staff.~~

38 ~~(c) All redisclosures of confidential information made pursuant to~~
39 ~~this paragraph are subject to paragraph 2 of this subsection.~~

40 2. May not be disclosed to the public in any manner that does not
41 comply with confidentiality standards established by the department. The
42 county, city or town shall agree in writing with the department that any
43 release of confidential information that violates the confidentiality
44 standards adopted by the department will result in the immediate

1 suspension of any rights of the county, city or town to receive taxpayer
2 information under this subsection.

3 H. The department may disclose statistical information gathered
4 from confidential information if it does not disclose confidential
5 information attributable to any one taxpayer. The department may disclose
6 statistical information gathered from confidential information, even if it
7 discloses confidential information attributable to a taxpayer, to:

8 1. The state treasurer in order to comply with the requirements of
9 section 42-5029, subsection A, paragraph 3.

10 2. The joint legislative income tax credit review committee, the
11 joint legislative budget committee staff and the legislative staff in
12 order to comply with the requirements of section 43-221.

13 I. The department may disclose the aggregate amounts of any tax
14 credit, tax deduction or tax exemption enacted after January 1, 1994.
15 Information subject to disclosure under this subsection shall not be
16 disclosed if a taxpayer demonstrates to the department that such
17 information would give an unfair advantage to competitors.

18 J. Except as provided in section 42-2002, subsection C,
19 confidential information, described in section 42-2001, paragraph 1,
20 subdivision (a), item (ii), may be disclosed to law enforcement agencies
21 for law enforcement purposes.

22 K. The department may provide transaction privilege tax license
23 information to property tax officials in a county for the purpose of
24 identification and verification of the tax status of commercial property.

25 L. The department may provide transaction privilege tax, luxury
26 tax, use tax, property tax and severance tax information to the
27 ombudsman-citizens aide pursuant to title 41, chapter 8, article 5.

28 M. Except as provided in section 42-2002, subsection D, a court may
29 order the department to disclose confidential information pertaining to a
30 party to an action. An order shall be made only on a showing of good
31 cause and that the party seeking the information has made demand on the
32 taxpayer for the information.

33 N. This section does not prohibit the disclosure by the department
34 of any information or documents submitted to the department by a bingo
35 licensee. Before disclosing the information, the department shall obtain
36 the name and address of the person requesting the information.

37 O. If the department is required or permitted to disclose
38 confidential information, it may charge the person or agency requesting
39 the information for the reasonable cost of its services.

40 P. Except as provided in section 42-2002, subsection D, the
41 department of revenue shall release confidential information as requested
42 by the department of economic security pursuant to section 42-1122 or
43 46-291. Information disclosed under this subsection is limited to the
44 same type of information that the United States internal revenue service

1 is authorized to disclose under section 6103(1)(6) of the internal revenue
2 code.

3 Q. Except as provided in section 42-2002, subsection D, the
4 department shall release confidential information as requested by the
5 courts and clerks of the court pursuant to section 42-1122.

6 R. To comply with the requirements of section 42-5031, the
7 department may disclose to the state treasurer, to the county stadium
8 district board of directors and to any city or town tax official that is
9 part of the county stadium district confidential information attributable
10 to a taxpayer's business activity conducted in the county stadium
11 district.

12 S. The department shall release to the attorney general
13 confidential information as requested by the attorney general for purposes
14 of determining compliance with or enforcing any of the following:

15 1. Any public health control law relating to tobacco sales as
16 provided under title 36, chapter 6, article 14.

17 2. Any law relating to reduced cigarette ignition propensity
18 standards as provided under title 37, chapter 9, article 5.

19 3. Sections 44-7101 and 44-7111, the master settlement agreement
20 referred to in those sections and all agreements regarding disputes under
21 the master settlement agreement.

22 T. For proceedings before the department, the office of
23 administrative hearings, the state board of tax appeals or any state or
24 federal court involving penalties that were assessed against a return
25 preparer, an electronic return preparer or a payroll service company
26 pursuant to section 42-1103.02, 42-1125.01 or 43-419, confidential
27 information may be disclosed only before the judge or administrative law
28 judge adjudicating the proceeding, the parties to the proceeding and the
29 parties' representatives in the proceeding prior to its introduction into
30 evidence in the proceeding. The confidential information may be
31 introduced as evidence in the proceeding only if the taxpayer's name, the
32 names of any dependents listed on the return, all social security numbers,
33 the taxpayer's address, the taxpayer's signature and any attachments
34 containing any of the foregoing information are redacted and if either:

35 1. The treatment of an item reflected on such a return is or may be
36 related to the resolution of an issue in the proceeding.

37 2. Such a return or the return information relates or may relate to
38 a transactional relationship between a person who is a party to the
39 proceeding and the taxpayer that directly affects the resolution of an
40 issue in the proceeding.

41 3. The method of payment of the taxpayer's withholding tax
42 liability or the method of filing the taxpayer's withholding tax return is
43 an issue for the period.

44 U. The department and attorney general may share the information
45 specified in subsection S of this section with any of the following:

1 1. Federal, state or local agencies located in this state for the
2 purposes of enforcement of the statutes or agreements specified in
3 subsection S of this section or for the purposes of enforcement of
4 corresponding laws of other states.

5 2. Indian tribes located in this state for the purposes of
6 enforcement of the statutes or agreements specified in subsection S of
7 this section.

8 3. A court, arbitrator, data clearinghouse or similar entity for
9 the purpose of assessing compliance with or making calculations required
10 by the master settlement agreement or agreements regarding disputes under
11 the master settlement agreement, and with counsel for the parties or
12 expert witnesses in any such proceeding, if the information otherwise
13 remains confidential.

14 V. The department may provide the name and address of qualifying
15 hospitals and qualifying health care organizations, as defined in section
16 42-5001, to a business that is classified and reporting transaction
17 privilege tax under the utilities classification.

18 W. The department may disclose to an official of any city, town or
19 county in a current agreement or considering a prospective agreement with
20 the department as described in section 42-5032.02, subsection G any
21 information relating to amounts subject to distribution that are required
22 by section 42-5032.02. Information disclosed by the department under this
23 subsection:

24 1. May only be used by the city, town or county for internal
25 purposes.

26 2. May not be disclosed to the public in any manner that does not
27 comply with confidentiality standards established by the department. The
28 city, town or county must agree with the department in writing that any
29 release of confidential information that violates the confidentiality
30 standards will result in the immediate suspension of any rights of the
31 city, town or county to receive information under this subsection.

32 ~~X. Notwithstanding any other provision of this section, the~~
33 ~~department may not disclose information provided by an online lodging~~
34 ~~marketplace, as defined in section 42-5076, without the written consent of~~
35 ~~the online lodging marketplace, and the information may be disclosed only~~
36 ~~pursuant to subsection A, paragraphs 1 through 6, 8 and 10, subsection B,~~
37 ~~paragraphs 1, 2, 7 and 8 and subsections C, D and G of this section. Such~~
38 ~~information:~~

39 ~~1. is not subject to disclosure pursuant to title 39, relating to~~
40 ~~public records.~~

41 ~~2. May not be disclosed to any agency of this state or of any~~
42 ~~county, city, town or other political subdivision of this state.~~

1 Sec. 3. Section 42-5005, Arizona Revised Statutes, is amended to
2 read:

3 42-5005. Transaction privilege tax and municipal privilege
4 tax licenses; fees; renewal; revocation;
5 violation; classification

6 A. Every person who receives gross proceeds of sales or gross
7 income on which a transaction privilege tax is imposed by this article and
8 who desires to engage or continue in business shall apply to the
9 department for an annual transaction privilege tax license accompanied by
10 a fee of \$12. A person shall not engage or continue in business until the
11 person has obtained a transaction privilege tax license.

12 B. A person desiring to engage or continue in business within a
13 city or town that imposes a municipal privilege tax shall apply to the
14 department of revenue for an annual municipal privilege tax license
15 accompanied by a fee of up to \$50, as established by ordinance of the city
16 or town. The person shall submit the fee with each new license
17 application. The person may not engage or continue in business until the
18 person has obtained a municipal privilege tax license. The department
19 must collect, hold, pay and manage the fees in trust for the city or town
20 and may not use the monies for any other purposes. The fee imposed by
21 this subsection does not apply to a marketplace facilitator or remote
22 seller that is only required to obtain a transaction privilege tax license
23 pursuant to section 42-5043.

24 C. A transaction privilege tax license is valid only for the
25 calendar year in which it is issued, but it may be renewed for the
26 following calendar year. There is no fee for the renewal of the
27 transaction privilege tax license. The transaction privilege tax license
28 must be renewed at the same time and in the manner as the municipal
29 privilege tax license renewal.

30 D. A municipal privilege tax license is valid only for the calendar
31 year in which it is issued, but it may be renewed for the following
32 calendar year by the payment of a license renewal fee of up to \$50. The
33 renewal fee is due and payable on January 1 and is considered delinquent
34 if not received on or before the last business day of January. The
35 department must collect, hold, pay and manage the fees in trust for the
36 city or town and may not use the monies for any other purposes. The
37 renewal fee imposed by this subsection does not apply to a marketplace
38 facilitator or remote seller that is only required to obtain a transaction
39 privilege tax license pursuant to section 42-5043.

40 E. A licensee that remains in business after the municipal
41 privilege tax license has expired is subject to the payment of the license
42 renewal fee and the civil penalty prescribed in section 42-1125,
43 subsection R.

44 F. If the applicant is not in arrears in payment of any tax imposed
45 by this article, the department shall issue a license authorizing the

1 applicant to engage and continue in business on the condition that the
2 applicant complies with this article. The license number shall be
3 continuous.

4 G. The transaction privilege tax license and the municipal
5 privilege tax license are not transferable on a complete change of
6 ownership or change of location of the business. For the purposes of this
7 subsection:

8 1. "Location" means the business address appearing in the
9 application for the license and on the transaction privilege tax or
10 municipal privilege tax license.

11 2. "Ownership" means any right, title or interest in the business.

12 3. "Transferable" means the ability to convey or change the right
13 or privilege to engage or continue in business by virtue of the issuance
14 of the transaction privilege tax or municipal privilege tax license.

15 H. When the ownership or location of a business on which a
16 transaction privilege tax or municipal privilege tax is imposed has been
17 changed within the meaning of subsection G of this section, the licensee
18 shall surrender the license to the department. The license shall be
19 reissued to the new owners or for the new location on application by the
20 taxpayer and payment of the \$12 fee for a transaction privilege tax
21 license and a fee of up to \$50 per jurisdiction for a municipal privilege
22 tax license. The department must collect, hold, pay and manage the fees
23 in trust for the city or town and may not use the monies for any other
24 purposes.

25 I. A person who is engaged in or conducting a business in two or
26 more locations or under two or more business names shall procure a
27 transaction privilege tax license for each location or business name
28 regardless of whether all locations or business names are reported on a
29 consolidated return under a single transaction privilege tax license
30 number. This requirement shall not be construed as conflicting with
31 section 42-5020.

32 J. A person who is engaged in or conducting a business in two or
33 more locations or under two or more business names shall procure a
34 municipal privilege tax license for each location or business name
35 regardless of whether all locations or business names are reported on a
36 consolidated return.

37 K. A person who is engaged in or conducting business at two or more
38 locations or under two or more business names and who files a consolidated
39 return under a single transaction privilege tax license number as provided
40 by section 42-5020 is required to pay only a single municipal privilege
41 tax license renewal fee for each local jurisdiction pursuant to subsection
42 D of this section. A person who is engaged in or conducting business at
43 two or more locations or under two or more business names and who does not
44 file a consolidated return under a single license number is required to

1 pay a license renewal fee for each location or license in a local
2 jurisdiction.

3 ~~L. For the purposes of this chapter and chapter 6 of this title:~~

4 ~~1. Through December 31, 2018, an online lodging marketplace, as~~
5 ~~defined in section 42-5076, may register with the department for a license~~
6 ~~for the payment of taxes levied by this state and one or more counties,~~
7 ~~cities, towns or special taxing districts, at the election of the online~~
8 ~~lodging marketplace, for taxes due from an online lodging operator on any~~
9 ~~online lodging transaction facilitated by the online lodging marketplace,~~
10 ~~subject to sections 42-5076 and 42-6009.~~

11 ~~2. Beginning from and after December 31, 2018, an online lodging~~
12 ~~marketplace, as defined in section 42-5076, shall register with the~~
13 ~~department for a license for the payment of taxes levied by this state and~~
14 ~~one or more counties, cities, towns or special taxing districts for taxes~~
15 ~~due from an online lodging operator on any online lodging transaction~~
16 ~~facilitated by the online lodging marketplace, subject to sections 42-5076~~
17 ~~and 42-6009.~~

18 ~~M. For the purposes of this chapter and chapter 6 of this title, a~~
19 ~~person who is licensed pursuant to title 32, chapter 20 and who files an~~
20 ~~electronic consolidated tax return for individual real properties under~~
21 ~~management on behalf of the property owners may be licensed with the~~
22 ~~department for the payment of taxes levied by this state and by any~~
23 ~~county, city or town with respect to those properties. There is no fee~~
24 ~~for a license issued pursuant to this subsection.~~

25 ~~N.~~ L. If a person violates this article or any rule adopted under
26 this article, the department ~~upon~~ ON hearing may revoke any transaction
27 privilege tax or municipal privilege tax license issued to the
28 person. The department shall provide ten days' written notice of the
29 hearing, stating the time and place and requiring the person to appear and
30 show cause why the license or licenses should not be revoked. The
31 department shall provide written notice to the person of the revocation of
32 the license. The notices may be served personally or by mail pursuant to
33 section 42-5037. After revocation, the department shall not issue a new
34 license to the person unless the person presents evidence satisfactory to
35 the department that the person will comply with this article and with the
36 rules adopted under this article. The department may prescribe the terms
37 under which a revoked license may be reissued.

38 ~~O.~~ M. The department may revoke any transaction privilege tax or
39 municipal privilege tax license issued to any person who fails for
40 thirteen consecutive months to make and file a return required by this
41 article on or before the due date or the due date as extended by the
42 department unless the failure is due to a reasonable cause and not due to
43 wilful neglect.

44 ~~P.~~ N. A person who violates any provision of this section is
45 guilty of a class 3 misdemeanor.

1 Sec. 4. Section 42-5009, Arizona Revised Statutes, is amended to
2 read:

3 42-5009. Certificates establishing deductions; liability for
4 making false certificate

5 A. A person who conducts any business classified under article 2 of
6 this chapter may establish entitlement to the allowable deductions from
7 the tax base of that business by both:

8 1. Marking the invoice for the transaction to indicate that the
9 gross proceeds of sales or gross income derived from the transaction was
10 deducted from the tax base.

11 2. Obtaining a certificate executed by the purchaser indicating the
12 name and address of the purchaser, the precise nature of the business of
13 the purchaser, the purpose for which the purchase was made, the necessary
14 facts to establish the appropriate deduction and the tax license number of
15 the purchaser to the extent the deduction depends on the purchaser
16 conducting business classified under article 2 of this chapter and a
17 certification that the person executing the certificate is authorized to
18 do so on behalf of the purchaser. The certificate may be disregarded if
19 the seller has reason to believe that the information contained in the
20 certificate is not accurate or complete.

21 B. A person who does not comply with subsection A of this section
22 may establish entitlement to the deduction by presenting facts necessary
23 to support the entitlement, but the burden of proof is on that person.

24 C. The department may prescribe a form for the certificate
25 described in subsection A of this section. Under such rules as it may
26 prescribe, the department may also describe transactions with respect to
27 which a person is not entitled to rely solely on the information contained
28 in the certificate provided for in subsection A of this section but must
29 instead obtain such additional information as required by the rules in
30 order to be entitled to the deduction.

31 D. If a seller is entitled to a deduction by complying with
32 subsection A of this section, the department may require the purchaser
33 that caused the execution of the certificate to establish the accuracy and
34 completeness of the information required to be contained in the
35 certificate that would entitle the seller to the deduction. If the
36 purchaser cannot establish the accuracy and completeness of the
37 information, the purchaser is liable in an amount equal to any tax,
38 penalty and interest that the seller would have been required to pay under
39 this article if the seller had not complied with subsection A of this
40 section. Payment of the amount under this subsection exempts the
41 purchaser from liability for any tax imposed under article 4 of this
42 chapter. The amount shall be treated as tax revenues collected from the
43 seller in order to designate the distribution base for purposes of section
44 42-5029.

1 E. If a seller is entitled to a deduction by complying with
2 subsection B of this section, the department may require the purchaser to
3 establish the accuracy and completeness of the information provided to the
4 seller that entitled the seller to the deduction. If the purchaser cannot
5 establish the accuracy and completeness of the information, the purchaser
6 is liable in an amount equal to any tax, penalty and interest that the
7 seller would have been required to pay under this article if the seller
8 had not complied with subsection B of this section. Payment of the amount
9 under this subsection exempts the purchaser from liability for any tax
10 imposed under article 4 of this chapter. The amount shall be treated as
11 tax revenues collected from the seller in order to designate the
12 distribution base for purposes of section 42-5029.

13 F. The department may prescribe a form for a certificate used to
14 establish entitlement to the deductions described in section 42-5061,
15 subsection A, paragraph 46 and section 42-5063, subsection B, paragraph 3.
16 Under rules the department may prescribe, the department may also require
17 additional information for the seller to be entitled to the deduction. If
18 a seller is entitled to the deductions described in section 42-5061,
19 subsection A, paragraph 46 and section 42-5063, subsection B, paragraph 3,
20 the department may require the purchaser who executed the certificate to
21 establish the accuracy and completeness of the information contained in
22 the certificate that would entitle the seller to the deduction. If the
23 purchaser cannot establish the accuracy and completeness of the
24 information, the purchaser is liable in an amount equal to any tax,
25 penalty and interest that the seller would have been required to pay under
26 this article. Payment of the amount under this subsection exempts the
27 purchaser from liability for any tax imposed under article 4 of this
28 chapter. The amount shall be treated as tax revenues collected from the
29 seller in order to designate the distribution base for purposes of section
30 42-5029.

31 G. If a seller claims a deduction under section 42-5061,
32 subsection A, paragraph 25 and establishes entitlement to the deduction
33 with an exemption letter that the purchaser received from the department
34 and the exemption letter was based on a contingent event, the department
35 may require the purchaser that received the exemption letter to establish
36 the satisfaction of the contingent event within a reasonable time. If the
37 purchaser cannot establish the satisfaction of the event, the purchaser is
38 liable in an amount equal to any tax, penalty and interest that the seller
39 would have been required to pay under this article if the seller had not
40 been furnished the exemption letter. Payment of the amount under this
41 subsection exempts the purchaser 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 purposes of section 42-5029. For the purposes of this subsection,

"reasonable time" means a time limitation that the department determines and that does not exceed the time limitations pursuant to section 42-1104.

H. The department shall prescribe forms for certificates used to establish the satisfaction of the criteria necessary to qualify the sale of a motor vehicle for the deductions described in section 42-5061, subsection A, paragraph 14, paragraph 28, subdivision (a) and paragraph 44 and subsection U. Except as provided in subsection J of this section, to establish entitlement to these deductions, a motor vehicle dealer shall retain:

1. A valid certificate as prescribed by this subsection completed by the purchaser and obtained ~~prior to~~ BEFORE the issuance of the nonresident registration permit authorized by section 28-2154.

2. A copy of the nonresident registration permit authorized by section 28-2154.

3. A legible copy of a current valid driver license issued to the purchaser by another state or foreign country that indicates an address outside of this state. For the sale of a motor vehicle to a nonresident entity, the entity's representative must have a current valid driver license issued by the same jurisdiction as that in which the entity is located.

4. For the purposes of the deduction provided by section 42-5061, subsection A, paragraph 14, a certificate documenting the delivery of the motor vehicle to an out-of-state location.

I. Notwithstanding subsection A, paragraph 2 of this section, if a motor vehicle dealer has established entitlement to a deduction by complying with subsection H of this section, the department may require the purchaser who executed the certificate to establish the accuracy and completeness of the information contained in the certificate that entitled the motor vehicle dealer to the deduction. If the purchaser cannot establish the accuracy and completeness of the information, the purchaser is liable in an amount equal to any tax, penalty and interest that the motor vehicle dealer would have been required to pay under this article and under articles IV and V of the model city tax code as defined in section 42-6051. Payment of the amount under this subsection exempts the purchaser from liability for any tax imposed under article 4 of this chapter and any tax imposed under article VI of the model city tax code as defined in section 42-6051. The amount shall be treated as tax revenues collected from the motor vehicle dealer in order to designate the distribution base for purposes of section 42-5029.

J. To establish entitlement to the deduction described in section 42-5061, subsection A, paragraph 44, a public consignment auction dealer as defined in section 28-4301 shall submit the valid certificate prescribed by subsection H of this section to the department and retain a copy for its records.

1 K. Notwithstanding any other law, compliance with subsection H of
2 this section by a motor vehicle dealer entitles the motor vehicle dealer
3 to the exemption provided in section 42-6004, subsection A, paragraph 4.

4 L. The department shall prescribe a form for a certificate to be
5 used by a person that is not subject to tax under section 42-5075 when the
6 person is engaged by a contractor that is subject to tax under section
7 42-5075 for a project that is taxable under section 42-5075. The
8 certificate permits the person purchasing tangible personal property to be
9 incorporated or fabricated by the person into any real property,
10 structure, project, development or improvement to provide documentation to
11 a retailer that the sale of tangible personal property qualifies for the
12 deduction under section 42-5061, subsection A, paragraph 27,
13 subdivision (b). A prime contractor shall obtain the certificate from the
14 department and shall provide a copy to any such person working on the
15 project. The prime contractor shall obtain a new certificate for each
16 project to which this subsection applies. For the purposes of this
17 subsection, the following apply:

18 1. The person that is not subject to tax under section 42-5075 may
19 use the certificate issued pursuant to this subsection only with respect
20 to tangible personal property that will be incorporated into a project for
21 which the gross receipts are subject to tax under section 42-5075.

22 2. The department shall issue the certificate to the prime
23 contractor on receiving sufficient documentation to establish that the
24 prime contractor meets the requirements of this subsection.

25 3. If any person uses the certificate provided under this
26 subsection to purchase tangible personal property to be used in a project
27 that is not subject to tax under section 42-5075, the person is liable in
28 an amount equal to any tax, penalty and interest that the seller would
29 have been required to pay under this article if the seller had not
30 complied with subsection A of this section. Payment of the amount under
31 this section exempts the person from liability for any tax imposed under
32 article 4 of this chapter. The amount shall be sourced under section
33 42-5040, subsection A, paragraph 2.

34 M. Notwithstanding any other law, compliance with subsection L of
35 this section by a person that is not subject to tax under section 42-5075
36 entitles the person to the exemption allowed by section 465,
37 subsection (k) of the model city tax code when purchasing tangible
38 personal property to be incorporated or fabricated by the person into any
39 real property, structure, project, development or improvement.

40 N. The requirements of subsections A and B of this section do not
41 apply to owners, proprietors or tenants of agricultural lands or farms who
42 sell livestock or poultry feed that is grown or raised on their lands to
43 any of the following:

44 1. Persons who feed their own livestock or poultry.

1 2. Persons who are engaged in the business of producing livestock
2 or poultry commercially.

3 3. Persons who are engaged in the business of feeding livestock or
4 poultry commercially or who board livestock noncommercially.

5 0. A vendor who has reason to believe that a certificate prescribed
6 by this section is not accurate or complete will not be relieved of the
7 burden of proving entitlement to the exemption. A vendor that accepts a
8 certificate in good faith will be relieved of the burden of proof and the
9 purchaser may be required to establish the accuracy of the claimed
10 exemption. If the purchaser cannot establish the accuracy and
11 completeness of the information provided in the certificate, the purchaser
12 is liable for an amount equal to the transaction privilege tax, penalty
13 and interest that the vendor would have been required to pay if the vendor
14 had not accepted the certificate.

15 ~~P. Notwithstanding any other law, an online lodging operator, as~~
16 ~~defined in section 42-5076, shall be entitled to an exclusion from any~~
17 ~~applicable taxes for any online lodging transaction, as defined in section~~
18 ~~42-5076, facilitated by an online lodging marketplace, as defined in~~
19 ~~section 42-5076, for which the online lodging operator has obtained from~~
20 ~~the online lodging marketplace written notice that the online lodging~~
21 ~~marketplace is registered with the department to collect applicable taxes~~
22 ~~for all online lodging transactions facilitated by the online lodging~~
23 ~~marketplace, and transaction history documenting tax collected by the~~
24 ~~online lodging marketplace, pursuant to section 42-5005, subsection L.~~

25 ~~Q.~~ P. The department shall prescribe the form of a certificate to
26 be used by a person purchasing an aircraft to document eligibility for a
27 deduction pursuant to section 42-5061, subsection B, paragraph 7,
28 subdivision (a), item (v) or an exemption pursuant to section 42-5159,
29 subsection B, paragraph 7, subdivision (a), item (v), relating to
30 aircraft. The person must provide this certificate and documentation
31 confirming that the operational control of the aircraft has been
32 transferred or will be transferred immediately after the purchase to one
33 or more persons described in section 42-5061, subsection B, paragraph 7,
34 subdivision (a), item (i), (ii), (iii) or (iv) or section 42-5159,
35 subsection B, paragraph 7, subdivision (a), item (i), (ii), (iii) or (iv).
36 Operational control of the aircraft must be transferred for at least fifty
37 percent of the aircraft's flight hours. If such operational control is
38 not transferred for at least fifty percent of the aircraft's flight hours
39 during the recapture period, the owner of the aircraft is liable for an
40 amount equal to any tax that the seller or purchaser would have been
41 required to pay under this chapter at the time of the sale, plus penalty
42 and interest. The recapture period begins on the date that operational
43 control of the aircraft is first transferred and ends on the later of the
44 date the aircraft is fully depreciated for federal income tax purposes or
45 five years after operational control was first transferred. For the

purposes of this subsection, operational control of the aircraft must be within the meaning of federal aviation administration operations specification A008, or its successor, except that:

1. If it is determined that operational control has been transferred for less than fifty percent but more than forty percent of the aircraft's flight hours, the owner of the aircraft is liable for an amount equal to any tax that the seller or purchaser would have been required to pay under this chapter at the time of the sale, plus interest.

2. If the aircraft is sold during the recapture period, the seller is not liable for the amount determined pursuant to this subsection unless the operational control of the aircraft had not been transferred for at least fifty percent of the aircraft's flight hours at the time of the sale.

Sec. 5. Section 42-5010, Arizona Revised Statutes, is amended to read:

42-5010. Rates; distribution base

A. The tax imposed by this article is levied and shall be collected at the following rates:

1. Five percent of the tax base as computed for the business of every person engaging or continuing in this state in the following business classifications described in article 2 of this chapter:

(a) Transporting classification.

(b) Utilities classification.

(c) Telecommunications classification.

(d) Pipeline classification.

(e) Private car line classification.

(f) Publication classification.

(g) Job printing classification.

(h) Prime contracting classification.

(i) Amusement classification.

(j) Restaurant classification.

(k) Personal property rental classification.

(l) Retail classification and amounts equal to retail transaction privilege tax due pursuant to section 42-5008.01.

2. Five and one-half percent of the tax base as computed for the business of every person engaging or continuing in this state in:

~~(a) the transient lodging classification described in section 42-5070.~~

~~(b) The online lodging marketplace classification described in section 42-5076 who has entered into an agreement with the department to register for, or has otherwise obtained from the department, a license to collect tax pursuant to section 42-5005, subsection L.~~

3. Three and one-eighth percent of the tax base as computed for the business of every person engaging or continuing in this state in the mining classification described in section 42-5072.

1 4. Zero percent of the tax base as computed for the business of
2 every person engaging or continuing in this state in the commercial lease
3 classification described in section 42-5069.

4 B. Except as provided by subsection J of this section, twenty
5 percent of the tax revenues collected at the rate prescribed by subsection
6 A, paragraph 1 of this section from persons on account of engaging in
7 business under the business classifications listed in subsection A,
8 paragraph 1, subdivisions (a) through (h) of this section is designated as
9 distribution base for purposes of section 42-5029.

10 C. Forty percent of the tax revenues collected at the rate
11 prescribed by subsection A, paragraph 1 of this section from persons on
12 account of engaging in business under the business classifications listed
13 in subsection A, paragraph 1, subdivisions (i) through (l) of this section
14 is designated as distribution base for purposes of section 42-5029.

15 D. Thirty-two percent of the tax revenues collected from persons on
16 account of engaging in business under the business classification listed
17 in subsection A, paragraph 3 of this section is designated as distribution
18 base for purposes of section 42-5029.

19 E. Fifty-three and one-third percent of the tax revenues collected
20 from persons on account of engaging in business under the business
21 classification listed in subsection A, paragraph 4 of this section is
22 designated as distribution base for purposes of section 42-5029.

23 F. Fifty percent of the tax revenues collected from persons on
24 account of engaging in business under the business classification listed
25 in subsection A, paragraph 2 of this section is designated as distribution
26 base for purposes of section 42-5029.

27 G. In addition to the rates prescribed by subsection A of this
28 section, if approved by the qualified electors voting at a statewide
29 general election, an additional rate increment is imposed and shall be
30 collected through June 30, 2021. The taxpayer shall pay taxes pursuant to
31 this subsection at the same time and in the same manner as under
32 subsection A of this section. The department shall separately account for
33 the revenues collected with respect to the rates imposed pursuant to this
34 subsection and the state treasurer shall distribute all of those revenues
35 in the manner prescribed by section 42-5029, subsection E. The rates
36 imposed pursuant to this subsection shall not be considered local revenues
37 for purposes of article IX, section 21, Constitution of Arizona. The
38 additional tax rate increment is levied at the rate of six-tenths of one
39 per cent of the tax base of every person engaging or continuing in this
40 state in a business classification listed in subsection A, paragraph 1 of
41 this section.

42 H. Any increase in the rate of tax that is imposed by this chapter
43 and that is enacted by the legislature or by a vote of the people does not
44 apply with respect to contracts entered into by prime contractors or
45 pursuant to written bids made by prime contractors on or before the

effective date of the legislation or the date of the election enacting the increase. To qualify for the exemption under this subsection, the prime contractor must maintain sufficient documentation, in a manner and form prescribed by the department, to verify the date of the contract or written bid.

I. For taxpayers taxable under this chapter other than prime contractors taxable pursuant to section 42-5075:

1. Any increase in the rate of tax that is levied by this article or article 2 of this chapter enacted by the legislature or by a vote of the people does not apply for a period of one hundred twenty days ~~from~~ AFTER the date of the tax rate increase to the gross proceeds of sales or gross income from the business of the taxpayer with respect to written contracts entered into before the effective date of the tax rate increase unless the taxpayer has entered into a contract that contains a provision that entitles the taxpayer to recover from the purchaser the amount of the additional tax levied.

2. The provisions of this subsection apply without regard to the accounting method used by the taxpayer to report the taxes imposed under article 2 of this chapter.

3. The provisions of this subsection shall not be considered in determining the rate of tax imposed under chapter 6, article 3 of this title.

J. Zero percent of the tax revenues that are collected at the rate prescribed by subsection A, paragraph 1 of this section from persons on account of engaging in business under the business classification listed in subsection A, paragraph 1, subdivision (h) of this section, and that are subject to any distribution required by section 42-5032.02, is designated as distribution base for the purposes of section 42-5029 until the total amount subject to distribution pursuant to section 42-5032.02 has reached the maximum amount prescribed by section 42-5032.02, subsection C. Thereafter, twenty percent of the remaining tax revenues is designated as distribution base for the purposes of section 42-5029 as provided by subsection B of this section.

Sec. 6. Section 42-5014, Arizona Revised Statutes, is amended to read:

42-5014. Return and payment of tax; estimated tax; extensions; abatements

A. Except as provided in subsection B, C, ~~OR D, E or F~~ of this section, the taxes levied under this article:

1. Are due and payable monthly in the form required by section 42-5018 for the amount of the tax, to the department, on or before the twentieth day of the month next succeeding the month in which the tax accrues.

2. Are delinquent as follows:

(a) For taxpayers that are required or elect to file and pay electronically in any month, if not received by the department on or before the last business day of the month.

(b) For all other taxpayers, if not received by the department on or before the business day preceding the last business day of the month.

B. The department, for any taxpayer whose estimated annual liability for taxes imposed or administered by this article or chapter 6 of this title is between \$2,000 and \$8,000, shall authorize the taxpayer to pay the taxes on a quarterly basis. The department, for any taxpayer whose estimated annual liability for taxes imposed by this article is less than \$2,000, shall authorize the taxpayer to pay the taxes on an annual basis. For the purposes of this subsection, the taxes due under this article:

1. For taxpayers that are authorized to pay on a quarterly basis, are due and payable monthly in the form required by section 42-5018 for the amount of the tax, to the department, on or before the twentieth day of the month next succeeding the quarter in which the tax accrues.

2. For taxpayers that are authorized to pay on an annual basis, are due and payable monthly in the form required by section 42-5018 for the amount of the tax, to the department, on or before the twentieth day of January next succeeding the year in which the tax accrues.

3. Are delinquent as follows:

(a) For taxpayers that are required or elect to file and pay electronically in any quarter, if not received by the department on or before the last business day of the month.

(b) For all other taxpayers that are required to file and pay quarterly, if not received by the department on or before the business day preceding the last business day of the month.

(c) For taxpayers that are required or elect to file and pay electronically on an annual basis, if not received by the department on or before the last business day of January.

(d) For all other taxpayers that are required to file and pay annually, if not received by the department on or before the business day preceding the last business day of January.

C. The department may require a taxpayer whose business is of a transient character to file the return and remit the taxes imposed by this article on a daily, a weekly or a transaction-by-transaction basis, and those returns and payments are due and payable on the date fixed by the department without a grace period otherwise allowed by this section. For the purposes of this subsection, "business of a transient character" means sales activity by a taxpayer not regularly engaged in selling within this state that is conducted from vehicles, portable stands, rented spaces, structures or booths, or concessions at fairs, carnivals, circuses, festivals or similar activities for not more than thirty consecutive days.

1 D. If the business entity under which a taxpayer reports and pays
 2 income tax under title 43 has an annual total tax liability under this
 3 article, article 6 of this chapter and chapter 6, article 3 of this title
 4 of \$1,000,000 or more in 2019, \$1,600,000 or more in 2020, \$2,300,000 or
 5 more in 2021, \$3,100,000 or more in 2022, or \$4,100,000 or more in 2023
 6 and each year thereafter, based on the actual tax liability in the
 7 preceding calendar year, regardless of the number of offices at which the
 8 taxes imposed by this article, article 6 of this chapter or chapter 6,
 9 article 3 of this title are collected, or if the taxpayer can reasonably
 10 anticipate such liability in the current year, the taxpayer shall report
 11 on a form prescribed by the department and pay an estimated tax payment
 12 each June. Any other taxpayer may voluntarily elect to pay the estimated
 13 tax payment pursuant to this subsection. The payment shall be made on or
 14 before June 20 in the same manner as the taxpayer is required to make
 15 regular payments and is delinquent if not received by the department on or
 16 before the last business day of June if the taxpayer is required to make
 17 the payment by electronic means, ~~or~~ IS delinquent on or before the
 18 business day preceding the last business day of June for those taxpayers
 19 allowed to file by mail, ~~or~~ IS delinquent if not received by the
 20 department on the business day preceding the last business day of June for
 21 those taxpayers allowed to file in person. The estimated tax paid shall
 22 be credited against the taxpayer's tax liability under this article,
 23 article 6 of this chapter and chapter 6, article 3 of this title for the
 24 month of June for the current calendar year. The estimated tax payment
 25 shall equal either:

26 1. One-half of the actual tax liability under this article plus
 27 one-half of any tax liability under article 6 of this chapter and chapter
 28 6, article 3 of this title for May of the current calendar year.

29 2. The actual tax liability under this article plus any tax
 30 liability under article 6 of this chapter and chapter 6, article 3 of this
 31 title for the first fifteen days of June of the current calendar year.

32 ~~E. An online lodging marketplace, as defined in section 42-5076,~~
 33 ~~that is registered with the department pursuant to section 42-5005,~~
 34 ~~subsection L:~~

35 ~~1. Shall remit to the department the applicable taxes payable~~
 36 ~~pursuant to section 42-5076 and chapter 6 of this title with respect to~~
 37 ~~each online lodging transaction, as defined in section 42-5076,~~
 38 ~~facilitated by the online lodging marketplace.~~

39 ~~2. Shall report the taxes monthly and remit the aggregate total~~
 40 ~~amounts for each of the respective taxing jurisdictions.~~

41 ~~3. Shall not be required to list or otherwise identify any~~
 42 ~~individual online lodging operator, as defined in section 42-5076, on any~~
 43 ~~return or any attachment to a return.~~

~~F. A person who is licensed pursuant to title 32, chapter 20 and who is licensed with the department pursuant to section 42-5005, subsection M shall:~~

~~1. File a consolidated return monthly with respect to all managed properties for which the licensee files an electronic consolidated tax return pursuant to section 42-6013.~~

~~2. Remit to the department the aggregate total amount of the applicable taxes payable pursuant to this chapter and chapter 6 of this title for all of the respective taxing jurisdictions with respect to the managed properties.~~

~~G.~~ E. The taxpayer shall prepare a return showing the amount of the tax for which the taxpayer is liable for the preceding month, and shall mail or deliver the return to the department in the same manner and time as prescribed for the payment of taxes in subsection A of this section. If the taxpayer fails to file the return in the manner and time as prescribed for the payment of taxes in subsection A of this section, the amount of the tax required to be shown on the return is subject to the penalty imposed pursuant to section 42-1125, subsection X, without any reduction for taxes paid on or before the due date of the return. The return shall be verified by the oath of the taxpayer or an authorized agent or as prescribed by the department pursuant to section 42-1105, subsection B.

~~H.~~ F. Any person who is taxable under this article and who makes cash and credit sales shall report the cash and credit sales separately and may apply for and obtain from the department an extension of time to pay taxes due on the credit sales. The department shall grant the extension under such rules as the department prescribes. When the extension is granted, the taxpayer shall thereafter include in each monthly report all collections made on such credit sales during the month next preceding and shall pay the taxes due at the time of filing such a report.

~~I.~~ G. The returns required under this article shall be made on forms prescribed by the department and shall capture data with sufficient specificity to meet the needs of all taxing jurisdictions.

~~J.~~ H. Any person who is engaged in or conducting business in two or more locations or under two or more business names shall file the return required under this article using an electronic filing program established by the department.

~~K.~~ I. For taxable periods beginning from and after December 31, 2017, any taxpayer with an annual total tax liability under this chapter and chapter 6 of this title of \$20,000 or more, based on the actual tax liability in the preceding calendar year, regardless of the number of offices at which the taxes imposed by this chapter or chapter 6 of this title are collected, or a taxpayer that can reasonably anticipate that

1 liability in the current year, shall file the return required under this
2 article using an electronic filing program established by the department.

3 ~~I.~~ J. For taxable periods beginning from and after December 31,
4 2018, any taxpayer with an annual total tax liability under this chapter
5 and chapter 6 of this title of \$10,000 or more, based on the actual tax
6 liability in the preceding calendar year, regardless of the number of
7 offices at which the taxes imposed by this chapter or chapter 6 of this
8 title are collected, or a taxpayer that can reasonably anticipate that
9 liability in the current year, shall file the return required under this
10 article using an electronic filing program established by the department.

11 ~~M.~~ K. For taxable periods beginning from and after December 31,
12 2019, any taxpayer with an annual total tax liability under this chapter
13 and chapter 6 of this title of \$5,000 or more, based on the actual tax
14 liability in the preceding calendar year, regardless of the number of
15 offices at which the taxes imposed by this chapter or chapter 6 of this
16 title are collected, or a taxpayer that can reasonably anticipate that
17 liability in the current year, shall file the return required under this
18 article using an electronic filing program established by the department.

19 ~~N.~~ L. For taxable periods beginning from and after December 31,
20 2020, any taxpayer with an annual total tax liability under this chapter
21 and chapter 6 of this title of \$500 or more, based on the actual tax
22 liability in the preceding calendar year, regardless of the number of
23 offices at which the taxes imposed by this chapter or chapter 6 of this
24 title are collected, or a taxpayer that can reasonably anticipate that
25 liability in the current year, shall file the return required under this
26 article using an electronic filing program established by the department.

27 ~~O.~~ M. Any taxpayer that is required to report and pay using an
28 electronic filing program established by the department may apply to the
29 director, on a form prescribed by the department, for an annual waiver
30 from the electronic filing requirement. The director may grant a waiver,
31 which may be renewed, if any of the following applies:

- 32 1. The taxpayer has no computer.
- 33 2. The taxpayer has no internet access.
- 34 3. Any other circumstance considered to be worthy by the director
- 35 exists.

36 ~~P.~~ N. A waiver is not required if the return cannot be
37 electronically filed for reasons beyond the taxpayer's control, including
38 situations in which the taxpayer was instructed by either the internal
39 revenue service or the department of revenue to file by paper.

40 ~~Q.~~ O. The department, for good cause, may extend the time for
41 making any return required by this article and may grant such reasonable
42 additional time within which to make the return as it deems proper, but
43 the time for filing the return shall not be extended beyond the first day
44 of the third month next succeeding the regular due date of the return.

~~R.~~ P. The department, with the approval of the attorney general, may abate small tax balances if the administration costs exceed the amount of tax due.

~~S.~~ Q. For the purposes of subsection D of this section, "taxpayer" means the business entity under which the business reports and pays state income taxes regardless of the number of offices at which the taxes imposed by this article, article 6 of this chapter or chapter 6, article 3 of this title are collected.

Sec. 7. Repeal

Section 42-5042, Arizona Revised Statutes, is repealed.

Sec. 8. Section 42-5061, Arizona Revised Statutes, as amended by Laws 2019, chapter 273, section 7 and chapter 288, section 1, is amended to read:

42-5061. Retail classification: definitions

A. The retail classification is comprised of the business of selling tangible personal property at retail. The tax base for the retail classification is the gross proceeds of sales or gross income derived from the business. The tax imposed on the retail classification does not apply to the gross proceeds of sales or gross income from:

1. Professional or personal service occupations or businesses that involve sales or transfers of tangible personal property only as inconsequential elements.

2. Services rendered in addition to selling tangible personal property at retail.

3. Sales of warranty or service contracts. The storage, use or consumption of tangible personal property provided under the conditions of such contracts is subject to tax under section 42-5156.

4. Sales of tangible personal property by any nonprofit organization organized and operated exclusively for charitable purposes and recognized by the United States internal revenue service under section 501(c)(3) of the internal revenue code.

5. Sales to persons engaged in business classified under the restaurant classification of articles used by human beings for food, drink or condiment, whether simple, mixed or compounded.

6. Business activity that is properly included in any other business classification that is taxable under this article.

7. The sale of stocks and bonds.

8. Drugs and medical oxygen, including delivery hose, mask or tent, regulator and tank, on the prescription of a member of the medical, dental or veterinarian profession who is licensed by law to administer such substances.

9. Prosthetic appliances as defined in section 23-501 and as prescribed or recommended by a health professional who is licensed pursuant to title 32, chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.

10. Insulin, insulin syringes and glucose test strips.

1 11. Prescription eyeglasses or contact lenses.

2 12. Hearing aids as defined in section 36-1901.

3 13. Durable medical equipment that has a centers for medicare and
4 medicaid services common procedure code, is designated reimbursable by
5 medicare, is prescribed by a person who is licensed under title 32,
6 chapter 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is
7 primarily and customarily used to serve a medical purpose, is generally
8 not useful to a person in the absence of illness or injury and is
9 appropriate for use in the home.

10 14. Sales of motor vehicles to nonresidents of this state for use
11 outside this state if the motor vehicle dealer ships or delivers the motor
12 vehicle to a destination out of this state.

13 15. Food, as provided in and subject to the conditions of article 3
14 of this chapter and sections 42-5074 and 42-6017.

15 16. Items purchased with United States department of agriculture
16 coupons issued under the supplemental nutrition assistance program
17 pursuant to the food and nutrition act of 2008 (P.L. 88-525; 78 Stat. 703;
18 7 United States Code sections 2011 through 2036b) by the United States
19 department of agriculture food and nutrition service or food instruments
20 issued under section 17 of the child nutrition act (P.L. 95-627; 92
21 Stat. 3603; P.L. 99-661, section 4302; P.L. 111-296; 42 United States Code
22 section 1786).

23 17. Textbooks by any bookstore that are required by any state
24 university or community college.

25 18. Food and drink to a person that is engaged in a business that
26 is classified under the restaurant classification and that provides such
27 food and drink without monetary charge to its employees for their own
28 consumption on the premises during the employees' hours of employment.

29 19. Articles of food, drink or condiment and accessory tangible
30 personal property to a school district or charter school if such articles
31 and accessory tangible personal property are to be prepared and served to
32 persons for consumption on the premises of a public school within the
33 district or on the premises of the charter school during school hours.

34 20. Lottery tickets or shares pursuant to title 5, chapter 5.1,
35 article 1.

36 21. The sale of cash equivalents and the sale of precious metal
37 bullion and monetized bullion to the ultimate consumer, but the sale of
38 coins or other forms of money for manufacture into jewelry or works of art
39 is subject to the tax and the gross proceeds of sales or gross income
40 derived from the redemption of any cash equivalent by the holder as a
41 means of payment for goods or services that are taxable under this article
42 is subject to the tax. For the purposes of this paragraph:

43 (a) "Cash equivalents" means items or intangibles, whether or not
44 negotiable, that are sold to one or more persons, through which a value
45 denominated in money is purchased in advance and may be redeemed in full

1 or in part for tangible personal property, intangibles or services. Cash
2 equivalents include gift cards, stored value cards, gift certificates,
3 vouchers, traveler's checks, money orders or other instruments, orders or
4 electronic mechanisms, such as an electronic code, personal identification
5 number or digital payment mechanism, or any other prepaid intangible right
6 to acquire tangible personal property, intangibles or services in the
7 future, whether from the seller of the cash equivalent or from another
8 person. Cash equivalents do not include either of the following:

9 (i) Items or intangibles that are sold to one or more persons,
10 through which a value is not denominated in money.

11 (ii) Prepaid calling cards or prepaid authorization numbers for
12 telecommunications services made taxable by subsection P of this section.

13 (b) "Monetized bullion" means coins and other forms of money that
14 are manufactured from gold, silver or other metals and that have been or
15 are used as a medium of exchange in this or another state, the United
16 States or a foreign nation.

17 (c) "Precious metal bullion" means precious metal, including gold,
18 silver, platinum, rhodium and palladium, that has been smelted or refined
19 so that its value depends on its contents and not on its form.

20 22. Motor vehicle fuel and use fuel that are subject to a tax
21 imposed under title 28, chapter 16, article 1, sales of use fuel to a
22 holder of a valid single trip use fuel tax permit issued under section
23 28-5739, sales of aviation fuel that are subject to the tax imposed under
24 section 28-8344 and sales of jet fuel that are subject to the tax imposed
25 under article 8 of this chapter.

26 23. Tangible personal property sold to a person engaged in the
27 business of leasing or renting such property under the personal property
28 rental classification if such property is to be leased or rented by such
29 person.

30 24. Tangible personal property sold in interstate or foreign
31 commerce if prohibited from being so taxed by the constitution of the
32 United States or the constitution of this state.

33 25. Tangible personal property sold to:

34 (a) A qualifying hospital as defined in section 42-5001.

35 (b) A qualifying health care organization as defined in section
36 42-5001 if the tangible personal property is used by the organization
37 solely to provide health and medical related educational and charitable
38 services.

39 (c) A qualifying health care organization as defined in section
40 42-5001 if the organization is dedicated to providing educational,
41 therapeutic, rehabilitative and family medical education training for
42 blind and visually impaired children and children with multiple
43 disabilities from the time of birth to age twenty-one.

44 (d) A qualifying community health center as defined in section
45 42-5001.

(e) A nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that regularly serves meals to the needy and indigent on a continuing basis at no cost.

(f) For taxable periods beginning from and after June 30, 2001, a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that provides residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy, if the tangible personal property is used by the organization solely to provide residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy.

(g) A qualifying health sciences educational institution as defined in section 42-5001.

(h) Any person representing or working on behalf of another person described in subdivisions (a) through (g) of this paragraph if the tangible personal property is incorporated or fabricated into a project described in section 42-5075, subsection 0.

26. Magazines or other periodicals or other publications by this state to encourage tourist travel.

27. Tangible personal property sold to:

(a) A person that is subject to tax under this article by reason of being engaged in business classified under section 42-5075 or to a subcontractor working under the control of a person engaged in business classified under section 42-5075, if the property so sold is any of the following:

(i) Incorporated or fabricated by the person into any real property, structure, project, development or improvement as part of the business.

(ii) Incorporated or fabricated by the person into any project described in section 42-5075, subsection 0.

(iii) Used in environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.

(b) A person that is not subject to tax under section 42-5075 and that has been provided a copy of a certificate under section 42-5009, subsection L, if the property so sold is incorporated or fabricated by the person into the real property, structure, project, development or improvement described in the certificate.

28. The sale of a motor vehicle to:

(a) A nonresident of this state if the purchaser's state of residence does not allow a corresponding use tax exemption to the tax imposed by article 1 of this chapter and if the nonresident has secured a special ninety day nonresident registration permit for the vehicle as prescribed by sections 28-2154 and 28-2154.01.

(b) An enrolled member of an Indian tribe who resides on the Indian reservation established for that tribe.

1 29. Tangible personal property purchased in this state by a
2 nonprofit charitable organization that has qualified under section
3 501(c)(3) of the United States internal revenue code and that engages in
4 and uses such property exclusively in programs for persons with mental or
5 physical disabilities if the programs are exclusively for training, job
6 placement, rehabilitation or testing.

7 30. Sales of tangible personal property by a nonprofit organization
8 that is exempt from taxation under section 501(c)(3), 501(c)(4) or
9 501(c)(6) of the internal revenue code if the organization is associated
10 with a major league baseball team or a national touring professional
11 golfing association and no part of the organization's net earnings inures
12 to the benefit of any private shareholder or individual. This paragraph
13 does not apply to an organization that is owned, managed or controlled, in
14 whole or in part, by a major league baseball team, or its owners,
15 officers, employees or agents, or by a major league baseball association
16 or professional golfing association, or its owners, officers, employees or
17 agents, unless the organization conducted or operated exhibition events in
18 this state before January 1, 2018 that were exempt from taxation under
19 section 42-5073.

20 31. Sales of commodities, as defined by title 7 United States Code
21 section 2, that are consigned for resale in a warehouse in this state in
22 or from which the commodity is deliverable on a contract for future
23 delivery subject to the rules of a commodity market regulated by the
24 United States commodity futures trading commission.

25 32. Sales of tangible personal property by a nonprofit organization
26 that is exempt from taxation under section 501(c)(3), 501(c)(4),
27 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the
28 organization sponsors or operates a rodeo featuring primarily farm and
29 ranch animals and no part of the organization's net earnings inures to the
30 benefit of any private shareholder or individual.

31 33. Sales of propagative materials to persons who use those items
32 to commercially produce agricultural, horticultural, viticultural or
33 floricultural crops in this state. For the purposes of this paragraph,
34 "propagative materials":

35 (a) Includes seeds, seedlings, roots, bulbs, liners, transplants,
36 cuttings, soil and plant additives, agricultural minerals, auxiliary soil
37 and plant substances, micronutrients, fertilizers, insecticides,
38 herbicides, fungicides, soil fumigants, desiccants, rodenticides,
39 adjuvants, plant nutrients and plant growth regulators.

40 (b) Except for use in commercially producing industrial hemp as
41 defined in section 3-311, does not include any propagative materials used
42 in producing any part, including seeds, of any plant of the genus
43 cannabis.

44 34. Machinery, equipment, technology or related supplies that are
45 only useful to assist a person with a physical disability as defined in

1 section 46-191 or a person who has a developmental disability as defined
2 in section 36-551 or has a head injury as defined in section 41-3201 to be
3 more independent and functional.

4 35. Sales of natural gas or liquefied petroleum gas used to propel
5 a motor vehicle.

6 36. Paper machine clothing, such as forming fabrics and dryer
7 felts, sold to a paper manufacturer and directly used or consumed in paper
8 manufacturing.

9 37. Coal, petroleum, coke, natural gas, virgin fuel oil and
10 electricity sold to a qualified environmental technology manufacturer,
11 producer or processor as defined in section 41-1514.02 and directly used
12 or consumed in the generation or provision of on-site power or energy
13 solely for environmental technology manufacturing, producing or processing
14 or environmental protection. This paragraph shall apply for twenty full
15 consecutive calendar or fiscal years ~~from~~ AFTER the date the first paper
16 manufacturing machine is placed in service. In the case of an
17 environmental technology manufacturer, producer or processor ~~who~~ THAT does
18 not manufacture paper, the time period shall begin with the date the first
19 manufacturing, processing or production equipment is placed in service.

20 38. Sales of liquid, solid or gaseous chemicals used in
21 manufacturing, processing, fabricating, mining, refining, metallurgical
22 operations, research and development and, beginning on January 1, 1999,
23 printing, if using or consuming the chemicals, alone or as part of an
24 integrated system of chemicals, involves direct contact with the materials
25 from which the product is produced for the purpose of causing or
26 permitting a chemical or physical change to occur in the materials as part
27 of the production process. This paragraph does not include chemicals that
28 are used or consumed in activities such as packaging, storage or
29 transportation but does not affect any deduction for such chemicals that
30 is otherwise provided by this section. For the purposes of this
31 paragraph, "printing" means a commercial printing operation and includes
32 job printing, engraving, embossing, copying and bookbinding.

33 39. Through December 31, 1994, personal property liquidation
34 transactions, conducted by a personal property liquidator. From and after
35 December 31, 1994, personal property liquidation transactions shall be
36 taxable under this section provided that nothing in this subsection shall
37 be construed to authorize the taxation of casual activities or
38 transactions under this chapter. For the purposes of this paragraph:

39 (a) "Personal property liquidation transaction" means a sale of
40 personal property made by a personal property liquidator acting solely on
41 behalf of the owner of the personal property sold at the dwelling of the
42 owner or on the death of any owner, on behalf of the surviving spouse, if
43 any, any devisee or heir or the personal representative of the estate of
44 the deceased, if one has been appointed.

1 (b) "Personal property liquidator" means a person who is retained
2 to conduct a sale in a personal property liquidation transaction.

3 40. Sales of food, drink and condiment for consumption within the
4 premises of any prison, jail or other institution under the jurisdiction
5 of the state department of corrections, the department of public safety,
6 the department of juvenile corrections or a county sheriff.

7 41. A motor vehicle and any repair and replacement parts and
8 tangible personal property becoming a part of such motor vehicle sold to a
9 motor carrier ~~who~~ THAT is subject to a fee prescribed in title 28, chapter
10 16, article 4 and ~~who~~ THAT is engaged in the business of leasing or
11 renting such property.

12 42. Sales of:

13 (a) Livestock and poultry to persons engaging in the businesses of
14 farming, ranching or producing livestock or poultry.

15 (b) Livestock and poultry feed, salts, vitamins and other additives
16 for livestock or poultry consumption that are sold to persons for use or
17 consumption by their own livestock or poultry, for use or consumption in
18 the businesses of farming, ranching and producing or feeding livestock,
19 poultry, or livestock or poultry products or for use or consumption in
20 noncommercial boarding of livestock. For the purposes of this paragraph,
21 "poultry" includes ratites.

22 43. Sales of implants used as growth promotants and injectable
23 medicines, not already exempt under paragraph 8 of this subsection, for
24 livestock or poultry owned by or in possession of persons who are engaged
25 in producing livestock, poultry, or livestock or poultry products or who
26 are engaged in feeding livestock or poultry commercially. For the
27 purposes of this paragraph, "poultry" includes ratites.

28 44. Sales of motor vehicles at auction to nonresidents of this
29 state for use outside this state if the vehicles are shipped or delivered
30 out of this state, regardless of where title to the motor vehicles passes
31 or its free on board point.

32 45. Tangible personal property sold to a person engaged in business
33 and subject to tax under the transient lodging classification if the
34 tangible personal property is a personal hygiene item or articles used by
35 human beings for food, drink or condiment, except alcoholic beverages,
36 that are furnished without additional charge to and intended to be
37 consumed by the transient during the transient's occupancy.

38 46. Sales of alternative fuel, as defined in section 1-215, to a
39 used oil fuel burner who has received a permit to burn used oil or used
40 oil fuel under section 49-426 or 49-480.

41 47. Sales of materials that are purchased by or for publicly funded
42 libraries including school district libraries, charter school libraries,
43 community college libraries, state university libraries or federal, state,
44 county or municipal libraries for use by the public as follows:

45 (a) Printed or photographic materials, beginning August 7, 1985.

1 (b) Electronic or digital media materials, beginning July 17, 1994.
2 48. Tangible personal property sold to a commercial airline and
3 consisting of food, beverages and condiments and accessories used for
4 serving the food and beverages, if those items are to be provided without
5 additional charge to passengers for consumption in flight. For the
6 purposes of this paragraph, "commercial airline" means a person holding a
7 federal certificate of public convenience and necessity or foreign air
8 carrier permit for air transportation to transport persons, property or
9 United States mail in intrastate, interstate or foreign commerce.
10 49. Sales of alternative fuel vehicles if the vehicle was
11 manufactured as a diesel fuel vehicle and converted to operate on
12 alternative fuel and equipment that is installed in a conventional diesel
13 fuel motor vehicle to convert the vehicle to operate on an alternative
14 fuel, as defined in section 1-215.
15 50. Sales of any spirituous, vinous or malt liquor by a person that
16 is licensed in this state as a wholesaler by the department of liquor
17 licenses and control pursuant to title 4, chapter 2, article 1.
18 51. Sales of tangible personal property to be incorporated or
19 installed as part of environmental response or remediation activities
20 under section 42-5075, subsection B, paragraph 6.
21 52. Sales of tangible personal property by a nonprofit organization
22 that is exempt from taxation under section 501(c)(6) of the internal
23 revenue code if the organization produces, organizes or promotes cultural
24 or civic related festivals or events and no part of the organization's net
25 earnings inures to the benefit of any private shareholder or individual.
26 53. Application services that are designed to assess or test
27 student learning or to promote curriculum design or enhancement purchased
28 by or for any school district, charter school, community college or state
29 university. For the purposes of this paragraph:
30 (a) "Application services" means software applications provided
31 remotely using hypertext transfer protocol or another network protocol.
32 (b) "Curriculum design or enhancement" means planning, implementing
33 or reporting on courses of study, lessons, assignments or other learning
34 activities.
35 54. Sales of motor vehicle fuel and use fuel to a qualified
36 business under section 41-1516 for off-road use in harvesting, processing
37 or transporting qualifying forest products removed from qualifying
38 projects as defined in section 41-1516.
39 55. Sales of repair parts installed in equipment used directly by a
40 qualified business under section 41-1516 in harvesting, processing or
41 transporting qualifying forest products removed from qualifying projects
42 as defined in section 41-1516.
43 56. Sales or other transfers of renewable energy credits or any
44 other unit created to track energy derived from renewable energy
45 resources. For the purposes of this paragraph, "renewable energy credit"

1 means a unit created administratively by the corporation commission or
2 governing body of a public power utility to track kilowatt hours of
3 electricity derived from a renewable energy resource or the kilowatt hour
4 equivalent of conventional energy resources displaced by distributed
5 renewable energy resources.

6 57. Computer data center equipment sold to the owner, operator or
7 qualified colocation tenant of a computer data center that is certified by
8 the Arizona commerce authority under section 41-1519 or an authorized
9 agent of the owner, operator or qualified colocation tenant during the
10 qualification period for use in the qualified computer data center. For
11 the purposes of this paragraph, "computer data center", "computer data
12 center equipment", "qualification period" and "qualified colocation
13 tenant" have the same meanings prescribed in section 41-1519.

14 58. Orthodontic devices dispensed by a dental professional who is
15 licensed under title 32, chapter 11 to a patient as part of the practice
16 of dentistry.

17 59. Sales of tangible personal property incorporated or fabricated
18 into a project described in section 42-5075, subsection 0, that is located
19 within the exterior boundaries of an Indian reservation for which the
20 owner, as defined in section 42-5075, of the project is an Indian tribe or
21 an affiliated Indian. For the purposes of this paragraph:

22 (a) "Affiliated Indian" means an individual native American Indian
23 who is duly registered on the tribal rolls of the Indian tribe for whose
24 benefit the Indian reservation was established.

25 (b) "Indian reservation" means all lands that are within the limits
26 of areas set aside by the United States for the exclusive use and
27 occupancy of an Indian tribe by treaty, law or executive order and that
28 are recognized as Indian reservations by the United States department of
29 the interior.

30 (c) "Indian tribe" means any organized nation, tribe, band or
31 community that is recognized as an Indian tribe by the United States
32 department of the interior and includes any entity formed under the laws
33 of the Indian tribe.

34 60. Sales of works of fine art, as defined in section 44-1771, at
35 an art auction or gallery in this state to nonresidents of this state for
36 use outside this state if the vendor ships or delivers the work of fine
37 art to a destination outside this state.

38 61. Sales of tangible personal property by a marketplace seller
39 that are facilitated by a marketplace facilitator in which the marketplace
40 facilitator has remitted or will remit the applicable tax to the
41 department pursuant to section 42-5014.

42 B. In addition to the deductions from the tax base prescribed by
43 subsection A of this section, the gross proceeds of sales or gross income
44 derived from sales of the following categories of tangible personal
45 property shall be deducted from the tax base:

1 1. Machinery, or equipment, used directly in manufacturing,
2 processing, fabricating, job printing, refining or metallurgical
3 operations. The terms "manufacturing", "processing", "fabricating", "job
4 printing", "refining" and "metallurgical" as used in this paragraph refer
5 to and include those operations commonly understood within their ordinary
6 meaning. "Metallurgical operations" includes leaching, milling,
7 precipitating, smelting and refining.

8 2. Mining machinery, or equipment, used directly in the process of
9 extracting ores or minerals from the earth for commercial purposes,
10 including equipment required to prepare the materials for extraction and
11 handling, loading or transporting such extracted material to the surface.
12 "Mining" includes underground, surface and open pit operations for
13 extracting ores and minerals.

14 3. Tangible personal property sold to persons engaged in business
15 classified under the telecommunications classification, including a person
16 representing or working on behalf of such a person in a manner described
17 in section 42-5075, subsection 0, and consisting of central office
18 switching equipment, switchboards, private branch exchange equipment,
19 microwave radio equipment and carrier equipment including optical fiber,
20 coaxial cable and other transmission media that are components of carrier
21 systems.

22 4. Machinery, equipment or transmission lines used directly in
23 producing or transmitting electrical power, but not including
24 distribution. Transformers and control equipment used at transmission
25 substation sites constitute equipment used in producing or transmitting
26 electrical power.

27 5. Neat animals, horses, asses, sheep, ratites, swine or goats used
28 or to be used as breeding or production stock, including sales of
29 breedings or ownership shares in such animals used for breeding or
30 production.

31 6. Pipes or valves four inches in diameter or larger used to
32 transport oil, natural gas, artificial gas, water or coal slurry,
33 including compressor units, regulators, machinery and equipment, fittings,
34 seals and any other part that is used in operating the pipes or valves.

35 7. Aircraft, navigational and communication instruments and other
36 accessories and related equipment sold to:

37 (a) A person:

38 (i) Holding, or exempted by federal law from obtaining, a federal
39 certificate of public convenience and necessity for use as, in conjunction
40 with or becoming part of an aircraft to be used to transport persons for
41 hire in intrastate, interstate or foreign commerce.

42 (ii) That is certificated or licensed under federal aviation
43 administration regulations (14 Code of Federal Regulations part 121 or
44 135) as a scheduled or unscheduled carrier of persons for hire for use as

1 or in conjunction with or becoming part of an aircraft to be used to
2 transport persons for hire in intrastate, interstate or foreign commerce.

3 (iii) Holding a foreign air carrier permit for air transportation
4 for use as or in conjunction with or becoming a part of aircraft to be
5 used to transport persons, property or United States mail in intrastate,
6 interstate or foreign commerce.

7 (iv) Operating an aircraft to transport persons in any manner for
8 compensation or hire, or for use in a fractional ownership program that
9 meets the requirements of federal aviation administration regulations (14
10 Code of Federal Regulations part 91, subpart K), including as an air
11 carrier, a foreign air carrier or a commercial operator or under a
12 restricted category, within the meaning of 14 Code of Federal Regulations,
13 regardless of whether the operation or aircraft is regulated or certified
14 under part 91, 119, 121, 133, 135, 136 or 137, or another part of 14 Code
15 of Federal Regulations.

16 (v) That will lease or otherwise transfer operational control,
17 within the meaning of federal aviation administration operations
18 specification A008, or its successor, of the aircraft, instruments or
19 accessories to one or more persons described in item (i), (ii), (iii) or
20 (iv) of this subdivision, subject to section 42-5009, subsection ~~Q~~ P.

21 (b) Any foreign government.

22 (c) Persons who are not residents of this state and who will not
23 use such property in this state other than in removing such property from
24 this state. This subdivision also applies to corporations that are not
25 incorporated in this state, regardless of maintaining a place of business
26 in this state, if the principal corporate office is located outside this
27 state and the property will not be used in this state other than in
28 removing the property from this state.

29 8. Machinery, tools, equipment and related supplies used or
30 consumed directly in repairing, remodeling or maintaining aircraft,
31 aircraft engines or aircraft component parts by or on behalf of a
32 certificated or licensed carrier of persons or property.

33 9. Railroad rolling stock, rails, ties and signal control equipment
34 used directly to transport persons or property.

35 10. Machinery or equipment used directly to drill for oil or gas or
36 used directly in the process of extracting oil or gas from the earth for
37 commercial purposes.

38 11. Buses or other urban mass transit vehicles that are used
39 directly to transport persons or property for hire or pursuant to a
40 governmentally adopted and controlled urban mass transportation program
41 and that are sold to bus companies holding a federal certificate of
42 convenience and necessity or operated by any city, town or other
43 governmental entity or by any person contracting with such governmental
44 entity as part of a governmentally adopted and controlled program to
45 provide urban mass transportation.

1 12. Groundwater measuring devices required under section 45-604.

2 13. New machinery and equipment consisting of agricultural
3 aircraft, tractors, tractor-drawn implements, self-powered implements,
4 machinery and equipment necessary for extracting milk, and machinery and
5 equipment necessary for cooling milk and livestock, and drip irrigation
6 lines not already exempt under paragraph 6 of this subsection and that are
7 used for commercial production of agricultural, horticultural,
8 viticultural and floricultural crops and products in this state. For the
9 purposes of this paragraph:

10 (a) "New machinery and equipment" means machinery and equipment
11 that have never been sold at retail except pursuant to leases or rentals
12 that do not total two years or more.

13 (b) "Self-powered implements" includes machinery and equipment that
14 are electric-powered.

15 14. Machinery or equipment used in research and development. For
16 the purposes of this paragraph, "research and development" means basic and
17 applied research in the sciences and engineering, and designing,
18 developing or testing prototypes, processes or new products, including
19 research and development of computer software that is embedded in or an
20 integral part of the prototype or new product or that is required for
21 machinery or equipment otherwise exempt under this section to function
22 effectively. Research and development do not include manufacturing
23 quality control, routine consumer product testing, market research, sales
24 promotion, sales service, research in social sciences or psychology,
25 computer software research that is not included in the definition of
26 research and development, or other nontechnological activities or
27 technical services.

28 15. Tangible personal property that is used by either of the
29 following to receive, store, convert, produce, generate, decode, encode,
30 control or transmit telecommunications information:

31 (a) Any direct broadcast satellite television or data transmission
32 service that operates pursuant to 47 Code of Federal Regulations part 25.

33 (b) Any satellite television or data transmission facility, if both
34 of the following conditions are met:

35 (i) Over two-thirds of the transmissions, measured in megabytes,
36 transmitted by the facility during the test period were transmitted to or
37 on behalf of one or more direct broadcast satellite television or data
38 transmission services that operate pursuant to 47 Code of Federal
39 Regulations part 25.

40 (ii) Over two-thirds of the transmissions, measured in megabytes,
41 transmitted by or on behalf of those direct broadcast television or data
42 transmission services during the test period were transmitted by the
43 facility to or on behalf of those services. For the purposes of
44 subdivision (b) of this paragraph, "test period" means the three hundred
45 sixty-five day period beginning on the later of the date on which the

1 tangible personal property is purchased or the date on which the direct
2 broadcast satellite television or data transmission service first
3 transmits information to its customers.

4 16. Clean rooms that are used for manufacturing, processing,
5 fabrication or research and development, as defined in paragraph 14 of
6 this subsection, of semiconductor products. For the purposes of this
7 paragraph, "clean room" means all property that comprises or creates an
8 environment where humidity, temperature, particulate matter and
9 contamination are precisely controlled within specified parameters,
10 without regard to whether the property is actually contained within that
11 environment or whether any of the property is affixed to or incorporated
12 into real property. Clean room:

13 (a) Includes the integrated systems, fixtures, piping, movable
14 partitions, lighting and all property that is necessary or adapted to
15 reduce contamination or to control airflow, temperature, humidity,
16 chemical purity or other environmental conditions or manufacturing
17 tolerances, as well as the production machinery and equipment operating in
18 conjunction with the clean room environment.

19 (b) Does not include the building or other permanent, nonremovable
20 component of the building that houses the clean room environment.

21 17. Machinery and equipment used directly in the feeding of
22 poultry, the environmental control of housing for poultry, the movement of
23 eggs within a production and packaging facility or the sorting or cooling
24 of eggs. This exemption does not apply to vehicles used for transporting
25 eggs.

26 18. Machinery or equipment, including related structural
27 components, that is employed in connection with manufacturing, processing,
28 fabricating, job printing, refining, mining, natural gas pipelines,
29 metallurgical operations, telecommunications, producing or transmitting
30 electricity or research and development and that is used directly to meet
31 or exceed rules or regulations adopted by the federal energy regulatory
32 commission, the United States environmental protection agency, the United
33 States nuclear regulatory commission, the Arizona department of
34 environmental quality or a political subdivision of this state to prevent,
35 monitor, control or reduce land, water or air pollution.

36 19. Machinery and equipment that are sold to a person engaged in
37 the commercial production of livestock, livestock products or
38 agricultural, horticultural, viticultural or floricultural crops or
39 products in this state, including a person representing or working on
40 behalf of such a person in a manner described in section 42-5075,
41 subsection 0, if the machinery and equipment are used directly and
42 primarily to prevent, monitor, control or reduce air, water or land
43 pollution.

44 20. Machinery or equipment that enables a television station to
45 originate and broadcast or to receive and broadcast digital television

1 signals and that was purchased to facilitate compliance with the
2 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United
3 States Code section 336) and the federal communications commission order
4 issued April 21, 1997 (47 Code of Federal Regulations part 73). This
5 paragraph does not exempt any of the following:

6 (a) Repair or replacement parts purchased for the machinery or
7 equipment described in this paragraph.

8 (b) Machinery or equipment purchased to replace machinery or
9 equipment for which an exemption was previously claimed and taken under
10 this paragraph.

11 (c) Any machinery or equipment purchased after the television
12 station has ceased analog broadcasting, or purchased after November 1,
13 2009, whichever occurs first.

14 21. Qualifying equipment that is purchased from and after June 30,
15 2004 through June 30, 2024 by a qualified business under section 41-1516
16 for harvesting or processing qualifying forest products removed from
17 qualifying projects as defined in section 41-1516. To qualify for this
18 deduction, the qualified business at the time of purchase must present its
19 certification approved by the department.

20 C. The deductions provided by subsection B of this section do not
21 include sales of:

22 1. Expendable materials. For the purposes of this paragraph,
23 expendable materials do not include any of the categories of tangible
24 personal property specified in subsection B of this section regardless of
25 the cost or useful life of that property.

26 2. Janitorial equipment and hand tools.

27 3. Office equipment, furniture and supplies.

28 4. Tangible personal property used in selling or distributing
29 activities, other than the telecommunications transmissions described in
30 subsection B, paragraph 15 of this section.

31 5. Motor vehicles required to be licensed by this state, except
32 buses or other urban mass transit vehicles specifically exempted pursuant
33 to subsection B, paragraph 11 of this section, without regard to the use
34 of such motor vehicles.

35 6. Shops, buildings, docks, depots and all other materials of
36 whatever kind or character not specifically included as exempt.

37 7. Motors and pumps used in drip irrigation systems.

38 8. Machinery and equipment or other tangible personal property used
39 by a contractor in the performance of a contract.

40 D. In addition to the deductions from the tax base prescribed by
41 subsection A of this section, there shall be deducted from the tax base
42 the gross proceeds of sales or gross income derived from sales of
43 machinery, equipment, materials and other tangible personal property used
44 directly and predominantly to construct a qualified environmental
45 technology manufacturing, producing or processing facility as described in

1 section 41-1514.02. This subsection applies for ten full consecutive
2 calendar or fiscal years after the start of initial construction.

3 E. In computing the tax base, gross proceeds of sales or gross
4 income from retail sales of heavy trucks and trailers does not include any
5 amount attributable to federal excise taxes imposed by 26 United States
6 Code section 4051.

7 F. If a person is engaged in an occupation or business to which
8 subsection A of this section applies, the person's books shall be kept so
9 as to show separately the gross proceeds of sales of tangible personal
10 property and the gross income from sales of services, and if not so kept
11 the tax shall be imposed on the total of the person's gross proceeds of
12 sales of tangible personal property and gross income from services.

13 G. If a person is engaged in the business of selling tangible
14 personal property at both wholesale and retail, the tax under this section
15 applies only to the gross proceeds of the sales made other than at
16 wholesale if the person's books are kept so as to show separately the
17 gross proceeds of sales of each class, and if the books are not so kept,
18 the tax under this section applies to the gross proceeds of every sale so
19 made.

20 H. A person who engages in manufacturing, baling, crating, boxing,
21 barreling, canning, bottling, sacking, preserving, processing or otherwise
22 preparing for sale or commercial use any livestock, agricultural or
23 horticultural product or any other product, article, substance or
24 commodity and who sells the product of such business at retail in this
25 state is deemed, as to such sales, to be engaged in business classified
26 under the retail classification. This subsection does not apply to:

27 1. Agricultural producers who are owners, proprietors or tenants of
28 agricultural lands, orchards, farms or gardens where agricultural products
29 are grown, raised or prepared for market and who are marketing their own
30 agricultural products.

31 2. Businesses classified under the:

- 32 (a) Transporting classification.
- 33 (b) Utilities classification.
- 34 (c) Telecommunications classification.
- 35 (d) Pipeline classification.
- 36 (e) Private car line classification.
- 37 (f) Publication classification.
- 38 (g) Job printing classification.
- 39 (h) Prime contracting classification.
- 40 (i) Restaurant classification.

41 I. The gross proceeds of sales or gross income derived from the
42 following shall be deducted from the tax base for the retail
43 classification:

1 1. Sales made directly to the United States government or its
2 departments or agencies by a manufacturer, modifier, assembler or
3 repairer.

4 2. Sales made directly to a manufacturer, modifier, assembler or
5 repairer if such sales are of any ingredient or component part of products
6 sold directly to the United States government or its departments or
7 agencies by the manufacturer, modifier, assembler or repairer.

8 3. Overhead materials or other tangible personal property that is
9 used in performing a contract between the United States government and a
10 manufacturer, modifier, assembler or repairer, including property used in
11 performing a subcontract with a government contractor who is a
12 manufacturer, modifier, assembler or repairer, to which title passes to
13 the government under the terms of the contract or subcontract.

14 4. Sales of overhead materials or other tangible personal property
15 to a manufacturer, modifier, assembler or repairer if the gross proceeds
16 of sales or gross income derived from the property by the manufacturer,
17 modifier, assembler or repairer will be exempt under paragraph 3 of this
18 subsection.

19 J. There shall be deducted from the tax base fifty percent of the
20 gross proceeds or gross income from any sale of tangible personal property
21 made directly to the United States government or its departments or
22 agencies that is not deducted under subsection I of this section.

23 K. The department shall require every person claiming a deduction
24 provided by subsection I or J of this section to file on forms prescribed
25 by the department at such times as the department directs a sworn
26 statement disclosing the name of the purchaser and the exact amount of
27 sales on which the exclusion or deduction is claimed.

28 L. In computing the tax base, gross proceeds of sales or gross
29 income does not include:

30 1. A manufacturer's cash rebate on the sales price of a motor
31 vehicle if the buyer assigns the buyer's right in the rebate to the
32 retailer.

33 2. The waste tire disposal fee imposed pursuant to section 44-1302.

34 M. There shall be deducted from the tax base the amount received
35 from sales of solar energy devices. The retailer shall register with the
36 department as a solar energy retailer. By registering, the retailer
37 acknowledges that it will make its books and records relating to sales of
38 solar energy devices available to the department for examination.

39 N. In computing the tax base in the case of the sale or transfer of
40 wireless telecommunications equipment as an inducement to a customer to
41 enter into or continue a contract for telecommunications services that are
42 taxable under section 42-5064, gross proceeds of sales or gross income
43 does not include any sales commissions or other compensation received by
44 the retailer as a result of the customer entering into or continuing a
45 contract for the telecommunications services.

0. For the purposes of this section, a sale of wireless telecommunications equipment to a person who holds the equipment for sale or transfer to a customer as an inducement to enter into or continue a contract for telecommunications services that are taxable under section 42-5064 is considered to be a sale for resale in the regular course of business.

P. Retail sales of prepaid calling cards or prepaid authorization numbers for telecommunications services, including sales of reauthorization of a prepaid card or authorization number, are subject to tax under this section.

Q. For the purposes of this section, the diversion of gas from a pipeline by a person engaged in the business of:

1. Operating a natural or artificial gas pipeline, for the sole purpose of fueling compressor equipment to pressurize the pipeline, is not a sale of the gas to the operator of the pipeline.

2. Converting natural gas into liquefied natural gas, for the sole purpose of fueling compressor equipment used in the conversion process, is not a sale of gas to the operator of the compressor equipment.

R. For the purposes of this section, the transfer of title or possession of coal from an owner or operator of a power plant to a person in the business of refining coal is not a sale of coal if both of the following apply:

1. The transfer of title or possession of the coal is for the purpose of refining the coal.

2. The title or possession of the coal is transferred back to the owner or operator of the power plant after completion of the coal refining process. For the purposes of this paragraph, "coal refining process" means the application of a coal additive system that aids in the reduction of power plant emissions during the combustion of coal and the treatment of flue gas.

S. If a seller is entitled to a deduction pursuant to subsection B, paragraph 15, subdivision (b) of this section, the department may require the purchaser to establish that the requirements of subsection B, paragraph 15, subdivision (b) of this section have been satisfied. If the purchaser cannot establish that the requirements of subsection B, paragraph 15, subdivision (b) of this section have been satisfied, the purchaser is liable in an amount equal to any tax, penalty and interest that the seller would have been required to pay under article 1 of this chapter if the seller had not made a deduction pursuant to subsection B, paragraph 15, subdivision (b) of this section. Payment of the amount under this subsection exempts the purchaser from liability for any tax imposed under article 4 of this chapter and related to the tangible personal property purchased. The amount shall be treated as transaction privilege tax to the purchaser and as tax revenues collected from the seller to designate the distribution base pursuant to section 42-5029.

1 T. For the purposes of section 42-5032.01, the department shall
2 separately account for revenues collected under the retail classification
3 from businesses selling tangible personal property at retail:

4 1. On the premises of a multipurpose facility that is owned, leased
5 or operated by the tourism and sports authority pursuant to title 5,
6 chapter 8.

7 2. At professional football contests that are held in a stadium
8 located on the campus of an institution under the jurisdiction of the
9 Arizona board of regents.

10 U. In computing the tax base for the sale of a motor vehicle to a
11 nonresident of this state, if the purchaser's state of residence allows a
12 corresponding use tax exemption to the tax imposed by article 1 of this
13 chapter and the rate of the tax in the purchaser's state of residence is
14 lower than the rate prescribed in article 1 of this chapter or if the
15 purchaser's state of residence does not impose an excise tax, and the
16 nonresident has secured a special ninety day nonresident registration
17 permit for the vehicle as prescribed by sections 28-2154 and 28-2154.01,
18 there shall be deducted from the tax base a portion of the gross proceeds
19 or gross income from the sale so that the amount of transaction privilege
20 tax that is paid in this state is equal to the excise tax that is imposed
21 by the purchaser's state of residence on the nonexempt sale or use of the
22 motor vehicle.

23 V. For the purposes of this section:

24 1. "Agricultural aircraft" means an aircraft that is built for
25 agricultural use for the aerial application of pesticides or fertilizer or
26 for aerial seeding.

27 2. "Aircraft" includes:

28 (a) An airplane flight simulator that is approved by the federal
29 aviation administration for use as a phase II or higher flight simulator
30 under appendix H, 14 Code of Federal Regulations part 121.

31 (b) Tangible personal property that is permanently affixed or
32 attached as a component part of an aircraft that is owned or operated by a
33 certificated or licensed carrier of persons or property.

34 3. "Other accessories and related equipment" includes aircraft
35 accessories and equipment such as ground service equipment that physically
36 contact aircraft at some point during the overall carrier operation.

37 4. "Selling at retail" means a sale for any purpose other than for
38 resale in the regular course of business in the form of tangible personal
39 property, but transfer of possession, lease and rental as used in the
40 definition of sale mean only such transactions as are found on
41 investigation to be in lieu of sales as defined without the words lease or
42 rental.

43 W. For the purposes of subsection I of this section:

1 1. "Assembler" means a person who unites or combines products,
2 wares or articles of manufacture so as to produce a change in form or
3 substance without changing or altering the component parts.

4 2. "Manufacturer" means a person who is principally engaged in the
5 fabrication, production or manufacture of products, wares or articles for
6 use from raw or prepared materials, imparting to those materials new
7 forms, qualities, properties and combinations.

8 3. "Modifier" means a person who reworks, changes or adds to
9 products, wares or articles of manufacture.

10 4. "Overhead materials" means tangible personal property, the gross
11 proceeds of sales or gross income derived from that would otherwise be
12 included in the retail classification, and that are used or consumed in
13 the performance of a contract, the cost of which is charged to an overhead
14 expense account and allocated to various contracts based on generally
15 accepted accounting principles and consistent with government contract
16 accounting standards.

17 5. "Repairer" means a person who restores or renews products, wares
18 or articles of manufacture.

19 6. "Subcontract" means an agreement between a contractor and any
20 person who is not an employee of the contractor for furnishing of supplies
21 or services that, in whole or in part, are necessary to the performance of
22 one or more government contracts, or under which any portion of the
23 contractor's obligation under one or more government contracts is
24 performed, undertaken or assumed and that includes provisions causing
25 title to overhead materials or other tangible personal property used in
26 the performance of the subcontract to pass to the government or that
27 includes provisions incorporating such title passing clauses in a
28 government contract into the subcontract.

29 Sec. 9. Section 42-5061, Arizona Revised Statutes, as amended by
30 Laws 2019, chapter 273, section 8 and chapter 288, section 2, is amended
31 to read:

32 42-5061. Retail classification; definitions

33 A. The retail classification is comprised of the business of
34 selling tangible personal property at retail. The tax base for the retail
35 classification is the gross proceeds of sales or gross income derived from
36 the business. The tax imposed on the retail classification does not apply
37 to the gross proceeds of sales or gross income from:

38 1. Professional or personal service occupations or businesses that
39 involve sales or transfers of tangible personal property only as
40 inconsequential elements.

41 2. Services rendered in addition to selling tangible personal
42 property at retail.

43 3. Sales of warranty or service contracts. The storage, use or
44 consumption of tangible personal property provided under the conditions of
45 such contracts is subject to tax under section 42-5156.

1 4. Sales of tangible personal property by any nonprofit
2 organization organized and operated exclusively for charitable purposes
3 and recognized by the United States internal revenue service under section
4 501(c)(3) of the internal revenue code.

5 5. Sales to persons engaged in business classified under the
6 restaurant classification of articles used by human beings for food, drink
7 or condiment, whether simple, mixed or compounded.

8 6. Business activity that is properly included in any other
9 business classification that is taxable under this article.

10 7. The sale of stocks and bonds.

11 8. Drugs and medical oxygen, including delivery hose, mask or tent,
12 regulator and tank, on the prescription of a member of the medical, dental
13 or veterinarian profession who is licensed by law to administer such
14 substances.

15 9. Prosthetic appliances as defined in section 23-501 and as
16 prescribed or recommended by a health professional who is licensed
17 pursuant to title 32, chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.

18 10. Insulin, insulin syringes and glucose test strips.

19 11. Prescription eyeglasses or contact lenses.

20 12. Hearing aids as defined in section 36-1901.

21 13. Durable medical equipment that has a centers for medicare and
22 medicaid services common procedure code, is designated reimbursable by
23 medicare, is prescribed by a person who is licensed under title 32,
24 chapter 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is
25 primarily and customarily used to serve a medical purpose, is generally
26 not useful to a person in the absence of illness or injury and is
27 appropriate for use in the home.

28 14. Sales of motor vehicles to nonresidents of this state for use
29 outside this state if the motor vehicle dealer ships or delivers the motor
30 vehicle to a destination out of this state.

31 15. Food, as provided in and subject to the conditions of article 3
32 of this chapter and sections 42-5074 and 42-6017.

33 16. Items purchased with United States department of agriculture
34 coupons issued under the supplemental nutrition assistance program
35 pursuant to the food and nutrition act of 2008 (P.L. 88-525; 78 Stat. 703;
36 7 United States Code sections 2011 through 2036b) by the United States
37 department of agriculture food and nutrition service or food instruments
38 issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat.
39 3603; P.L. 99-661, section 4302; P.L. 111-296; 42 United States Code
40 section 1786).

41 17. Textbooks by any bookstore that are required by any state
42 university or community college.

43 18. Food and drink to a person that is engaged in a business that
44 is classified under the restaurant classification and that provides such

1 food and drink without monetary charge to its employees for their own
2 consumption on the premises during the employees' hours of employment.

3 19. Articles of food, drink or condiment and accessory tangible
4 personal property to a school district or charter school if such articles
5 and accessory tangible personal property are to be prepared and served to
6 persons for consumption on the premises of a public school within the
7 district or on the premises of the charter school during school hours.

8 20. Lottery tickets or shares pursuant to title 5, chapter 5.1,
9 article 1.

10 21. The sale of cash equivalents and the sale of precious metal
11 bullion and monetized bullion to the ultimate consumer, but the sale of
12 coins or other forms of money for manufacture into jewelry or works of art
13 is subject to the tax and the gross proceeds of sales or gross income
14 derived from the redemption of any cash equivalent by the holder as a
15 means of payment for goods or services that are taxable under this article
16 is subject to the tax. For the purposes of this paragraph:

17 (a) "Cash equivalents" means items or intangibles, whether or not
18 negotiable, that are sold to one or more persons, through which a value
19 denominated in money is purchased in advance and may be redeemed in full
20 or in part for tangible personal property, intangibles or services. Cash
21 equivalents include gift cards, stored value cards, gift certificates,
22 vouchers, traveler's checks, money orders or other instruments, orders or
23 electronic mechanisms, such as an electronic code, personal identification
24 number or digital payment mechanism, or any other prepaid intangible right
25 to acquire tangible personal property, intangibles or services in the
26 future, whether from the seller of the cash equivalent or from another
27 person. Cash equivalents do not include either of the following:

28 (i) Items or intangibles that are sold to one or more persons,
29 through which a value is not denominated in money.

30 (ii) Prepaid calling cards or prepaid authorization numbers for
31 telecommunications services made taxable by subsection P of this section.

32 (b) "Monetized bullion" means coins and other forms of money that
33 are manufactured from gold, silver or other metals and that have been or
34 are used as a medium of exchange in this or another state, the United
35 States or a foreign nation.

36 (c) "Precious metal bullion" means precious metal, including gold,
37 silver, platinum, rhodium and palladium, that has been smelted or refined
38 so that its value depends on its contents and not on its form.

39 22. Motor vehicle fuel and use fuel that are subject to a tax
40 imposed under title 28, chapter 16, article 1, sales of use fuel to a
41 holder of a valid single trip use fuel tax permit issued under section
42 28-5739, sales of aviation fuel that are subject to the tax imposed under
43 section 28-8344 and sales of jet fuel that are subject to the tax imposed
44 under article 8 of this chapter.

1 23. Tangible personal property sold to a person engaged in the
2 business of leasing or renting such property under the personal property
3 rental classification if such property is to be leased or rented by such
4 person.

5 24. Tangible personal property sold in interstate or foreign
6 commerce if prohibited from being so taxed by the constitution of the
7 United States or the constitution of this state.

8 25. Tangible personal property sold to:

9 (a) A qualifying hospital as defined in section 42-5001.

10 (b) A qualifying health care organization as defined in section
11 42-5001 if the tangible personal property is used by the organization
12 solely to provide health and medical related educational and charitable
13 services.

14 (c) A qualifying health care organization as defined in section
15 42-5001 if the organization is dedicated to providing educational,
16 therapeutic, rehabilitative and family medical education training for
17 blind and visually impaired children and children with multiple
18 disabilities from the time of birth to age twenty-one.

19 (d) A qualifying community health center as defined in section
20 42-5001.

21 (e) A nonprofit charitable organization that has qualified under
22 section 501(c)(3) of the internal revenue code and that regularly serves
23 meals to the needy and indigent on a continuing basis at no cost.

24 (f) 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 (g) A qualifying health sciences educational institution as defined
33 in section 42-5001.

34 (h) Any person representing or working on behalf of another person
35 described in subdivisions (a) through (g) of this paragraph if the
36 tangible personal property is incorporated or fabricated into a project
37 described in section 42-5075, subsection 0.

38 26. Magazines or other periodicals or other publications by this
39 state to encourage tourist travel.

40 27. Tangible personal property sold to:

41 (a) A person that is subject to tax under this article by reason of
42 being engaged in business classified under section 42-5075 or to a
43 subcontractor working under the control of a person engaged in business
44 classified under section 42-5075, if the property so sold is any of the
45 following:

1 (i) Incorporated or fabricated by the person into any real
2 property, structure, project, development or improvement as part of the
3 business.

4 (ii) Incorporated or fabricated by the person into any project
5 described in section 42-5075, subsection 0.

6 (iii) Used in environmental response or remediation activities
7 under section 42-5075, subsection B, paragraph 6.

8 (b) A person that is not subject to tax under section 42-5075 and
9 that has been provided a copy of a certificate under section 42-5009,
10 subsection L, if the property so sold is incorporated or fabricated by the
11 person into the real property, structure, project, development or
12 improvement described in the certificate.

13 28. The sale of a motor vehicle to:

14 (a) A nonresident of this state if the purchaser's state of
15 residence does not allow a corresponding use tax exemption to the tax
16 imposed by article 1 of this chapter and if the nonresident has secured a
17 special ninety day nonresident registration permit for the vehicle as
18 prescribed by sections 28-2154 and 28-2154.01.

19 (b) An enrolled member of an Indian tribe who resides on the Indian
20 reservation established for that tribe.

21 29. Tangible personal property purchased in this state by a
22 nonprofit charitable organization that has qualified under section
23 501(c)(3) of the United States internal revenue code and that engages in
24 and uses such property exclusively in programs for persons with mental or
25 physical disabilities if the programs are exclusively for training, job
26 placement, rehabilitation or testing.

27 30. Sales of tangible personal property by a nonprofit organization
28 that is exempt from taxation under section 501(c)(3), 501(c)(4) or
29 501(c)(6) of the internal revenue code if the organization is associated
30 with a major league baseball team or a national touring professional
31 golfing association and no part of the organization's net earnings inures
32 to the benefit of any private shareholder or individual. This paragraph
33 does not apply to an organization that is owned, managed or controlled, in
34 whole or in part, by a major league baseball team, or its owners,
35 officers, employees or agents, or by a major league baseball association
36 or professional golfing association, or its owners, officers, employees or
37 agents, unless the organization conducted or operated exhibition events in
38 this state before January 1, 2018 that were exempt from taxation under
39 section 42-5073.

40 31. Sales of commodities, as defined by title 7 United States Code
41 section 2, that are consigned for resale in a warehouse in this state in
42 or from which the commodity is deliverable on a contract for future
43 delivery subject to the rules of a commodity market regulated by the
44 United States commodity futures trading commission.

1 32. Sales of tangible personal property by a nonprofit organization
2 that is exempt from taxation under section 501(c)(3), 501(c)(4),
3 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the
4 organization sponsors or operates a rodeo featuring primarily farm and
5 ranch animals and no part of the organization's net earnings inures to the
6 benefit of any private shareholder or individual.

7 33. Sales of propagative materials to persons who use those items
8 to commercially produce agricultural, horticultural, viticultural or
9 floricultural crops in this state. For the purposes of this paragraph,
10 "propagative materials":

11 (a) Includes seeds, seedlings, roots, bulbs, liners, transplants,
12 cuttings, soil and plant additives, agricultural minerals, auxiliary soil
13 and plant substances, micronutrients, fertilizers, insecticides,
14 herbicides, fungicides, soil fumigants, desiccants, rodenticides,
15 adjuvants, plant nutrients and plant growth regulators.

16 (b) Except for use in commercially producing industrial hemp as
17 defined in section 3-311, does not include any propagative materials used
18 in producing any part, including seeds, of any plant of the genus
19 cannabis.

20 34. Machinery, equipment, technology or related supplies that are
21 only useful to assist a person with a physical disability as defined in
22 section 46-191 or a person who has a developmental disability as defined
23 in section 36-551 or has a head injury as defined in section 41-3201 to be
24 more independent and functional.

25 35. Sales of natural gas or liquefied petroleum gas used to propel
26 a motor vehicle.

27 36. Paper machine clothing, such as forming fabrics and dryer
28 felts, sold to a paper manufacturer and directly used or consumed in paper
29 manufacturing.

30 37. Petroleum, coke, natural gas, virgin fuel oil and electricity
31 sold to a qualified environmental technology manufacturer, producer or
32 processor as defined in section 41-1514.02 and directly used or consumed
33 in the generation or provision of on-site power or energy solely for
34 environmental technology manufacturing, producing or processing or
35 environmental protection. This paragraph shall apply for twenty full
36 consecutive calendar or fiscal years ~~from~~ AFTER the date the first paper
37 manufacturing machine is placed in service. In the case of an
38 environmental technology manufacturer, producer or processor ~~who~~ THAT does
39 not manufacture paper, the time period shall begin with the date the first
40 manufacturing, processing or production equipment is placed in service.

41 38. Sales of liquid, solid or gaseous chemicals used in
42 manufacturing, processing, fabricating, mining, refining, metallurgical
43 operations, research and development and, beginning on January 1, 1999,
44 printing, if using or consuming the chemicals, alone or as part of an
45 integrated system of chemicals, involves direct contact with the materials

1 from which the product is produced for the purpose of causing or
2 permitting a chemical or physical change to occur in the materials as part
3 of the production process. This paragraph does not include chemicals that
4 are used or consumed in activities such as packaging, storage or
5 transportation but does not affect any deduction for such chemicals that
6 is otherwise provided by this section. For the purposes of this
7 paragraph, "printing" means a commercial printing operation and includes
8 job printing, engraving, embossing, copying and bookbinding.

9 39. Through December 31, 1994, personal property liquidation
10 transactions, conducted by a personal property liquidator. From and after
11 December 31, 1994, personal property liquidation transactions shall be
12 taxable under this section provided that nothing in this subsection shall
13 be construed to authorize the taxation of casual activities or
14 transactions under this chapter. For the purposes of this paragraph:

15 (a) "Personal property liquidation transaction" means a sale of
16 personal property made by a personal property liquidator acting solely on
17 behalf of the owner of the personal property sold at the dwelling of the
18 owner or on the death of any owner, on behalf of the surviving spouse, if
19 any, any devisee or heir or the personal representative of the estate of
20 the deceased, if one has been appointed.

21 (b) "Personal property liquidator" means a person who is retained
22 to conduct a sale in a personal property liquidation transaction.

23 40. Sales of food, drink and condiment for consumption within the
24 premises of any prison, jail or other institution under the jurisdiction
25 of the state department of corrections, the department of public safety,
26 the department of juvenile corrections or a county sheriff.

27 41. A motor vehicle and any repair and replacement parts and
28 tangible personal property becoming a part of such motor vehicle sold to a
29 motor carrier ~~who~~ THAT is subject to a fee prescribed in title 28, chapter
30 16, article 4 and ~~who~~ THAT is engaged in the business of leasing or
31 renting such property.

32 42. Sales of:

33 (a) Livestock and poultry to persons engaging in the businesses of
34 farming, ranching or producing livestock or poultry.

35 (b) Livestock and poultry feed, salts, vitamins and other additives
36 for livestock or poultry consumption that are sold to persons for use or
37 consumption by their own livestock or poultry, for use or consumption in
38 the businesses of farming, ranching and producing or feeding livestock,
39 poultry, or livestock or poultry products or for use or consumption in
40 noncommercial boarding of livestock. For the purposes of this paragraph,
41 "poultry" includes ratites.

42 43. Sales of implants used as growth promotants and injectable
43 medicines, not already exempt under paragraph 8 of this subsection, for
44 livestock or poultry owned by or in possession of persons who are engaged
45 in producing livestock, poultry, or livestock or poultry products or who

are engaged in feeding livestock or poultry commercially. For the purposes of this paragraph, "poultry" includes ratites.

44. Sales of motor vehicles at auction to nonresidents of this state for use outside this state if the vehicles are shipped or delivered out of this state, regardless of where title to the motor vehicles passes or its free on board point.

45. Tangible personal property sold to a person engaged in business and subject to tax under the transient lodging classification if the tangible personal property is a personal hygiene item or articles used by human beings for food, drink or condiment, except alcoholic beverages, that are furnished without additional charge to and intended to be consumed by the transient during the transient's occupancy.

46. Sales of alternative fuel, as defined in section 1-215, to a used oil fuel burner who has received a permit to burn used oil or used oil fuel under section 49-426 or 49-480.

47. Sales of materials that are purchased by or for publicly funded libraries including school district libraries, charter school libraries, community college libraries, state university libraries or federal, state, county or municipal libraries for use by the public as follows:

(a) Printed or photographic materials, beginning August 7, 1985.

(b) Electronic or digital media materials, beginning July 17, 1994.

48. Tangible personal property sold to a commercial airline and consisting of food, beverages and condiments and accessories used for serving the food and beverages, if those items are to be provided without additional charge to passengers for consumption in flight. For the purposes of this paragraph, "commercial airline" means a person holding a federal certificate of public convenience and necessity or foreign air carrier permit for air transportation to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

49. Sales of alternative fuel vehicles if the vehicle was manufactured as a diesel fuel vehicle and converted to operate on alternative fuel and equipment that is installed in a conventional diesel fuel motor vehicle to convert the vehicle to operate on an alternative fuel, as defined in section 1-215.

50. Sales of any spirituous, vinous or malt liquor by a person that is licensed in this state as a wholesaler by the department of liquor licenses and control pursuant to title 4, chapter 2, article 1.

51. Sales of tangible personal property to be incorporated or installed as part of environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.

52. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(6) of the internal revenue code if the organization produces, organizes or promotes cultural or civic related festivals or events and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

53. Application services that are designed to assess or test student learning or to promote curriculum design or enhancement purchased by or for any school district, charter school, community college or state university. For the purposes of this paragraph:

(a) "Application services" means software applications provided remotely using hypertext transfer protocol or another network protocol.

(b) "Curriculum design or enhancement" means planning, implementing or reporting on courses of study, lessons, assignments or other learning activities.

54. Sales of motor vehicle fuel and use fuel to a qualified business under section 41-1516 for off-road use in harvesting, processing or transporting qualifying forest products removed from qualifying projects as defined in section 41-1516.

55. Sales of repair parts installed in equipment used directly by a qualified business under section 41-1516 in harvesting, processing or transporting qualifying forest products removed from qualifying projects as defined in section 41-1516.

56. Sales or other transfers of renewable energy credits or any other unit created to track energy derived from renewable energy resources. For the purposes of this paragraph, "renewable energy credit" means a unit created administratively by the corporation commission or governing body of a public power utility to track kilowatt hours of electricity derived from a renewable energy resource or the kilowatt hour equivalent of conventional energy resources displaced by distributed renewable energy resources.

57. Computer data center equipment sold to the owner, operator or qualified colocation tenant of a computer data center that is certified by the Arizona commerce authority under section 41-1519 or an authorized agent of the owner, operator or qualified colocation tenant during the qualification period for use in the qualified computer data center. For the purposes of this paragraph, "computer data center", "computer data center equipment", "qualification period" and "qualified colocation tenant" have the same meanings prescribed in section 41-1519.

58. Orthodontic devices dispensed by a dental professional who is licensed under title 32, chapter 11 to a patient as part of the practice of dentistry.

59. Sales of tangible personal property incorporated or fabricated into a project described in section 42-5075, subsection 0, that is located within the exterior boundaries of an Indian reservation for which the owner, as defined in section 42-5075, of the project is an Indian tribe or an affiliated Indian. For the purposes of this paragraph:

(a) "Affiliated Indian" means an individual native American Indian who is duly registered on the tribal rolls of the Indian tribe for whose benefit the Indian reservation was established.

(b) "Indian reservation" means all lands that are within the limits of areas set aside by the United States for the exclusive use and occupancy of an Indian tribe by treaty, law or executive order and that are recognized as Indian reservations by the United States department of the interior.

(c) "Indian tribe" means any organized nation, tribe, band or community that is recognized as an Indian tribe by the United States department of the interior and includes any entity formed under the laws of the Indian tribe.

60. Sales of works of fine art, as defined in section 44-1771, at an art auction or gallery in this state to nonresidents of this state for use outside this state if the vendor ships or delivers the work of fine art to a destination outside this state.

61. Sales of coal.

62. Sales of tangible personal property by a marketplace seller that are facilitated by a marketplace facilitator in which the marketplace facilitator has remitted or will remit the applicable tax to the department pursuant to section 42-5014.

B. In addition to the deductions from the tax base prescribed by subsection A of this section, the gross proceeds of sales or gross income derived from sales of the following categories of tangible personal property shall be deducted from the tax base:

1. Machinery, or equipment, used directly in manufacturing, processing, fabricating, job printing, refining or metallurgical operations. The terms "manufacturing", "processing", "fabricating", "job printing", "refining" and "metallurgical" as used in this paragraph refer to and include those operations commonly understood within their ordinary meaning. "Metallurgical operations" includes leaching, milling, precipitating, smelting and refining.

2. Mining machinery, or equipment, used directly in the process of extracting ores or minerals from the earth for commercial purposes, including equipment required to prepare the materials for extraction and handling, loading or transporting such extracted material to the surface. "Mining" includes underground, surface and open pit operations for extracting ores and minerals.

3. Tangible personal property sold to persons engaged in business classified under the telecommunications classification, including a person representing or working on behalf of such a person in a manner described in section 42-5075, subsection 0, and consisting of central office switching equipment, switchboards, private branch exchange equipment, microwave radio equipment and carrier equipment including optical fiber, coaxial cable and other transmission media that are components of carrier systems.

4. Machinery, equipment or transmission lines used directly in producing or transmitting electrical power, but not including

1 distribution. Transformers and control equipment used at transmission
2 substation sites constitute equipment used in producing or transmitting
3 electrical power.

4 5. Neat animals, horses, asses, sheep, ratites, swine or goats used
5 or to be used as breeding or production stock, including sales of
6 breedings or ownership shares in such animals used for breeding or
7 production.

8 6. Pipes or valves four inches in diameter or larger used to
9 transport oil, natural gas, artificial gas, water or coal slurry,
10 including compressor units, regulators, machinery and equipment, fittings,
11 seals and any other part that is used in operating the pipes or valves.

12 7. Aircraft, navigational and communication instruments and other
13 accessories and related equipment sold to:

14 (a) A person:

15 (i) Holding, or exempted by federal law from obtaining, a federal
16 certificate of public convenience and necessity for use as, in conjunction
17 with or becoming part of an aircraft to be used to transport persons for
18 hire in intrastate, interstate or foreign commerce.

19 (ii) That is certificated or licensed under federal aviation
20 administration regulations (14 Code of Federal Regulations part 121 or
21 135) as a scheduled or unscheduled carrier of persons for hire for use as
22 or in conjunction with or becoming part of an aircraft to be used to
23 transport persons for hire in intrastate, interstate or foreign commerce.

24 (iii) Holding a foreign air carrier permit for air transportation
25 for use as or in conjunction with or becoming a part of aircraft to be
26 used to transport persons, property or United States mail in intrastate,
27 interstate or foreign commerce.

28 (iv) Operating an aircraft to transport persons in any manner for
29 compensation or hire, or for use in a fractional ownership program that
30 meets the requirements of federal aviation administration regulations
31 (14 Code of Federal Regulations part 91, subpart K), including as an air
32 carrier, a foreign air carrier or a commercial operator or under a
33 restricted category, within the meaning of 14 Code of Federal Regulations,
34 regardless of whether the operation or aircraft is regulated or certified
35 under part 91, 119, 121, 133, 135, 136 or 137, or another part of 14 Code
36 of Federal Regulations.

37 (v) That will lease or otherwise transfer operational control,
38 within the meaning of federal aviation administration operations
39 specification A008, or its successor, of the aircraft, instruments or
40 accessories to one or more persons described in item (i), (ii), (iii) or
41 (iv) of this subdivision, subject to section 42-5009, subsection ~~Q~~ P.

42 (b) Any foreign government.

43 (c) Persons who are not residents of this state and who will not
44 use such property in this state other than in removing such property from
45 this state. This subdivision also applies to corporations that are not

1 incorporated in this state, regardless of maintaining a place of business
2 in this state, if the principal corporate office is located outside this
3 state and the property will not be used in this state other than in
4 removing the property from this state.

5 8. Machinery, tools, equipment and related supplies used or
6 consumed directly in repairing, remodeling or maintaining aircraft,
7 aircraft engines or aircraft component parts by or on behalf of a
8 certificated or licensed carrier of persons or property.

9 9. Railroad rolling stock, rails, ties and signal control equipment
10 used directly to transport persons or property.

11 10. Machinery or equipment used directly to drill for oil or gas or
12 used directly in the process of extracting oil or gas from the earth for
13 commercial purposes.

14 11. Buses or other urban mass transit vehicles that are used
15 directly to transport persons or property for hire or pursuant to a
16 governmentally adopted and controlled urban mass transportation program
17 and that are sold to bus companies holding a federal certificate of
18 convenience and necessity or operated by any city, town or other
19 governmental entity or by any person contracting with such governmental
20 entity as part of a governmentally adopted and controlled program to
21 provide urban mass transportation.

22 12. Groundwater measuring devices required under section 45-604.

23 13. New machinery and equipment consisting of agricultural
24 aircraft, tractors, tractor-drawn implements, self-powered implements,
25 machinery and equipment necessary for extracting milk, and machinery and
26 equipment necessary for cooling milk and livestock, and drip irrigation
27 lines not already exempt under paragraph 6 of this subsection and that are
28 used for commercial production of agricultural, horticultural,
29 viticultural and floricultural crops and products in this state. For the
30 purposes of this paragraph:

31 (a) "New machinery and equipment" means machinery and equipment
32 that have never been sold at retail except pursuant to leases or rentals
33 that do not total two years or more.

34 (b) "Self-powered implements" includes machinery and equipment that
35 are electric-powered.

36 14. Machinery or equipment used in research and development. For
37 the purposes of this paragraph, "research and development" means basic and
38 applied research in the sciences and engineering, and designing,
39 developing or testing prototypes, processes or new products, including
40 research and development of computer software that is embedded in or an
41 integral part of the prototype or new product or that is required for
42 machinery or equipment otherwise exempt under this section to function
43 effectively. Research and development do not include manufacturing
44 quality control, routine consumer product testing, market research, sales
45 promotion, sales service, research in social sciences or psychology,

1 computer software research that is not included in the definition of
2 research and development, or other nontechnological activities or
3 technical services.

4 15. Tangible personal property that is used by either of the
5 following to receive, store, convert, produce, generate, decode, encode,
6 control or transmit telecommunications information:

7 (a) Any direct broadcast satellite television or data transmission
8 service that operates pursuant to 47 Code of Federal Regulations part 25.

9 (b) Any satellite television or data transmission facility, if both
10 of the following conditions are met:

11 (i) Over two-thirds of the transmissions, measured in megabytes,
12 transmitted by the facility during the test period were transmitted to or
13 on behalf of one or more direct broadcast satellite television or data
14 transmission services that operate pursuant to 47 Code of Federal
15 Regulations part 25.

16 (ii) Over two-thirds of the transmissions, measured in megabytes,
17 transmitted by or on behalf of those direct broadcast television or data
18 transmission services during the test period were transmitted by the
19 facility to or on behalf of those services.

20 For the purposes of subdivision (b) of this paragraph, "test period" means
21 the three hundred sixty-five day period beginning on the later of the date
22 on which the tangible personal property is purchased or the date on which
23 the direct broadcast satellite television or data transmission service
24 first transmits information to its customers.

25 16. Clean rooms that are used for manufacturing, processing,
26 fabrication or research and development, as defined in paragraph 14 of
27 this subsection, of semiconductor products. For the purposes of this
28 paragraph, "clean room" means all property that comprises or creates an
29 environment where humidity, temperature, particulate matter and
30 contamination are precisely controlled within specified parameters,
31 without regard to whether the property is actually contained within that
32 environment or whether any of the property is affixed to or incorporated
33 into real property. Clean room:

34 (a) Includes the integrated systems, fixtures, piping, movable
35 partitions, lighting and all property that is necessary or adapted to
36 reduce contamination or to control airflow, temperature, humidity,
37 chemical purity or other environmental conditions or manufacturing
38 tolerances, as well as the production machinery and equipment operating in
39 conjunction with the clean room environment.

40 (b) Does not include the building or other permanent, nonremovable
41 component of the building that houses the clean room environment.

42 17. Machinery and equipment used directly in the feeding of
43 poultry, the environmental control of housing for poultry, the movement of
44 eggs within a production and packaging facility or the sorting or cooling

1 of eggs. This exemption does not apply to vehicles used for transporting
2 eggs.

3 18. Machinery or equipment, including related structural
4 components, that is employed in connection with manufacturing, processing,
5 fabricating, job printing, refining, mining, natural gas pipelines,
6 metallurgical operations, telecommunications, producing or transmitting
7 electricity or research and development and that is used directly to meet
8 or exceed rules or regulations adopted by the federal energy regulatory
9 commission, the United States environmental protection agency, the United
10 States nuclear regulatory commission, the Arizona department of
11 environmental quality or a political subdivision of this state to prevent,
12 monitor, control or reduce land, water or air pollution.

13 19. Machinery and equipment that are sold to a person engaged in
14 the commercial production of livestock, livestock products or
15 agricultural, horticultural, viticultural or floricultural crops or
16 products in this state, including a person representing or working on
17 behalf of such a person in a manner described in section 42-5075,
18 subsection 0, if the machinery and equipment are used directly and
19 primarily to prevent, monitor, control or reduce air, water or land
20 pollution.

21 20. 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 21. Qualifying equipment that is purchased from and after June 30,
37 2004 through June 30, 2024 by a qualified business under section 41-1516
38 for harvesting or processing qualifying forest products removed from
39 qualifying projects as defined in section 41-1516. To qualify for this
40 deduction, the qualified business at the time of purchase must present its
41 certification approved by the department.

42 C. The deductions provided by subsection B of this section do not
43 include sales of:

44 1. Expendable materials. For the purposes of this paragraph,
45 expendable materials do not include any of the categories of tangible

1 personal property specified in subsection B of this section regardless of
2 the cost or useful life of that property.

3 2. Janitorial equipment and hand tools.

4 3. Office equipment, furniture and supplies.

5 4. Tangible personal property used in selling or distributing
6 activities, other than the telecommunications transmissions described in
7 subsection B, paragraph 15 of this section.

8 5. Motor vehicles required to be licensed by this state, except
9 buses or other urban mass transit vehicles specifically exempted pursuant
10 to subsection B, paragraph 11 of this section, without regard to the use
11 of such motor vehicles.

12 6. Shops, buildings, docks, depots and all other materials of
13 whatever kind or character not specifically included as exempt.

14 7. Motors and pumps used in drip irrigation systems.

15 8. Machinery and equipment or other tangible personal property used
16 by a contractor in the performance of a contract.

17 D. In addition to the deductions from the tax base prescribed by
18 subsection A of this section, there shall be deducted from the tax base
19 the gross proceeds of sales or gross income derived from sales of
20 machinery, equipment, materials and other tangible personal property used
21 directly and predominantly to construct a qualified environmental
22 technology manufacturing, producing or processing facility as described in
23 section 41-1514.02. This subsection applies for ten full consecutive
24 calendar or fiscal years after the start of initial construction.

25 E. In computing the tax base, gross proceeds of sales or gross
26 income from retail sales of heavy trucks and trailers does not include any
27 amount attributable to federal excise taxes imposed by 26 United States
28 Code section 4051.

29 F. If a person is engaged in an occupation or business to which
30 subsection A of this section applies, the person's books shall be kept so
31 as to show separately the gross proceeds of sales of tangible personal
32 property and the gross income from sales of services, and if not so kept
33 the tax shall be imposed on the total of the person's gross proceeds of
34 sales of tangible personal property and gross income from services.

35 G. If a person is engaged in the business of selling tangible
36 personal property at both wholesale and retail, the tax under this section
37 applies only to the gross proceeds of the sales made other than at
38 wholesale if the person's books are kept so as to show separately the
39 gross proceeds of sales of each class, and if the books are not so kept,
40 the tax under this section applies to the gross proceeds of every sale so
41 made.

42 H. A person who engages in manufacturing, baling, crating, boxing,
43 barreling, canning, bottling, sacking, preserving, processing or otherwise
44 preparing for sale or commercial use any livestock, agricultural or
45 horticultural product or any other product, article, substance or

1 commodity and who sells the product of such business at retail in this
2 state is deemed, as to such sales, to be engaged in business classified
3 under the retail classification. This subsection does not apply to:

4 1. Agricultural producers who are owners, proprietors or tenants of
5 agricultural lands, orchards, farms or gardens where agricultural products
6 are grown, raised or prepared for market and who are marketing their own
7 agricultural products.

8 2. Businesses classified under the:

9 (a) Transporting classification.

10 (b) Utilities classification.

11 (c) Telecommunications classification.

12 (d) Pipeline classification.

13 (e) Private car line classification.

14 (f) Publication classification.

15 (g) Job printing classification.

16 (h) Prime contracting classification.

17 (i) Restaurant classification.

18 I. The gross proceeds of sales or gross income derived from the
19 following shall be deducted from the tax base for the retail
20 classification:

21 1. Sales made directly to the United States government or its
22 departments or agencies by a manufacturer, modifier, assembler or
23 repairer.

24 2. Sales made directly to a manufacturer, modifier, assembler or
25 repairer if such sales are of any ingredient or component part of products
26 sold directly to the United States government or its departments or
27 agencies by the manufacturer, modifier, assembler or repairer.

28 3. Overhead materials or other tangible personal property that is
29 used in performing a contract between the United States government and a
30 manufacturer, modifier, assembler or repairer, including property used in
31 performing a subcontract with a government contractor who is a
32 manufacturer, modifier, assembler or repairer, to which title passes to
33 the government under the terms of the contract or subcontract.

34 4. Sales of overhead materials or other tangible personal property
35 to a manufacturer, modifier, assembler or repairer if the gross proceeds
36 of sales or gross income derived from the property by the manufacturer,
37 modifier, assembler or repairer will be exempt under paragraph 3 of this
38 subsection.

39 J. There shall be deducted from the tax base fifty percent of the
40 gross proceeds or gross income from any sale of tangible personal property
41 made directly to the United States government or its departments or
42 agencies that is not deducted under subsection I of this section.

43 K. The department shall require every person claiming a deduction
44 provided by subsection I or J of this section to file on forms prescribed
45 by the department at such times as the department directs a sworn

statement disclosing the name of the purchaser and the exact amount of sales on which the exclusion or deduction is claimed.

L. In computing the tax base, gross proceeds of sales or gross income does not include:

1. A manufacturer's cash rebate on the sales price of a motor vehicle if the buyer assigns the buyer's right in the rebate to the retailer.

2. The waste tire disposal fee imposed pursuant to section 44-1302.

M. There shall be deducted from the tax base the amount received from sales of solar energy devices. The retailer shall register with the department as a solar energy retailer. By registering, the retailer acknowledges that it will make its books and records relating to sales of solar energy devices available to the department for examination.

N. In computing the tax base in the case of the sale or transfer of wireless telecommunications equipment as an inducement to a customer to enter into or continue a contract for telecommunications services that are taxable under section 42-5064, gross proceeds of sales or gross income does not include any sales commissions or other compensation received by the retailer as a result of the customer entering into or continuing a contract for the telecommunications services.

O. For the purposes of this section, a sale of wireless telecommunications equipment to a person who holds the equipment for sale or transfer to a customer as an inducement to enter into or continue a contract for telecommunications services that are taxable under section 42-5064 is considered to be a sale for resale in the regular course of business.

P. Retail sales of prepaid calling cards or prepaid authorization numbers for telecommunications services, including sales of reauthorization of a prepaid card or authorization number, are subject to tax under this section.

Q. For the purposes of this section, the diversion of gas from a pipeline by a person engaged in the business of:

1. Operating a natural or artificial gas pipeline, for the sole purpose of fueling compressor equipment to pressurize the pipeline, is not a sale of the gas to the operator of the pipeline.

2. Converting natural gas into liquefied natural gas, for the sole purpose of fueling compressor equipment used in the conversion process, is not a sale of gas to the operator of the compressor equipment.

R. If a seller is entitled to a deduction pursuant to subsection B, paragraph 15, subdivision (b) of this section, the department may require the purchaser to establish that the requirements of subsection B, paragraph 15, subdivision (b) of this section have been satisfied. If the purchaser cannot establish that the requirements of subsection B, paragraph 15, subdivision (b) of this section have been satisfied, the purchaser is liable in an amount equal to any tax, penalty and interest

that the seller would have been required to pay under article 1 of this chapter if the seller had not made a deduction pursuant to subsection B, paragraph 15, subdivision (b) of this section. Payment of the amount under this subsection exempts the purchaser from liability for any tax imposed under article 4 of this chapter and related to the tangible personal property purchased. The amount shall be treated as transaction privilege tax to the purchaser and as tax revenues collected from the seller to designate the distribution base pursuant to section 42-5029.

S. For the purposes of section 42-5032.01, the department shall separately account for revenues collected under the retail classification from businesses selling tangible personal property at retail:

1. On the premises of a multipurpose facility that is owned, leased or operated by the tourism and sports authority pursuant to title 5, chapter 8.

2. At professional football contests that are held in a stadium located on the campus of an institution under the jurisdiction of the Arizona board of regents.

T. In computing the tax base for the sale of a motor vehicle to a nonresident of this state, if the purchaser's state of residence allows a corresponding use tax exemption to the tax imposed by article 1 of this chapter and the rate of the tax in the purchaser's state of residence is lower than the rate prescribed in article 1 of this chapter or if the purchaser's state of residence does not impose an excise tax, and the nonresident has secured a special ninety day nonresident registration permit for the vehicle as prescribed by sections 28-2154 and 28-2154.01, there shall be deducted from the tax base a portion of the gross proceeds or gross income from the sale so that the amount of transaction privilege tax that is paid in this state is equal to the excise tax that is imposed by the purchaser's state of residence on the nonexempt sale or use of the motor vehicle.

U. For the purposes of this section:

1. "Agricultural aircraft" means an aircraft that is built for agricultural use for the aerial application of pesticides or fertilizer or for aerial seeding.

2. "Aircraft" includes:

(a) An airplane flight simulator that is approved by the federal aviation administration for use as a phase II or higher flight simulator under appendix H, 14 Code of Federal Regulations part 121.

(b) Tangible personal property that is permanently affixed or attached as a component part of an aircraft that is owned or operated by a certificated or licensed carrier of persons or property.

3. "Other accessories and related equipment" includes aircraft accessories and equipment such as ground service equipment that physically contact aircraft at some point during the overall carrier operation.

1 4. "Selling at retail" means a sale for any purpose other than for
2 resale in the regular course of business in the form of tangible personal
3 property, but transfer of possession, lease and rental as used in the
4 definition of sale mean only such transactions as are found on
5 investigation to be in lieu of sales as defined without the words lease or
6 rental.

7 V. For the purposes of subsection I of this section:

8 1. "Assembler" means a person who unites or combines products,
9 wares or articles of manufacture so as to produce a change in form or
10 substance without changing or altering the component parts.

11 2. "Manufacturer" means a person who is principally engaged in the
12 fabrication, production or manufacture of products, wares or articles for
13 use from raw or prepared materials, imparting to those materials new
14 forms, qualities, properties and combinations.

15 3. "Modifier" means a person who reworks, changes or adds to
16 products, wares or articles of manufacture.

17 4. "Overhead materials" means tangible personal property, the gross
18 proceeds of sales or gross income derived from that would otherwise be
19 included in the retail classification, and that are used or consumed in
20 the performance of a contract, the cost of which is charged to an overhead
21 expense account and allocated to various contracts based on generally
22 accepted accounting principles and consistent with government contract
23 accounting standards.

24 5. "Repairer" means a person who restores or renews products, wares
25 or articles of manufacture.

26 6. "Subcontract" means an agreement between a contractor and any
27 person who is not an employee of the contractor for furnishing of supplies
28 or services that, in whole or in part, are necessary to the performance of
29 one or more government contracts, or under which any portion of the
30 contractor's obligation under one or more government contracts is
31 performed, undertaken or assumed and that includes provisions causing
32 title to overhead materials or other tangible personal property used in
33 the performance of the subcontract to pass to the government or that
34 includes provisions incorporating such title passing clauses in a
35 government contract into the subcontract.

36 Sec. 10. Section 42-5070, Arizona Revised Statutes, is amended to
37 read:

38 42-5070. Transient lodging classification; definition

39 A. The transient lodging classification is comprised of the
40 business of operating, for occupancy by transients, a hotel or motel,
41 including an inn, tourist home or house, dude ranch, resort, campground,
42 studio or bachelor hotel, lodging house, rooming house, apartment house,
43 dormitory, public or private club, mobile home or house trailer at a fixed
44 location or other similar structure, and also including a space, lot or

1 slab that is occupied or intended or designed for occupancy by transients
2 in a mobile home or house trailer furnished by them for such occupancy.

3 B. The transient lodging classification does not include:

4 1. Operating a convalescent home or facility, home for the aged,
5 hospital, jail, military installation or fraternity or sorority house or
6 operating any structure exclusively by an association, institution,
7 governmental agency or corporation for religious, charitable or
8 educational purposes, if no part of the net earnings of the association,
9 corporation or other entity inures to the benefit of any private
10 shareholder or individual.

11 2. A lease or rental of a mobile home or house trailer at a fixed
12 location or any other similar structure, and also including a space, lot
13 or slab that is occupied or intended or designed for occupancy by
14 transients in a mobile home or house trailer furnished by them for such
15 occupancy for thirty or more consecutive days.

16 3. Leasing or renting four or fewer rooms of an owner-occupied
17 residential home, together with furnishing ~~no~~ NOT more than a breakfast
18 meal, to transient lodgers at ~~no~~ NOT more than a fifty percent average
19 annual occupancy rate.

20 ~~4. The activities of any online lodging marketplace, as defined in~~
21 ~~section 42-5076.~~

22 C. The tax base for the transient lodging classification is the
23 gross proceeds of sales or gross income derived from the business, except
24 that the tax base does not include:—

25 ~~1.~~ the gross proceeds of sales or gross income derived from
26 business activity that is properly included in another business
27 classification under this article and that is taxable to the person
28 engaged in that business classification, but the gross proceeds of sales
29 or gross income to be deducted shall not exceed the consideration paid to
30 the person conducting the activity.

31 ~~2. The gross proceeds or gross income received by an online lodging~~
32 ~~operator, as defined in section 42-5076, from any online lodging~~
33 ~~transactions, as defined in section 42-5076, for which the online lodging~~
34 ~~operator has received documentation from a registered online lodging~~
35 ~~marketplace, as defined in section 42-5076, pursuant to section 42-5009,~~
36 ~~subsection P that the online lodging marketplace has remitted or will~~
37 ~~remit the applicable tax to the department pursuant to section 42-5014,~~
38 ~~subsection E.~~

39 D. For the purposes of this section, the tax base for the transient
40 lodging classification does not include gross proceeds of sales or gross
41 income derived from:

42 1. Transactions or activities that are not limited to transients
43 and that would not be taxable if engaged in by a person not subject to tax
44 under this article.

2. Transactions or activities that are not limited to transients and that would not be taxable if engaged in by a person subject to taxation under section 42-5062 or 42-5073 due to an exclusion, exemption or deduction.

3. Commissions paid to a person that is engaged in transient lodging business subject to taxation under this section by a person providing services or property to the customers of the person engaging in the transient lodging business.

E. The department shall separately account for revenues collected under the transient lodging classification for the purposes of section 42-5029, subsection D, paragraph 4, subdivision (b).

F. For the purposes of this section, "transient" means any person who either at the person's own expense or at the expense of another obtains lodging space or the use of lodging space on a daily or weekly basis, or on any other basis for less than thirty consecutive days.

Sec. 11. Repeal

Section 42-5076, Arizona Revised Statutes, is repealed.

Sec. 12. Section 42-5159, Arizona Revised Statutes, is amended to read:

42-5159. Exemptions

A. The tax levied by this article does not apply to the storage, use or consumption in this state of the following described tangible personal property:

1. Tangible personal property, sold in this state, the gross receipts from the sale of which are included in the measure of the tax imposed by articles 1 and 2 of this chapter.

2. Tangible personal property, the sale or use of which has already been subjected to an excise tax at a rate equal to or exceeding the tax imposed by this article under the laws of another state of the United States. If the excise tax imposed by the other state is at a rate less than the tax imposed by this article, the tax imposed by this article is reduced by the amount of the tax already imposed by the other state.

3. Tangible personal property, the storage, use or consumption of which the constitution or laws of the United States prohibit this state from taxing or to the extent that the rate or imposition of tax is unconstitutional under the laws of the United States.

4. Tangible personal property that directly enters into and becomes an ingredient or component part of any manufactured, fabricated or processed article, substance or commodity for sale in the regular course of business.

5. Motor vehicle fuel and use fuel, the sales, distribution or use of which in this state is subject to the tax imposed under title 28, chapter 16, article 1, use fuel that is sold to or used by a person holding a valid single trip use fuel tax permit issued under section 28-5739, aviation fuel, the sales, distribution or use of which in

1 this state is subject to the tax imposed under section 28-8344, and jet
2 fuel, the sales, distribution or use of which in this state is subject to
3 the tax imposed under article 8 of this chapter.

4 6. Tangible personal property brought into this state by an
5 individual who was a nonresident at the time the property was purchased
6 for storage, use or consumption by the individual if the first actual use
7 or consumption of the property was outside this state, unless the property
8 is used in conducting a business in this state.

9 7. Purchases of implants used as growth promotants and injectable
10 medicines, not already exempt under paragraph 16 of this subsection, for
11 livestock and poultry owned by, or in possession of, persons who are
12 engaged in producing livestock, poultry, or livestock or poultry products,
13 or who are engaged in feeding livestock or poultry commercially. For the
14 purposes of this paragraph, "poultry" includes ratites.

15 8. Purchases of:

16 (a) Livestock and poultry to persons engaging in the businesses of
17 farming, ranching or producing livestock or poultry.

18 (b) Livestock and poultry feed, salts, vitamins and other additives
19 sold to persons for use or consumption in the businesses of farming,
20 ranching and producing or feeding livestock or poultry or for use or
21 consumption in noncommercial boarding of livestock. For the purposes of
22 this paragraph, "poultry" includes ratites.

23 9. Propagative materials for use in commercially producing
24 agricultural, horticultural, viticultural or floricultural crops in this
25 state. For the purposes of this paragraph, "propagative materials":
26

27 (a) Includes seeds, seedlings, roots, bulbs, liners, transplants,
28 cuttings, soil and plant additives, agricultural minerals, auxiliary soil
29 and plant substances, micronutrients, fertilizers, insecticides,
30 herbicides, fungicides, soil fumigants, desiccants, rodenticides,
31 adjuvants, plant nutrients and plant growth regulators.

32 (b) Except for use in commercially producing industrial hemp as
33 defined in section 3-311, does not include any propagative materials used
34 in producing any part, including seeds, of any plant of the genus
35 cannabis.

36 10. Tangible personal property not exceeding \$200 in any one month
37 purchased by an individual at retail outside the continental limits of the
38 United States for the individual's own personal use and enjoyment.

39 11. Advertising supplements that are intended for sale with
40 newspapers published in this state and that have already been subjected to
41 an excise tax under the laws of another state in the United States that
42 equals or exceeds the tax imposed by this article.

43 12. Materials that are purchased by or for publicly funded
44 libraries including school district libraries, charter school libraries,
45 community college libraries, state university libraries or federal, state,
county or municipal libraries for use by the public as follows:

1 (a) Printed or photographic materials, beginning August 7, 1985.

2 (b) Electronic or digital media materials, beginning July 17, 1994.

3 13. Tangible personal property purchased by:

4 (a) A hospital organized and operated exclusively for charitable
5 purposes, no part of the net earnings of which inures to the benefit of
6 any private shareholder or individual.

7 (b) A hospital operated by this state or a political subdivision of
8 this state.

9 (c) A licensed nursing care institution or a licensed residential
10 care institution or a residential care facility operated in conjunction
11 with a licensed nursing care institution or a licensed kidney dialysis
12 center, which provides medical services, nursing services or health
13 related services and is not used or held for profit.

14 (d) A qualifying health care organization, as defined in section
15 42-5001, if the tangible personal property is used by the organization
16 solely to provide health and medical related educational and charitable
17 services.

18 (e) A qualifying health care organization as defined in section
19 42-5001 if the organization is dedicated to providing educational,
20 therapeutic, rehabilitative and family medical education training for
21 blind and visually impaired children and children with multiple
22 disabilities from the time of birth to age twenty-one.

23 (f) A nonprofit charitable organization that has qualified under
24 section 501(c)(3) of the United States internal revenue code and that
25 engages in and uses such property exclusively in programs for persons with
26 mental or physical disabilities if the programs are exclusively for
27 training, job placement, rehabilitation or testing.

28 (g) A person that is subject to tax under this chapter by reason of
29 being engaged in business classified under section 42-5075, or a
30 subcontractor working under the control of a person that is engaged in
31 business classified under section 42-5075, if the tangible personal
32 property is any of the following:

33 (i) Incorporated or fabricated by the person into a structure,
34 project, development or improvement in fulfillment of a contract.

35 (ii) Incorporated or fabricated by the person into any project
36 described in section 42-5075, subsection 0.

37 (iii) Used in environmental response or remediation activities
38 under section 42-5075, subsection B, paragraph 6.

39 (h) A person that is not subject to tax under section 42-5075 and
40 that has been provided a copy of a certificate described in section
41 42-5009, subsection L, if the property purchased is incorporated or
42 fabricated by the person into the real property, structure, project,
43 development or improvement described in the certificate.

44 (i) A nonprofit charitable organization that has qualified under
45 section 501(c)(3) of the internal revenue code if the property is

1 purchased from the parent or an affiliate organization that is located
2 outside this state.

3 (j) A qualifying community health center as defined in section
4 42-5001.

5 (k) A nonprofit charitable organization that has qualified under
6 section 501(c)(3) of the internal revenue code and that regularly serves
7 meals to the needy and indigent on a continuing basis at no cost.

8 (l) A person engaged in business under the transient lodging
9 classification if the property is a personal hygiene item or articles used
10 by human beings for food, drink or condiment, except alcoholic beverages,
11 which are furnished without additional charge to and intended to be
12 consumed by the transient during the transient's occupancy.

13 (m) For taxable periods beginning from and after June 30, 2001, a
14 nonprofit charitable organization that has qualified under section
15 501(c)(3) of the internal revenue code and that provides residential
16 apartment housing for low income persons over sixty-two years of age in a
17 facility that qualifies for a federal housing subsidy, if the tangible
18 personal property is used by the organization solely to provide
19 residential apartment housing for low income persons over sixty-two years
20 of age in a facility that qualifies for a federal housing subsidy.

21 (n) A qualifying health sciences educational institution as defined
22 in section 42-5001.

23 (o) A person representing or working on behalf of any person
24 described in subdivision (a), (b), (c), (d), (e), (f), (i), (j), (k), (m)
25 or (n) of this paragraph, if the tangible personal property is
26 incorporated or fabricated into a project described in section 42-5075,
27 subsection 0.

28 14. Commodities, as defined by title 7 United States Code
29 section 2, that are consigned for resale in a warehouse in this state in
30 or from which the commodity is deliverable on a contract for future
31 delivery subject to the rules of a commodity market regulated by the
32 United States commodity futures trading commission.

33 15. Tangible personal property sold by:

34 (a) Any nonprofit organization organized and operated exclusively
35 for charitable purposes and recognized by the United States internal
36 revenue service under section 501(c)(3) of the internal revenue code.

37 (b) A nonprofit organization that is exempt from taxation under
38 section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if
39 the organization is associated with a major league baseball team or a
40 national touring professional golfing association and no part of the
41 organization's net earnings inures to the benefit of any private
42 shareholder or individual. This subdivision does not apply to an
43 organization that is owned, managed or controlled, in whole or in part, by
44 a major league baseball team, or its owners, officers, employees or
45 agents, or by a major league baseball association or professional golfing

1 association, or its owners, officers, employees or agents, unless the
2 organization conducted or operated exhibition events in this state before
3 January 1, 2018 that were exempt from transaction privilege tax under
4 section 42-5073.

5 (c) A nonprofit organization that is exempt from taxation under
6 section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the
7 internal revenue code if the organization sponsors or operates a rodeo
8 featuring primarily farm and ranch animals and no part of the
9 organization's net earnings inures to the benefit of any private
10 shareholder or individual.

11 16. Drugs and medical oxygen, including delivery hose, mask or
12 tent, regulator and tank, on the prescription of a member of the medical,
13 dental or veterinarian profession who is licensed by law to administer
14 such substances.

15 17. Prosthetic appliances, as defined in section 23-501, prescribed
16 or recommended by a person who is licensed, registered or otherwise
17 professionally credentialed as a physician, dentist, podiatrist,
18 chiropractor, naturopath, homeopath, nurse or optometrist.

19 18. Prescription eyeglasses and contact lenses.

20 19. Insulin, insulin syringes and glucose test strips.

21 20. Hearing aids as defined in section 36-1901.

22 21. Durable medical equipment that has a centers for medicare and
23 medicaid services common procedure code, is designated reimbursable by
24 medicare, is prescribed by a person who is licensed under title 32,
25 chapter 7, 13, 17 or 29, can withstand repeated use, is primarily and
26 customarily used to serve a medical purpose, is generally not useful to a
27 person in the absence of illness or injury and is appropriate for use in
28 the home.

29 22. Food, as provided in and subject to the conditions of article 3
30 of this chapter and sections 42-5074 and 42-6017.

31 23. Items purchased with United States department of agriculture
32 coupons issued under the supplemental nutrition assistance program
33 pursuant to the food and nutrition act of 2008 (P.L. 88-525; 78 Stat. 703;
34 7 United States Code sections 2011 through 2036b) by the United States
35 department of agriculture food and nutrition service or food instruments
36 issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat.
37 3603; P.L. 99-661, section 4302; P.L. 111-296; 42 United States Code
38 section 1786).

39 24. Food and drink provided without monetary charge by a taxpayer
40 that is subject to section 42-5074 to its employees for their own
41 consumption on the premises during the employees' hours of employment.

42 25. Tangible personal property that is used or consumed in a
43 business subject to section 42-5074 for human food, drink or condiment,
44 whether simple, mixed or compounded.

26. Food, drink or condiment and accessory tangible personal property that are acquired for use by or provided to a school district or charter school if they are to be either served or prepared and served to persons for consumption on the premises of a public school in the school district or on the premises of the charter school during school hours.

27. Lottery tickets or shares purchased pursuant to title 5, chapter 5.1, article 1.

28. Textbooks, sold by a bookstore, that are required by any state university or community college.

29. Magazines, other periodicals or other publications produced by this state to encourage tourist travel.

30. Paper machine clothing, such as forming fabrics and dryer felts, purchased by a paper manufacturer and directly used or consumed in paper manufacturing.

31. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity purchased by a qualified environmental technology manufacturer, producer or processor as defined in section 41-1514.02 and directly used or consumed in the generation or provision of on-site power or energy solely for environmental technology manufacturing, producing or processing or environmental protection. This paragraph shall apply for twenty full consecutive calendar or fiscal years ~~from~~ AFTER the date the first paper manufacturing machine is placed in service. In the case of an environmental technology manufacturer, producer or processor ~~who~~ THAT does not manufacture paper, the time period shall begin with the date the first manufacturing, processing or production equipment is placed in service.

32. Motor vehicles that are removed from inventory by a motor vehicle dealer as defined in section 28-4301 and that are provided to:

(a) Charitable or educational institutions that are exempt from taxation under section 501(c)(3) of the internal revenue code.

(b) Public educational institutions.

(c) State universities or affiliated organizations of a state university if no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

33. Natural gas or liquefied petroleum gas used to propel a motor vehicle.

34. Machinery, equipment, technology or related supplies that are only useful to assist a person with a physical disability as defined in section 46-191 or a person who has a developmental disability as defined in section 36-551 or has a head injury as defined in section 41-3201 to be more independent and functional.

35. Liquid, solid or gaseous chemicals used in manufacturing, processing, fabricating, mining, refining, metallurgical operations, research and development and, beginning on January 1, 1999, printing, if using or consuming the chemicals, alone or as part of an integrated system of chemicals, involves direct contact with the materials from which the

1 product is produced for the purpose of causing or permitting a chemical or
2 physical change to occur in the materials as part of the production
3 process. This paragraph does not include chemicals that are used or
4 consumed in activities such as packaging, storage or transportation but
5 does not affect any exemption for such chemicals that is otherwise
6 provided by this section. For the purposes of this paragraph, "printing"
7 means a commercial printing operation and includes job printing,
8 engraving, embossing, copying and bookbinding.

9 36. Food, drink and condiment purchased 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 37. 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 ~~who~~ THAT is subject to a fee prescribed in title 28, chapter
16 16, article 4 and ~~who~~ THAT is engaged in the business of leasing or
17 renting such property.

18 38. Tangible personal property that is or directly enters into and
19 becomes an ingredient or component part of cards used as prescription plan
20 identification cards.

21 39. Overhead materials or other tangible personal property that is
22 used in performing a contract between the United States government and a
23 manufacturer, modifier, assembler or repairer, including property used in
24 performing a subcontract with a government contractor who is a
25 manufacturer, modifier, assembler or repairer, to which title passes to
26 the government under the terms of the contract or subcontract. For the
27 purposes of this paragraph:

28 (a) "Overhead materials" means tangible personal property, the
29 gross proceeds of sales or gross income derived from which would otherwise
30 be included in the retail classification, that is used or consumed in the
31 performance of a contract, the cost of which is charged to an overhead
32 expense account and allocated to various contracts based on generally
33 accepted accounting principles and consistent with government contract
34 accounting standards.

35 (b) "Subcontract" means an agreement between a contractor and any
36 person who is not an employee of the contractor for furnishing of supplies
37 or services that, in whole or in part, are necessary to the performance of
38 one or more government contracts, or under which any portion of the
39 contractor's obligation under one or more government contracts is
40 performed, undertaken or assumed, and that includes provisions causing
41 title to overhead materials or other tangible personal property used in
42 the performance of the subcontract to pass to the government or that
43 includes provisions incorporating such title passing clauses in a
44 government contract into the subcontract.

40. Through December 31, 1994, tangible personal property sold pursuant to a personal property liquidation transaction, as defined in section 42-5061. From and after December 31, 1994, tangible personal property sold pursuant to a personal property liquidation transaction, as defined in section 42-5061, if the gross proceeds of the sales were included in the measure of the tax imposed by article 1 of this chapter or if the personal property liquidation was a casual activity or transaction.

41. Wireless telecommunications equipment that is held for sale or transfer to a customer as an inducement to enter into or continue a contract for telecommunications services that are taxable under section 42-5064.

42. Alternative fuel, as defined in section 1-215, purchased by a used oil fuel burner who has received a permit to burn used oil or used oil fuel under section 49-426 or 49-480.

43. Tangible personal property purchased by a commercial airline and consisting of food, beverages and condiments and accessories used for serving the food and beverages, if those items are to be provided without additional charge to passengers for consumption in flight. For the purposes of this paragraph, "commercial airline" means a person holding a federal certificate of public convenience and necessity or foreign air carrier permit for air transportation to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

44. Alternative fuel vehicles if the vehicle was manufactured as a diesel fuel vehicle and converted to operate on alternative fuel and equipment that is installed in a conventional diesel fuel motor vehicle to convert the vehicle to operate on an alternative fuel, as defined in section 1-215.

45. Gas diverted from a pipeline, by a person engaged in the business of:

(a) Operating a natural or artificial gas pipeline, and used or consumed for the sole purpose of fueling compressor equipment that pressurizes the pipeline.

(b) Converting natural gas into liquefied natural gas, and used or consumed for the sole purpose of fueling compressor equipment used in the conversion process.

46. Tangible personal property that is excluded, exempt or deductible from transaction privilege tax pursuant to section 42-5063.

47. Tangible personal property purchased to be incorporated or installed as part of environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.

48. Tangible personal property sold by a nonprofit organization that is exempt from taxation under section 501(c)(6) of the internal revenue code if the organization produces, organizes or promotes cultural or civic related festivals or events and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

49. Prepared food, drink or condiment donated by a restaurant as classified in section 42-5074, subsection A to a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that regularly serves meals to the needy and indigent on a continuing basis at no cost.

50. Application services that are designed to assess or test student learning or to promote curriculum design or enhancement purchased by or for any school district, charter school, community college or state university. For the purposes of this paragraph:

(a) "Application services" means software applications provided remotely using hypertext transfer protocol or another network protocol.

(b) "Curriculum design or enhancement" means planning, implementing or reporting on courses of study, lessons, assignments or other learning activities.

51. Motor vehicle fuel and use fuel to a qualified business under section 41-1516 for off-road use in harvesting, processing or transporting qualifying forest products removed from qualifying projects as defined in section 41-1516.

52. Repair parts installed in equipment used directly by a qualified business under section 41-1516 in harvesting, processing or transporting qualifying forest products removed from qualifying projects as defined in section 41-1516.

53. Renewable energy credits or any other unit created to track energy derived from renewable energy resources. For the purposes of this paragraph, "renewable energy credit" means a unit created administratively by the corporation commission or governing body of a public power entity to track kilowatt hours of electricity derived from a renewable energy resource or the kilowatt hour equivalent of conventional energy resources displaced by distributed renewable energy resources.

54. Computer data center equipment sold to the owner, operator or qualified colocation tenant of a computer data center that is certified by the Arizona commerce authority under section 41-1519 or an authorized agent of the owner, operator or qualified colocation tenant during the qualification period for use in the qualified computer data center. For the purposes of this paragraph, "computer data center", "computer data center equipment", "qualification period" and "qualified colocation tenant" have the same meanings prescribed in section 41-1519.

55. Coal acquired from an owner or operator of a power plant by a person who is responsible for refining coal if both of the following apply:

(a) The transfer of title or possession of the coal is for the purpose of refining the coal.

(b) The title or possession of the coal is transferred back to the owner or operator of the power plant after completion of the coal refining process. For the purposes of this subdivision, "coal refining process"

means the application of a coal additive system that aids the reduction of power plant emissions during the combustion of coal and the treatment of flue gas.

56. Tangible personal property incorporated or fabricated into a project described in section 42-5075, subsection 0, that is located within the exterior boundaries of an Indian reservation for which the owner, as defined in section 42-5075, of the project is an Indian tribe or an affiliated Indian. For the purposes of this paragraph:

(a) "Affiliated Indian" means an individual native American Indian who is duly registered on the tribal rolls of the Indian tribe for whose benefit the Indian reservation was established.

(b) "Indian reservation" means all lands that are within the limits of areas set aside by the United States for the exclusive use and occupancy of an Indian tribe by treaty, law or executive order and that are recognized as Indian reservations by the United States department of the interior.

(c) "Indian tribe" means any organized nation, tribe, band or community that is recognized as an Indian tribe by the United States department of the interior and includes any entity formed under the laws of the Indian tribe.

57. Cash equivalents, precious metal bullion and monetized bullion purchased by the ultimate consumer, but coins or other forms of money for manufacture into jewelry or works of art are subject to tax, and tangible personal property that is purchased through the redemption of any cash equivalent by the holder as a means of payment for goods that are subject to tax under this article is subject to tax. For the purposes of this paragraph:

(a) "Cash equivalents" means items, whether or not negotiable, that are sold to one or more persons, through which a value denominated in money is purchased in advance and that may be redeemed in full or in part for tangible personal property, intangibles or services. Cash equivalents include gift cards, stored value cards, gift certificates, vouchers, traveler's checks, money orders or other tangible instruments or orders. Cash equivalents do not include either of the following:

(i) Items that are sold to one or more persons and through which a value is not denominated in money.

(ii) Prepaid calling cards for telecommunications services.

(b) "Monetized bullion" means coins and other forms of money that are manufactured from gold, silver or other metals and that have been or are used as a medium of exchange in this or another state, the United States or a foreign nation.

(c) "Precious metal bullion" means precious metal, including gold, silver, platinum, rhodium and palladium, that has been smelted or refined so that its value depends on its contents and not on its form.

B. In addition to the exemptions allowed by subsection A of this section, the following categories of tangible personal property are also exempt:

1. Machinery, or equipment, used directly in manufacturing, processing, fabricating, job printing, refining or metallurgical operations. The terms "manufacturing", "processing", "fabricating", "job printing", "refining" and "metallurgical" as used in this paragraph refer to and include those operations commonly understood within their ordinary meaning. "Metallurgical operations" includes leaching, milling, precipitating, smelting and refining.

2. Machinery, or equipment, used directly in the process of extracting ores or minerals from the earth for commercial purposes, including equipment required to prepare the materials for extraction and handling, loading or transporting such extracted material to the surface. "Mining" includes underground, surface and open pit operations for extracting ores and minerals.

3. Tangible personal property sold to persons engaged in business classified under the telecommunications classification under section 42-5064, including a person representing or working on behalf of such a person in a manner described in section 42-5075, subsection 0, and consisting of central office switching equipment, switchboards, private branch exchange equipment, microwave radio equipment and carrier equipment including optical fiber, coaxial cable and other transmission media that are components of carrier systems.

4. Machinery, equipment or transmission lines used directly in producing or transmitting electrical power, but not including distribution. Transformers and control equipment used at transmission substation sites constitute equipment used in producing or transmitting electrical power.

5. Neat animals, horses, asses, sheep, ratites, swine or goats used or to be used as breeding or production stock, including sales of breedings or ownership shares in such animals used for breeding or production.

6. Pipes or valves four inches in diameter or larger used to transport oil, natural gas, artificial gas, water or coal slurry, including compressor units, regulators, machinery and equipment, fittings, seals and any other part that is used in operating the pipes or valves.

7. Aircraft, navigational and communication instruments and other accessories and related equipment sold to:

(a) A person:

(i) Holding, or exempted by federal law from obtaining, a federal certificate of public convenience and necessity for use as, in conjunction with or becoming part of an aircraft to be used to transport persons for hire in intrastate, interstate or foreign commerce.

(ii) That is certificated or licensed under federal aviation administration regulations (14 Code of Federal Regulations part 121 or 135) as a scheduled or unscheduled carrier of persons for hire for use as or in conjunction with or becoming part of an aircraft to be used to transport persons for hire in intrastate, interstate or foreign commerce.

(iii) Holding a foreign air carrier permit for air transportation for use as or in conjunction with or becoming a part of aircraft to be used to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

(iv) Operating an aircraft to transport persons in any manner for compensation or hire, or for use in a fractional ownership program that meets the requirements of federal aviation administration regulations (14 Code of Federal Regulations part 91, subpart K), including as an air carrier, a foreign air carrier or a commercial operator or under a restricted category, within the meaning of 14 Code of Federal Regulations, regardless of whether the operation or aircraft is regulated or certified under part 91, 119, 121, 133, 135, 136 or 137, or another part of 14 Code of Federal Regulations.

(v) That will lease or otherwise transfer operational control, within the meaning of federal aviation administration operations specification A008, or its successor, of the aircraft, instruments or accessories to one or more persons described in item (i), (ii), (iii) or (iv) of this subdivision, subject to section 42-5009, subsection ~~Q~~ P.

(b) Any foreign government.

(c) Persons who are not residents of this state and who will not use such property in this state other than in removing such property from this state. This subdivision also applies to corporations that are not incorporated in this state, regardless of maintaining a place of business in this state, if the principal corporate office is located outside this state and the property will not be used in this state other than in removing the property from this state.

8. Machinery, tools, equipment and related supplies used or consumed directly in repairing, remodeling or maintaining aircraft, aircraft engines or aircraft component parts by or on behalf of a certificated or licensed carrier of persons or property.

9. Rolling stock, rails, ties and signal control equipment used directly to transport persons or property.

10. Machinery or equipment used directly to drill for oil or gas or used directly in the process of extracting oil or gas from the earth for commercial purposes.

11. Buses or other urban mass transit vehicles that are used directly to transport persons or property for hire or pursuant to a governmentally adopted and controlled urban mass transportation program and that are sold to bus companies holding a federal certificate of convenience and necessity or operated by any city, town or other

1 governmental entity or by any person contracting with such governmental
2 entity as part of a governmentally adopted and controlled program to
3 provide urban mass transportation.

4 12. Groundwater measuring devices required under section 45-604.

5 13. New machinery and equipment consisting of agricultural
6 aircraft, tractors, tractor-drawn implements, self-powered implements,
7 machinery and equipment necessary for extracting milk, and machinery and
8 equipment necessary for cooling milk and livestock, and drip irrigation
9 lines not already exempt under paragraph 6 of this subsection and that are
10 used for commercial production of agricultural, horticultural,
11 viticultural and floricultural crops and products in this state. For the
12 purposes of this paragraph:

13 (a) "New machinery and equipment" means machinery or equipment that
14 has never been sold at retail except pursuant to leases or rentals that do
15 not total two years or more.

16 (b) "Self-powered implements" includes machinery and equipment that
17 are electric-powered.

18 14. Machinery or equipment used in research and development. For
19 the purposes of this paragraph, "research and development" means basic and
20 applied research in the sciences and engineering, and designing,
21 developing or testing prototypes, processes or new products, including
22 research and development of computer software that is embedded in or an
23 integral part of the prototype or new product or that is required for
24 machinery or equipment otherwise exempt under this section to function
25 effectively. Research and development do not include manufacturing
26 quality control, routine consumer product testing, market research, sales
27 promotion, sales service, research in social sciences or psychology,
28 computer software research that is not included in the definition of
29 research and development, or other nontechnological activities or
30 technical services.

31 15. Tangible personal property that is used by either of the
32 following to receive, store, convert, produce, generate, decode, encode,
33 control or transmit telecommunications information:

34 (a) Any direct broadcast satellite television or data transmission
35 service that operates pursuant to 47 Code of Federal Regulations part 25.

36 (b) Any satellite television or data transmission facility, if both
37 of the following conditions are met:

38 (i) Over two-thirds of the transmissions, measured in megabytes,
39 transmitted by the facility during the test period were transmitted to or
40 on behalf of one or more direct broadcast satellite television or data
41 transmission services that operate pursuant to 47 Code of Federal
42 Regulations part 25.

(ii) Over two-thirds of the transmissions, measured in megabytes, transmitted by or on behalf of those direct broadcast television or data transmission services during the test period were transmitted by the facility to or on behalf of those services.

For the purposes of subdivision (b) of this paragraph, "test period" means the three hundred sixty-five day period beginning on the later of the date on which the tangible personal property is purchased or the date on which the direct broadcast satellite television or data transmission service first transmits information to its customers.

16. Clean rooms that are used for manufacturing, processing, fabrication or research and development, as defined in paragraph 14 of this subsection, of semiconductor products. For the purposes of this paragraph, "clean room" means all property that comprises or creates an environment where humidity, temperature, particulate matter and contamination are precisely controlled within specified parameters, without regard to whether the property is actually contained within that environment or whether any of the property is affixed to or incorporated into real property. Clean room:

(a) Includes the integrated systems, fixtures, piping, movable partitions, lighting and all property that is necessary or adapted to reduce contamination or to control airflow, temperature, humidity, chemical purity or other environmental conditions or manufacturing tolerances, as well as the production machinery and equipment operating in conjunction with the clean room environment.

(b) Does not include the building or other permanent, nonremovable component of the building that houses the clean room environment.

17. Machinery and equipment that are used directly in the feeding of poultry, the environmental control of housing for poultry, the movement of eggs within a production and packaging facility or the sorting or cooling of eggs. This exemption does not apply to vehicles used for transporting eggs.

18. Machinery or equipment, including related structural components, that is employed in connection with manufacturing, processing, fabricating, job printing, refining, mining, natural gas pipelines, metallurgical operations, telecommunications, producing or transmitting electricity or research and development and that is used directly to meet or exceed rules or regulations adopted by the federal energy regulatory commission, the United States environmental protection agency, the United States nuclear regulatory commission, the Arizona department of environmental quality or a political subdivision of this state to prevent, monitor, control or reduce land, water or air pollution.

19. Machinery and equipment that are used in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state, including production by a person representing or working on behalf

1 of such a person in a manner described in section 42-5075, subsection 0,
2 if the machinery and equipment are used directly and primarily to prevent,
3 monitor, control or reduce air, water or land pollution.

4 20. Machinery or equipment that enables a television station to
5 originate and broadcast or to receive and broadcast digital television
6 signals and that was purchased to facilitate compliance with the
7 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United
8 States Code section 336) and the federal communications commission order
9 issued April 21, 1997 (47 Code of Federal Regulations part 73). This
10 paragraph does not exempt any of the following:

11 (a) Repair or replacement parts purchased for the machinery or
12 equipment described in this paragraph.

13 (b) Machinery or equipment purchased to replace machinery or
14 equipment for which an exemption was previously claimed and taken under
15 this paragraph.

16 (c) Any machinery or equipment purchased after the television
17 station has ceased analog broadcasting, or purchased after November 1,
18 2009, whichever occurs first.

19 21. Qualifying equipment that is purchased from and after June 30,
20 2004 through June 30, 2024 by a qualified business under section 41-1516
21 for harvesting or processing qualifying forest products removed from
22 qualifying projects as defined in section 41-1516. To qualify for this
23 exemption, the qualified business must obtain and present its
24 certification from the Arizona commerce authority at the time of purchase.

25 22. Machinery, equipment, materials and other tangible personal
26 property used directly and predominantly to construct a qualified
27 environmental technology manufacturing, producing or processing facility
28 as described in section 41-1514.02. This paragraph applies for ten full
29 consecutive calendar or fiscal years after the start of initial
30 construction.

31 C. The exemptions provided by subsection B of this section do not
32 include:

33 1. Expendable materials. For the purposes of this paragraph,
34 expendable materials do not include any of the categories of tangible
35 personal property specified in subsection B of this section regardless of
36 the cost or useful life of that property.

37 2. Janitorial equipment and hand tools.

38 3. Office equipment, furniture and supplies.

39 4. Tangible personal property used in selling or distributing
40 activities, other than the telecommunications transmissions described in
41 subsection B, paragraph 15 of this section.

42 5. Motor vehicles required to be licensed by this state, except
43 buses or other urban mass transit vehicles specifically exempted pursuant
44 to subsection B, paragraph 11 of this section, without regard to the use
45 of such motor vehicles.

1 6. Shops, buildings, docks, depots and all other materials of
2 whatever kind or character not specifically included as exempt.

3 7. Motors and pumps used in drip irrigation systems.

4 8. Machinery and equipment or tangible personal property used by a
5 contractor in the performance of a contract.

6 D. The following shall be deducted in computing the purchase price
7 of electricity by a retail electric customer from a utility business:

8 1. Revenues received from sales of ancillary services, electric
9 distribution services, electric generation services, electric transmission
10 services and other services related to providing electricity to a retail
11 electric customer who is located outside this state for use outside this
12 state if the electricity is delivered to a point of sale outside this
13 state.

14 2. Revenues received from providing electricity, including
15 ancillary services, electric distribution services, electric generation
16 services, electric transmission services and other services related to
17 providing electricity with respect to which the transaction privilege tax
18 imposed under section 42-5063 has been paid.

19 E. The tax levied by this article does not apply to the purchase of
20 solar energy devices from a retailer that is registered with the
21 department as a solar energy retailer or a solar energy contractor.

22 F. The following shall be deducted in computing the purchase price
23 of electricity by a retail electric customer from a utility business:

24 1. Fees charged by a municipally owned utility to persons
25 constructing residential, commercial or industrial developments or
26 connecting residential, commercial or industrial developments to a
27 municipal utility system or systems if the fees are segregated and used
28 only for capital expansion, system enlargement or debt service of the
29 utility system or systems.

30 2. Reimbursement or contribution compensation to any person or
31 persons owning a utility system for property and equipment installed to
32 provide utility access to, on or across the land of an actual utility
33 consumer if the property and equipment become the property of the utility.
34 This deduction shall not exceed the value of such property and equipment.

35 G. The tax levied by this article does not apply to the purchase
36 price of electricity, natural gas or liquefied petroleum gas by:

37 1. A qualified manufacturing or smelting business. A utility that
38 claims this deduction shall report each month, on a form prescribed by the
39 department, the name and address of each qualified manufacturing or
40 smelting business for which this deduction is taken. This paragraph
41 applies to gas transportation services. For the purposes of this
42 paragraph:

43 (a) "Gas transportation services" means the services of
44 transporting natural gas to a natural gas customer or to a natural gas

1 distribution facility if the natural gas was purchased from a supplier
2 other than the utility.

3 (b) "Manufacturing" means the performance as a business of an
4 integrated series of operations that places tangible personal property in
5 a form, composition or character different from that in which it was
6 acquired and transforms it into a different product with a distinctive
7 name, character or use. Manufacturing does not include job printing,
8 publishing, packaging, mining, generating electricity or operating a
9 restaurant.

10 (c) "Qualified manufacturing or smelting business" means one of the
11 following:

12 (i) A business that manufactures or smelts tangible products in
13 this state, of which at least fifty-one percent of the manufactured or
14 smelted products will be exported out of state for incorporation into
15 another product or sold out of state for a final sale.

16 (ii) A business that derives at least fifty-one percent of its
17 gross income from the sale of manufactured or smelted products
18 manufactured or smelted by the business.

19 (iii) A business that uses at least fifty-one percent of its square
20 footage in this state for manufacturing or smelting and business
21 activities directly related to manufacturing or smelting.

22 (iv) A business that employs at least fifty-one percent of its
23 workforce in this state in manufacturing or smelting and business
24 activities directly related to manufacturing or smelting.

25 (v) A business that uses at least fifty-one percent of the value of
26 its capitalized assets in this state, as reflected on the business's books
27 and records, for manufacturing or smelting and business activities
28 directly related to manufacturing or smelting.

29 (d) "Smelting" means to melt or fuse a metalliferous mineral, often
30 with an accompanying chemical change, usually to separate the metal.

31 2. A business that operates an international operations center in
32 this state and that is certified by the Arizona commerce authority
33 pursuant to section 41-1520.

34 H. A city or town may exempt proceeds from sales of paintings,
35 sculptures or similar works of fine art if such works of fine art are sold
36 by the original artist. For the purposes of this subsection, fine art
37 does not include an art creation such as jewelry, macrame, glasswork,
38 pottery, woodwork, metalwork, furniture or clothing if the art creation
39 has a dual purpose, both aesthetic and utilitarian, whether sold by the
40 artist or by another person.

41 I. For the purposes of subsection B of this section:

42 1. "Agricultural aircraft" means an aircraft that is built for
43 agricultural use for the aerial application of pesticides or fertilizer or
44 for aerial seeding.

45 2. "Aircraft" includes:

(a) An airplane flight simulator that is approved by the federal aviation administration for use as a phase II or higher flight simulator under appendix H, 14 Code of Federal Regulations part 121.

(b) Tangible personal property that is permanently affixed or attached as a component part of an aircraft that is owned or operated by a certificated or licensed carrier of persons or property.

3. "Other accessories and related equipment" includes aircraft accessories and equipment such as ground service equipment that physically contact aircraft at some point during the overall carrier operation.

J. For the purposes of subsection D of this section, "ancillary services", "electric distribution service", "electric generation service", "electric transmission service" and "other services" have the same meanings prescribed in section 42-5063.

Sec. 13. Repeal

Sections 42-6009 and 42-6013, Arizona Revised Statutes, are repealed.

Sec. 14. Section 42-6102, Arizona Revised Statutes, is amended to read:

42-6102. Administration: exception

A. Unless the context otherwise requires, chapter 5, article 1 of this title governs the administration of the taxes imposed by this article, except that:

1. A separate license is not required for the taxes imposed by this article, and the taxes due under this article shall be included, reported and paid with the transaction privilege tax.

2. A separate bond is not required of employees of the department in administering this article.

3. The taxes imposed by this article may be included without segregation in any notice and lien filed for unpaid transaction privilege taxes.

B. The taxes imposed pursuant to this article do not apply to the gross proceeds of sales or gross income derived pursuant to contracts entered into before the date of the election to authorize the tax by prime contractors ~~and owner builders~~ who are classified under ~~sections~~ SECTION 42-5075 ~~and 42-5076~~ unless the contract contains a provision ~~which~~ THAT entitles the contractor to recover the amount of the tax from a purchaser. In order to qualify for this exemption the contractor shall provide sufficient documentation, in a manner and form prescribed by the department, to verify that a contract was entered into before the date of the election to authorize the tax.

Sec. 15. Section 42-6108, Arizona Revised Statutes, is amended to read:

42-6108. Tax on hotels

A. The board of supervisors of a county having a population of less than two million five hundred thousand but more than five hundred thousand

persons may levy and, if levied, the department shall collect a tax on the gross proceeds of sales or gross income from the business of every person engaging or continuing in the county in a business taxed under chapter 5 of this title and classified under section 42-5070 ~~or 42-5076~~. The tax shall be levied under this section beginning January 1 or July 1, whichever date first occurs at least three months after the county resolution approving the tax levy. The rate of tax shall not exceed six ~~per cent~~ PERCENT.

B. The tax only applies in unincorporated areas of the county.

C. At the end of each month the state treasurer shall transmit the net revenues collected pursuant to this section to the treasurer of the county levying the tax. The county shall use:

1. Not more than thirty-four percent of these revenues for the purposes set forth in section 48-4204, subsection A, as financial participation by the county as required by that subsection.

2. Not more than sixteen percent of these revenues for the purposes of economic development under section 11-254.04. Any increase in tax imposed under this section shall not constitute a new tax for the purposes of section 11-254.04, subsection B.

3. All remaining revenues to promote and enhance tourism through the recognized tourism promotion agency in the county.

Sec. 16. Section 42-6108.01, Arizona Revised Statutes, is amended to read:

42-6108.01. Tax on hotels

A. The qualified electors residing in a county having a population of less than two million but more than five hundred thousand persons, by majority vote at an election held in the county, may levy and, if levied, the department of revenue shall collect a tax on the gross proceeds of sales or gross income from the business of every person engaging or continuing in a business taxed under chapter 5 of this title and classified under section 42-5070 ~~or 42-5076~~ within the county. A tax under this section:

1. Is in addition to taxes imposed by chapter 5 of this title and section 42-6108 and any tax imposed by a city or town in the county.

2. Applies in both incorporated and unincorporated areas of the county.

B. If levied, the tax shall be levied under this section beginning on the first day of the first month beginning ninety days after the election to levy the tax. The tax shall be in effect for thirty years. The tax may be extended by majority vote of the qualified electors residing in the county at an election held in the county for a period of not more than ten years.

C. The rate of the tax is one ~~per cent~~ PERCENT of the tax base prescribed by section 42-5070 ~~or 42-5076~~.

1 D. Each month the state treasurer shall credit the net revenues
2 collected pursuant to this section to the tourism fund established by
3 section 41-2306.

4 Sec. 17. Section 42-12003, Arizona Revised Statutes, is amended to
5 read:

6 42-12003. Class three property; definition

7 A. For purposes of taxation, class three is established consisting
8 of:

9 1. Real and personal property and improvements to the property that
10 are used as the owner's primary residence, that are not otherwise included
11 in class one, two, four, six, seven or eight and that are valued at full
12 cash value.

13 2. Real and personal property that is occupied by a relative of the
14 owner, as provided by section 42-12053, and used as the relative's primary
15 residence, that is not otherwise included in class one, two, four, six,
16 seven or eight and that is valued at full cash value.

17 ~~3. Real and personal property that is owned and occupied as the~~
18 ~~primary residence of the owner who also uses the property for lease or~~
19 ~~rent to lodgers.~~

20 B. For the purposes of this section, a homesite that is included in
21 class three may include:

22 1. Up to ten acres on a single parcel of real property on which the
23 residential improvement is located.

24 2. More than ten, but not more than forty, acres on a single parcel
25 of real property on which the residential improvement is located if it is
26 zoned exclusively for residential purposes or contains legal restrictions
27 or physical conditions that prevent the division of the parcel.

28 C. For the purposes of this section, "physical conditions" means
29 topography, mountains, washes, rivers, roads or any other configuration
30 that limits the residential usable land area.

31 Sec. 18. Section 42-12004, Arizona Revised Statutes, is amended to
32 read:

33 42-12004. Class four property

34 A. For purposes of taxation, class four is established consisting
35 of:

36 1. Real and personal property and improvements to the property that
37 are used for residential purposes, including residential property that is
38 owned in foreclosure by a financial institution, that is not otherwise
39 included in another classification and that is valued at full cash value.
40 The homesite that is included in class four may include:

41 (a) Up to ten acres on a single parcel of real property on which
42 the residential improvement is located.

(b) More than ten, but not more than forty, acres on a single parcel of real property on which the residential improvement is located if it is zoned exclusively for residential purposes or contains legal restrictions or physical conditions that prevent the division of the parcel. For the purposes of this subdivision, "physical conditions" means topography, mountains, washes, rivers, roads or any other configuration that limits the residential usable land area.

2. Real and personal property and improvements to the property that are used solely as leased or rented property for residential purposes, that are not included in class one, two, three, six, seven or eight and that are valued at full cash value.

3. Child care facilities that are licensed under title 36, chapter 7.1 and that are valued at full cash value.

4. Real and personal property and improvements to property that are used to operate nonprofit residential housing facilities that are structured to house or care for persons with disabilities or who are sixty-two years of age or older and that are valued at full cash value.

5. Real and personal property and improvements that are used to operate licensed residential care institutions or licensed nursing care institutions that provide medical services, nursing services or ~~health~~ ~~related~~ HEALTH-RELATED services and that are structured to house or care for persons with disabilities or who are sixty-two years of age or older and that are valued at full cash value.

6. Real and personal property consisting of ~~no~~ NOT more than eight rooms of residential property that are leased or rented to transient lodgers, together with furnishing ~~no~~ NOT more than a breakfast meal, by the owner who resides on the property and that is valued at full cash value.

7. Real and personal property consisting of residential dwellings that are maintained for occupancy by agricultural employees as a condition of employment or as a convenience to the employer, that is not included in class three and that is valued at full cash value. The land associated with these dwellings shall be valued as agricultural land pursuant to chapter 13, article 3 of this title.

8. Real property and improvements to property constituting common areas that are valued pursuant to chapter 13, article 9 of this title.

9. Real and personal property that is defined as timeshare property by section 32-2197 and valued pursuant to chapter 13, article 10 of this title, except for any property used for commercial, industrial or transient occupancy purposes and included in class one to the extent of that use.

~~10. Real and personal property and improvements that are used for residential purposes, that are leased or rented to lodgers, except for:~~

~~(a) Property occupied by the owner of the property as the owner's primary residence and included in class three.~~

1 ~~(b) Property used for commercial purposes and included in class~~
2 ~~one.~~

3 B. Subsection A, paragraphs 4 and 5 of this section ~~shall not be~~
4 ~~construed to~~ DO NOT limit eligibility for exemption from taxation under
5 chapter 11, article 3 of this title.

6 Sec. 19. Repeal

7 Laws 2016, chapter 208, sections 14, 15 and 16 are repealed.

8 Sec. 20. Conditional enactment

9 Section 42-5061, Arizona Revised Statutes, as amended by Laws 2019,
10 chapter 273, section 8, chapter 288, section 2 and this act, becomes
11 effective on the date prescribed by Laws 2018, chapter 263, section 5 but
12 only on the occurrence of the condition prescribed by Laws 2018, chapter
13 263, section 5.

REFERENCE TITLE: municipalities; counties; law enforcement budgets

State of Arizona
House of Representatives
Fifty-fifth Legislature
First Regular Session
2021

HB 2310

Introduced by
Representatives Roberts: Barton, Biasiucci, Blackman, Bolick, Bowers,
Burges, Carroll, Chaplik, Cobb, Dunn, Fillmore, Finchem, Grantham,
Griffin, Hoffman, Kaiser, Kavanagh, Nguyen, Nutt, Osborne, Parker, Payne,
Pingerelli, Toma, Wilmeth

AN ACT

AMENDING TITLE 41, CHAPTER 1, ARTICLE 5, ARIZONA REVISED STATUTES, BY
ADDING SECTION 41-194.02; AMENDING SECTIONS 42-5029 AND 43-206, ARIZONA
REVISED STATUTES; RELATING TO THE ATTORNEY GENERAL.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 41, chapter 1, article 5, Arizona Revised
3 Statutes, is amended by adding section 41-194.02, to read:

4 41-194.02. Law enforcement agency budgets; attorney general
5 investigation; report; withholding of state
6 shared revenues; applicability; definition

7 A. AT THE REQUEST OF ONE OR MORE MEMBERS OF THE LEGISLATURE, THE
8 ATTORNEY GENERAL SHALL INVESTIGATE ANY ORDER OR OTHER OFFICIAL ACTION
9 ADOPTED OR TAKEN BY THE GOVERNING BODY OF A COUNTY, CITY OR TOWN THAT
10 REDUCES A LAW ENFORCEMENT AGENCY'S BUDGET BY AT LEAST TEN PERCENT BELOW
11 THE PREVIOUS YEAR'S BUDGET.

12 B. THE ATTORNEY GENERAL SHALL MAKE A WRITTEN REPORT OF FINDINGS AND
13 CONCLUSIONS AS A RESULT OF THE INVESTIGATION WITHIN THIRTY DAYS AFTER
14 RECEIPT OF THE REQUEST AND SHALL PROVIDE A COPY OF THE REPORT TO THE
15 GOVERNOR, THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE OF
16 REPRESENTATIVES AND THE MEMBER OR MEMBERS OF THE LEGISLATURE MAKING THE
17 ORIGINAL REQUEST. IF THE ATTORNEY GENERAL CONCLUDES THAT THE ORDER OR
18 OTHER ACTION UNDER INVESTIGATION HAS RESULTED IN A REDUCTION TO THE LAW
19 ENFORCEMENT AGENCY'S BUDGET OF AT LEAST TEN PERCENT BELOW THE PREVIOUS
20 YEAR'S BUDGET, THE ATTORNEY GENERAL SHALL PROVIDE NOTICE TO THE COUNTY,
21 CITY OR TOWN, BY CERTIFIED MAIL, OF THE ATTORNEY GENERAL'S CONCLUSION AND
22 SHALL INDICATE THAT THE COUNTY, CITY OR TOWN HAS THIRTY DAYS TO RESTORE
23 THE BUDGET REDUCTION. IF THE ATTORNEY GENERAL DETERMINES THAT THE COUNTY,
24 CITY OR TOWN HAS FAILED TO RESTORE THE BUDGET REDUCTION WITHIN THIRTY
25 DAYS, THE ATTORNEY GENERAL SHALL:

26 1. NOTIFY THE STATE TREASURER WHO SHALL WITHHOLD AND REDISTRIBUTE
27 STATE SHARED MONIES IN AN AMOUNT EQUAL TO THE REDUCTION OF THE LAW
28 ENFORCEMENT AGENCY'S BUDGET FROM THE COUNTY, CITY OR TOWN AS PROVIDED BY
29 SECTION 42-5029, SUBSECTION M AND FROM THE CITY OR TOWN AS PROVIDED BY
30 SECTION 43-206, SUBSECTION G.

31 2. CONTINUE TO MONITOR THE RESPONSE OF THE GOVERNING BODY, AND WHEN
32 THE REDUCTION TO THE LAW ENFORCEMENT AGENCY'S BUDGET HAS BEEN RESTORED,
33 THE ATTORNEY GENERAL SHALL NOTIFY:

34 (a) THE GOVERNOR, THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE
35 HOUSE OF REPRESENTATIVES AND THE MEMBER OR MEMBERS OF THE LEGISLATURE
36 MAKING THE ORIGINAL REQUEST THAT REDUCTION TO THE LAW ENFORCEMENT AGENCY'S
37 BUDGET HAS BEEN RESTORED.

38 (b) THE STATE TREASURER TO RESTORE THE DISTRIBUTION OF STATE SHARED
39 REVENUES TO THE COUNTY, CITY OR TOWN.

40 C. THIS SECTION DOES NOT APPLY IF A COUNTY, CITY OR TOWN HAS
41 REDUCED THE COUNTY'S, CITY'S OR TOWN'S OVERALL BUDGET BY AT LEAST TEN
42 PERCENT BELOW THE PREVIOUS YEAR'S BUDGET.

43 D. FOR THE PURPOSE OF THIS SECTION, "LAW ENFORCEMENT AGENCY" MEANS
44 A COUNTY SHERIFF'S DEPARTMENT OR MUNICIPAL POLICE DEPARTMENT.

1 Sec. 2. Section 42-5029, Arizona Revised Statutes, is amended to
2 read:

3 42-5029. Remission and distribution of monies; withholding;
4 definitions

5 A. The department shall deposit, pursuant to sections 35-146 and
6 35-147, all revenues collected under this article and articles 4, 5 and 8
7 of this chapter pursuant to section 42-1116, separately accounting for:

8 1. Payments of estimated tax under section 42-5014, subsection D.

9 2. Revenues collected pursuant to section 42-5070.

10 3. Revenues collected under this article and article 5 of this
11 chapter from and after June 30, 2000 from sources located on Indian
12 reservations in this state.

13 4. Revenues collected pursuant to section 42-5010, subsection G and
14 section 42-5155, subsection D.

15 5. Revenues collected pursuant to section 42-5010.01 and section
16 42-5155, subsection E.

17 B. The department shall credit payments of estimated tax to an
18 estimated tax clearing account and each month shall transfer all monies in
19 the estimated tax clearing account to a fund designated as the transaction
20 privilege and severance tax clearing account. The department shall credit
21 all other payments to the transaction privilege and severance tax clearing
22 account, separately accounting for the monies designated as distribution
23 base under sections 42-5010, 42-5164 and 42-5205. Each month the
24 department shall report to the state treasurer the amount of monies
25 collected pursuant to this article and articles 4, 5 and 8 of this
26 chapter.

27 C. On notification by the department, the state treasurer shall
28 distribute the monies deposited in the transaction privilege and severance
29 tax clearing account in the manner prescribed by this section and by
30 sections 42-5164 and 42-5205, after deducting warrants drawn against the
31 account pursuant to sections 42-1118 and 42-1254.

32 D. Of the monies designated as distribution base, and subject to
33 the requirements of section 42-5041, the department shall:

34 1. Pay twenty-five percent to the various incorporated
35 municipalities in this state in proportion to their population to be used
36 by the municipalities for any municipal purpose.

37 2. Pay 38.08 percent to the counties in this state by averaging the
38 following proportions:

39 (a) The proportion that the population of each county bears to the
40 total state population.

41 (b) The proportion that the distribution base monies collected
42 during the calendar month in each county under this article, section
43 42-5164, subsection B and section 42-5205, subsection B bear to the total
44 distribution base monies collected under this article, section 42-5164,

1 subsection B and section 42-5205, subsection B throughout the state for
2 the calendar month.

3 3. Pay an additional 2.43 percent to the counties in this state as
4 follows:

5 (a) Average the following proportions:

6 (i) The proportion that the assessed valuation used to determine
7 secondary property taxes of each county, after deducting that part of the
8 assessed valuation that is exempt from taxation at the beginning of the
9 month for which the amount is to be paid, bears to the total assessed
10 valuations used to determine secondary property taxes of all the counties
11 after deducting that portion of the assessed valuations that is exempt
12 from taxation at the beginning of the month for which the amount is to be
13 paid. Property of a city or town that is not within or contiguous to the
14 municipal corporate boundaries and from which water is or may be withdrawn
15 or diverted and transported for use on other property is considered to be
16 taxable property in the county for purposes of determining assessed
17 valuation in the county under this item.

18 (ii) The proportion that the distribution base monies collected
19 during the calendar month in each county under this article, section
20 42-5164, subsection B and section 42-5205, subsection B bear to the total
21 distribution base monies collected under this article, section 42-5164,
22 subsection B and section 42-5205, subsection B throughout the state for
23 the calendar month.

24 (b) If the proportion computed under subdivision (a) of this
25 paragraph for any county is greater than the proportion computed under
26 paragraph 2 of this subsection, the department shall compute the
27 difference between the amount distributed to that county under paragraph 2
28 of this subsection and the amount that would have been distributed under
29 paragraph 2 of this subsection using the proportion computed under
30 subdivision (a) of this paragraph and shall pay that difference to the
31 county from the amount available for distribution under this paragraph.
32 Any monies remaining after all payments under this subdivision shall be
33 distributed among the counties according to the proportions computed under
34 paragraph 2 of this subsection.

35 4. After any distributions required by sections 42-5030,
36 42-5030.01, 42-5031, 42-5032, 42-5032.01 and 42-5032.02, and after making
37 any transfer to the water quality assurance revolving fund as required by
38 section 49-282, subsection B, credit the remainder of the monies
39 designated as distribution base to the state general fund. From this
40 amount the legislature shall annually appropriate to:

41 (a) The department of revenue sufficient monies to administer and
42 enforce this article and articles 5 and 8 of this chapter.

43 (b) The department of economic security monies to be used for the
44 purposes stated in title 46, chapter 1.

(c) The firearms safety and ranges fund established by section 17-273, fifty thousand dollars derived from the taxes collected from the retail classification pursuant to section 42-5061 for the current fiscal year.

E. If approved by the qualified electors voting at a statewide general election, all monies collected pursuant to section 42-5010, subsection G and section 42-5155, subsection D shall be distributed each fiscal year pursuant to this subsection. The monies distributed pursuant to this subsection are in addition to any other appropriation, transfer or other allocation of public or private monies from any other source and shall not supplant, replace or cause a reduction in other school district, charter school, university or community college funding sources. The monies shall be distributed as follows:

1. If there are outstanding state school facilities revenue bonds pursuant to title 15, chapter 16, article 7, each month one-twelfth of the amount that is necessary to pay the fiscal year's debt service on outstanding state school improvement revenue bonds for the current fiscal year shall be transferred each month to the school improvement revenue bond debt service fund established by section 15-2084. The total amount of bonds for which these monies may be allocated for the payment of debt service shall not exceed a principal amount of eight hundred million dollars exclusive of refunding bonds and other refinancing obligations.

2. After any transfer of monies pursuant to paragraph 1 of this subsection, twelve per cent of the remaining monies collected during the preceding month shall be transferred to the technology and research initiative fund established by section 15-1648 to be distributed among the universities for the purpose of investment in technology and research-based initiatives.

3. After the transfer of monies pursuant to paragraph 1 of this subsection, three per cent of the remaining monies collected during the preceding month shall be transferred to the workforce development account established in each community college district pursuant to section 15-1472 for the purpose of investment in workforce development programs.

4. After transferring monies pursuant to paragraphs 1, 2 and 3 of this subsection, one-twelfth of the amount a community college that is owned, operated or chartered by a qualifying Indian tribe on its own Indian reservation would receive pursuant to section 15-1472, subsection D, paragraph 2 if it were a community college district shall be distributed each month to the treasurer or other designated depository of a qualifying Indian tribe. Monies distributed pursuant to this paragraph are for the exclusive purpose of providing support to one or more community colleges owned, operated or chartered by a qualifying Indian tribe and shall be used in a manner consistent with section 15-1472, subsection B. For the purposes of this paragraph, "qualifying Indian

1 tribe" has the same meaning as defined in section 42-5031.01,
2 subsection D.

3 5. After transferring monies pursuant to paragraphs 1, 2 and 3 of
4 this subsection, one-twelfth of the following amounts shall be transferred
5 each month to the department of education for the increased cost of basic
6 state aid under section 15-971 due to added school days and associated
7 teacher salary increases enacted in 2000:

8 (a) In fiscal year 2001-2002, \$15,305,900.

9 (b) In fiscal year 2002-2003, \$31,530,100.

10 (c) In fiscal year 2003-2004, \$48,727,700.

11 (d) In fiscal year 2004-2005, \$66,957,200.

12 (e) In fiscal year 2005-2006 and each fiscal year thereafter,
13 \$86,280,500.

14 6. After transferring monies pursuant to paragraphs 1, 2 and 3 of
15 this subsection, seven million eight hundred thousand dollars is
16 appropriated each fiscal year, to be paid in monthly installments, to the
17 department of education to be used for school safety as provided in
18 section 15-154 and two hundred thousand dollars is appropriated each
19 fiscal year, to be paid in monthly installments to the department of
20 education to be used for the character education matching grant program as
21 provided in section 15-154.01.

22 7. After transferring monies pursuant to paragraphs 1, 2 and 3 of
23 this subsection, no more than seven million dollars may be appropriated by
24 the legislature each fiscal year to the department of education to be used
25 for accountability purposes as described in section 15-241 and title 15,
26 chapter 9, article 8.

27 8. After transferring monies pursuant to paragraphs 1, 2 and 3 of
28 this subsection, one million five hundred thousand dollars is appropriated
29 each fiscal year, to be paid in monthly installments, to the failing
30 schools tutoring fund established by section 15-241.

31 9. After transferring monies pursuant to paragraphs 1, 2 and 3 of
32 this subsection, twenty-five million dollars shall be transferred each
33 fiscal year to the state general fund to reimburse the general fund for
34 the cost of the income tax credit allowed by section 43-1072.01.

35 10. After the payment of monies pursuant to paragraphs 1 through 9
36 of this subsection, the remaining monies collected during the preceding
37 month shall be transferred to the classroom site fund established by
38 section 15-977. The monies shall be allocated as follows in the manner
39 prescribed by section 15-977:

40 (a) Forty per cent shall be allocated for teacher compensation
41 based on performance.

42 (b) Twenty per cent shall be allocated for increases in teacher
43 base compensation and employee related expenses.

44 (c) Forty per cent shall be allocated for maintenance and operation
45 purposes.

1 F. The department shall credit the remainder of the monies in the
2 transaction privilege and severance tax clearing account to the state
3 general fund, subject to any distribution required by section 42-5030.01.

4 G. Notwithstanding subsection D of this section, if a court of
5 competent jurisdiction finally determines that tax monies distributed
6 under this section were illegally collected under this article or articles
7 5 and 8 of this chapter and orders the monies to be refunded to the
8 taxpayer, the department shall compute the amount of such monies that was
9 distributed to each city, town and county under this section. Each
10 city's, town's and county's proportionate share of the costs shall be
11 based on the amount of the original tax payment each municipality and
12 county received. Each month the state treasurer shall reduce the amount
13 otherwise distributable to the city, town and county under this section by
14 one thirty-sixth of the total amount to be recovered from the city, town
15 or county until the total amount has been recovered, but the monthly
16 reduction for any city, town or county shall not exceed ten percent of the
17 full monthly distribution to that entity. The reduction shall begin for
18 the first calendar month after the final disposition of the case and shall
19 continue until the total amount, including interest and costs, has been
20 recovered.

21 H. On receiving a certificate of default from the greater Arizona
22 development authority pursuant to section 41-2257 or 41-2258 and to the
23 extent not otherwise expressly prohibited by law, the state treasurer
24 shall withhold from the next succeeding distribution of monies pursuant to
25 this section due to the defaulting political subdivision the amount
26 specified in the certificate of default and immediately deposit the amount
27 withheld in the greater Arizona development authority revolving fund. The
28 state treasurer shall continue to withhold and deposit the monies until
29 the greater Arizona development authority certifies to the state treasurer
30 that the default has been cured. In no event may the state treasurer
31 withhold any amount that the defaulting political subdivision certifies to
32 the state treasurer and the authority as being necessary to make any
33 required deposits then due for the payment of principal and interest on
34 bonds of the political subdivision that were issued before the date of the
35 loan repayment agreement or bonds and that have been secured by a pledge
36 of distributions made pursuant to this section.

37 I. Except as provided by sections 42-5033 and 42-5033.01, the
38 population of a county, city or town as determined by the most recent
39 United States decennial census plus any revisions to the decennial census
40 certified by the United States bureau of the census shall be used as the
41 basis for apportioning monies pursuant to subsection D of this section.

42 J. Except as otherwise provided by this subsection, on notice from
43 the department of revenue pursuant to section 42-6010, subsection B, the
44 state treasurer shall withhold from the distribution of monies pursuant to
45 this section to the affected city or town the amount of the penalty for

1 business location municipal tax incentives provided by the city or town to
2 a business entity that locates a retail business facility in the city or
3 town. The state treasurer shall continue to withhold monies pursuant to
4 this subsection until the entire amount of the penalty has been withheld.
5 The state treasurer shall credit any monies withheld pursuant to this
6 subsection to the state general fund as provided by subsection D,
7 paragraph 4 of this section. The state treasurer shall not withhold any
8 amount that the city or town certifies to the department of revenue and
9 the state treasurer as being necessary to make any required deposits or
10 payments for debt service on bonds or other long-term obligations of the
11 city or town that were issued or incurred before the location incentives
12 provided by the city or town.

13 K. On notice from the auditor general pursuant to section 9-626,
14 subsection D, the state treasurer shall withhold from the distribution of
15 monies pursuant to this section to the affected city the amount computed
16 pursuant to section 9-626, subsection D. The state treasurer shall
17 continue to withhold monies pursuant to this subsection until the entire
18 amount specified in the notice has been withheld. The state treasurer
19 shall credit any monies withheld pursuant to this subsection to the state
20 general fund as provided by subsection D, paragraph 4 of this section.

21 L. Except as otherwise provided by this subsection, on notice from
22 the attorney general pursuant to section 41-194.01, subsection B,
23 paragraph 1 that an ordinance, regulation, order or other official action
24 adopted or taken by the governing body of a county, city or town violates
25 state law or the Constitution of Arizona, the state treasurer shall
26 withhold the distribution of monies pursuant to this section to the
27 affected county, city or town and shall continue to withhold monies
28 pursuant to this subsection until the attorney general certifies to the
29 state treasurer that the violation has been resolved. The state treasurer
30 shall redistribute the monies withheld pursuant to this subsection among
31 all other counties, cities and towns in proportion to their population as
32 provided by subsection D of this section. The state treasurer shall not
33 withhold any amount that the county, city or town certifies to the
34 attorney general and the state treasurer as being necessary to make any
35 required deposits or payments for debt service on bonds or other long-term
36 obligations of the county, city or town that were issued or incurred
37 before committing the violation.

38 M. EXCEPT AS OTHERWISE PROVIDED BY THIS SUBSECTION, ON NOTICE FROM
39 THE ATTORNEY GENERAL PURSUANT TO SECTION 41-194.02, SUBSECTION B,
40 PARAGRAPH 1 THAT AN ORDER OR OTHER OFFICIAL ACTION ADOPTED OR TAKEN BY THE
41 GOVERNING BODY OF A COUNTY, CITY OR TOWN HAS RESULTED IN A REDUCTION TO A
42 LAW ENFORCEMENT AGENCY'S BUDGET OF AT LEAST TEN PERCENT BELOW THE PREVIOUS
43 YEAR'S BUDGET, THE STATE TREASURER SHALL WITHHOLD THE DISTRIBUTION OF
44 MONIES PURSUANT TO THIS SECTION TO THE AFFECTED COUNTY, CITY OR TOWN IN AN
45 AMOUNT EQUAL TO THE REDUCTION TO THE LAW ENFORCEMENT AGENCY'S BUDGET AND

SHALL CONTINUE TO WITHHOLD MONIES PURSUANT TO THIS SUBSECTION UNTIL THE ATTORNEY GENERAL CERTIFIES TO THE STATE TREASURER THAT THE REDUCTION HAS BEEN RESTORED. THE STATE TREASURER SHALL REDISTRIBUTE THE MONIES WITHHELD PURSUANT TO THIS SUBSECTION AMONG ALL OTHER COUNTIES, CITIES AND TOWNS IN PROPORTION TO THEIR POPULATION AS PROVIDED BY SUBSECTION D OF THIS SECTION. THE STATE TREASURER SHALL NOT WITHHOLD ANY AMOUNT THAT THE COUNTY, CITY OR TOWN CERTIFIES TO THE ATTORNEY GENERAL AND THE STATE TREASURER AS BEING NECESSARY TO MAKE ANY REQUIRED DEPOSITS OR PAYMENTS FOR DEBT SERVICE ON BONDS OR OTHER LONG-TERM OBLIGATIONS OF THE COUNTY, CITY OR TOWN THAT WERE ISSUED OR INCURRED BEFORE REDUCING THE LAW ENFORCEMENT AGENCY'S BUDGET.

~~M.~~ N. For the purposes of this section: ~~;~~

1. "Community college district" means a community college district that is established pursuant to sections 15-1402 and 15-1403 and that is a political subdivision of this state and, unless otherwise specified, includes a community college tuition financing district established pursuant to section 15-1409.

2. "LAW ENFORCEMENT AGENCY" HAS THE SAME MEANING PRESCRIBED IN SECTION 41-194.02.

Sec. 3. Section 43-206, Arizona Revised Statutes, is amended to read:

43-206. Urban revenue sharing fund; allocation; distribution; withholding; definition

A. The urban revenue sharing fund is established. The fund shall consist of an amount equal to fifteen percent of the net proceeds of the state income taxes for the fiscal year two years preceding the current fiscal year. The fund shall be distributed to incorporated cities and towns as provided in this section, except that a city or town shall receive at least an amount equal to what a city or town with a population of fifteen hundred or more persons would receive. The transfer of net proceeds prescribed by section 49-282, subsection B does not affect the calculation of net proceeds prescribed by this subsection.

B. Each city or town shall share in the urban revenue sharing fund in the proportion that the population of each bears to the population of all. Except as provided by sections 42-5033 and 42-5033.01, the population of a city or town as determined by the most recent United States decennial census plus any revisions to the decennial census certified by the United States bureau of the census shall be used as the basis for apportioning monies pursuant to this subsection.

C. The treasurer, on instruction from the department, shall transmit, no later than the tenth day of each month, to each city or town an amount equal to one-twelfth of that city's or town's total entitlement for the current fiscal year from the urban revenue sharing fund as determined by the department.

1 D. A newly incorporated city or town shall share in the urban
2 revenue sharing fund beginning the first month of the first full fiscal
3 year following incorporation.

4 E. On receipt of a certificate of default from the greater Arizona
5 development authority pursuant to section 41-2257 or 41-2258, the state
6 treasurer, to the extent not otherwise expressly prohibited by law, shall
7 withhold from the next succeeding distribution of monies pursuant to this
8 section due to the city or town the amount specified in the certificate of
9 default and immediately deposit the amount withheld in the greater Arizona
10 development authority revolving fund. The state treasurer shall continue
11 to withhold and deposit the monies until the authority certifies to the
12 state treasurer that the default has been cured. In no event shall the
13 state treasurer withhold any amount that is necessary, as certified by the
14 defaulting political subdivision to the state treasurer and the authority,
15 to make any required deposits then due for the payment of principal and
16 interest on bonds of the political subdivision that were issued prior to
17 the date of the loan repayment agreement or bonds and that have been
18 secured by a pledge of distributions made pursuant to this section.

19 F. Except as otherwise provided by this subsection, on notice from
20 the attorney general pursuant to section 41-194.01, subsection B,
21 paragraph 1 that an ordinance, regulation, order or other official action
22 adopted or taken by the governing body of a city or town violates state
23 law or the Constitution of Arizona, the state treasurer shall withhold the
24 distribution of monies pursuant to this section to the affected city or
25 town and shall continue to withhold monies pursuant to this subsection
26 until the attorney general certifies to the state treasurer that the
27 violation has been resolved. The state treasurer shall redistribute the
28 monies withheld pursuant to this subsection among all other cities and
29 towns in proportion to their population as provided by subsection B of
30 this section. The state treasurer shall not withhold any amount that the
31 city or town certifies to the attorney general and the state treasurer as
32 being necessary to make any required deposits or payments for debt service
33 on bonds or other long-term obligations of the city or town that were
34 issued or incurred before committing the violation.

35 G. EXCEPT AS OTHERWISE PROVIDED BY THIS SUBSECTION, ON NOTICE FROM
36 THE ATTORNEY GENERAL PURSUANT TO SECTION 41-194.02, SUBSECTION B,
37 PARAGRAPH 1 THAT AN ORDER OR OTHER OFFICIAL ACTION ADOPTED OR TAKEN BY THE
38 GOVERNING BODY OF A CITY OR TOWN HAS RESULTED IN A REDUCTION TO A LAW
39 ENFORCEMENT AGENCY'S BUDGET OF AT LEAST TEN PERCENT BELOW THE PREVIOUS
40 YEAR'S BUDGET, THE STATE TREASURER SHALL WITHHOLD THE DISTRIBUTION OF
41 MONIES PURSUANT TO THIS SECTION TO THE AFFECTED CITY OR TOWN IN AN AMOUNT
42 EQUAL TO THE REDUCTION TO THE LAW ENFORCEMENT AGENCY'S BUDGET AND SHALL
43 CONTINUE TO WITHHOLD MONIES PURSUANT TO THIS SUBSECTION UNTIL THE ATTORNEY
44 GENERAL CERTIFIES TO THE STATE TREASURER THAT THE REDUCTION HAS BEEN
45 RESTORED. THE STATE TREASURER SHALL REDISTRIBUTE THE MONIES WITHHELD

1 PURSUANT TO THIS SUBSECTION AMONG ALL OTHER CITIES AND TOWNS IN PROPORTION
2 TO THEIR POPULATION AS PROVIDED BY SUBSECTION B OF THIS SECTION. THE
3 STATE TREASURER SHALL NOT WITHHOLD ANY AMOUNT THAT THE CITY OR TOWN
4 CERTIFIES TO THE ATTORNEY GENERAL AND THE STATE TREASURER AS BEING
5 NECESSARY TO MAKE ANY REQUIRED DEPOSITS OR PAYMENTS FOR DEBT SERVICE ON
6 BONDS OR OTHER LONG-TERM OBLIGATIONS OF THE CITY OR TOWN THAT WERE ISSUED
7 OR INCURRED BEFORE REDUCING THE LAW ENFORCEMENT AGENCY'S BUDGET.

8 H. FOR THE PURPOSES OF THIS SECTION, "LAW ENFORCEMENT AGENCY" HAS
9 THE SAME MEANING PRESCRIBED IN SECTION 41-194.02.

REFERENCE TITLE: law enforcement budget; reduction; certification

State of Arizona
House of Representatives
Fifty-fifth Legislature
First Regular Session
2021

HB 2420

Introduced by
Representatives Carroll: Wilmeth

AN ACT

AMENDING TITLE 9, CHAPTER 4, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING SECTION 9-500.48; AMENDING TITLE 11, CHAPTER 2, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 11-269.27; AMENDING SECTIONS 42-5029 AND 43-206, ARIZONA REVISED STATUTES; RELATING TO LAW ENFORCEMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 9, chapter 4, article 8, Arizona Revised Statutes,
3 is amended by adding section 9-500.48, to read:

4 9-500.48. Law enforcement agency budget; reduction;
5 certification; definition

6 A. ON OR BEFORE OCTOBER 15 OF EACH YEAR, A CITY OR TOWN SHALL
7 CERTIFY IN WRITING TO EACH STATE AGENCY THROUGH WHICH THE CITY OR TOWN
8 RECEIVES ANY STATE MONIES THAT THERE HAS BEEN NO DISPROPORTIONATE FUNDING
9 REDUCTIONS TO THE CITY'S OR TOWN'S LAW ENFORCEMENT AGENCY.

10 B. THE CERTIFICATION MUST INCLUDE A STATEMENT THAT ANY REDUCTION IN
11 FUNDING OR PROPOSED FUNDING TO THE LAW ENFORCEMENT AGENCY IS A RESULT OF
12 REDUCED REVENUE COLLECTION AND THE REDUCTION IN LAW ENFORCEMENT AGENCY
13 FUNDING IS PROPORTIONATE TO THE REDUCTION IN REVENUE. A REDUCTION IN LAW
14 ENFORCEMENT AGENCY FUNDING IS CONSIDERED PROPORTIONATE IF THE PORTION OF
15 THE CITY'S OR TOWN'S TOTAL BUDGET ALLOCATED TO THE LAW ENFORCEMENT AGENCY,
16 EXPRESSED AS A PERCENTAGE, REMAINS WITHIN THREE PERCENTAGE POINTS OF THE
17 PERCENTAGE DECREASE IN TOTAL REVENUE FROM THE PREVIOUS FISCAL YEAR.

18 C. A CITY OR TOWN THAT HAS DISPROPORTIONATELY REDUCED ITS LAW
19 ENFORCEMENT AGENCY FUNDING IS NOT ELIGIBLE TO RECEIVE STATE SHARED MONIES
20 PURSUANT TO SECTION 42-5029, SUBSECTION M AND SECTION 43-206,
21 SUBSECTION G. THE STATE TREASURER SHALL CONTINUE TO WITHHOLD STATE SHARED
22 MONIES UNTIL CERTIFICATION FROM THE CITY OR TOWN THAT THE REDUCTION IN THE
23 LAW ENFORCEMENT AGENCY'S BUDGET HAS BEEN RESTORED TO A PROPORTIONATE
24 AMOUNT AS PRESCRIBED BY SUBSECTION B OF THIS SECTION.

25 D. FOR THE PURPOSES OF THIS SECTION, "LAW ENFORCEMENT AGENCY" MEANS
26 A MUNICIPAL POLICE DEPARTMENT.

27 Sec. 2. Title 11, chapter 2, article 4, Arizona Revised Statutes,
28 is amended by adding section 11-269.27, to read:

29 11-269.27. Law enforcement agency budget; reduction;
30 certification; definition

31 A. ON OR BEFORE OCTOBER 15 OF EACH YEAR, A COUNTY SHALL CERTIFY IN
32 WRITING TO EACH STATE AGENCY THROUGH WHICH THE COUNTY RECEIVES ANY STATE
33 MONIES THAT THERE HAS BEEN NO DISPROPORTIONATE FUNDING REDUCTIONS TO THE
34 COUNTY'S LAW ENFORCEMENT AGENCY.

35 B. THE CERTIFICATION MUST INCLUDE A STATEMENT THAT ANY REDUCTION IN
36 FUNDING OR PROPOSED FUNDING IS A RESULT OF REDUCED REVENUE COLLECTION AND
37 THE REDUCTION IN LAW ENFORCEMENT AGENCY FUNDING IS PROPORTIONATE TO THE
38 REDUCTION IN REVENUE. A REDUCTION IN LAW ENFORCEMENT AGENCY FUNDING IS
39 CONSIDERED PROPORTIONATE IF THE PORTION OF THE COUNTY'S TOTAL BUDGET
40 ALLOCATED TO THE LAW ENFORCEMENT AGENCY, EXPRESSED AS A PERCENTAGE,
41 REMAINS WITHIN THREE PERCENTAGE POINTS OF THE PERCENTAGE DECREASE IN TOTAL
42 REVENUE FROM THE PREVIOUS FISCAL YEAR.

43 C. A COUNTY THAT HAS DISPROPORTIONATELY REDUCED ITS LAW ENFORCEMENT
44 AGENCY FUNDING IS NOT ELIGIBLE TO RECEIVE STATE SHARED MONIES PURSUANT TO
45 SECTION 42-5029, SUBSECTION M. THE STATE TREASURER SHALL CONTINUE TO

1 WITHHOLD STATE SHARED MONIES UNTIL CERTIFICATION FROM THE COUNTY THAT THE
2 REDUCTION IN THE LAW ENFORCEMENT AGENCY'S BUDGET HAS BEEN RESTORED TO A
3 PROPORTIONATE AMOUNT AS PRESCRIBED BY SUBSECTION B OF THIS SECTION.

4 D. FOR THE PURPOSES OF THIS SECTION, "LAW ENFORCEMENT AGENCY" MEANS
5 A COUNTY SHERIFF'S DEPARTMENT.

6 Sec. 3. Section 42-5029, Arizona Revised Statutes, is amended to
7 read:

8 42-5029. Remission and distribution of monies; withholding;
9 definitions

10 A. The department shall deposit, pursuant to sections 35-146 and
11 35-147, all revenues collected under this article and articles 4, 5 and 8
12 of this chapter pursuant to section 42-1116, separately accounting for:

13 1. Payments of estimated tax under section 42-5014, subsection D.

14 2. Revenues collected pursuant to section 42-5070.

15 3. Revenues collected under this article and article 5 of this
16 chapter from and after June 30, 2000 from sources located on Indian
17 reservations in this state.

18 4. Revenues collected pursuant to section 42-5010, subsection G and
19 section 42-5155, subsection D.

20 5. Revenues collected pursuant to section 42-5010.01 and section
21 42-5155, subsection E.

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, and subject to
38 the requirements of section 42-5041, the department 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.

42 2. Pay 38.08 percent to the counties in this state by averaging the
43 following proportions:

44 (a) The proportion that the population of each county bears to the
45 total state population.

(b) The proportion that the distribution base monies collected during the calendar month in each county under this article, section 42-5164, subsection B and section 42-5205, subsection B bear to the total distribution base monies collected under this article, section 42-5164, subsection B and section 42-5205, subsection B throughout the state for the calendar month.

3. Pay an additional 2.43 percent to the counties in this state as follows:

(a) Average the following proportions:

(i) The proportion that the assessed valuation used to determine secondary property taxes of each county, after deducting that part of the assessed valuation that is exempt from taxation at the beginning of the month for which the amount is to be paid, bears to the total assessed valuations used to determine secondary property taxes of all the counties after deducting that portion of the assessed valuations that is exempt from taxation at the beginning of the month for which the amount is to be paid. Property of a city or town that is not within or contiguous to the municipal corporate boundaries and from which water is or may be withdrawn or diverted and transported for use on other property is considered to be taxable property in the county for purposes of determining assessed valuation in the county under this item.

(ii) The proportion that the distribution base monies collected during the calendar month in each county under this article, section 42-5164, subsection B and section 42-5205, subsection B bear to the total distribution base monies collected under this article, section 42-5164, subsection B and section 42-5205, subsection B throughout the state for the calendar month.

(b) If the proportion computed under subdivision (a) of this paragraph for any county is greater than the proportion computed under paragraph 2 of this subsection, the department shall compute the difference between the amount distributed to that county under paragraph 2 of this subsection and the amount that would have been distributed under paragraph 2 of this subsection using the proportion computed under subdivision (a) of this paragraph and shall pay that difference to the county from the amount available for distribution under this paragraph. Any monies remaining after all payments under this subdivision shall be distributed among the counties according to the proportions computed under paragraph 2 of this subsection.

4. After any distributions required by sections 42-5030, 42-5030.01, 42-5031, 42-5032, 42-5032.01 and 42-5032.02, and after making any transfer to the water quality assurance revolving fund as required by section 49-282, subsection B, credit the remainder of the monies designated as distribution base to the state general fund. From this amount the legislature shall annually appropriate to:

1 (a) The department of revenue sufficient monies to administer and
2 enforce this article and articles 5 and 8 of this chapter.

3 (b) The department of economic security monies to be used for the
4 purposes stated in title 46, chapter 1.

5 (c) The firearms safety and ranges fund established by section
6 17-273, ~~fifty thousand dollars~~ \$50,000 derived from the taxes collected
7 from the retail classification pursuant to section 42-5061 for the current
8 fiscal year.

9 E. If approved by the qualified electors voting at a statewide
10 general election, all monies collected pursuant to section 42-5010,
11 subsection G and section 42-5155, subsection D shall be distributed each
12 fiscal year pursuant to this subsection. The monies distributed pursuant
13 to this subsection are in addition to any other appropriation, transfer or
14 other allocation of public or private monies from any other source and
15 shall not supplant, replace or cause a reduction in other school district,
16 charter school, university or community college funding sources. The
17 monies shall be distributed as follows:

18 1. If there are outstanding state school facilities revenue bonds
19 pursuant to title 15, chapter 16, article 7, each month one-twelfth of the
20 amount that is necessary to pay the fiscal year's debt service on
21 outstanding state school improvement revenue bonds for the current fiscal
22 year shall be transferred each month to the school improvement revenue
23 bond debt service fund established by section 15-2084. The total amount
24 of bonds for which these monies may be allocated for the payment of debt
25 service shall not exceed a principal amount of eight hundred million
26 dollars exclusive of refunding bonds and other refinancing obligations.

27 2. After any transfer of monies pursuant to paragraph 1 of this
28 subsection, twelve per cent of the remaining monies collected during the
29 preceding month shall be transferred to the technology and research
30 initiative fund established by section 15-1648 to be distributed among the
31 universities for the purpose of investment in technology and
32 research-based initiatives.

33 3. After the transfer of monies pursuant to paragraph 1 of this
34 subsection, three per cent of the remaining monies collected during the
35 preceding month shall be transferred to the workforce development account
36 established in each community college district pursuant to section 15-1472
37 for the purpose of investment in workforce development programs.

38 4. After transferring monies pursuant to paragraphs 1, 2 and 3 of
39 this subsection, one-twelfth of the amount a community college that is
40 owned, operated or chartered by a qualifying Indian tribe on its own
41 Indian reservation would receive pursuant to section 15-1472, subsection
42 D, paragraph 2 if it were a community college district shall be
43 distributed each month to the treasurer or other designated depository of
44 a qualifying Indian tribe. Monies distributed pursuant to this paragraph
45 are for the exclusive purpose of providing support to one or more

community colleges owned, operated or chartered by a qualifying Indian tribe and shall be used in a manner consistent with section 15-1472, subsection B. For the purposes of this paragraph, "qualifying Indian tribe" has the same meaning as defined in section 42-5031.01, subsection D.

5. After transferring monies pursuant to paragraphs 1, 2 and 3 of this subsection, one-twelfth of the following amounts shall be transferred each month to the department of education for the increased cost of basic state aid under section 15-971 due to added school days and associated teacher salary increases enacted in 2000:

- (a) In fiscal year 2001-2002, \$15,305,900.
- (b) In fiscal year 2002-2003, \$31,530,100.
- (c) In fiscal year 2003-2004, \$48,727,700.
- (d) In fiscal year 2004-2005, \$66,957,200.
- (e) In fiscal year 2005-2006 and each fiscal year thereafter, \$86,280,500.

6. After transferring monies pursuant to paragraphs 1, 2 and 3 of this subsection, seven million eight hundred thousand dollars is appropriated each fiscal year, to be paid in monthly installments, to the department of education to be used for school safety as provided in section 15-154 and two hundred thousand dollars is appropriated each fiscal year, to be paid in monthly installments to the department of education to be used for the character education matching grant program as provided in section 15-154.01.

7. After transferring monies pursuant to paragraphs 1, 2 and 3 of this subsection, no more than seven million dollars may be appropriated by the legislature each fiscal year to the department of education to be used for accountability purposes as described in section 15-241 and title 15, chapter 9, article 8.

8. After transferring monies pursuant to paragraphs 1, 2 and 3 of this subsection, one million five hundred thousand dollars is appropriated each fiscal year, to be paid in monthly installments, to the failing schools tutoring fund established by section 15-241.

9. After transferring monies pursuant to paragraphs 1, 2 and 3 of this subsection, twenty-five million dollars shall be transferred each fiscal year to the state general fund to reimburse the general fund for the cost of the income tax credit allowed by section 43-1072.01.

10. After the payment of monies pursuant to paragraphs 1 through 9 of this subsection, the remaining monies collected during the preceding month shall be transferred to the classroom site fund established by section 15-977. The monies shall be allocated as follows in the manner prescribed by section 15-977:

- (a) Forty per cent shall be allocated for teacher compensation based on performance.

(b) Twenty per cent shall be allocated for increases in teacher base compensation and employee related expenses.

(c) Forty per cent shall be allocated for maintenance and operation purposes.

F. The department shall credit the remainder of the monies in the transaction privilege and severance tax clearing account to the state general fund, subject to any distribution required by section 42-5030.01.

G. Notwithstanding subsection D of this section, if a court of competent jurisdiction finally determines that tax monies distributed under this section were illegally collected under this article or articles 5 and 8 of this chapter and orders the monies to be refunded to the taxpayer, the department shall compute the amount of such monies that was distributed to each city, town and county under this section. Each city's, town's and county's proportionate share of the costs shall be based on the amount of the original tax payment each municipality and county received. Each month the state treasurer shall reduce the amount otherwise distributable to the city, town and county under this section by one thirty-sixth of the total amount to be recovered from the city, town or county until the total amount has been recovered, but the monthly reduction for any city, town or county shall not exceed ten percent of the full monthly distribution to that entity. The reduction shall begin for the first calendar month after the final disposition of the case and shall continue until the total amount, including interest and costs, has been recovered.

H. On receiving a certificate of default from the greater Arizona development authority pursuant to section 41-2257 or 41-2258 and to the extent not otherwise expressly prohibited by law, the state treasurer shall withhold from the next succeeding distribution of monies pursuant to this section due to the defaulting political subdivision the amount specified in the certificate of default and immediately deposit the amount withheld in the greater Arizona development authority revolving fund. The state treasurer shall continue to withhold and deposit the monies until the greater Arizona development authority certifies to the state treasurer that the default has been cured. In no event may the state treasurer withhold any amount that the defaulting political subdivision certifies to the state treasurer and the authority as being necessary to make any required deposits then due for the payment of principal and interest on bonds of the political subdivision that were issued before the date of the loan repayment agreement or bonds and that have been secured by a pledge of distributions made pursuant to this section.

I. Except as provided by sections 42-5033 and 42-5033.01, the population of a county, city or town as determined by the most recent United States decennial census plus any revisions to the decennial census certified by the United States bureau of the census shall be used as the basis for apportioning monies pursuant to subsection D of this section.

1 J. Except as otherwise provided by this subsection, on notice from
2 the department of revenue pursuant to section 42-6010, subsection B, the
3 state treasurer shall withhold from the distribution of monies pursuant to
4 this section to the affected city or town the amount of the penalty for
5 business location municipal tax incentives provided by the city or town to
6 a business entity that locates a retail business facility in the city or
7 town. The state treasurer shall continue to withhold monies pursuant to
8 this subsection until the entire amount of the penalty has been withheld.
9 The state treasurer shall credit any monies withheld pursuant to this
10 subsection to the state general fund as provided by subsection D,
11 paragraph 4 of this section. The state treasurer shall not withhold any
12 amount that the city or town certifies to the department of revenue and
13 the state treasurer as being necessary to make any required deposits or
14 payments for debt service on bonds or other long-term obligations of the
15 city or town that were issued or incurred before the location incentives
16 provided by the city or town.

17 K. On notice from the auditor general pursuant to section 9-626,
18 subsection D, the state treasurer shall withhold from the distribution of
19 monies pursuant to this section to the affected city the amount computed
20 pursuant to section 9-626, subsection D. The state treasurer shall
21 continue to withhold monies pursuant to this subsection until the entire
22 amount specified in the notice has been withheld. The state treasurer
23 shall credit any monies withheld pursuant to this subsection to the state
24 general fund as provided by subsection D, paragraph 4 of this section.

25 L. Except as otherwise provided by this subsection, on notice from
26 the attorney general pursuant to section 41-194.01, subsection B,
27 paragraph 1 that an ordinance, regulation, order or other official action
28 adopted or taken by the governing body of a county, city or town violates
29 state law or the Constitution of Arizona, the state treasurer shall
30 withhold the distribution of monies pursuant to this section to the
31 affected county, city or town and shall continue to withhold monies
32 pursuant to this subsection until the attorney general certifies to the
33 state treasurer that the violation has been resolved. The state treasurer
34 shall redistribute the monies withheld pursuant to this subsection among
35 all other counties, cities and towns in proportion to their population as
36 provided by subsection D of this section. The state treasurer shall not
37 withhold any amount that the county, city or town certifies to the
38 attorney general and the state treasurer as being necessary to make any
39 required deposits or payments for debt service on bonds or other long-term
40 obligations of the county, city or town that were issued or incurred
41 before committing the violation.

42 M. EXCEPT AS OTHERWISE PROVIDED BY THIS SUBSECTION, ON
43 CERTIFICATION FROM THE GOVERNING BODY OF A COUNTY, CITY OR TOWN THAT AN
44 OFFICIAL ACTION ADOPTED OR TAKEN BY THE GOVERNING BODY OF A COUNTY, CITY
45 OR TOWN CREATES A DISPROPORTIONATE REDUCTION IN A LAW ENFORCEMENT AGENCY'S

BUDGET FROM THE PREVIOUS YEAR'S BUDGET PURSUANT TO SECTION 9-500.48, SUBSECTION B OR SECTION 11-269.27, SUBSECTION B, THE STATE TREASURER SHALL WITHHOLD THE DISTRIBUTION OF MONIES PURSUANT TO THIS SECTION TO THE AFFECTED COUNTY, CITY OR TOWN AND SHALL CONTINUE TO WITHHOLD MONIES PURSUANT TO THIS SUBSECTION UNTIL CERTIFICATION BY THE GOVERNING BODY OF THE COUNTY, CITY OR TOWN THAT THE REDUCTION HAS BEEN RESTORED TO A PROPORTIONATE AMOUNT AS PRESCRIBED BY SECTION 9-500.48, SUBSECTION B OR SECTION 11-269.27, SUBSECTION B. THE STATE TREASURER SHALL NOT WITHHOLD ANY AMOUNT THAT THE COUNTY, CITY OR TOWN CERTIFIES AS BEING NECESSARY TO MAKE ANY REQUIRED DEPOSITS OR PAYMENTS FOR DEBT SERVICE ON BONDS OR OTHER LONG-TERM OBLIGATIONS OF THE COUNTY, CITY OR TOWN THAT WERE ISSUED OR INCURRED BEFORE THE REDUCTION IN THE LAW ENFORCEMENT AGENCY'S BUDGET. THIS SUBSECTION DOES NOT APPLY TO A PROPORTIONATE REDUCTION IN BUDGET DUE TO A DECREASE IN REVENUE PURSUANT TO SECTION 9-500.48, SUBSECTION B OR SECTION 11.269.27, SUBSECTION B.

~~M.~~ N. For the purposes of this section: ~~;~~

1. "Community college district" means a community college district that is established pursuant to sections 15-1402 and 15-1403 and that is a political subdivision of this state and, unless otherwise specified, includes a community college tuition financing district established pursuant to section 15-1409.

2. "LAW ENFORCEMENT AGENCY" MEANS A MUNICIPAL POLICE DEPARTMENT OR COUNTY SHERIFF'S DEPARTMENT.

Sec. 4. Section 43-206, Arizona Revised Statutes, is amended to read:

43-206. Urban revenue sharing fund; allocation; distribution; withholding; definition

A. The urban revenue sharing fund is established. The fund shall consist of an amount equal to fifteen percent of the net proceeds of the state income taxes for the fiscal year two years preceding the current fiscal year. The fund shall be distributed to incorporated cities and towns as provided in this section, except that a city or town shall receive at least an amount equal to what a city or town with a population of fifteen hundred or more persons would receive. The transfer of net proceeds prescribed by section 49-282, subsection B does not affect the calculation of net proceeds prescribed by this subsection.

B. Each city or town shall share in the urban revenue sharing fund in the proportion that the population of each bears to the population of all. Except as provided by sections 42-5033 and 42-5033.01, the population of a city or town as determined by the most recent United States decennial census plus any revisions to the decennial census certified by the United States bureau of the census shall be used as the basis for apportioning monies pursuant to this subsection.

C. The treasurer, on instruction from the department, shall transmit, ~~no~~ NOT later than the tenth day of each month, to each city or

1 town an amount equal to one-twelfth of that city's or town's total
2 entitlement for the current fiscal year from the urban revenue sharing
3 fund as determined by the department.

4 D. A newly incorporated city or town shall share in the urban
5 revenue sharing fund beginning the first month of the first full fiscal
6 year following incorporation.

7 E. On receipt of a certificate of default from the greater Arizona
8 development authority pursuant to section 41-2257 or 41-2258, the state
9 treasurer, to the extent not otherwise expressly prohibited by law, shall
10 withhold from the next succeeding distribution of monies pursuant to this
11 section due to the city or town the amount specified in the certificate of
12 default and immediately deposit the amount withheld in the greater Arizona
13 development authority revolving fund. The state treasurer shall continue
14 to withhold and deposit the monies until the authority certifies to the
15 state treasurer that the default has been cured. In no event shall the
16 state treasurer withhold any amount that is necessary, as certified by the
17 defaulting political subdivision to the state treasurer and the authority,
18 to make any required deposits then due for the payment of principal and
19 interest on bonds of the political subdivision that were issued prior to
20 the date of the loan repayment agreement or bonds and that have been
21 secured by a pledge of distributions made pursuant to this section.

22 F. Except as otherwise provided by this subsection, on notice from
23 the attorney general pursuant to section 41-194.01, subsection B,
24 paragraph 1 that an ordinance, regulation, order or other official action
25 adopted or taken by the governing body of a city or town violates state
26 law or the Constitution of Arizona, the state treasurer shall withhold the
27 distribution of monies pursuant to this section to the affected city or
28 town and shall continue to withhold monies pursuant to this subsection
29 until the attorney general certifies to the state treasurer that the
30 violation has been resolved. The state treasurer shall redistribute the
31 monies withheld pursuant to this subsection among all other cities and
32 towns in proportion to their population as provided by subsection B of
33 this section. The state treasurer shall not withhold any amount that the
34 city or town certifies to the attorney general and the state treasurer as
35 being necessary to make any required deposits or payments for debt service
36 on bonds or other long-term obligations of the city or town that were
37 issued or incurred before committing the violation.

38 G. EXCEPT AS OTHERWISE PROVIDED BY THIS SUBSECTION, ON
39 CERTIFICATION FROM THE GOVERNING BODY OF A CITY OR TOWN THAT AN OFFICIAL
40 ACTION ADOPTED OR TAKEN BY THE GOVERNING BODY OF THE CITY OR TOWN CREATES
41 A DISPROPORTIONATE REDUCTION IN A LAW ENFORCEMENT AGENCY'S BUDGET FROM THE
42 PREVIOUS YEAR'S BUDGET PURSUANT TO SECTION 9-500.48, SUBSECTION B, THE
43 STATE TREASURER SHALL WITHHOLD THE DISTRIBUTION OF MONIES PURSUANT TO THIS
44 SECTION TO THE AFFECTED CITY OR TOWN AND SHALL CONTINUE TO WITHHOLD MONIES
45 PURSUANT TO THIS SUBSECTION UNTIL CERTIFICATION BY THE GOVERNING BODY OF

1 THE CITY OR TOWN THAT THE REDUCTION HAS BEEN RESTORED TO A PROPORTIONATE
2 AMOUNT AS PRESCRIBED BY SECTION 9-500.48, SUBSECTION B. THE STATE
3 TREASURER SHALL NOT WITHHOLD ANY AMOUNT THAT THE CITY OR TOWN CERTIFIES AS
4 BEING NECESSARY TO MAKE ANY REQUIRED DEPOSITS OR PAYMENTS FOR DEBT SERVICE
5 ON BONDS OR OTHER LONG-TERM OBLIGATIONS OF THE CITY OR TOWN THAT WERE
6 ISSUED OR INCURRED BEFORE THE REDUCTION IN THE LAW ENFORCEMENT AGENCY'S
7 BUDGET. THIS SUBSECTION DOES NOT APPLY TO A PROPORTIONATE REDUCTION IN
8 BUDGET DUE TO A DECREASE IN REVENUE PURSUANT TO SECTION 9-500.48,
9 SUBSECTION B.

10 H. FOR THE PURPOSES OF THIS SECTION, "LAW ENFORCEMENT AGENCY" MEANS
11 A MUNICIPAL POLICE DEPARTMENT.

12 Sec. 5. Retroactivity

13 This act applies retroactively to from and after December 31, 2020.

REFERENCE TITLE: **short-term rentals; enforcement; penalties**

State of Arizona
House of Representatives
Fifty-fifth Legislature
First Regular Session
2021

HB 2481

Introduced by
Representatives Kavanagh: Butler, Jermaine, Kaiser, Lieberman, Longdon,
Shah, Senators Alston, Barto, Engel, Marsh

AN ACT

**AMENDING SECTIONS 9-500.39, 9-1301, 11-269.17, 11-1701 AND 42-1125.02,
ARIZONA REVISED STATUTES; RELATING TO VACATION AND SHORT-TERM RENTALS.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 9-500.39, Arizona Revised Statutes, is amended
3 to read:

4 9-500.39. Limits on regulation of vacation rentals and
5 short-term rentals; definitions

6 A. A city or town may not prohibit vacation rentals or short-term
7 rentals.

8 B. ~~A city or town may not restrict the use of or regulate vacation~~
9 ~~rentals or short-term rentals based on their classification, use or~~
10 ~~occupancy except as provided in this section.~~ A city or town may regulate
11 vacation rentals or short-term rentals ~~for the following purposes~~ AS
12 FOLLOWS:

13 1. ~~Protecting~~ TO PROTECT the public's health and safety, including
14 rules and regulations related to fire and building codes, health and
15 sanitation, transportation or traffic control, solid or hazardous waste
16 and pollution control, and designation of an emergency point of contact,
17 if the city or town demonstrates that the rule or regulation is for the
18 primary purpose of protecting the public's health and safety.

19 2. TO ADOPT AND ENFORCE REASONABLE RESIDENTIAL USE AND ZONING
20 ORDINANCES, INCLUDING RESTRICTING VACATION AND SHORT-TERM RENTALS TO
SPECIFIC ZONING DISTRICTS, REQUIRING VACATION OR SHORT-TERM RENTALS TO
OBTAIN A VARIANCE OR USE PERMIT, ADOPTING SEPERATION REQUIREMENTS AND
LIMITING THE NUMBER OF VACATION OR SHORT-TERM RENTALS. A ZONING ORDINANCE
SHALL NOT HAVE THE EFFECT OF PROHIBITING OR UNREASONABLY RESTRICTING ALL
VACATION OR SHORT-TERM RENTALS.

21 ~~2- 3. Adopting~~ TO ADOPT and ~~enforcing residential use and zoning~~
22 ~~ordinances, including~~ ENFORCE ordinances related to noise, ~~protection of~~
23 ~~welfare,~~ property maintenance and other nuisance issues, if the ordinance
24 is applied in the same manner as other property classified under sections
25 42-12003 and 42-12004.

26 ~~3- 4. Limiting~~ TO LIMIT or ~~prohibiting~~ PROHIBIT the use of a
27 vacation rental or short-term rental for the purposes of housing sex
28 offenders, operating or maintaining a sober living home, selling illegal
29 drugs, liquor control or pornography, obscenity, nude or topless dancing
30 and other adult-oriented businesses.

31 5. TO REQUIRE THE OWNER OF A VACATION RENTAL OR SHORT-TERM RENTAL
32 TO OBTAIN AND MAINTAIN A LICENSE OR REGISTER THE VACATION RENTAL OR
SHORT-TERM RENTAL WITH THE
33 CITY OR TOWN. THE CITY OR TOWN SHALL REPORT TO THE DEPARTMENT OF REVENUE
34 ALL VERIFIED VIOLATIONS OF A VACATION RENTAL OR SHORT-TERM RENTAL LICENSED
35 OR REGISTERED BY THE CITY OR TOWN.

36 ~~4- 6. Requiring~~ TO REQUIRE the owner of a vacation rental or
37 short-term rental to provide the city or town with contact information for
38 the owner or the owner's designee who is responsible for responding to
39 complaints in a timely manner in person, over the phone or by email at any
40 time of day before offering for rent or renting the vacation rental or

41 short-term rental.

42 7. TO RESTRICT THE OCCUPANCY OF A VACATION RENTAL OR SHORT-TERM
43 RENTAL TO THE LESSER OF THE OCCUPANCY LIMIT OF THE CITY OR TOWN OR TWO
44 ADULTS PER BEDROOM PLUS TWO ADDITIONAL ADULTS.

1 C. Within thirty days after a verified violation, a city or town
2 shall notify the department of revenue and the owner of the vacation
3 rental or short-term rental of the verified violation of the city's or
4 town's applicable laws, regulations or ordinances and, if the owner of the
5 vacation rental or short-term rental received the verified violation,
6 whether the city or town imposed a civil penalty on the owner of the
7 vacation rental or short-term rental and the amount of the civil penalty,
8 if assessed. If multiple verified violations arise out of the same
9 response to an incident at a vacation rental or short-term rental, those
10 verified violations are considered one verified violation for the purpose
11 of assessing civil penalties pursuant to section 42-1125.02, subsection
12 ~~B~~ C.

13 D. If the owner of a vacation rental or short-term rental has
14 provided contact information to a city or town pursuant to subsection B,
15 paragraph 4 6 of this section and if the city or town issues a citation
16 for a violation of the city's or town's applicable laws, regulations or
17 ordinances or a state law that occurred on the owner's vacation rental or
18 short-term rental property, the city or town shall make a reasonable
19 attempt to notify the owner or the owner's designee of the citation within
20 seven business days after the citation is issued using the contact
21 information provided pursuant to subsection B, paragraph 4 6 of this
22 section. If the owner of a vacation rental or short-term rental has not
23 provided contact information pursuant to subsection B, paragraph 4 6 of
24 this section, the city or town is not required to provide such notice.

25 E. This section does not exempt an owner of a residential rental
26 property, as defined in section 33-1901, from maintaining with the
27 assessor of the county in which the property is located information
28 required under title 33, chapter 17, article 1.

29 F. A vacation rental or short-term rental may not be used for
30 nonresidential uses, including for a special event that would otherwise
31 require a permit or license pursuant to a city or town ordinance or a
32 state law or rule or for a retail, restaurant, banquet space or other
33 similar use.

34 G. A VACATION RENTAL OR SHORT-TERM RENTAL MAY NOT ADVERTISE TO
35 EXCEED THE OCCUPANCY LIMIT OF THE DWELLING PURSUANT TO SUBSECTION B OF
36 THIS SECTION OR FOR ANY NONRESIDENTIAL USE PURSUANT TO SUBSECTION F OF
37 THIS SECTION. A VIOLATION OF THIS SUBSECTION IS NOT A VERIFIED VIOLATION.
38 A CITY OR TOWN MAY IMPOSE A CIVIL PENALTY FOR EACH DAY THE PROPERTY IS IN
39 VIOLATION OF THIS SUBSECTION.

40 H. A VACATION RENTAL OR SHORT-TERM RENTAL IS NOT SUBJECT TO CHAPTER
41 12, ARTICLE 1 OF THIS TITLE OF TITLE 11, CHAPTER 12, ARTICLE 1.

42 I. A CITY OR TOWN MAY NOT REGULATE AN ONLINE LODGING MARKETPLACE.

1 ~~G.~~ J. For the purposes of this section:

2 1. "ONLINE LODGING MARKETPLACE" HAS THE SAME MEANING PRESCRIBED IN 3
SECTION 42-5076.

4 ~~1.~~ 2. "Transient" has the same meaning prescribed in section
5 42-5070.

6 ~~2.~~ 3. "Vacation rental" or "short-term rental":

7 (a) Means any individually or collectively owned single-family or
8 one-to-four-family house or dwelling unit or any unit or group of units in
9 a condominium, OR cooperative ~~or timeshare~~, that is also a transient
10 public lodging establishment or owner-occupied residential home offered
11 for transient use if the accommodations are not classified for property
12 taxation under section 42-12001. ~~Vacation rental and short-term rental do~~

13 (b) DOES not include EITHER OF THE FOLLOWING:

14 (i) A unit that is used for any nonresidential use, including
15 retail, restaurant, banquet space, event center or another similar use.

16 (ii) A RESIDENTIAL RENTAL DWELLING UNIT AS DEFINED IN SECTION
17 9-1301.

18 ~~3.~~ 4. "Verified violation" means a finding of guilt or civil
19 responsibility for violating any state law or local ordinance relating to
20 a purpose prescribed in subsection B or F of this section that has been
21 finally adjudicated.

22 Sec. 2. Section 9-1301, Arizona Revised Statutes, is amended to
23 read:

24 9-1301. Definitions

25 In this chapter, unless the context otherwise requires:

26 1. "Building code" means the construction codes that were in force
27 at THE time of building construction, including plumbing and mechanical
28 codes, electric codes, residential construction codes, energy conservation
29 codes and existing building construction codes, and includes any property
30 maintenance codes, neighborhood preservation codes, anti-blight codes or
31 other similar codes, however denominated. With respect to mobile homes as
32 defined in section 33-1409, building code means the federal construction
33 codes applicable to homes constructed after June 15, 1976, and the Arizona
34 codes applicable to homes constructed before that date.

35 2. "Citywide residential rental property inspection program" means
36 any program that includes systematic or periodic inspections of a majority
37 of rental properties in the city OR TOWN that have not previously been
38 found to meet the requirements of section 9-1302.

39 3. "Exterior inspection" means the visual inspection of any portion
40 of a residential dwelling unit that can be seen from a public street or
41 other right-of-way, or that can be seen from an adjacent property if a
42 complaint or consent is received from the adjacent property owner, lawful
43 resident or lawful tenant.

4. "Initial inspection" means the first inspection of a residential rental dwelling unit after the establishment by ordinance or resolution of a residential rental inspection program.

5. "Interior inspection" means a physical or visual inspection of the interior of a residential rental dwelling unit and other portions of a residential rental dwelling unit that are not visible from a public street, right-of-way or neighboring property that is made for the purpose of looking for building code violations.

6. "Mobile home park" has the same meaning as prescribed in section 10 33-1409.

~~7. "Multifamily housing" means site built buildings containing residential dwelling units, but does not include mobile home parks.~~

8. "Owner" means the person, corporation, limited liability company, partnership, limited partnership, trust or real estate investment trust shown on the lawfully recorded title to the property.

9. "Residential dwelling unit" means a building or structure or part of a building or structure that is used for a home or residence by one or more persons who maintain a household. It also means a mobile home regardless of ownership of the land.

10. "Residential rental dwelling unit" means a dwelling unit that is leased or rented to one or more tenants. A dwelling unit that is occupied in part by the owner of the dwelling unit is not a residential rental dwelling unit unless a tenant occupies a part of the dwelling unit that has its own cooking and sleeping areas, a bathroom and a separate entrance, unless otherwise provided in a zoning ordinance of the city or town. Residential rental dwelling unit does not include an ~~owner-occupied~~ OWNER-OCCUPIED mobile home in a mobile home park that is not owned by the landlord of the mobile home park OR A VACATION RENTAL OR SHORT-TERM RENTAL AS DEFINED IN SECTION 9-500.39.

11. "Residential rental licensing requirement" means a requirement established by a city or town that property owners or property managers obtain a license or permit from the city or town, with or without an associated fee, before they can legally engage in the rental of dwelling units in the city or town.

12. "Residential rental registration requirement" means any requirement established by a city or town for rental housing owners or managers to submit information to the city or town as already required to be submitted to the county assessor under section 33-1902.

Sec. 3. Section 11-269.17, Arizona Revised Statutes, is amended to read:

11-269.17. Limits on regulation of vacation rentals and short-term rentals; definitions

A. A county may not prohibit vacation rentals or short-term rentals.

1 B. ~~A county may not restrict the use of or regulate vacation~~
 2 ~~rentals or short-term rentals based on their classification, use or~~
 3 ~~occupancy except as provided in this section.~~ A county may regulate
 4 vacation rentals or short-term rentals ~~for the following purposes~~ AS
 5 FOLLOWS:

6 1. ~~Protecting~~ TO PROTECT the public's health and safety, including
 7 rules and regulations related to fire and building codes, health and
 8 sanitation, transportation or traffic control, solid or hazardous waste
 9 and pollution control, and designation of an emergency point of contact,
 10 if the county demonstrates that the rule or regulation is for the primary
 11 purpose of protecting the public's health and safety.

12 2. TO ADOPT AND ENFORCE REASONABLE RESIDENTIAL USE AND ZONING
 13 ORDINANCES, INCLUDING RESTRICTING VACATION AND SHORT-TERM RENTALS TO
 SPECIFIC ZONING DISTRICTS, REQUIRING VACATION OR SHORT-TERM RENTALS TO
 OBTAIN A VARIANCE OR USE PERMIT, ADOPTING SEPERATION REQUIREMENTS AND
 LIMITING THE NUMBER OF VACATION OR SHORT-TERM RENTALS. A ZONING ORDINANCE
 SHALL NOT HAVE THE EFFECT OF PROHIBITING OR UNREASONABLY RESTRICTING ALL
 VACATION OR SHORT-TERM RENTALS.

14 ~~2-~~ 3. ~~Adopting~~ TO ADOPT and ~~enforcing residential use and zoning~~
 15 ~~ordinances, including~~ ENFORCE ordinances related to noise, ~~protection of~~
 16 ~~welfare,~~ property maintenance and other nuisance issues, if the ordinance
 17 is applied in the same manner as other property classified under sections
 18 42-12003 and 42-12004.

19 ~~3-~~ 4. ~~Limiting~~ TO LIMIT or ~~prohibiting~~ PROHIBIT the use of a
 20 vacation rental or short-term rental for the purposes of housing sex
 21 offenders, operating or maintaining a sober living home, selling illegal
 22 drugs, liquor control or pornography, obscenity, nude or topless dancing
 23 and other adult-oriented businesses.

24 5. TO REQUIRE THE OWNER OF A VACATION RENTAL OR SHORT-TERM RENTAL
 25 TO OBTAIN AND MAINTAIN A LICENSE OR REGISTER THE VACATION RENTAL OR
 SHORT-TERM RENTAL WITH THE
 26 COUNTY. THE COUNTY SHALL REPORT TO THE DEPARTMENT OF REVENUE ALL VERIFIED
 27 VIOLATIONS OF A VACATION RENTAL OR SHORT-TERM RENTAL LICENSED OR
 28 REGISTERED BY THE COUNTY.

29 ~~4-~~ 6. ~~Requiring~~ TO REQUIRE the owner of a vacation rental or
 30 short-term rental to provide the county with contact information for the
 31 owner or the owner's designee who is responsible for responding to
 32 complaints in a timely manner in person, over the phone or by email at any
 33 time of day before offering for rent or renting the vacation rental or
 34 short-term rental.

35 7. TO RESTRICT THE OCCUPANCY OF A VACATION RENTAL OR SHORT-TERM
 36 RENTAL TO THE LESSER OF THE OCCUPANCY LIMIT OF THE COUNTY OR TWO ADULTS
 37 PER BEDROOM PLUS TWO ADDITIONAL ADULTS.

38 C. Within thirty days after a verified violation, a county shall
 39 notify the department of revenue and the owner of the vacation rental or
 40 short-term rental of the verified violation of the county's applicable

41 laws, regulations or ordinances and, if the property owner received the
42 verified violation, whether the county imposed a civil penalty on the
43 owner of the vacation rental or short-term rental and the amount of the
44 civil penalty, if assessed. If multiple verified violations arise out of
45 the same response to an incident at a vacation rental or short-term

rental, those verified violations are considered one verified violation for the purpose of assessing civil penalties pursuant to section 42-1125.02, subsection ~~B~~ C.

D. If the owner of a vacation rental or short-term rental has provided contact information to a county pursuant to subsection B, paragraph ~~4~~ 6 of this section and if the county issues a citation for a violation of the county's applicable laws, regulations or ordinances or a state law that occurred on the owner's vacation rental or short-term rental property, the county shall make a reasonable attempt to notify the owner or the owner's designee of the citation within seven business days after the citation is issued using the contact information provided pursuant to subsection B, paragraph ~~4~~ 6 of this section. If the owner of a vacation rental or short-term rental has not provided contact information pursuant to subsection B, paragraph ~~4~~ 6 of this section, the county is not required to provide such notice.

E. This section does not exempt an owner of a residential rental property, as defined in section 33-1901, from maintaining with the assessor of the county in which the property is located information required under title 33, chapter 17, article 1.

F. A vacation rental or short-term rental may not be used for nonresidential uses, including for a special event that would otherwise require a permit or license pursuant to a county ordinance or a state law or rule or for a retail, restaurant, banquet space or other similar use.

G. A VACATION RENTAL OR SHORT-TERM RENTAL MAY NOT ADVERTISE TO EXCEED THE OCCUPANCY LIMIT OF THE DWELLING PURSUANT TO SUBSECTION B OF THIS SECTION OR FOR ANY NONRESIDENTIAL USE PURSUANT TO SUBSECTION F OF THIS SECTION. A VIOLATION OF THIS SUBSECTION IS NOT A VERIFIED VIOLATION. A COUNTY MAY IMPOSE A CIVIL PENALTY FOR EACH DAY THE PROPERTY IS IN VIOLATION OF THIS SUBSECTION.

H. A VACATION RENTAL OR SHORT-TERM RENTAL IS NOT SUBJECT TO CHAPTER 12, ARTICLE 1 OF THIS TITLE OR TITLE 9, CHAPTER 12, ARTICLE 1.

I. A COUNTY MAY NOT REGULATE AN ONLINE LODGING MARKETPLACE.

~~G.~~ J. For the purposes of this section:

1. "ONLINE LODGING MARKETPLACE" HAS THE SAME MEANING PRESCRIBED IN SECTION 42-5076.

~~1.~~ 2. "Transient" has the same meaning prescribed in section 42-5070.

~~2.~~ 3. "Vacation rental" or "short-term rental":

(a) Means any individually or collectively owned single-family or one-to-four-family house or dwelling unit or any unit or group of units in a condominium, OR cooperative ~~or timeshare~~, that is also a transient public lodging establishment or owner-occupied residential home offered for transient use if the accommodations are not classified for property taxation under section 42-12001. ~~Vacation rental and short-term rental do~~

(b) DOES not include EITHER OF THE FOLLOWING:

(i) A unit that is used for any nonresidential use, including retail, restaurant, banquet space, event center or another similar use.

(ii) A RESIDENTIAL RENTAL DWELLING UNIT AS DEFINED IN SECTION 11-1701.

~~3-~~ 4. "Verified violation" means a finding of guilt or civil responsibility for violating any state law or local ordinance relating to a purpose prescribed in subsection B or F of this section that has been finally adjudicated.

Sec. 4. Section 11-1701, Arizona Revised Statutes, is amended to read:

11-1701. Definitions

In this chapter, unless the context otherwise requires:

1. "Building code" means the construction codes that were in force at the time of building construction, including plumbing and mechanical codes, electric codes, residential construction codes, energy conservation codes and existing building construction codes, and includes any property maintenance codes, neighborhood preservation codes, anti-blight codes or other similar codes, however denominated. With respect to mobile homes as defined in section 33-1409, building code means the federal construction codes applicable to homes constructed after June 15, 1976, and the state codes applicable to homes constructed before that date.

2. "Countywide residential rental property inspection program" means any program that includes systematic or periodic inspections of a majority of rental properties in the county that have not been previously found to meet the requirements of section 11-1702.

3. "Exterior inspection" means the visual inspection of any portion of a residential dwelling unit that can be seen from a public street or other right-of-way, or that can be seen from an adjacent property if a complaint or consent is received from the adjacent property owner, lawful resident or lawful tenant.

4. "Initial inspection" means the first inspection of a residential rental dwelling unit after the establishment by ordinance or resolution of a residential rental inspection program.

5. "Interior inspection" means a physical or visual inspection of the interior of a residential rental dwelling unit and other portions of a residential rental dwelling unit that are not visible from a public street, right-of-way or neighboring property that is made for the purpose of looking for building code violations.

6. "Mobile home park" has the same meaning prescribed in section 40 33-1409.

~~7. "Multifamily housing" means site built buildings containing residential dwelling units, but does not include mobile home parks.~~

~~8-~~ 7. "Owner" means the person, corporation, limited liability company, partnership, limited partnership, trust or real estate investment trust shown on the lawfully recorded title to the property.

~~9-~~ 8. "Residential dwelling unit" means a building or structure or part of a building or structure that is used for a home or residence by one or more persons who maintain a household, including a mobile home regardless of ownership of the land.

~~10-~~ 9. "Residential rental dwelling unit" means a dwelling unit that is leased or rented to one or more tenants. A dwelling unit that is occupied in part by the owner of the dwelling unit is not a residential rental dwelling unit unless a tenant occupies a part of the dwelling unit that has its own cooking and sleeping areas, a bathroom and a separate entrance, unless otherwise provided in a zoning ordinance of the county. Residential rental dwelling unit does not include an ~~owner-occupied~~ OWNER-OCCUPIED mobile home in a mobile home park that is not owned by the landlord of the mobile home park OR A VACATION RENTAL OR SHORT-TERM RENTAL AS DEFINED IN SECTION 11-269.17.

~~11-~~ 10. "Residential rental licensing requirement" means a requirement established by a county that property owners or property managers obtain a license or permit from the county, with or without an associated fee, before they can legally engage in the rental of dwelling units in the county.

~~12-~~ 11. "Residential rental registration requirement" means any requirement established by a county for rental housing owners or managers to submit information to the county as already required to be submitted to the county assessor under section 33-1902.

Sec. 5. Section 42-1125.02, Arizona Revised Statutes, is amended to read:

42-1125.02. Civil penalties; online lodging operators; violation; classification; appeal; definitions

A. An online lodging operator that fails to comply with section 42-5042 shall pay the following civil penalty:

1. For a first offense, \$250.
2. For a second and any subsequent offense, \$1,000.

B. AN ONLINE LODGING OPERATOR THAT FALSIFIES INFORMATION TO AN ONLINE LODGING MARKETPLACE IN VIOLATION OF SECTION 42-5042 IS GUILTY OF A PETTY OFFENSE.

~~B-~~ C. If an online lodging operator received a verified violation, the online lodging operator shall pay the following civil penalty:

1. For a first verified violation received for a property, either:
 - (a) If the city, town or county did not impose a civil penalty on the online lodging operator for the verified violation, \$500.
 - (b) If the city, town or county imposed a civil penalty on the online lodging operator for the verified violation, the difference between the amount prescribed in subdivision (a) of this paragraph and the amount of the civil penalty the city, town or county imposed on the online lodging operator for the verified violation.

1 2. For a second verified violation received on the same property
2 within a twelve-month period, either:

3 (a) If the city, town or county did not impose a civil penalty on
4 the online lodging operator for the verified violation, \$1,000.

5 (b) If the city, town or county imposed a civil penalty on the
6 online lodging operator for the verified violation, the difference between
7 the amount prescribed in subdivision (a) of this paragraph and the amount
8 of the civil penalty the city, town or county imposed on the online
9 lodging operator for the verified violation.

10 3. For a third and any subsequent verified violation received on
11 the same property within the same twelve-month period, either:

12 (a) If the city, town or county did not impose a civil penalty on
13 the online lodging operator for the verified violation, fifty percent of
14 the gross monthly revenues of the lodging accommodation at which the
15 violation occurred for the month in which the violation occurred or
16 \$1,500, whichever is greater.

17 (b) If the city, town or county imposed a civil penalty on the
18 online lodging operator for the verified violation, the difference between
19 the amount prescribed in subdivision (a) of this paragraph and the amount
20 of the civil penalty the city, town or county imposed on the online
21 lodging operator for the verified violation.

22 ~~C~~ D. If the department imposes a civil penalty pursuant to
23 subsection ~~B~~ C, paragraph 1 of this section and the online lodging
24 operator appeals the civil penalty, the hearing officer may waive or lower
25 the civil penalty based on the online lodging operator's diligence in
26 attempting to prohibit renters from violating state law or the city's, ~~or~~
27 town's OR COUNTY'S applicable laws, regulations or ordinances. In
28 determining whether to waive or lower the civil penalty, the hearing
29 officer shall consider both of the following:

30 1. Whether rules that prohibit activities violating state law or
31 the city's, ~~or~~ town's OR COUNTY'S applicable laws, regulations or
32 ordinances were included in the advertisement for the lodging
33 accommodation, vacation rental or short-term rental.

34 2. Whether the rules described in paragraph 1 of this subsection
35 were posted in a conspicuous location inside the lodging accommodation,
36 vacation rental or short-term rental.

37 ~~D~~ E. For the purposes of this section:

38 1. "Lodging accommodation" has the same meaning prescribed in
39 section 42-5076.

40 2. "Online lodging marketplace" has the same meaning prescribed in
41 section 42-5076.

42 3. "Online lodging operator" has the same meaning prescribed in
43 section 42-5076 and includes an owner of a vacation rental or short-term
44 rental that is not offered through an online lodging marketplace.

1 4. "Vacation rental" and "short-term rental" have the same meanings
2 prescribed in section 9-500.39 or 11-269.17.

3 5. "Verified violation" has the same meaning prescribed in section 4 9-
4 500.39 or 11-269.17.

5 Sec. 6. Applicability; definitions

6 A. Notwithstanding sections 9-500.39 and 11.269.17, Arizona Revised
7 Statutes, as amended by this act, a city, town or county may not prohibit
8 the operation of a vacation rental or short-term rental based solely on
9 its status as a vacation rental or short-term rental if the owner of the
10 vacation rental or short-term rental has both of the following:

11 1. As of May 1, 2021, a valid transaction privilege tax license.

12 2. As of June 2, 2021, provided the owner's or the owner's
13 designee's contact information to the city, town or county in which the
14 vacation rental or short-term rental is located, if required by a city,
15 town or county ordinance.

16 B. Subsection A of this section does not apply if the property on
17 which the vacation rental or short-term rental is located changes title or
18 ownership.

19 C. For the purposes of this section, "vacation rental" and
20 "short-term rental" have the same meanings prescribed in section 9-500.39
21 or 11-269.17, Arizona Revised Statutes, as amended by this act.

REFERENCE TITLE: regulation; short-term rentals

State of Arizona
House of Representatives
Fifty-fifth Legislature
First Regular Session
2021

HB 2482

Introduced by
Representative Kavanagh

AN ACT

AMENDING SECTIONS 9-500.39 AND 11-269.17, ARIZONA REVISED STATUTES;
RELATING TO SHORT-TERM RENTALS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 9-500.39, Arizona Revised Statutes, is amended to read:

9-500.39. Limits on regulation of vacation rentals and short-term rentals; state preemption; civil penalties; definitions

A. A city or town may not prohibit vacation rentals or short-term rentals.

B. A city or town may not restrict the use of or regulate vacation rentals or short-term rentals based on their classification, use or occupancy except as provided in this section. A city or town may regulate vacation rentals or short-term rentals ~~for the following purposes~~ AS FOLLOWS:

1. ~~Protecting~~ TO PROTECT the public's health and safety, including rules and regulations related to fire and building codes, health and sanitation, transportation or traffic control, solid or hazardous waste and pollution control, and designation of an emergency point of contact, if the city or town demonstrates that the rule or regulation is for the primary purpose of protecting the public's health and safety.

2. ~~Adopting~~ TO ADOPT and ~~enforcing~~ ENFORCE residential use and zoning ordinances, including ordinances related to noise, protection of welfare, property maintenance and other nuisance issues, if the ordinance is applied in the same manner as other property classified under sections 42-12003 and 42-12004.

3. ~~Limiting~~ TO LIMIT or ~~prohibiting~~ PROHIBIT the use of a vacation rental or short-term rental for the purposes of housing sex offenders, operating or maintaining a sober living home, selling illegal drugs, liquor control or pornography, obscenity, nude or topless dancing and other adult-oriented businesses.

4. ~~Requiring~~ TO REQUIRE the owner of a vacation rental or short-term rental to provide the city or town with contact information for the owner or the owner's designee who is responsible for responding to complaints in a timely manner in person, over the phone or by email at any time of day before offering for rent or renting the vacation rental or short-term rental. THIS CONTACT INFORMATION SHALL BE PRINTED IN BOLD TWENTY-FOUR-POINT FONT AND POSTED ON THE FRONT DOOR OF THE VACATION RENTAL OR SHORT-TERM RENTAL. IF THE PROPERTY IS SURROUNDED BY A FENCE OR OTHER BARRIER THAT RESTRICTS ACCESS TO THE FRONT DOOR, THE CONTACT INFORMATION SHALL BE POSTED IN A LOCATION THAT IS VISIBLE AND ACCESSIBLE TO THE PUBLIC. NOTWITHSTANDING SECTION 42-1125.02, FOR A VERIFIED VIOLATION OF THIS PARAGRAPH, A CITY OR TOWN MAY IMPOSE A CIVIL PENALTY OF \$50 FOR EACH DAY THAT THE VACATION RENTAL OR SHORT-TERM RENTAL IS OCCUPIED.

5. TO RESTRICT THE MAXIMUM NUMBER OF ADULT OCCUPANTS ALLOWED IN THE VACATION RENTAL OR SHORT-TERM RENTAL AT ANY ONE TIME TO THE LESSER OF THE OCCUPANCY LIMIT ESTABLISHED BY THE CITY OR TOWN OR NOT MORE THAN TWO

1 ADULTS PER BEDROOM, UP TO FOUR BEDROOMS, PLUS TWO ADDITIONAL ADULTS PER
2 ONE THOUSAND SQUARE FEET OF LIVABLE SPACE IN EXCESS OF THREE THOUSAND
3 SQUARE FEET OF LIVABLE SPACE OF THE RESIDENCE.

4 6. TO REQUIRE THE INSTALLATION OF SAFETY AND MONITORING EQUIPMENT
5 THAT MONITORS AND DETECTS THE LEVEL OF NOISE ON THE PROPERTY OF THE
6 VACATION RENTAL OR SHORT-TERM RENTAL. THE EQUIPMENT MUST BE INSTALLED
7 INSIDE ALL VACATION RENTALS AND SHORT-TERM RENTALS AND IN THE OUTSIDE YARD
8 OR UNENCLOSED BALCONY OF ALL PROPERTIES THAT ARE VACATION RENTALS OR
9 SHORT-TERM RENTALS. THE EQUIPMENT MUST HAVE THE CAPABILITY OF NOTIFYING
10 THE OWNER OR THE OWNER'S DESIGNEE IF THE LEVEL OF NOISE AT THE PROPERTY IS
11 UNREASONABLE OR IN VIOLATION OF THE MUNICIPAL NOISE ORDINANCE. SAFETY AND
12 MONITORING EQUIPMENT IS NOT REQUIRED IN AN OWNER-OCCUPIED RESIDENTIAL HOME
13 OFFERED FOR TRANSIENT USE OR IF THE OWNER OR THE OWNER'S DESIGNEE IS
14 ELSEWHERE ON THE PROPERTY. FOR A VIOLATION OF A NOISE RESTRICTION, THE
15 OWNER OR THE OWNER'S DESIGNEE SHALL NOTIFY THE OCCUPANT OF THE NOISE
16 VIOLATION. NOTICE MAY BE MADE BY TELEPHONE CALL OR TEXT MESSAGE. IF THE
17 NOISE VIOLATION CONTINUES FOR THIRTY MINUTES, THE OWNER OR THE OWNER'S
18 DESIGNEE SHALL NOTIFY THE OCCUPANT OF THE NOISE VIOLATION IN PERSON. FOR
19 A VERIFIED VIOLATION OF THIS PARAGRAPH, A CITY OR TOWN MAY IMPOSE THE
20 CIVIL PENALTY PRESCRIBED IN SECTION 42-1125.02, SUBSECTION B.

21 7. TO PROHIBIT SMOKING OUTSIDE OF THE VACATION RENTAL OR SHORT-TERM
22 RENTAL WITHIN ONE HUNDRED FEET OF A RESIDENTIAL STRUCTURE.

23 8. TO PROHIBIT OCCUPANTS OF A VACATION RENTAL OR SHORT-TERM RENTAL
24 FROM PARKING ON PUBLIC OR PRIVATE STREETS IF ON-PROPERTY PARKING IS
25 AVAILABLE. NOTWITHSTANDING SECTION 42-1125.02, FOR A VERIFIED VIOLATION
26 OF THIS PARAGRAPH, A CITY OR TOWN MAY IMPOSE A CIVIL PENALTY OF \$100 FOR
27 EACH DAY THAT THE VACATION RENTAL OR SHORT-TERM RENTAL IS OCCUPIED.

28 C. Within thirty days after a verified violation, a city or town
29 shall notify the department of revenue and the owner of the vacation
30 rental or short-term rental of the verified violation of the city's or
31 town's applicable laws, regulations or ordinances and, if the owner of the
32 vacation rental or short-term rental received the verified violation,
33 whether the city or town imposed a civil penalty on the owner of the
34 vacation rental or short-term rental and the amount of the civil penalty,
35 if assessed. If multiple verified violations arise out of the same
36 response to an incident at a vacation rental or short-term rental, those
37 verified violations are considered one verified violation for the purpose
38 of assessing civil penalties pursuant to section 42-1125.02, subsection B.

39 D. If the owner of a vacation rental or short-term rental has
40 provided contact information to a city or town pursuant to subsection B,
41 paragraph 4 of this section and if the city or town issues a citation for
42 a violation of the city's or town's applicable laws, regulations or
43 ordinances or a state law that occurred on the owner's vacation rental or
44 short-term rental property, the city or town shall make a reasonable
45 attempt to notify the owner or the owner's designee of the citation within

1 seven business days after the citation is issued using the contact
 2 information provided pursuant to subsection B, paragraph 4 of this
 3 section. If the owner of a vacation rental or short-term rental has not
 4 provided contact information pursuant to subsection B, paragraph 4 of this
 5 section, the city or town is not required to provide such notice.

6 E. This section does not exempt an owner of a residential rental
 7 property, as defined in section 33-1901, from maintaining with the
 8 assessor of the county in which the property is located information
 9 required under title 33, chapter 17, article 1.

10 F. A vacation rental or short-term rental may not be used for
 11 nonresidential uses, including for a special event that would otherwise
 12 require a permit or license pursuant to a city or town ordinance or a
 13 state law or rule or for a retail, restaurant, banquet space or other
 14 similar use.

15 G. A VACATION RENTAL OR SHORT-TERM RENTAL MAY NOT ADVERTISE TO
 16 EXCEED THE OCCUPANCY LIMIT OF THE DWELLING OR FOR ANY NONRESIDENTIAL USE
 17 PURSUANT TO SUBSECTION F OF THIS SECTION. NOTWITHSTANDING SECTION
 18 42-1125.02, FOR A VERIFIED VIOLATION OF THIS SUBSECTION, A CITY OR TOWN
 19 MAY IMPOSE A CIVIL PENALTY OF \$50 PER DAY FOR EACH DAY THE VIOLATION
 20 OCCURRED.

21 H. THE OWNER OF A VACATION RENTAL OR SHORT-TERM RENTAL SHALL
 22 DISPLAY THE OWNER'S TRANSACTION PRIVILEGE TAX LICENSE IN ANY ONLINE
 23 ADVERTISEMENT FOR RENTAL OF THE UNIT. NOTWITHSTANDING SECTION 42-1125.02,
 24 FOR A VERIFIED VIOLATION OF THIS SUBSECTION, A CITY OR TOWN MAY IMPOSE A
 25 CIVIL PENALTY OF \$50 PER DAY FOR EACH DAY THE VIOLATION OCCURRED.

26 ~~G.~~ I. For the purposes of this section:

27 1. "Transient" has the same meaning prescribed in section 42-5070.

28 2. "Vacation rental" or "short-term rental":

29 (a) Means any individually or collectively owned single-family or
 30 one-to-four-family house or dwelling unit or any unit or group of units in
 31 a condominium, cooperative or timeshare, that is also a transient public
 32 lodging establishment or owner-occupied residential home offered for
 33 transient use if the accommodations are not classified for property
 34 taxation under section 42-12001. ~~Vacation rental and short-term rental do~~

35 (b) DOES not include a unit that is used for any nonresidential
 36 use, including retail, restaurant, banquet space, event center or another
 37 similar use.

38 3. "Verified violation" means a finding of guilt or civil
 39 responsibility for violating any state law or local ordinance relating to
 40 a purpose prescribed in subsection B, ~~or~~ F, G OR H of this section that
 41 has been finally adjudicated.

1 Sec. 2. Section 11-269.17, Arizona Revised Statutes, is amended to
2 read:

3 11-269.17. Limits on regulation of vacation rentals and
4 short-term rentals; state preemption; civil
5 penalties; definitions

6 A. A county may not prohibit vacation rentals or short-term
7 rentals.

8 B. A county may not restrict the use of or regulate vacation
9 rentals or short-term rentals based on their classification, use or
10 occupancy except as provided in this section. A county may regulate
11 vacation rentals or short-term rentals ~~for the following purposes~~ AS
12 FOLLOWS:

13 1. ~~Protecting~~ TO PROTECT the public's health and safety, including
14 rules and regulations related to fire and building codes, health and
15 sanitation, transportation or traffic control, solid or hazardous waste
16 and pollution control, and designation of an emergency point of contact,
17 if the county demonstrates that the rule or regulation is for the primary
18 purpose of protecting the public's health and safety.

19 2. ~~Adopting~~ TO ADOPT and ~~enforcing~~ ENFORCE residential use and
20 zoning ordinances, including ordinances related to noise, protection of
21 welfare, property maintenance and other nuisance issues, if the ordinance
22 is applied in the same manner as other property classified under sections
23 42-12003 and 42-12004.

24 3. ~~Limiting~~ TO LIMIT or ~~prohibiting~~ PROHIBIT the use of a vacation
25 rental or short-term rental for the purposes of housing sex offenders,
26 operating or maintaining a sober living home, selling illegal drugs,
27 liquor control or pornography, obscenity, nude or topless dancing and
28 other adult-oriented businesses.

29 4. ~~Requiring~~ TO REQUIRE the owner of a vacation rental or
30 short-term rental to provide the county with contact information for the
31 owner or the owner's designee who is responsible for responding to
32 complaints in a timely manner in person, over the phone or by email at any
33 time of day before offering for rent or renting the vacation rental or
34 short-term rental. THIS CONTACT INFORMATION SHALL BE PRINTED IN BOLD
35 TWENTY-FOUR-POINT FONT AND POSTED ON THE FRONT DOOR OF THE VACATION RENTAL
36 OR SHORT-TERM RENTAL. IF THE PROPERTY IS SURROUNDED BY A FENCE OR OTHER
37 BARRIER THAT RESTRICTS ACCESS TO THE FRONT DOOR, THE CONTACT INFORMATION
38 SHALL BE POSTED IN A LOCATION THAT IS VISIBLE AND ACCESSIBLE TO THE
39 PUBLIC. NOTWITHSTANDING SECTION 42-1125.02, FOR A VERIFIED VIOLATION OF
40 THIS PARAGRAPH, A COUNTY MAY IMPOSE A CIVIL PENALTY OF \$50 FOR EACH DAY
41 THAT THE VACATION RENTAL OR SHORT-TERM RENTAL IS OCCUPIED.

42 5. TO RESTRICT THE MAXIMUM NUMBER OF ADULT OCCUPANTS ALLOWED IN THE
43 VACATION RENTAL OR SHORT-TERM RENTAL AT ANY ONE TIME TO THE LESSER OF THE
44 OCCUPANCY LIMIT ESTABLISHED BY THE COUNTY OR NOT MORE THAN TWO ADULTS PER
45 BEDROOM, UP TO FOUR BEDROOMS, PLUS TWO ADDITIONAL ADULTS PER ONE THOUSAND

1 SQUARE FEET OF LIVABLE SPACE IN EXCESS OF THREE THOUSAND SQUARE FEET OF
2 LIVABLE SPACE OF THE RESIDENCE.

3 6. TO REQUIRE THE INSTALLATION OF SAFETY AND MONITORING EQUIPMENT
4 THAT MONITORS AND DETECTS THE LEVEL OF NOISE ON THE PROPERTY OF THE
5 VACATION RENTAL OR SHORT-TERM RENTAL. THE EQUIPMENT MUST BE INSTALLED
6 INSIDE ALL VACATION RENTALS AND SHORT-TERM RENTALS AND IN THE OUTSIDE YARD
7 OR UNENCLOSED BALCONY OF ALL PROPERTIES THAT ARE VACATION RENTALS OR
8 SHORT-TERM RENTALS. THE EQUIPMENT MUST HAVE THE CAPABILITY OF NOTIFYING
9 THE OWNER OR THE OWNER'S DESIGNEE IF THE LEVEL OF NOISE AT THE PROPERTY IS
10 UNREASONABLE OR IN VIOLATION OF THE COUNTY NOISE ORDINANCE. SAFETY AND
11 MONITORING EQUIPMENT IS NOT REQUIRED IN AN OWNER-OCCUPIED RESIDENTIAL HOME
12 OFFERED FOR TRANSIENT USE OR IF THE OWNER OR THE OWNER'S DESIGNEE IS
13 ELSEWHERE ON THE PROPERTY. FOR A VIOLATION OF A NOISE RESTRICTION, THE
14 OWNER OR THE OWNER'S DESIGNEE SHALL NOTIFY THE OCCUPANT OF THE NOISE
15 VIOLATION. NOTICE MAY BE MADE BY TELEPHONE CALL OR TEXT MESSAGE. IF THE
16 NOISE VIOLATION CONTINUES FOR THIRTY MINUTES, THE OWNER OR THE OWNER'S
17 DESIGNEE SHALL NOTIFY THE OCCUPANT OF THE NOISE VIOLATION IN PERSON. FOR
18 A VERIFIED VIOLATION OF THIS PARAGRAPH, A COUNTY MAY IMPOSE THE CIVIL
19 PENALTY PRESCRIBED IN SECTION 42-1125.02, SUBSECTION B.

20 7. TO PROHIBIT SMOKING OUTSIDE OF THE VACATION RENTAL OR SHORT-TERM
21 RENTAL WITHIN ONE HUNDRED FEET OF A RESIDENTIAL STRUCTURE.

22 8. TO PROHIBIT OCCUPANTS OF A VACATION RENTAL OR SHORT-TERM RENTAL
23 FROM PARKING ON PUBLIC OR PRIVATE STREETS IF ON-PROPERTY PARKING IS
24 AVAILABLE. NOTWITHSTANDING SECTION 42-1125.02, FOR A VERIFIED VIOLATION
25 OF THIS PARAGRAPH, A COUNTY MAY IMPOSE A CIVIL PENALTY OF \$100 FOR EACH
26 DAY THAT THE VACATION RENTAL OR SHORT-TERM RENTAL IS OCCUPIED.

27 C. Within thirty days after a verified violation, a county shall
28 notify the department of revenue and the owner of the vacation rental or
29 short-term rental of the verified violation of the county's applicable
30 laws, regulations or ordinances and, if the property owner received the
31 verified violation, whether the county imposed a civil penalty on the
32 owner of the vacation rental or short-term rental and the amount of the
33 civil penalty, if assessed. If multiple verified violations arise out of
34 the same response to an incident at a vacation rental or short-term
35 rental, those verified violations are considered one verified violation
36 for the purpose of assessing civil penalties pursuant to section
37 42-1125.02, subsection B.

38 D. If the owner of a vacation rental or short-term rental has
39 provided contact information to a county pursuant to subsection B,
40 paragraph 4 of this section and if the county issues a citation for a
41 violation of the county's applicable laws, regulations or ordinances or a
42 state law that occurred on the owner's vacation rental or short-term
43 rental property, the county shall make a reasonable attempt to notify the
44 owner or the owner's designee of the citation within seven business days
45 after the citation is issued using the contact information provided

pursuant to subsection B, paragraph 4 of this section. If the owner of a vacation rental or short-term rental has not provided contact information pursuant to subsection B, paragraph 4 of this section, the county is not required to provide such notice.

E. This section does not exempt an owner of a residential rental property, as defined in section 33-1901, from maintaining with the assessor of the county in which the property is located information required under title 33, chapter 17, article 1.

F. A vacation rental or short-term rental may not be used for nonresidential uses, including for a special event that would otherwise require a permit or license pursuant to a county ordinance or a state law or rule or for a retail, restaurant, banquet space or other similar use.

G. A VACATION RENTAL OR SHORT-TERM RENTAL MAY NOT ADVERTISE TO EXCEED THE OCCUPANCY LIMIT OF THE DWELLING OR FOR ANY NONRESIDENTIAL USE PURSUANT TO SUBSECTION F OF THIS SECTION. NOTWITHSTANDING SECTION 42-1125.02, FOR A VERIFIED VIOLATION OF THIS SUBSECTION, A COUNTY MAY IMPOSE A CIVIL PENALTY OF \$50 PER DAY FOR EACH DAY THE VIOLATION OCCURRED.

H. THE OWNER OF A VACATION RENTAL OR SHORT-TERM RENTAL SHALL DISPLAY THE OWNER'S TRANSACTION PRIVILEGE TAX LICENSE IN ANY ONLINE ADVERTISEMENT FOR RENTAL OF THE UNIT. NOTWITHSTANDING SECTION 42-1125.02, FOR A VERIFIED VIOLATION OF THIS SUBSECTION, A COUNTY MAY IMPOSE A CIVIL PENALTY OF \$50 PER DAY FOR EACH DAY THE VIOLATION OCCURRED.

~~G.~~ I. For the purposes of this section:

1. "Transient" has the same meaning prescribed in section 42-5070.

2. "Vacation rental" or "short-term rental":

(a) Means any individually or collectively owned single-family or one-to-four-family house or dwelling unit or any unit or group of units in a condominium, cooperative or timeshare, that is also a transient public lodging establishment or owner-occupied residential home offered for transient use if the accommodations are not classified for property taxation under section 42-12001. ~~Vacation rental and short-term rental do~~

(b) DOES not include a unit that is used for any nonresidential use, including retail, restaurant, banquet space, event center or another similar use.

3. "Verified violation" means a finding of guilt or civil responsibility for violating any state law or local ordinance relating to a purpose prescribed in subsection B, ~~or~~ F, G OR H of this section that has been finally adjudicated.

REFERENCE TITLE: short-term rentals; vacation rentals

State of Arizona
House of Representatives
Fifty-fifth Legislature
First Regular Session
2021

HCR 2011

Introduced by
Representatives Lieberman: Butler, Pawlik, Shah, Terán, Senator Marsh

A CONCURRENT RESOLUTION

ENACTING AND ORDERING THE SUBMISSION TO THE PEOPLE OF A MEASURE RELATING
TO SHORT-TERM AND VACATION RENTALS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it resolved by the House of Representatives of the State of Arizona,
2 the Senate concurring:

3 1. Under the power of the referendum, as vested in the Legislature,
4 the following measure, relating to short-term and vacation rentals, is
5 enacted to become valid as a law if approved by the voters and on
6 proclamation of the Governor:

7 AN ACT

8 REPEALING SECTIONS 9-500.39 AND 11-269.17, ARIZONA REVISED
9 STATUTES; AMENDING SECTIONS 12-1134, 42-1125.02, 42-2003 AND
10 42-5042, ARIZONA REVISED STATUTES; RELATING TO SHORT-TERM
11 RENTALS AND VACATION RENTALS.

12 Be it enacted by the Legislature of the State of Arizona:

13 Section 1. Repeal

14 Sections 9-500.39 and 11-269.17, Arizona Revised
15 Statutes, are repealed.

16 Sec. 2. Section 12-1134, Arizona Revised Statutes, is
17 amended to read:

18 12-1134. Diminution in value: just compensation:
19 exceptions: definitions

20 A. If the existing rights to use, divide, sell or
21 possess private real property are reduced by the enactment or
22 applicability of any land use law enacted after the date the
23 property is transferred to the owner and such action reduces
24 the fair market value of the property, the owner is entitled
25 to just compensation from this state or the political
26 subdivision of this state that enacted the land use law.

27 B. This section does not apply to land use laws that DO
28 ANY OF THE FOLLOWING:

29 1. Limit or prohibit a use or division of real property
30 for the protection of the public's health and safety,
31 including rules and regulations relating to fire and building
32 codes, health and sanitation, transportation or traffic
33 control, solid or hazardous waste, and pollution control. ;

34 2. Limit or prohibit the use or division of real
35 property commonly and historically recognized as a public
36 nuisance under common law. ;

37 3. Are required by federal law. ;

38 4. Limit or prohibit the use or division of a property
39 for the purpose of housing sex offenders, selling illegal
40 drugs, liquor control, or pornography, obscenity, nude or
41 topless dancing, and other adult oriented businesses if the
42 land use laws are consistent with the constitutions of this
43 state and the United States. ;

44 5. Establish locations for utility facilities. ;

45 6. Do not directly regulate an owner's land. ;

1 7. Were enacted before ~~the effective date of this~~
2 ~~section~~ DECEMBER 7, 2006.

3 8. REGULATE A VACATION RENTAL OR SHORT-TERM RENTAL.

4 C. This state or the political subdivision of this
5 state that enacted the land use law has the burden of
6 demonstrating that the land use law is exempt pursuant to
7 subsection B OF THIS SECTION.

8 D. The owner shall not be required to first submit a
9 land use application to remove, modify, vary or otherwise
10 alter the application of the land use law to the owner's
11 property as a prerequisite to demanding or receiving just
12 compensation pursuant to this section.

13 E. If a land use law continues to apply to private real
14 property more than ninety days after the owner of the property
15 makes a written demand in a specific amount for just
16 compensation to this state or the political subdivision of
17 this state that enacted the land use law, the owner has a
18 cause of action for just compensation in a court in the county
19 in which the property is located, unless this state or THE
20 political subdivision of this state and the owner reach an
21 agreement on the amount of just compensation to be paid, or
22 unless this state or THE political subdivision of this state
23 amends, ~~OR~~ repeals, ~~THE LAND USE LAW~~ or issues to the
24 landowner a binding waiver of enforcement of the land use law
25 on the owner's specific parcel.

26 F. Any demand for landowner relief or any waiver that
27 is granted in lieu of compensation runs with the land.

28 G. An action for just compensation based on diminution
29 in value must be made or forever barred within three years of
30 the effective date of the land use law, or of the first date
31 the reduction of the existing rights to use, divide, sell or
32 possess property applies to the owner's parcel, whichever is
33 later.

34 H. The remedy created by this section is in addition to
35 any other remedy that is provided by the laws and constitution
36 of this state or the United States and is not intended to
37 modify or replace any other remedy.

38 I. ~~Nothing in~~ This section ~~prohibits~~ DOES NOT PROHIBIT
39 this state or any political subdivision of this state from
40 reaching an agreement with a private property owner to waive a
41 claim for diminution in value regarding any proposed action by
42 this state or a political subdivision of this state or action
43 requested by the property owner.

J. FOR THE PURPOSES OF SUBSECTION B OF THIS SECTION:
1. "TRANSIENT" HAS THE SAME MEANING PRESCRIBED IN SECTION 42-5070.

2. "VACATION RENTAL" OR "SHORT-TERM RENTAL":

(a) MEANS ANY INDIVIDUALLY OR COLLECTIVELY OWNED SINGLE-FAMILY OR ONE-TO-FOUR-FAMILY HOUSE OR DWELLING UNIT OR ANY UNIT OR GROUP OF UNITS IN A CONDOMINIUM, COOPERATIVE OR TIMESHARE, THAT IS ALSO A TRANSIENT PUBLIC LODGING ESTABLISHMENT OR OWNER-OCCUPIED RESIDENTIAL HOME OFFERED FOR TRANSIENT USE IF THE ACCOMMODATIONS ARE NOT CLASSIFIED FOR PROPERTY TAXATION UNDER SECTION 42-12001.

(b) DOES NOT INCLUDE A UNIT THAT IS USED FOR ANY NONRESIDENTIAL USE, INCLUDING RETAIL, RESTAURANT, BANQUET SPACE, EVENT CENTER OR ANOTHER SIMILAR USE.

Sec. 3. Section 42-1125.02, Arizona Revised Statutes, is amended to read:

42-1125.02. Civil penalties; online lodging operators; definition

A. An online lodging operator that fails to comply with section 42-5042 shall pay the following civil penalty:

1. For a first offense, \$250.
2. For a second and any subsequent offense, \$1,000.

~~B. If an online lodging operator received a verified violation, the online lodging operator shall pay the following civil penalty:~~

~~1. For a first verified violation received for a property, either:~~

~~(a) If the city, town or county did not impose a civil penalty on the online lodging operator for the verified violation, \$500.~~

~~(b) If the city, town or county imposed a civil penalty on the online lodging operator for the verified violation, the difference between the amount prescribed in subdivision (a) of this paragraph and the amount of the civil penalty the city, town or county imposed on the online lodging operator for the verified violation.~~

~~2. For a second verified violation received on the same property within a twelve-month period, either:~~

~~(a) If the city, town or county did not impose a civil penalty on the online lodging operator for the verified violation, \$1,000.~~

~~(b) If the city, town or county imposed a civil penalty on the online lodging operator for the verified violation, the difference between the amount prescribed in subdivision (a) of this paragraph and the amount of the civil penalty the city,~~

town or county imposed on the online lodging operator for the verified violation.

3. For a third and any subsequent verified violation received on the same property within the same twelve-month period, either:

(a) If the city, town or county did not impose a civil penalty on the online lodging operator for the verified violation, fifty percent of the gross monthly revenues of the lodging accommodation at which the violation occurred for the month in which the violation occurred or \$1,500, whichever is greater.

(b) If the city, town or county imposed a civil penalty on the online lodging operator for the verified violation, the difference between the amount prescribed in subdivision (a) of this paragraph and the amount of the civil penalty the city, town or county imposed on the online lodging operator for the verified violation.

C. If the department imposes a civil penalty pursuant to subsection B, paragraph 1 of this section and the online lodging operator appeals the civil penalty, the hearing officer may waive or lower the civil penalty based on the online lodging operator's diligence in attempting to prohibit renters from violating state law or the city's or town's applicable laws, regulations or ordinances. In determining whether to waive or lower the civil penalty, the hearing officer shall consider both of the following:

1. Whether rules that prohibit activities violating state law or the city's or town's applicable laws, regulations or ordinances were included in the advertisement for the lodging accommodation, vacation rental or short-term rental.

2. Whether the rules described in paragraph 1 of this subsection were posted in a conspicuous location inside the lodging accommodation, vacation rental or short-term rental.

~~D.~~ B. For the purposes of this section, ~~—~~

1. "Lodging accommodation" has the same meaning prescribed in section 42-5076.

2. "Online lodging marketplace" has the same meaning prescribed in section 42-5076.

3. "online lodging operator" has the same meaning prescribed in section 42-5076 and includes an owner of a vacation rental or short-term rental that is not offered through an online lodging marketplace.

4. "Vacation rental" and "short-term rental" have the same meanings prescribed in section 9-500.39 or 11-269.17.

~~5. "Verified violation" has the same meaning prescribed in section 9-500.39 or 11-269.17.~~

Sec. 4. Section 42-2003, Arizona Revised Statutes, is amended to read:

42-2003. Authorized disclosure of confidential information; definitions

A. Confidential information relating to:

1. A taxpayer may be disclosed to the taxpayer, its successor in interest or a designee of the taxpayer who is authorized in writing by the taxpayer. A principal corporate officer of a parent corporation may execute a written authorization for a controlled subsidiary.

2. A corporate taxpayer may be disclosed to any principal officer, any person designated by a principal officer or any person designated in a resolution by the corporate board of directors or other similar governing body. If a corporate officer signs a statement under penalty of perjury representing that the officer is a principal officer, the department may rely on the statement until the statement is shown to be false. For the purposes of this paragraph, "principal officer" includes a chief executive officer, president, secretary, treasurer, vice president of tax, chief financial officer, chief operating officer or chief tax officer or any other corporate officer who has the authority to bind the taxpayer on matters related to state taxes.

3. A partnership may be disclosed to any partner of the partnership. This exception does not include disclosure of confidential information of a particular partner unless otherwise authorized.

4. A limited liability company may be disclosed to any member of the company or, if the company is manager-managed, to any manager.

5. An estate may be disclosed to the personal representative of the estate and to any heir, next of kin or beneficiary under the will of the decedent if the department finds that the heir, next of kin or beneficiary has a material interest that will be affected by the confidential information.

6. A trust may be disclosed to the trustee or trustees, jointly or separately, and to the grantor or any beneficiary of the trust if the department finds that the grantor or beneficiary has a material interest that will be affected by the confidential information.

7. A government entity may be disclosed to the head of the entity or a member of the governing board of the entity.

1 or any employee of the entity who has been delegated the
2 authorization in writing by the head of the entity or the
3 governing board of the entity.

4 8. Any taxpayer may be disclosed if the taxpayer has
5 waived any rights to confidentiality either in writing or on
6 the record in any administrative or judicial proceeding.

7 9. The name and taxpayer identification numbers of
8 persons issued direct payment permits may be publicly
9 disclosed.

10 10. Any taxpayer may be disclosed during a meeting or
11 telephone call if the taxpayer is present during the meeting
12 or telephone call and authorizes the disclosure of
13 confidential information.

14 B. Confidential information may be disclosed to:

15 1. Any employee of the department whose official duties
16 involve tax administration.

17 2. The office of the attorney general solely for its
18 use in preparation for, or in an investigation that may result
19 in, any proceeding involving tax administration before the
20 department or any other agency or board of this state, or
21 before any grand jury or any state or federal court.

22 3. The department of liquor licenses and control for
23 its use in determining whether a spirituous liquor licensee
24 has paid all transaction privilege taxes and affiliated excise
25 taxes incurred as a result of the sale of spirituous liquor,
26 as defined in section 4-101, at the licensed establishment and
27 imposed on the licensed establishments by this state and its
28 political subdivisions.

29 4. Other state tax officials whose official duties
30 require the disclosure for proper tax administration purposes
31 if the information is sought in connection with an
32 investigation or any other proceeding conducted by the
33 official. Any disclosure is limited to information of a
34 taxpayer who is being investigated or who is a party to a
35 proceeding conducted by the official.

36 5. The following agencies, officials and organizations,
37 if they grant substantially similar privileges to the
38 department for the type of information being sought, pursuant
39 to statute and a written agreement between the department and
40 the foreign country, agency, state, Indian tribe or
41 organization:

42 (a) The United States internal revenue service, alcohol
43 and tobacco tax and trade bureau of the United States
44 treasury, United States bureau of alcohol, tobacco, firearms
45 and explosives of the United States department of justice,

1 United States drug enforcement agency and federal bureau of
2 investigation.

3 (b) A state tax official of another state.

4 (c) An organization of states, federation of tax
5 administrators or multistate tax commission that operates an
6 information exchange for tax administration purposes.

7 (d) An agency, official or organization of a foreign
8 country with responsibilities that are comparable to those
9 listed in subdivision (a), (b) or (c) of this paragraph.

10 (e) An agency, official or organization of an Indian
11 tribal government with responsibilities comparable to the
12 responsibilities of the agencies, officials or organizations
13 identified in subdivision (a), (b) or (c) of this paragraph.

14 6. The auditor general, in connection with any audit of
15 the department subject to the restrictions in section 42-2002,
16 subsection D.

17 7. Any person to the extent necessary for effective tax
18 administration in connection with:

19 (a) The processing, storage, transmission, destruction
20 and reproduction of the information.

21 (b) The programming, maintenance, repair, testing and
22 procurement of equipment for purposes of tax administration.

23 (c) The collection of the taxpayer's civil liability.

24 8. The office of administrative hearings relating to
25 taxes administered by the department pursuant to section
26 42-1101, but the department shall not disclose any
27 confidential information without the taxpayer's written
28 consent:

29 (a) Regarding income tax or withholding tax.

30 (b) On any tax issue relating to information associated
31 with the reporting of income tax or withholding tax.

32 9. The United States treasury inspector general for tax
33 administration for the purpose of reporting a violation of
34 internal revenue code section 7213A (26 United States Code
35 section 7213A), unauthorized inspection of returns or return
36 information.

37 10. The financial management service of the United
38 States treasury department for use in the treasury offset
39 program.

40 11. The United States treasury department or its
41 authorized agent for use in the state income tax levy program
42 and in the electronic federal tax payment system.

43 12. The Arizona commerce authority for its use in:

44 (a) Qualifying renewable energy operations for the tax
45 incentives under section 42-12006.

1 (b) Qualifying businesses with a qualified facility for
2 income tax credits under sections 43-1083.03 and 43-1164.04.

3 (c) Fulfilling its annual reporting responsibility
4 pursuant to section 41-1511, subsections U and V and section
5 41-1512, subsections U and V.

6 (d) Certifying computer data centers for tax relief
7 under section 41-1519.

8 13. A prosecutor for purposes of section 32-1164,
9 subsection C.

10 14. The office of the state fire marshal for use in
11 determining compliance with and enforcing title 37, chapter 9,
12 article 5.

13 15. The department of transportation for its use in
14 administering taxes, surcharges and penalties prescribed by
15 title 28.

16 16. The Arizona health care cost containment system
17 administration for its use in administering nursing facility
18 provider assessments.

19 17. The department of administration risk management
20 division and the office of the attorney general if the
21 information relates to a claim against this state pursuant to
22 section 12-821.01 involving the department of revenue.

23 18. Another state agency if the taxpayer authorizes the
24 disclosure of confidential information in writing, including
25 an authorization that is part of an application form or other
26 document submitted to the agency.

27 19. The department of economic security for its use in
28 determining whether an employer has paid all amounts due under
29 the unemployment insurance program pursuant to title 23,
30 chapter 4.

31 20. The department of health services for its use in
32 determining ~~if~~ **WHETHER** a medical marijuana dispensary is in
33 compliance with the tax requirements of ~~title 42,~~ chapter 5 **OF**
34 **THIS TITLE** for purposes of section 36-2806, subsection A.

35 C. Confidential information may be disclosed in any
36 state or federal judicial or administrative proceeding
37 pertaining to tax administration pursuant to the following
38 conditions:

39 1. One or more of the following circumstances must
40 apply:

41 (a) The taxpayer is a party to the proceeding.

42 (b) The proceeding arose out of, or in connection with,
43 determining the taxpayer's civil or criminal liability, or the
44 collection of the taxpayer's civil liability, with respect to
45 any tax imposed under this title or title 43.

1 (c) The treatment of an item reflected on the
2 taxpayer's return is directly related to the resolution of an
3 issue in the proceeding.

4 (d) Return information directly relates to a
5 transactional relationship between a person who is a party to
6 the proceeding and the taxpayer and directly affects the
7 resolution of an issue in the proceeding.

8 2. Confidential information may not be disclosed under
9 this subsection if the disclosure is prohibited by section
10 42-2002, subsection C or D.

11 D. Identity information may be disclosed for purposes
12 of notifying persons entitled to tax refunds if the department
13 is unable to locate the persons after reasonable effort.

14 E. The department, on the request of any person, shall
15 provide the names and addresses of bingo licensees as defined
16 in section 5-401, verify whether or not a person has a
17 privilege license and number, a tobacco product distributor's
18 license and number or a withholding license and number or
19 disclose the information to be posted on the department's
20 website or otherwise publicly accessible pursuant to section
21 42-1124, subsection F and section 42-3401.

22 F. A department employee, in connection with the
23 official duties relating to any audit, collection activity or
24 civil or criminal investigation, may disclose return
25 information to the extent that disclosure is necessary to
26 obtain information that is not otherwise reasonably
27 available. These official duties include the correct
28 determination of and liability for tax, the amount to be
29 collected or the enforcement of other state tax revenue laws.

30 G. Confidential information relating to transaction
31 privilege tax, use tax, severance tax, jet fuel excise and use
32 tax and any other tax collected by the department on behalf of
33 any jurisdiction may be disclosed to any county, city or town
34 tax official if the information relates to a taxpayer who is
35 or may be taxable by a county, city or town or who may be
36 subject to audit by the department pursuant to section
37 42-6002. Any taxpayer information that is released by the
38 department to the county, city or town:

39 1. May be used only for internal purposes, including
40 audits. ~~If there is a legitimate business need relating to~~
41 ~~enforcing laws, regulations and ordinances pursuant to section~~
42 ~~9-500.39 or 11-269.17, a county, city or town tax official may~~
43 ~~redisclose transaction privilege tax information relating to a~~
44 ~~vacation rental or short-term rental property owner or online~~

1 ~~lodging operator from the new license report and license~~
2 ~~update report, subject to the following:~~

3 ~~(a) The information redisclosed is limited to the~~
4 ~~following:~~

5 ~~(i) The transaction privilege tax license number.~~

6 ~~(ii) The type of organization or ownership of the~~
7 ~~business.~~

8 ~~(iii) The legal business name and doing business as~~
9 ~~name, if different from the legal name.~~

10 ~~(iv) The business mailing address, tax record physical~~
11 ~~location address, telephone number, email address and fax~~
12 ~~number.~~

13 ~~(v) The date the business started in this state, the~~
14 ~~business description and the North American industry~~
15 ~~classification system code.~~

16 ~~(vi) The name, address and telephone number for each~~
17 ~~owner, partner, corporate officer, member, managing member or~~
18 ~~official of the employing unit.~~

19 ~~(b) Redisclosure is limited to nonelected officials in~~
20 ~~other units within the county, city or town. The information~~
21 ~~may not be redisclosed to an elected official or the elected~~
22 ~~official's staff.~~

23 ~~(c) All redisclosures of confidential information made~~
24 ~~pursuant to this paragraph are subject to paragraph 2 of this~~
25 ~~subsection.~~

26 2. May not be disclosed to the public in any manner
27 that does not comply with confidentiality standards
28 established by the department. The county, city or town shall
29 agree in writing with the department that any release of
30 confidential information that violates the confidentiality
31 standards adopted by the department will result in the
32 immediate suspension of any rights of the county, city or town
33 to receive taxpayer information under this subsection.

34 H. The department may disclose statistical information
35 gathered from confidential information if it does not disclose
36 confidential information attributable to any one taxpayer.
37 The department may disclose statistical information gathered
38 from confidential information, even if it discloses
39 confidential information attributable to a taxpayer, to:

40 1. The state treasurer in order to comply with the
41 requirements of section 42-5029, subsection A, paragraph 3.

42 2. The joint legislative income tax credit review
43 committee, the joint legislative budget committee staff and
44 the legislative staff in order to comply with the requirements
45 of section 43-221.

1 I. The department may disclose the aggregate amounts of
2 any tax credit, tax deduction or tax exemption enacted after
3 January 1, 1994. Information subject to disclosure under this
4 subsection shall not be disclosed if a taxpayer demonstrates
5 to the department that such information would give an unfair
6 advantage to competitors.

7 J. Except as provided in section 42-2002, subsection C,
8 confidential information, described in section 42-2001,
9 paragraph 1, subdivision (a), item (ii), may be disclosed to
10 law enforcement agencies for law enforcement purposes.

11 K. The department may provide transaction privilege tax
12 license information to property tax officials in a county for
13 the purpose of identification and verification of the tax
14 status of commercial property.

15 L. The department may provide transaction privilege
16 tax, luxury tax, use tax, property tax and severance tax
17 information to the ombudsman-citizens aide pursuant to title
18 41, chapter 8, article 5.

19 M. Except as provided in section 42-2002, subsection D,
20 a court may order the department to disclose confidential
21 information pertaining to a party to an action. An order
22 shall be made only on a showing of good cause and that the
23 party seeking the information has made demand on the taxpayer
24 for the information.

25 N. This section does not prohibit the disclosure by the
26 department of any information or documents submitted to the
27 department by a bingo licensee. Before disclosing the
28 information, the department shall obtain the name and address
29 of the person requesting the information.

30 O. If the department is required or permitted to
31 disclose confidential information, it may charge the person or
32 agency requesting the information for the reasonable cost of
33 its services.

34 P. Except as provided in section 42-2002, subsection D,
35 the department of revenue shall release confidential
36 information as requested by the department of economic
37 security pursuant to section 42-1122 or 46-291. Information
38 disclosed under this subsection is limited to the same type of
39 information that the United States internal revenue service is
40 authorized to disclose under section 6103(1)(6) of the
41 internal revenue code.

42 Q. Except as provided in section 42-2002, subsection D,
43 the department shall release confidential information as
44 requested by the courts and clerks of the court pursuant to
45 section 42-1122.

1 R. To comply with the requirements of section 42-5031,
2 the department may disclose to the state treasurer, to the
3 county stadium district board of directors and to any city or
4 town tax official that is part of the county stadium district
5 confidential information attributable to a taxpayer's business
6 activity conducted in the county stadium district.

7 S. The department shall release to the attorney general
8 confidential information as requested by the attorney general
9 for purposes of determining compliance with or enforcing any
10 of the following:

11 1. Any public health control law relating to tobacco
12 sales as provided under title 36, chapter 6, article 14.

13 2. Any law relating to reduced cigarette ignition
14 propensity standards as provided under title 37, chapter 9,
15 article 5.

16 3. Sections 44-7101 and 44-7111, the master settlement
17 agreement referred to in those sections and all agreements
18 regarding disputes under the master settlement agreement.

19 T. For proceedings before the department, the office of
20 administrative hearings, the state board of tax appeals or any
21 state or federal court involving penalties that were assessed
22 against a return preparer, an electronic return preparer or a
23 payroll service company pursuant to section 42-1103.02,
24 42-1125.01 or 43-419, confidential information may be
25 disclosed only before the judge or administrative law judge
26 adjudicating the proceeding, the parties to the proceeding and
27 the parties' representatives in the proceeding prior to its
28 introduction into evidence in the proceeding. The
29 confidential information may be introduced as evidence in the
30 proceeding only if the taxpayer's name, the names of any
31 dependents listed on the return, all social security numbers,
32 the taxpayer's address, the taxpayer's signature and any
33 attachments containing any of the foregoing information are
34 redacted and if either:

35 1. The treatment of an item reflected on such a return
36 is or may be related to the resolution of an issue in the
37 proceeding.

38 2. Such a return or the return information relates or
39 may relate to a transactional relationship between a person
40 who is a party to the proceeding and the taxpayer that
41 directly affects the resolution of an issue in the proceeding.

42 3. The method of payment of the taxpayer's withholding
43 tax liability or the method of filing the taxpayer's
44 withholding tax return is an issue for the period.

1 U. The department and attorney general may share the
2 information specified in subsection S of this section with any
3 of the following:

4 1. Federal, state or local agencies located in this
5 state for the purposes of enforcement of the statutes or
6 agreements specified in subsection S of this section or for
7 the purposes of enforcement of corresponding laws of other
8 states.

9 2. Indian tribes located in this state for the purposes
10 of enforcement of the statutes or agreements specified in
11 subsection S of this section.

12 3. A court, arbitrator, data clearinghouse or similar
13 entity for the purpose of assessing compliance with or making
14 calculations required by the master settlement agreement or
15 agreements regarding disputes under the master settlement
16 agreement, and with counsel for the parties or expert
17 witnesses in any such proceeding, if the information otherwise
18 remains confidential.

19 V. The department may provide the name and address of
20 qualifying hospitals and qualifying health care organizations,
21 as defined in section 42-5001, to a business that is
22 classified and reporting transaction privilege tax under the
23 utilities classification.

24 W. The department may disclose to an official of any
25 city, town or county in a current agreement or considering a
26 prospective agreement with the department as described in
27 section 42-5032.02, subsection G any information relating to
28 amounts subject to distribution that are required by section
29 42-5032.02. Information disclosed by the department under
30 this subsection:

31 1. May only be used by the city, town or county for
32 internal purposes.

33 2. May not be disclosed to the public in any manner
34 that does not comply with confidentiality standards
35 established by the department. The city, town or county must
36 agree with the department in writing that any release of
37 confidential information that violates the confidentiality
38 standards will result in the immediate suspension of any
39 rights of the city, town or county to receive information
40 under this subsection.

41 X. Notwithstanding any other provision of this section,
42 the department may not disclose information provided by an
43 online lodging marketplace, as defined in section 42-5076,
44 without the written consent of the online lodging marketplace,
45 and the information may be disclosed only pursuant to

1 subsection A, paragraphs 1 through 6, 8 and 10, subsection B,
2 paragraphs 1, 2, 7 and 8 and subsections C, D and G of this
3 section. Such information:

4 1. Is not subject to disclosure pursuant to title 39,
5 relating to public records.

6 2. May not be disclosed to any agency of this state or
7 of any county, city, town or other political subdivision of
8 this state.

9 Sec. 5. Section 42-5042, Arizona Revised Statutes, is
10 amended to read:

11 42-5042. Online lodging operators; requirements;
12 definitions

13 A. An online lodging operator may not offer for rent or
14 rent a lodging accommodation without a current transaction
15 privilege tax license. The online lodging operator shall list
16 the transaction privilege tax license number on each
17 advertisement for each lodging accommodation the online
18 lodging operator maintains, including online lodging
19 marketplace postings.

20 B. For the purposes of this section:

21 1. "Lodging accommodation" has the same meaning
22 prescribed in section 42-5076.

23 2. "Online lodging marketplace" has the same meaning
24 prescribed in section 42-5076.

25 3. "Online lodging operator" has the same meaning
26 prescribed in section 42-5076 ~~and includes an owner of a~~
27 ~~vacation rental or short-term rental, as defined in section~~
28 ~~9-500.39 or 11-269.17, that is not offered through an online~~
29 ~~lodging marketplace.~~

30 2. The Secretary of State shall submit this proposition to the
31 voters at the next general election as provided by article IV, part 1,
32 section 1, Constitution of Arizona.

REFERENCE TITLE: law enforcement; budget reduction; prohibition

State of Arizona
Senate
Fifty-fifth Legislature
First Regular Session
2021

SB 1333

Introduced by
Senator Gowan

AN ACT

AMENDING TITLE 9, CHAPTER 4, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING SECTION 9-500.48; AMENDING TITLE 41, CHAPTER 12, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1734; AMENDING SECTIONS 42-5029 AND 43-206, ARIZONA REVISED STATUTES; RELATING TO LAW ENFORCEMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 9, chapter 4, article 8, Arizona Revised Statutes,
3 is amended by adding section 9-500.48, to read:

4 9-500.48. Law enforcement; budget decrease; prohibition;
5 applicability; definitions

6 A. A CITY OR TOWN MAY NOT REDUCE THE ANNUAL OPERATING BUDGET FOR A
7 LAW ENFORCEMENT AGENCY BY ANY AMOUNT BELOW THE PREVIOUS YEAR'S BUDGET.

8 B. IF A CITY OR TOWN REDUCES THE ANNUAL OPERATING BUDGET FOR A LAW
9 ENFORCEMENT AGENCY, THE CITY OR TOWN SHALL NOTIFY THE STATE TREASURER OF
10 THE REDUCTION. THE STATE TREASURER SHALL THEN WITHHOLD ANY STATE SHARED
11 MONIES FROM THE CITY OR TOWN IN AN AMOUNT EQUAL TO THE AMOUNT OF THE
12 REDUCTION OF THE ANNUAL OPERATING BUDGET FOR THE LAW ENFORCEMENT AGENCY
13 PURSUANT TO SECTION 42-5029, SUBSECTION M AND SECTION 43-206,
14 SUBSECTION G. IF A CITY OR TOWN REDUCES THE ANNUAL OPERATING BUDGET FOR A
15 LAW ENFORCEMENT AGENCY BY MORE THAN TWENTY-FIVE PERCENT, THE CITY OR TOWN
16 SHALL NOTIFY THE STATE TREASURER AND THE STATE TREASURER SHALL WITHHOLD
17 STATE SHARED MONIES IN AN AMOUNT EQUAL TO THE LAW ENFORCEMENT AGENCY'S
18 ENTIRE BUDGET FOR THE PREVIOUS YEAR PURSUANT TO SECTION 42-5029,
19 SUBSECTION M AND SECTION 43-206, SUBSECTION G. THE STATE TREASURER SHALL
20 CONTINUE TO WITHHOLD STATE SHARED MONIES UNTIL NOTIFICATION FROM THE CITY
21 OR TOWN THAT THE REDUCTION IN THE LAW ENFORCEMENT AGENCY'S BUDGET HAS BEEN
22 RESTORED.

23 C. THE STATE TREASURER SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146
24 AND 35-147, ANY AMOUNT WITHHELD PURSUANT TO SUBSECTION B OF THIS SECTION
25 IN THE LAW ENFORCEMENT SUPPORT FUND ESTABLISHED BY SECTION 41-1734.

26 D. THE REQUIREMENTS OF THIS SECTION DO NOT APPLY IF THE CITY OR
27 TOWN DOES NOT HAVE THE MONIES REQUIRED TO CONTINUE THE ANNUAL OPERATING
28 BUDGET FOR A LAW ENFORCEMENT AGENCY AT THE SAME AMOUNT AS THE PREVIOUS
29 YEAR OR IF THE DECREASE IN THE ANNUAL OPERATING BUDGET IS AN OFFSET TO AN
30 EXPENDITURE FOR A LAW ENFORCEMENT AGENCY OR AN ADJUSTMENT FOR HEALTH CARE,
31 PENSION OR OTHER EMPLOYEE-RELATED EXPENSES FROM THE PREVIOUS YEAR'S ANNUAL
32 OPERATING BUDGET.

33 E. IF A PEACE OFFICER CAN DEMONSTRATE THAT THE PEACE OFFICER'S
34 EMPLOYMENT WAS TERMINATED AS A RESULT OF A DECREASE IN THE ANNUAL
35 OPERATING BUDGET FOR THE LAW ENFORCEMENT AGENCY, THE SHERIFF'S DEPARTMENT
36 OF THE COUNTY IN WHICH THE PEACE OFFICER'S POSITION WAS TERMINATED MAY
37 OFFER EMPLOYMENT TO THAT OFFICER. IF THE COUNTY SHERIFF'S DEPARTMENT DOES
38 NOT MAKE AN OFFER OF EMPLOYMENT TO THE PEACE OFFICER, THE DEPARTMENT OF
39 PUBLIC SAFETY SHALL MAKE AN OFFER OF EMPLOYMENT TO THE PEACE OFFICER.

40 F. F. IF A CITY OR TOWN REDUCES A LAW ENFORCEMENT AGENCY'S BUDGET
41 BY MORE THAN TWENTY-FIVE PERCENT, THE CITY OR TOWN SHALL NOTIFY THE
42 SHERIFF OF THE COUNTY IN WHICH THE CITY OR TOWN IS LOCATED AND THAT
43 SHERIFF MAY ASSUME LAW ENFORCEMENT FUNCTIONS FOR THAT CITY OR
44 TOWN. NOTWITHSTANDING SUBSECTION C OF THIS SECTION, IF THE COUNTY SHERIFF
45 ASSUMES LAW ENFORCEMENT FUNCTIONS, THE CITY OR TOWN SHALL NOTIFY THE STATE

1 TREASURER AND THE STATE TREASURER SHALL PROVIDE ALL STATE SHARED MONIES
2 WITHHELD FROM THE CITY OR TOWN TO THE COUNTY SHERIFF'S DEPARTMENT. IF THE
3 COUNTY SHERIFF DOES NOT ASSUME LAW ENFORCEMENT FUNCTIONS, THE CITY OR TOWN
4 SHALL NOTIFY THE DEPARTMENT OF PUBLIC SAFETY AND THE DEPARTMENT OF PUBLIC
5 SAFETY SHALL ASSUME LAW ENFORCEMENT FUNCTIONS. NOTWITHSTANDING SUBSECTION
6 C OF THIS SECTION, IF THE DEPARTMENT OF PUBLIC SAFETY ASSUMES LAW
7 ENFORCEMENT FUNCTIONS, THE CITY OR TOWN SHALL NOTIFY THE STATE TREASURER
8 AND THE STATE TREASURER SHALL PROVIDE ALL STATE SHARED MONIES WITHHELD
9 FROM THE CITY OR TOWN TO THE DEPARTMENT OF PUBLIC SAFETY.

10 G. FOR THE PURPOSES OF THIS SECTION:

11 1. "LAW ENFORCEMENT AGENCY" MEANS A MUNICIPAL POLICE DEPARTMENT.

12 2. "PEACE OFFICER" MEANS A MARSHAL, A POLICE OFFICER OR ANY OTHER
13 CITY OR TOWN OFFICER VESTED BY LAW WITH A DUTY TO MAINTAIN PUBLIC ORDER
14 AND MAKE ARRESTS.

15 Sec. 2. Title 41, chapter 12, article 2, Arizona Revised Statutes,
16 is amended by adding section 41-1734, to read:

17 41-1734. Law enforcement support fund

18 THE LAW ENFORCEMENT SUPPORT FUND IS ESTABLISHED CONSISTING OF MONIES
19 WITHHELD AND DEPOSITED BY THE STATE TREASURER PURSUANT TO SECTION
20 9-500.48. MONIES IN THE FUND SHALL BE USED TO PROVIDE FOR GRANTS TO A
21 COUNTY SHERIFF WHO HIRES A PEACE OFFICER PURSUANT TO SECTION 9-500.48,
22 SUBSECTION E AND PERSONNEL, EQUIPMENT AND COSTS ASSOCIATED WITH HIGHWAY
23 PATROL OFFICERS. THE DEPARTMENT SHALL ADMINISTER THE FUND. MONIES IN THE
24 FUND ARE CONTINUOUSLY APPROPRIATED. ON NOTICE FROM THE DEPARTMENT, THE
25 STATE TREASURER SHALL INVEST AND DIVEST MONIES IN THE FUND AS PROVIDED BY
26 SECTION 35-313, AND MONIES EARNED FROM INVESTMENTS SHALL BE CREDITED TO
27 THE FUND.

28 Sec. 3. Section 42-5029, Arizona Revised Statutes, is amended to
29 read:

30 42-5029. Remission and distribution of monies; withholding;
31 definitions

32 A. The department shall deposit, pursuant to sections 35-146 and
33 35-147, all revenues collected under this article and articles 4, 5 and 8
34 of this chapter pursuant to section 42-1116, separately accounting for:

35 1. Payments of estimated tax under section 42-5014, subsection D.

36 2. Revenues collected pursuant to section 42-5070.

37 3. Revenues collected under this article and article 5 of this
38 chapter from and after June 30, 2000 from sources located on Indian
39 reservations in this state.

40 4. Revenues collected pursuant to section 42-5010, subsection G and
41 section 42-5155, subsection D.

42 5. Revenues collected pursuant to section 42-5010.01 and section
43 42-5155, subsection E.

44 B. The department shall credit payments of estimated tax to an
45 estimated tax clearing account and each month shall transfer all monies in

1 the estimated tax clearing account to a fund designated as the transaction
2 privilege and severance tax clearing account. The department shall credit
3 all other payments to the transaction privilege and severance tax clearing
4 account, separately accounting for the monies designated as distribution
5 base under sections 42-5010, 42-5164 and 42-5205. Each month the
6 department shall report to the state treasurer the amount of monies
7 collected pursuant to this article and articles 4, 5 and 8 of this
8 chapter.

9 C. On notification by the department, the state treasurer shall
10 distribute the monies deposited in the transaction privilege and severance
11 tax clearing account in the manner prescribed by this section and by
12 sections 42-5164 and 42-5205, after deducting warrants drawn against the
13 account pursuant to sections 42-1118 and 42-1254.

14 D. Of the monies designated as distribution base, and subject to
15 the requirements of section 42-5041, the department shall:

16 1. Pay twenty-five percent to the various incorporated
17 municipalities in this state in proportion to their population to be used
18 by the municipalities for any municipal purpose.

19 2. Pay 38.08 percent to the counties in this state by averaging the
20 following proportions:

21 (a) The proportion that the population of each county bears to the
22 total state population.

23 (b) The proportion that the distribution base monies collected
24 during the calendar month in each county under this article, section
25 42-5164, subsection B and section 42-5205, subsection B bear to the total
26 distribution base monies collected under this article, section 42-5164,
27 subsection B and section 42-5205, subsection B throughout the state for
28 the calendar month.

29 3. Pay an additional 2.43 percent to the counties in this state as
30 follows:

31 (a) Average the following proportions:

32 (i) The proportion that the assessed valuation used to determine
33 secondary property taxes of each county, after deducting that part of the
34 assessed valuation that is exempt from taxation at the beginning of the
35 month for which the amount is to be paid, bears to the total assessed
36 valuations used to determine secondary property taxes of all the counties
37 after deducting that portion of the assessed valuations that is exempt
38 from taxation at the beginning of the month for which the amount is to be
39 paid. Property of a city or town that is not within or contiguous to the
40 municipal corporate boundaries and from which water is or may be withdrawn
41 or diverted and transported for use on other property is considered to be
42 taxable property in the county for purposes of determining assessed
43 valuation in the county under this item.

44 (ii) The proportion that the distribution base monies collected
45 during the calendar month in each county under this article, section

42-5164, subsection B and section 42-5205, subsection B bear to the total distribution base monies collected under this article, section 42-5164, subsection B and section 42-5205, subsection B throughout the state for the calendar month.

(b) If the proportion computed under subdivision (a) of this paragraph for any county is greater than the proportion computed under paragraph 2 of this subsection, the department shall compute the difference between the amount distributed to that county under paragraph 2 of this subsection and the amount that would have been distributed under paragraph 2 of this subsection using the proportion computed under subdivision (a) of this paragraph and shall pay that difference to the county from the amount available for distribution under this paragraph. Any monies remaining after all payments under this subdivision shall be distributed among the counties according to the proportions computed under paragraph 2 of this subsection.

4. After any distributions required by sections 42-5030, 42-5030.01, 42-5031, 42-5032, 42-5032.01 and 42-5032.02, and after making any transfer to the water quality assurance revolving fund as required by section 49-282, subsection B, credit the remainder of the monies designated as distribution base to the state general fund. From this amount the legislature shall annually appropriate to:

(a) The department of revenue sufficient monies to administer and enforce this article and articles 5 and 8 of this chapter.

(b) The department of economic security monies to be used for the purposes stated in title 46, chapter 1.

(c) The firearms safety and ranges fund established by section 17-273, ~~fifty thousand dollars~~ \$50,000 derived from the taxes collected from the retail classification pursuant to section 42-5061 for the current fiscal year.

E. If approved by the qualified electors voting at a statewide general election, all monies collected pursuant to section 42-5010, subsection G and section 42-5155, subsection D shall be distributed each fiscal year pursuant to this subsection. The monies distributed pursuant to this subsection are in addition to any other appropriation, transfer or other allocation of public or private monies from any other source and shall not supplant, replace or cause a reduction in other school district, charter school, university or community college funding sources. The monies shall be distributed as follows:

1. If there are outstanding state school facilities revenue bonds pursuant to title 15, chapter 16, article 7, each month one-twelfth of the amount that is necessary to pay the fiscal year's debt service on outstanding state school improvement revenue bonds for the current fiscal year shall be transferred each month to the school improvement revenue bond debt service fund established by section 15-2084. The total amount of bonds for which these monies may be allocated for the payment of debt

1 service shall not exceed a principal amount of eight hundred million
2 dollars exclusive of refunding bonds and other refinancing obligations.

3 2. After any transfer of monies pursuant to paragraph 1 of this
4 subsection, twelve per cent of the remaining monies collected during the
5 preceding month shall be transferred to the technology and research
6 initiative fund established by section 15-1648 to be distributed among the
7 universities for the purpose of investment in technology and
8 research-based initiatives.

9 3. After the transfer of monies pursuant to paragraph 1 of this
10 subsection, three per cent of the remaining monies collected during the
11 preceding month shall be transferred to the workforce development account
12 established in each community college district pursuant to section 15-1472
13 for the purpose of investment in workforce development programs.

14 4. After transferring monies pursuant to paragraphs 1, 2 and 3 of
15 this subsection, one-twelfth of the amount a community college that is
16 owned, operated or chartered by a qualifying Indian tribe on its own
17 Indian reservation would receive pursuant to section 15-1472, subsection
18 D, paragraph 2 if it were a community college district shall be
19 distributed each month to the treasurer or other designated depository of
20 a qualifying Indian tribe. Monies distributed pursuant to this paragraph
21 are for the exclusive purpose of providing support to one or more
22 community colleges owned, operated or chartered by a qualifying Indian
23 tribe and shall be used in a manner consistent with section 15-1472,
24 subsection B. For the purposes of this paragraph, "qualifying Indian
25 tribe" has the same meaning as defined in section 42-5031.01,
26 subsection D.

27 5. After transferring monies pursuant to paragraphs 1, 2 and 3 of
28 this subsection, one-twelfth of the following amounts shall be transferred
29 each month to the department of education for the increased cost of basic
30 state aid under section 15-971 due to added school days and associated
31 teacher salary increases enacted in 2000:

- 32 (a) In fiscal year 2001-2002, \$15,305,900.
- 33 (b) In fiscal year 2002-2003, \$31,530,100.
- 34 (c) In fiscal year 2003-2004, \$48,727,700.
- 35 (d) In fiscal year 2004-2005, \$66,957,200.
- 36 (e) In fiscal year 2005-2006 and each fiscal year thereafter,
37 \$86,280,500.

38 6. After transferring monies pursuant to paragraphs 1, 2 and 3 of
39 this subsection, seven million eight hundred thousand dollars is
40 appropriated each fiscal year, to be paid in monthly installments, to the
41 department of education to be used for school safety as provided in
42 section 15-154 and two hundred thousand dollars is appropriated each
43 fiscal year, to be paid in monthly installments to the department of
44 education to be used for the character education matching grant program as
45 provided in section 15-154.01.

7. After transferring monies pursuant to paragraphs 1, 2 and 3 of this subsection, no more than seven million dollars may be appropriated by the legislature each fiscal year to the department of education to be used for accountability purposes as described in section 15-241 and title 15, chapter 9, article 8.

8. After transferring monies pursuant to paragraphs 1, 2 and 3 of this subsection, one million five hundred thousand dollars is appropriated each fiscal year, to be paid in monthly installments, to the failing schools tutoring fund established by section 15-241.

9. After transferring monies pursuant to paragraphs 1, 2 and 3 of this subsection, twenty-five million dollars shall be transferred each fiscal year to the state general fund to reimburse the general fund for the cost of the income tax credit allowed by section 43-1072.01.

10. After the payment of monies pursuant to paragraphs 1 through 9 of this subsection, the remaining monies collected during the preceding month shall be transferred to the classroom site fund established by section 15-977. The monies shall be allocated as follows in the manner prescribed by section 15-977:

(a) Forty per cent shall be allocated for teacher compensation based on performance.

(b) Twenty per cent shall be allocated for increases in teacher base compensation and employee related expenses.

(c) Forty per cent shall be allocated for maintenance and operation purposes.

F. The department shall credit the remainder of the monies in the transaction privilege and severance tax clearing account to the state general fund, subject to any distribution required by section 42-5030.01.

G. Notwithstanding subsection D of this section, if a court of competent jurisdiction finally determines that tax monies distributed under this section were illegally collected under this article or articles 5 and 8 of this chapter and orders the monies to be refunded to the taxpayer, the department shall compute the amount of such monies that was distributed to each city, town and county under this section. Each city's, town's and county's proportionate share of the costs shall be based on the amount of the original tax payment each municipality and county received. Each month the state treasurer shall reduce the amount otherwise distributable to the city, town and county under this section by one thirty-sixth of the total amount to be recovered from the city, town or county until the total amount has been recovered, but the monthly reduction for any city, town or county shall not exceed ten percent of the full monthly distribution to that entity. The reduction shall begin for the first calendar month after the final disposition of the case and shall continue until the total amount, including interest and costs, has been recovered.

H. On receiving a certificate of default from the greater Arizona

1 development authority pursuant to section 41-2257 or 41-2258 and to the
2 extent not otherwise expressly prohibited by law, the state treasurer
3 shall withhold from the next succeeding distribution of monies pursuant to
4 this section due to the defaulting political subdivision the amount
5 specified in the certificate of default and immediately deposit the amount
6 withheld in the greater Arizona development authority revolving fund. The
7 state treasurer shall continue to withhold and deposit the monies until
8 the greater Arizona development authority certifies to the state treasurer
9 that the default has been cured. In no event may the state treasurer
10 withhold any amount that the defaulting political subdivision certifies to
11 the state treasurer and the authority as being necessary to make any
12 required deposits then due for the payment of principal and interest on
13 bonds of the political subdivision that were issued before the date of the
14 loan repayment agreement or bonds and that have been secured by a pledge
15 of distributions made pursuant to this section.

16 I. Except as provided by sections 42-5033 and 42-5033.01, the
17 population of a county, city or town as determined by the most recent
18 United States decennial census plus any revisions to the decennial census
19 certified by the United States bureau of the census shall be used as the
20 basis for apportioning monies pursuant to subsection D of this section.

21 J. Except as otherwise provided by this subsection, on notice from
22 the department of revenue pursuant to section 42-6010, subsection B, the
23 state treasurer shall withhold from the distribution of monies pursuant to
24 this section to the affected city or town the amount of the penalty for
25 business location municipal tax incentives provided by the city or town to
26 a business entity that locates a retail business facility in the city or
27 town. The state treasurer shall continue to withhold monies pursuant to
28 this subsection until the entire amount of the penalty has been withheld.
29 The state treasurer shall credit any monies withheld pursuant to this
30 subsection to the state general fund as provided by subsection D,
31 paragraph 4 of this section. The state treasurer shall not withhold any
32 amount that the city or town certifies to the department of revenue and
33 the state treasurer as being necessary to make any required deposits or
34 payments for debt service on bonds or other long-term obligations of the
35 city or town that were issued or incurred before the location incentives
36 provided by the city or town.

37 K. On notice from the auditor general pursuant to section 9-626,
38 subsection D, the state treasurer shall withhold from the distribution of
39 monies pursuant to this section to the affected city the amount computed
40 pursuant to section 9-626, subsection D. The state treasurer shall
41 continue to withhold monies pursuant to this subsection until the entire
42 amount specified in the notice has been withheld. The state treasurer
43 shall credit any monies withheld pursuant to this subsection to the state
44 general fund as provided by subsection D, paragraph 4 of this section.

1 L. Except as otherwise provided by this subsection, on notice from
2 the attorney general pursuant to section 41-194.01, subsection B,
3 paragraph 1 that an ordinance, regulation, order or other official action
4 adopted or taken by the governing body of a county, city or town violates
5 state law or the Constitution of Arizona, the state treasurer shall
6 withhold the distribution of monies pursuant to this section to the
7 affected county, city or town and shall continue to withhold monies
8 pursuant to this subsection until the attorney general certifies to the
9 state treasurer that the violation has been resolved. The state treasurer
10 shall redistribute the monies withheld pursuant to this subsection among
11 all other counties, cities and towns in proportion to their population as
12 provided by subsection D of this section. The state treasurer shall not
13 withhold any amount that the county, city or town certifies to the
14 attorney general and the state treasurer as being necessary to make any
15 required deposits or payments for debt service on bonds or other long-term
16 obligations of the county, city or town that were issued or incurred
17 before committing the violation.

18 M. EXCEPT AS OTHERWISE PROVIDED BY THIS SUBSECTION, ON NOTICE FROM
19 THE GOVERNING BODY OF A CITY OR TOWN THAT AN OFFICIAL ACTION ADOPTED OR
20 TAKEN BY THE GOVERNING BODY OF THE CITY OR TOWN REDUCES A LAW ENFORCEMENT
21 AGENCY'S BUDGET BY LESS THAN TWENTY-FIVE PERCENT FROM THE PREVIOUS YEAR'S
22 BUDGET PURSUANT TO SECTION 9-500.48, THE STATE TREASURER SHALL WITHHOLD
23 THE DISTRIBUTION OF MONIES PURSUANT TO THIS SECTION IN AN AMOUNT EQUAL TO
24 THE REDUCTION TO THE LAW ENFORCEMENT AGENCY'S BUDGET TO THE AFFECTED CITY
25 OR TOWN AND SHALL CONTINUE TO WITHHOLD MONIES PURSUANT TO THIS SUBSECTION
26 UNTIL NOTIFICATION BY THE GOVERNING BODY OF THE CITY OR TOWN THAT THE
27 REDUCTION HAS BEEN RESTORED. THE STATE TREASURER SHALL DEPOSIT, PURSUANT
28 TO SECTIONS 35-146 AND 35-147, THE MONIES WITHHELD PURSUANT TO THIS
29 SUBSECTION IN THE LAW ENFORCEMENT SUPPORT FUND ESTABLISHED BY SECTION
30 41-1734. IF THE GOVERNING BODY OF A CITY OR TOWN REDUCES A LAW
31 ENFORCEMENT AGENCY'S BUDGET BY MORE THAN TWENTY-FIVE PERCENT FROM THE
32 PREVIOUS YEAR'S BUDGET, THE STATE TREASURER SHALL WITHHOLD THE
33 DISTRIBUTION OF ALL MONIES PURSUANT TO THIS SECTION TO THE AFFECTED CITY
34 OR TOWN AND SHALL CONTINUE TO WITHHOLD MONIES PURSUANT TO THIS SUBSECTION
35 UNTIL NOTIFICATION BY THE GOVERNING BODY OF THE CITY OR TOWN THAT THE
36 REDUCTION HAS BEEN RESTORED. IF THE COUNTY SHERIFF'S DEPARTMENT OR THE
37 DEPARTMENT OF PUBLIC SAFETY ASSUMES LAW ENFORCEMENT FUNCTIONS PURSUANT TO
38 SECTION 9-500.48, SUBSECTION F, THE STATE TREASURER SHALL TRANSFER ALL
39 WITHHELD MONIES TO THE AGENCY THAT ASSUMES LAW ENFORCEMENT FUNCTIONS IN
40 THE AFFECTED COUNTY, CITY OR TOWN. THE STATE TREASURER SHALL NOT WITHHOLD
41 ANY AMOUNT THAT THE CITY OR TOWN CERTIFIES AS BEING NECESSARY TO MAKE ANY
42 REQUIRED DEPOSITS OR PAYMENTS FOR DEBT SERVICE ON BONDS OR OTHER LONG-TERM
43 OBLIGATIONS OF THE CITY OR TOWN THAT WERE ISSUED OR INCURRED BEFORE THE
44 REDUCTION IN THE LAW ENFORCEMENT AGENCY'S BUDGET. THIS SUBSECTION DOES

NOT APPLY TO A REDUCTION IN BUDGET PURSUANT TO SECTION 9-500.48,
SUBSECTION D.

~~M.~~ N. For the purposes of this section: ~~—~~

1. "Community college district" means a community college district that is established pursuant to sections 15-1402 and 15-1403 and that is a political subdivision of this state and, unless otherwise specified, includes a community college tuition financing district established pursuant to section 15-1409.

2. "LAW ENFORCEMENT AGENCY" MEANS A MUNICIPAL POLICE DEPARTMENT.

Sec. 4. Section 43-206, Arizona Revised Statutes, is amended to read:

43-206. Urban revenue sharing fund; allocation; distribution; withholding; definition

A. The urban revenue sharing fund is established. The fund shall consist of an amount equal to fifteen percent of the net proceeds of the state income taxes for the fiscal year two years preceding the current fiscal year. The fund shall be distributed to incorporated cities and towns as provided in this section, except that a city or town shall receive at least an amount equal to what a city or town with a population of fifteen hundred or more persons would receive. The transfer of net proceeds prescribed by section 49-282, subsection B does not affect the calculation of net proceeds prescribed by this subsection.

B. Each city or town shall share in the urban revenue sharing fund in the proportion that the population of each bears to the population of all. Except as provided by sections 42-5033 and 42-5033.01, the population of a city or town as determined by the most recent United States decennial census plus any revisions to the decennial census certified by the United States bureau of the census shall be used as the basis for apportioning monies pursuant to this subsection.

C. The treasurer, on instruction from the department, shall transmit, ~~no~~ NOT later than the tenth day of each month, to each city or town an amount equal to one-twelfth of that city's or town's total entitlement for the current fiscal year from the urban revenue sharing fund as determined by the department.

D. A newly incorporated city or town shall share in the urban revenue sharing fund beginning the first month of the first full fiscal year following incorporation.

E. On receipt of a certificate of default from the greater Arizona development authority pursuant to section 41-2257 or 41-2258, the state treasurer, to the extent not otherwise expressly prohibited by law, shall withhold from the next succeeding distribution of monies pursuant to this section due to the city or town the amount specified in the certificate of default and immediately deposit the amount withheld in the greater Arizona development authority revolving fund. The state treasurer shall continue to withhold and deposit the monies until the authority certifies to the

1 state treasurer that the default has been cured. In no event shall the
2 state treasurer withhold any amount that is necessary, as certified by the
3 defaulting political subdivision to the state treasurer and the authority,
4 to make any required deposits then due for the payment of principal and
5 interest on bonds of the political subdivision that were issued prior to
6 the date of the loan repayment agreement or bonds and that have been
7 secured by a pledge of distributions made pursuant to this section.

8 F. Except as otherwise provided by this subsection, on notice from
9 the attorney general pursuant to section 41-194.01, subsection B,
10 paragraph 1 that an ordinance, regulation, order or other official action
11 adopted or taken by the governing body of a city or town violates state
12 law or the Constitution of Arizona, the state treasurer shall withhold the
13 distribution of monies pursuant to this section to the affected city or
14 town and shall continue to withhold monies pursuant to this subsection
15 until the attorney general certifies to the state treasurer that the
16 violation has been resolved. The state treasurer shall redistribute the
17 monies withheld pursuant to this subsection among all other cities and
18 towns in proportion to their population as provided by subsection B of
19 this section. The state treasurer shall not withhold any amount that the
20 city or town certifies to the attorney general and the state treasurer as
21 being necessary to make any required deposits or payments for debt service
22 on bonds or other long-term obligations of the city or town that were
23 issued or incurred before committing the violation.

24 G. EXCEPT AS OTHERWISE PROVIDED BY THIS SUBSECTION, ON NOTICE FROM
25 THE GOVERNING BODY OF A CITY OR TOWN THAT AN OFFICIAL ACTION ADOPTED OR
26 TAKEN BY THE GOVERNING BODY OF A CITY OR TOWN REDUCES A LAW ENFORCEMENT
27 AGENCY'S BUDGET BY LESS THAN TWENTY-FIVE PERCENT FROM THE PREVIOUS YEAR'S
28 BUDGET PURSUANT TO SECTION 9-500.48, THE STATE TREASURER SHALL WITHHOLD
29 THE DISTRIBUTION OF MONIES PURSUANT TO THIS SECTION IN AN AMOUNT EQUAL TO
30 THE REDUCTION TO THE LAW ENFORCEMENT AGENCY'S BUDGET TO THE AFFECTED CITY
31 OR TOWN AND SHALL CONTINUE TO WITHHOLD MONIES PURSUANT TO THIS SUBSECTION
32 UNTIL NOTIFICATION BY THE GOVERNING BODY OF THE CITY OR TOWN THAT THE
33 REDUCTION HAS BEEN RESTORED. THE STATE TREASURER SHALL DEPOSIT, PURSUANT
34 TO SECTIONS 35-146 AND 35-147, THE MONIES WITHHELD PURSUANT TO THIS
35 SUBSECTION IN THE LAW ENFORCEMENT SUPPORT FUND ESTABLISHED BY SECTION
36 41-1734. IF THE GOVERNING BODY OF A CITY OR TOWN REDUCES A LAW
37 ENFORCEMENT AGENCY'S BUDGET BY MORE THAN TWENTY-FIVE PERCENT FROM THE
38 PREVIOUS YEAR'S BUDGET, THE STATE TREASURER SHALL WITHHOLD THE
39 DISTRIBUTION OF ALL MONIES PURSUANT TO THIS SECTION TO THE AFFECTED CITY
40 OR TOWN AND SHALL CONTINUE TO WITHHOLD MONIES PURSUANT TO THIS SUBSECTION
41 UNTIL NOTIFICATION BY THE GOVERNING BODY OF THE CITY OR TOWN THAT THE
42 REDUCTION HAS BEEN RESTORED. IF THE COUNTY SHERIFF'S DEPARTMENT OR
43 DEPARTMENT OF PUBLIC SAFETY ASSUMES LAW ENFORCEMENT FUNCTIONS PURSUANT TO
44 SECTION 9-500.48, SUBSECTION F, THE STATE TREASURER SHALL TRANSFER ALL
45 WITHHELD MONIES TO THE AGENCY THAT ASSUMES LAW ENFORCEMENT FUNCTIONS IN

1 THE AFFECTED CITY OR TOWN. THE STATE TREASURER SHALL NOT WITHHOLD ANY
2 AMOUNT THAT THE CITY OR TOWN CERTIFIES AS BEING NECESSARY TO MAKE ANY
3 REQUIRED DEPOSITS OR PAYMENTS FOR DEBT SERVICE ON BONDS OR OTHER LONG-TERM
4 OBLIGATIONS OF THE CITY OR TOWN THAT WERE ISSUED OR INCURRED BEFORE THE
5 REDUCTION IN THE LAW ENFORCEMENT AGENCY'S BUDGET. THIS SUBSECTION DOES
6 NOT APPLY TO A REDUCTION IN BUDGET PURSUANT TO SECTION 9-500.48,
7 SUBSECTION D.

8 H. FOR THE PURPOSES OF THIS SECTION, "LAW ENFORCEMENT AGENCY" MEANS
9 A MUNICIPAL POLICE DEPARTMENT.

10 Sec. 5. Retroactivity

11 This act applies retroactively to from and after December 31, 2020.

REFERENCE TITLE: vacation rentals; short-term rentals; enforcement

State of Arizona
Senate
Fifty-fifth Legislature
First Regular Session
2021

SB 1379

Introduced by
Senator Mesnard

AN ACT

AMENDING SECTIONS 9-500.39, 11-269.17, 42-1125.02 AND 42-5042, ARIZONA
REVISED STATUTES; RELATING TO VACATION RENTALS AND SHORT-TERM RENTALS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 9-500.39, Arizona Revised Statutes, is amended to read:

9-500.39. Limits on regulation of vacation rentals and short-term rentals; state preemption; definitions

A. A city or town may not prohibit vacation rentals or short-term rentals.

B. A city or town may not restrict the use of or regulate vacation rentals or short-term rentals based on their classification, use or occupancy except as provided in this section. A city or town may regulate vacation rentals or short-term rentals ~~for the following purposes~~ AS FOLLOWS:

1. ~~Protecting~~ TO PROTECT the public's health and safety, including rules and regulations related to fire and building codes, health and sanitation, transportation or traffic control, solid or hazardous waste and pollution control, and designation of an emergency point of contact, if the city or town demonstrates that the rule or regulation is for the primary purpose of protecting the public's health and safety.

2. ~~Adopting~~ TO ADOPT and ~~enforcing residential use and zoning~~ ENFORCE ordinances, including ordinances related to noise, protection of welfare, property maintenance and other nuisance issues, if the ordinance is applied in the same manner as other property classified under sections 42-12003 and 42-12004.

3. ~~Limiting~~ TO LIMIT or ~~prohibiting~~ PROHIBIT the use of a vacation rental or short-term rental for the purposes of housing sex offenders, operating or maintaining a sober living home, selling illegal drugs, liquor control or pornography, obscenity, nude or topless dancing and other adult-oriented businesses.

4. ~~Requiring~~ TO REQUIRE the owner of a vacation rental or short-term rental to provide the city or town with contact information for the owner or the owner's designee who is responsible for responding to complaints in a timely manner in person, over the phone or by email at any time of day before offering for rent or renting the vacation rental or short-term rental. THE CITY OR TOWN MAY IMPOSE A CIVIL PENALTY OF UP TO \$1,000 AGAINST THE OWNER FOR EVERY THIRTY DAYS THE OWNER FAILS TO PROVIDE CONTACT INFORMATION AS PRESCRIBED BY THIS PARAGRAPH. THE CITY OR TOWN SHALL PROVIDE THIRTY DAYS' NOTICE TO THE OWNER BEFORE IMPOSING THE INITIAL CIVIL PENALTY.

5. TO RESTRICT THE MAXIMUM NUMBER OF ADULT OCCUPANTS ALLOWED IN THE VACATION RENTAL OR SHORT-TERM RENTAL PROPERTY AT ANY ONE TIME TO NOT MORE THAN TWO ADULTS PER BEDROOM, UP TO FOUR BEDROOMS, PLUS TWO ADDITIONAL ADULTS PER ONE THOUSAND SQUARE FEET OF LIVABLE SPACE IN EXCESS OF THREE THOUSAND SQUARE FEET OF LIVABLE SPACE OF THE RESIDENCE.

6. TO REQUIRE THE OWNER OF A VACATION RENTAL OR SHORT-TERM RENTAL TO MAINTAIN LIABILITY INSURANCE APPROPRIATE TO COVER THE VACATION RENTAL

1 OR SHORT-TERM RENTAL IN THE AGGREGATE OF NOT LESS THAN \$500,000 OR TO
2 ADVERTISE AND OFFER EACH VACATION RENTAL OR SHORT-TERM RENTAL THROUGH A
3 HOSTING PLATFORM THAT PROVIDES EQUAL OR GREATER COVERAGE.

4 C. Within thirty days after a verified violation, a city or town
5 shall notify the department of revenue and the owner of the vacation
6 rental or short-term rental of the verified violation of the city's or
7 town's applicable laws, regulations or ordinances and, if the owner of the
8 vacation rental or short-term rental received the verified violation,
9 whether the city or town imposed a civil penalty on the owner of the
10 vacation rental or short-term rental and the amount of the civil penalty,
11 if assessed. If multiple verified violations arise out of the same
12 response to an incident at a vacation rental or short-term rental, those
13 verified violations are considered one verified violation for the purpose
14 of assessing civil penalties pursuant to section 42-1125.02, subsection B.
15 NOTWITHSTANDING ANY OTHER LAW, A CITY OR TOWN MAY IMPOSE A CIVIL PENALTY
16 AGAINST THE OWNER OF A VACATION RENTAL OR SHORT-TERM RENTAL OF UP TO AN
17 AMOUNT EQUAL TO ONE NIGHT'S RENT FOR THE LODGING ACCOMMODATION AS
18 ADVERTISED ON AN ONLINE LODGING MARKETPLACE FOR THE FIRST VERIFIED
19 VIOLATION, AN AMOUNT EQUAL TO TWO NIGHTS' RENT FOR THE LODGING
20 ACCOMMODATION AS ADVERTISED ON AN ONLINE LODGING MARKETPLACE FOR THE
21 SECOND VERIFIED VIOLATION AND AN AMOUNT EQUAL TO THREE NIGHTS' RENT FOR
22 THE LODGING ACCOMMODATION AS ADVERTISED ON AN ONLINE LODGING MARKETPLACE
23 FOR THE THIRD AND ANY SUBSEQUENT VERIFIED VIOLATION RECEIVED BY THE SAME
24 VACATION RENTAL OR SHORT-TERM RENTAL PROPERTY WITHIN THE SAME TWELVE-MONTH
25 PERIOD. THE DEPARTMENT OF REVENUE AFTER NOTICE AND A HEARING AS PROVIDED
26 IN SECTION 42-5005, SUBSECTION N, MAY REVOKE THE TRANSACTION PRIVILEGE TAX
27 LICENSE OF THE OWNER OF A VACATION RENTAL OR SHORT-TERM RENTAL THAT HAS
28 THREE VERIFIED VIOLATIONS WITHIN THE SAME TWELVE-MONTH PERIOD PURSUANT TO
29 SECTION 42-5042.

30 D. If the owner of a vacation rental or short-term rental has
31 provided contact information to a city or town pursuant to subsection B,
32 paragraph 4 of this section and if the city or town issues a citation for
33 a violation of the city's or town's applicable laws, regulations or
34 ordinances or a state law that occurred on the owner's vacation rental or
35 short-term rental property, the city or town shall make a reasonable
36 attempt to notify the owner or the owner's designee of the citation within
37 seven business days after the citation is issued using the contact
38 information provided pursuant to subsection B, paragraph 4 of this
39 section. If the owner of a vacation rental or short-term rental has not
40 provided contact information pursuant to subsection B, paragraph 4 of this
41 section, the city or town is not required to provide such notice.

42 E. This section does not exempt an owner of a residential rental
43 property, as defined in section 33-1901, from maintaining with the
44 assessor of the county in which the property is located information
45 required under title 33, chapter 17, article 1.

F. A vacation rental or short-term rental may not be used for nonresidential uses, including for a special event that would otherwise require a permit or license pursuant to a city or town ordinance or a state law or rule or for a retail, restaurant, banquet space or other similar use.

G. For the purposes of this section:

1. "LODGING ACCOMMODATION" HAS THE SAME MEANING PRESCRIBED IN SECTION 42-5076.

2. "ONLINE LODGING MARKETPLACE" HAS THE SAME MEANING PRESCRIBED IN SECTION 42-5076.

~~3.~~ 3. "Transient" has the same meaning prescribed in section 42-5070.

~~4.~~ 4. "Vacation rental" or "short-term rental":

(a) Means any individually or collectively owned single-family or one-to-four-family house or dwelling unit or any unit or group of units in a condominium, cooperative or timeshare, that is also a transient public lodging establishment or owner-occupied residential home offered for transient use if the accommodations are not classified for property taxation under section 42-12001. ~~Vacation rental and short-term rental do~~

(b) DOES not include a unit that is used for any nonresidential use, including retail, restaurant, banquet space, event center or another similar use.

~~5.~~ 5. "Verified violation" means a finding of guilt or civil responsibility for violating any state law or local ordinance relating to a purpose prescribed in subsection B or F of this section that has been finally adjudicated.

Sec. 2. Section 11-269.17, Arizona Revised Statutes, is amended to read:

11-269.17. Limits on regulation of vacation rentals and short-term rentals; state preemption; definitions

A. A county may not prohibit vacation rentals or short-term rentals.

B. A county may not restrict the use of or regulate vacation rentals or short-term rentals based on their classification, use or occupancy except as provided in this section. A county may regulate vacation rentals or short-term rentals ~~for the following purposes~~ AS FOLLOWS:

1. ~~Protecting~~ TO PROTECT the public's health and safety, including rules and regulations related to fire and building codes, health and sanitation, transportation or traffic control, solid or hazardous waste and pollution control, and designation of an emergency point of contact, if the county demonstrates that the rule or regulation is for the primary purpose of protecting the public's health and safety.

2. ~~Adopting~~ TO ADOPT and ~~enforcing residential use and zoning~~ ENFORCE ordinances, including ordinances related to noise, protection of welfare, property maintenance and other nuisance issues, if the ordinance is applied in the same manner as other property classified under sections 42-12003 and 42-12004.

3. ~~Limiting~~ TO LIMIT or ~~prohibiting~~ PROHIBIT the use of a vacation rental or short-term rental for the purposes of housing sex offenders, operating or maintaining a sober living home, selling illegal drugs, liquor control or pornography, obscenity, nude or topless dancing and other adult-oriented businesses.

4. ~~Requiring~~ TO REQUIRE the owner of a vacation rental or short-term rental to provide the county with contact information for the owner or the owner's designee who is responsible for responding to complaints in a timely manner in person, over the phone or by email at any time of day before offering for rent or renting the vacation rental or short-term rental. THE COUNTY MAY IMPOSE A CIVIL PENALTY OF UP TO \$1,000 AGAINST THE OWNER FOR EVERY THIRTY DAYS THE OWNER FAILS TO PROVIDE CONTACT INFORMATION AS PRESCRIBED BY THIS PARAGRAPH. THE COUNTY SHALL PROVIDE THIRTY DAYS' NOTICE TO THE OWNER BEFORE IMPOSING THE INITIAL CIVIL PENALTY.

5. TO RESTRICT THE MAXIMUM NUMBER OF ADULT OCCUPANTS ALLOWED IN THE VACATION RENTAL OR SHORT-TERM RENTAL PROPERTY AT ANY ONE TIME TO NOT MORE THAN TWO ADULTS PER BEDROOM, UP TO FOUR BEDROOMS, PLUS TWO ADDITIONAL ADULTS PER ONE THOUSAND SQUARE FEET OF LIVABLE SPACE IN EXCESS OF THREE THOUSAND SQUARE FEET OF LIVABLE SPACE OF THE RESIDENCE.

6. TO REQUIRE THE OWNER OF A VACATION RENTAL OR SHORT-TERM RENTAL TO MAINTAIN LIABILITY INSURANCE APPROPRIATE TO COVER THE VACATION RENTAL OR SHORT-TERM RENTAL IN THE AGGREGATE OF NOT LESS THAN \$500,000 OR TO ADVERTISE AND OFFER EACH VACATION RENTAL OR SHORT-TERM RENTAL THROUGH A HOSTING PLATFORM THAT PROVIDES EQUAL OR GREATER COVERAGE.

C. Within thirty days after a verified violation, a county shall notify the department of revenue and the owner of the vacation rental or short-term rental of the verified violation of the county's applicable laws, regulations or ordinances and, if the property owner received the verified violation, whether the county imposed a civil penalty on the owner of the vacation rental or short-term rental and the amount of the civil penalty, if assessed. If multiple verified violations arise out of the same response to an incident at a vacation rental or short-term rental, those verified violations are considered one verified violation for the purpose of assessing civil penalties pursuant to section 42-1125.02, subsection B. NOTWITHSTANDING ANY OTHER LAW, A COUNTY MAY IMPOSE A CIVIL PENALTY AGAINST THE OWNER OF A VACATION RENTAL OR SHORT-TERM RENTAL OF UP TO AN AMOUNT EQUAL TO ONE NIGHT'S RENT FOR THE LODGING ACCOMMODATION AS ADVERTISED ON AN ONLINE LODGING MARKETPLACE FOR THE FIRST VERIFIED VIOLATION, AN AMOUNT EQUAL TO TWO NIGHTS' RENT FOR THE

1 LODGING ACCOMMODATION AS ADVERTISED ON AN ONLINE LODGING MARKETPLACE FOR
 2 THE SECOND VERIFIED VIOLATION AND AN AMOUNT EQUAL TO THREE NIGHTS' RENT
 3 FOR THE LODGING ACCOMMODATION AS ADVERTISED ON AN ONLINE LODGING
 4 MARKETPLACE FOR THE THIRD AND ANY SUBSEQUENT VERIFIED VIOLATION RECEIVED
 5 BY THE SAME VACATION RENTAL OR SHORT-TERM RENTAL PROPERTY WITHIN THE SAME
 6 TWELVE-MONTH PERIOD. THE DEPARTMENT OF REVENUE AFTER NOTICE AND A HEARING
 7 AS PROVIDED IN SECTION 42-5005, SUBSECTION N, MAY REVOKE THE TRANSACTION
 8 PRIVILEGE TAX LICENSE OF THE OWNER OF A VACATION RENTAL OR SHORT-TERM
 9 RENTAL THAT HAS THREE VERIFIED VIOLATIONS PURSUANT TO SECTION 42-5042.

10 D. If the owner of a vacation rental or short-term rental has
 11 provided contact information to a county pursuant to subsection B,
 12 paragraph 4 of this section and if the county issues a citation for a
 13 violation of the county's applicable laws, regulations or ordinances or a
 14 state law that occurred on the owner's vacation rental or short-term
 15 rental property, the county shall make a reasonable attempt to notify the
 16 owner or the owner's designee of the citation within seven business days
 17 after the citation is issued using the contact information provided
 18 pursuant to subsection B, paragraph 4 of this section. If the owner of a
 19 vacation rental or short-term rental has not provided contact information
 20 pursuant to subsection B, paragraph 4 of this section, the county is not
 21 required to provide such notice.

22 E. This section does not exempt an owner of a residential rental
 23 property, as defined in section 33-1901, from maintaining with the
 24 assessor of the county in which the property is located information
 25 required under title 33, chapter 17, article 1.

26 F. A vacation rental or short-term rental may not be used for
 27 nonresidential uses, including for a special event that would otherwise
 28 require a permit or license pursuant to a county ordinance or a state law
 29 or rule or for a retail, restaurant, banquet space or other similar use.

30 G. For the purposes of this section:

31 1. "LODGING ACCOMMODATION" HAS THE SAME MEANING PRESCRIBED IN
 32 SECTION 42-5076.

33 2. "ONLINE LODGING MARKETPLACE" HAS THE SAME MEANING PRESCRIBED IN
 34 SECTION 42-5076.

35 ~~1.~~ 3. "Transient" has the same meaning prescribed in section
 36 42-5070.

37 ~~2.~~ 4. "Vacation rental" or "short-term rental":

38 (a) Means any individually or collectively owned single-family or
 39 one-to-four-family house or dwelling unit or any unit or group of units in
 40 a condominium, cooperative or timeshare, that is also a transient public
 41 lodging establishment or owner-occupied residential home offered for
 42 transient use if the accommodations are not classified for property
 43 taxation under section 42-12001. ~~Vacation rental and short-term rental do~~

(b) DOES not include a unit that is used for any nonresidential use, including retail, restaurant, banquet space, event center or another similar use.

~~5.~~ 5. "Verified violation" means a finding of guilt or civil responsibility for violating any state law or local ordinance relating to a purpose prescribed in subsection B or F of this section that has been finally adjudicated.

Sec. 3. Section 42-1125.02, Arizona Revised Statutes, is amended to read:

42-1125.02. Civil penalties: online lodging operators: appeal; definitions

A. An online lodging operator that fails to comply with section 42-5042 shall pay the following civil penalty:

1. For a first offense, \$250.
2. For a second and any subsequent offense, \$1,000.

B. If an online lodging operator received a verified violation, the online lodging operator shall pay the following civil penalty:

1. For a first verified violation received for a property, either:

(a) If the city, town or county did not impose a civil penalty on the online lodging operator for the verified violation, ~~\$500~~ AN AMOUNT EQUAL TO ONE NIGHT'S RENT FOR THE LODGING ACCOMMODATION AS ADVERTISED ON AN ONLINE LODGING MARKETPLACE.

(b) If the city, town or county imposed a civil penalty on the online lodging operator for the verified violation, the difference between the amount prescribed in subdivision (a) of this paragraph and the amount of the civil penalty the city, town or county imposed on the online lodging operator for the verified violation.

2. For a second verified violation received on the same property within a twelve-month period, either:

(a) If the city, town or county did not impose a civil penalty on the online lodging operator for the verified violation, ~~\$1,000~~ AN AMOUNT EQUAL TO TWO NIGHTS' RENT FOR THE LODGING ACCOMMODATION AS ADVERTISED ON AN ONLINE LODGING MARKETPLACE.

(b) If the city, town or county imposed a civil penalty on the online lodging operator for the verified violation, the difference between the amount prescribed in subdivision (a) of this paragraph and the amount of the civil penalty the city, town or county imposed on the online lodging operator for the verified violation.

3. For a third and any subsequent verified violation received on the same property within the same twelve-month period, either:

(a) If the city, town or county did not impose a civil penalty on the online lodging operator for the verified violation, ~~fifty percent of the gross monthly revenues of the lodging accommodation at which the violation occurred for the month in which the violation occurred or~~

~~\$1,500, whichever is greater~~ AN AMOUNT EQUAL TO THREE NIGHTS' RENT FOR THE LODGING ACCOMMODATION AS ADVERTISED ON AN ONLINE LODGING MARKETPLACE

(b) If the city, town or county imposed a civil penalty on the online lodging operator for the verified violation, the difference between the amount prescribed in subdivision (a) of this paragraph and the amount of the civil penalty the city, town or county imposed on the online lodging operator for the verified violation.

C. If the department imposes a civil penalty pursuant to subsection B, paragraph 1 of this section and the online lodging operator appeals the civil penalty, the hearing officer may waive or lower the civil penalty based on the online lodging operator's diligence in attempting to prohibit renters from violating state law or the city's, ~~or~~ town's OR COUNTY'S applicable laws, regulations or ordinances. In determining whether to waive or lower the civil penalty, the hearing officer shall consider both of the following:

1. Whether rules that prohibit activities violating state law or the city's, ~~or~~ town's OR COUNTY'S applicable laws, regulations or ordinances were included in the advertisement for the lodging accommodation, vacation rental or short-term rental.

2. Whether the rules described in paragraph 1 of this subsection were posted in a conspicuous location inside the lodging accommodation, vacation rental or short-term rental.

D. For the purposes of this section:

1. "Lodging accommodation" has the same meaning prescribed in section 42-5076.

2. "Online lodging marketplace" has the same meaning prescribed in section 42-5076.

3. "Online lodging operator" has the same meaning prescribed in section 42-5076 and includes an owner of a vacation rental or short-term rental that is not offered through an online lodging marketplace.

4. "Vacation rental" and "short-term rental" have the same meanings prescribed in section 9-500.39 or 11-269.17.

5. "Verified violation" has the same meaning prescribed in section 9-500.39 or 11-269.17.

Sec. 4. Section 42-5042, Arizona Revised Statutes, is amended to read:

42-5042. Online lodging operators; requirements; definitions

A. An online lodging operator may not offer for rent or rent a lodging accommodation without a current transaction privilege tax license. The online lodging operator shall list the transaction privilege tax license number on each advertisement for each lodging accommodation the online lodging operator maintains, including online lodging marketplace postings.

1 B. THE DEPARTMENT OF REVENUE MAY REVOKE THE TRANSACTION PRIVILEGE
2 TAX LICENSE OF THE OWNER OF A VACATION RENTAL OR SHORT-TERM RENTAL THAT
3 HAS THREE VERIFIED VIOLATIONS BY THE SAME VACATION RENTAL OR SHORT-TERM
4 RENTAL WITHIN THE SAME TWELVE-MONTH PERIOD PURSUANT TO SECTION 9-500.39 OR
5 11-269.17.

6 ~~B.~~ C. For the purposes of this section:

7 1. "Lodging accommodation" has the same meaning prescribed in
8 section 42-5076.

9 2. "Online lodging marketplace" has the same meaning prescribed in
10 section 42-5076.

11 3. "Online lodging operator" has the same meaning prescribed in
12 section 42-5076 and includes an owner of a vacation rental or short-term
13 rental, as defined in section 9-500.39 or 11-269.17, that is not offered
14 through an online lodging marketplace.

15 4. "VERIFIED VIOLATION" HAS THE SAME MEANING PRESCRIBED IN SECTION
16 9-500.39 OR 11-269.17.

REFERENCE TITLE: **highway video surveillance; prohibition**

State of Arizona
Senate
Fifty-fifth Legislature
First Regular Session
2021

SB 1419

Introduced by
Senator Rogers

AN ACT

AMENDING SECTIONS 28-101, 28-601 AND 28-627, ARIZONA REVISED STATUTES;
REPEALING TITLE 28, CHAPTER 3, ARTICLE 21, ARIZONA REVISED STATUTES;
AMENDING TITLE 28, CHAPTER 3, ARIZONA REVISED STATUTES, BY ADDING A NEW
ARTICLE 21; REPEALING SECTION 28-1602, ARIZONA REVISED STATUTES; RELATING
TO PHOTO ENFORCEMENT SYSTEMS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 28-101, Arizona Revised Statutes, is amended to
3 read:

4 28-101. Definitions

5 In this title, unless the context otherwise requires:

6 1. "Alcohol" means any substance containing any form of alcohol,
7 including ethanol, methanol, propynol and isopropynol.

8 2. "Alcohol concentration" if expressed as a percentage means
9 either:

10 (a) The number of grams of alcohol per one hundred milliliters of
11 blood.

12 (b) The number of grams of alcohol per two hundred ten liters of
13 breath.

14 3. "All-terrain vehicle" means either of the following:

15 (a) A motor vehicle that satisfies all of the following:

16 (i) Is designed primarily for recreational nonhighway all-terrain
17 travel.

18 (ii) Is fifty or fewer inches in width.

19 (iii) Has an unladen weight of one thousand two hundred pounds or
20 less.

21 (iv) Travels on three or more nonhighway tires.

22 (v) Is operated on a public highway.

23 (b) A recreational off-highway vehicle that satisfies all of the
24 following:

25 (i) Is designed primarily for recreational nonhighway all-terrain
26 travel.

27 (ii) Is eighty or fewer inches in width.

28 (iii) Has an unladen weight of two thousand five hundred pounds or
29 less.

30 (iv) Travels on four or more nonhighway tires.

31 (v) Has a steering wheel for steering control.

32 (vi) Has a rollover protective structure.

33 (vii) Has an occupant retention system.

34 4. "Authorized emergency vehicle" means any of the following:

35 (a) A fire department vehicle.

36 (b) A police vehicle.

37 (c) An ambulance or emergency vehicle of a municipal department or
38 public service corporation that is designated or authorized by the
39 department or a local authority.

40 (d) Any other ambulance, fire truck or rescue vehicle that is
41 authorized by the department in its sole discretion and that meets
42 liability insurance requirements prescribed by the department.

43 5. "Autocycle" means a three-wheeled motorcycle on which the driver
44 and passengers ride in a fully or partially enclosed seating area that is
45 equipped with a roll cage, safety belts for each occupant and antilock

1 brakes and that is designed to be controlled with a steering wheel and
2 pedals.

3 6. "Automotive recycler" means a person that is engaged in the
4 business of buying or acquiring a motor vehicle solely for the purpose of
5 dismantling, selling or otherwise disposing of the parts or accessories
6 and that removes parts for resale from six or more vehicles in a calendar
7 year.

8 7. "Aviation fuel" means all flammable liquids composed of a
9 mixture of selected hydrocarbons expressly manufactured and blended for
10 the purpose of effectively and efficiently operating an internal
11 combustion engine for use in an aircraft but does not include fuel for jet
12 or turbine powered aircraft.

13 8. "Bicycle" means a device, including a racing wheelchair, that is
14 propelled by human power and on which a person may ride and that has
15 either:

16 (a) Two tandem wheels, either of which is more than sixteen inches
17 in diameter.

18 (b) Three wheels in contact with the ground, any of which is more
19 than sixteen inches in diameter.

20 9. "Board" means the transportation board.

21 10. "Bus" means a motor vehicle designed for carrying sixteen or
22 more passengers, including the driver.

23 11. "Business district" means the territory contiguous to and
24 including a highway if there are buildings in use for business or
25 industrial purposes within any six hundred feet along the highway,
26 including hotels, banks or office buildings, railroad stations and public
27 buildings that occupy at least three hundred feet of frontage on one side
28 or three hundred feet collectively on both sides of the highway.

29 12. "Certificate of ownership" means a paper or an electronic
30 record that is issued in another state or a foreign jurisdiction and that
31 indicates ownership of a vehicle.

32 13. "Certificate of title" means a paper document or an electronic
33 record that is issued by the department and that indicates ownership of a
34 vehicle.

35 14. "Combination of vehicles" means a truck or truck tractor and
36 semitrailer and any trailer that it tows but does not include a forklift
37 designed for the purpose of loading or unloading the truck, trailer or
38 semitrailer.

39 15. "Controlled substance" means a substance so classified under
40 section 102(6) of the controlled substances act (21 United States Code
41 section 802(6)) and includes all substances listed in schedules I through
42 V of 21 Code of Federal Regulations part 1308.

43 16. "Conviction" means:

1 (a) An unvacated adjudication of guilt or a determination that a
2 person violated or failed to comply with the law in a court of original
3 jurisdiction or by an authorized administrative tribunal.

4 (b) An unvacated forfeiture of bail or collateral deposited to
5 secure the person's appearance in court.

6 (c) A plea of guilty or no contest accepted by the court.

7 (d) The payment of a fine or court costs.

8 17. "County highway" means a public road that is constructed and
9 maintained by a county.

10 18. "Dealer" means a person who is engaged in the business of
11 buying, selling or exchanging motor vehicles, trailers or semitrailers and
12 who has an established place of business and has paid fees pursuant to
13 section 28-4302.

14 19. "Department" means the department of transportation acting
15 directly or through its duly authorized officers and agents.

16 20. "Digital network or software application" has the same meaning
17 prescribed in section 28-9551.

18 21. "Director" means the director of the department of
19 transportation.

20 22. "Drive" means to operate or be in actual physical control of a
21 motor vehicle.

22 23. "Driver" means a person who drives or is in actual physical
23 control of a vehicle.

24 24. "Driver license" means a license that is issued by a state to
25 an individual and that authorizes the individual to drive a motor vehicle.

26 25. "Electric bicycle" means a bicycle or tricycle that is equipped
27 with fully operable pedals and an electric motor of less than seven
28 hundred fifty watts and that meets the requirements of one of the
29 following classes:

30 (a) "Class 1 electric bicycle" means a bicycle or tricycle that is
31 equipped with an electric motor that provides assistance only when the
32 rider is pedaling and that ceases to provide assistance when the bicycle
33 or tricycle reaches the speed of twenty miles per hour.

34 (b) "Class 2 electric bicycle" means a bicycle or tricycle that is
35 equipped with an electric motor that may be used exclusively to propel the
36 bicycle or tricycle and that is not capable of providing assistance when
37 the bicycle or tricycle reaches the speed of twenty miles per hour.

38 (c) "Class 3 electric bicycle" means a bicycle or tricycle that is
39 equipped with an electric motor that provides assistance only when the
40 rider is pedaling and that ceases to provide assistance when the bicycle
41 or tricycle reaches the speed of twenty-eight miles per hour.

42 26. "Electric miniature scooter" means a device that:

43 (a) Weighs less than thirty pounds.

44 (b) Has two or three wheels.

45 (c) Has handlebars.

1 (d) Has a floorboard on which a person may stand while riding.

2 (e) Is powered by an electric motor or human power, or both.

3 (f) Has a maximum speed that does not exceed ten miles per hour,
4 with or without human propulsion, on a paved level surface.

5 27. "Electric personal assistive mobility device" means a
6 self-balancing device with one wheel or two nontandem wheels and an
7 electric propulsion system that limits the maximum speed of the device to
8 fifteen miles per hour or less and that is designed to transport only one
9 person.

10 28. "Electric standup scooter":

11 (a) Means a device that:

12 (i) Weighs less than seventy-five pounds.

13 (ii) Has two or three wheels.

14 (iii) Has handlebars.

15 (iv) Has a floorboard on which a person may stand while riding.

16 (v) Is powered by an electric motor or human power, or both.

17 (vi) Has a maximum speed that does not exceed twenty miles per
18 hour, with or without human propulsion, on a paved level surface.

19 (b) Does not include an electric miniature scooter.

20 29. "Evidence" includes both of the following:

21 (a) A display on a wireless communication device of a
22 department-generated driver license, nonoperating identification license,
23 vehicle registration card or other official record of the department that
24 is presented to a law enforcement officer or in a court or an
25 administrative proceeding.

26 (b) An electronic or digital license plate authorized pursuant to
27 section 28-364.

28 30. "Farm" means any lands primarily used for agriculture
29 production.

30 31. "Farm tractor" means a motor vehicle designed and used
31 primarily as a farm implement for drawing implements of husbandry.

32 32. "Foreign vehicle" means a motor vehicle, trailer or semitrailer
33 that is brought into this state other than in the ordinary course of
34 business by or through a manufacturer or dealer and that has not been
35 registered in this state.

36 33. "Golf cart" means a motor vehicle that has not less than three
37 wheels in contact with the ground, that has an unladen weight of less than
38 one thousand eight hundred pounds, that is designed to be and is operated
39 at not more than twenty-five miles per hour and that is designed to carry
40 not more than four persons including the driver.

41 34. "Hazardous material" means a material, and its mixtures or
42 solutions, that the United States department of transportation determines
43 under 49 Code of Federal Regulations is, or any quantity of a material
44 listed as a select agent or toxin under 42 Code of Federal Regulations
45 part 73 that is, capable of posing an unreasonable risk to health, safety

and property if transported in commerce and that is required to be placarded or marked as required by the department's safety rules prescribed pursuant to chapter 14 of this title.

35. "HIGHWAY VIDEO SURVEILLANCE" MEANS THE USE OF A CAMERA OR OTHER IMAGING DEVICE OR ANY OTHER DEVICE, INCLUDING A TRANSPONDER, CELLULAR TELEPHONE, GLOBAL POSITIONING SATELLITE, DRONE OR RADIO FREQUENCY IDENTIFICATION DEVICE, THAT BY ITSELF OR IN CONJUNCTION WITH OTHER DEVICES OR INFORMATION MAY BE USED TO DETERMINE THE OWNERSHIP OR LOCATION OF A MOTOR VEHICLE, THE IDENTITY OF A MOTOR VEHICLE'S OCCUPANTS OR THE IDENTITY OR LOCATION OF A PEDESTRIAN.

~~35-~~ 36. "Implement of husbandry" means a vehicle that is designed primarily for agricultural purposes and that is used exclusively in the conduct of agricultural operations, including an implement or vehicle whether self-propelled or otherwise that meets both of the following conditions:

(a) Is used solely for agricultural purposes including the preparation or harvesting of cotton, alfalfa, grains and other farm crops.

(b) Is only incidentally operated or moved on a highway whether as a trailer or self-propelled unit. For the purposes of this subdivision, "incidentally operated or moved on a highway" means travel between a farm and another part of the same farm, from one farm to another farm or between a farm and a place of repair, supply or storage.

~~36-~~ 37. "Limousine" means a motor vehicle providing prearranged ground transportation service for an individual passenger, or a group of passengers, that is arranged in advance or is operated on a regular route or between specified points and includes ground transportation under a contract or agreement for services that includes a fixed rate or time and is provided in a motor vehicle with a seating capacity not exceeding fifteen passengers including the driver.

~~37-~~ 38. "Livery vehicle" means a motor vehicle that:

(a) Has a seating capacity not exceeding fifteen passengers including the driver.

(b) Provides passenger services for a fare determined by a flat rate or flat hourly rate between geographic zones or within a geographic area.

(c) Is available for hire on an exclusive or shared ride basis.

(d) May do any of the following:

(i) Operate on a regular route or between specified places.

(ii) Offer prearranged ground transportation service as defined in section 28-141.

(iii) Offer on demand ground transportation service pursuant to a contract with a public airport, licensed business entity or organization.

~~38-~~ 39. "Local authority" means any county, municipal or other local board or body exercising jurisdiction over highways under the constitution and laws of this state.

~~39.~~ 40. "Manufacturer" means a person engaged in the business of manufacturing motor vehicles, trailers or semitrailers.

~~40.~~ 41. "Moped" means a bicycle, not including an electric bicycle, an electric miniature scooter or an electric standup scooter, that is equipped with a helper motor if the vehicle has a maximum piston displacement of fifty cubic centimeters or less, a brake horsepower of one and one-half or less and a maximum speed of twenty-five miles per hour or less on a flat surface with less than a one percent grade.

~~41.~~ 42. "Motorcycle" means a motor vehicle that has a seat or saddle for the use of the rider and that is designed to travel on not more than three wheels in contact with the ground but excludes a tractor, an electric bicycle, an electric miniature scooter, an electric standup scooter and a moped.

~~42.~~ 43. "Motor driven cycle" means a motorcycle, including every motor scooter, with a motor that produces not more than five horsepower but does not include an electric bicycle, an electric miniature scooter or an electric standup scooter.

~~43.~~ 44. "Motorized quadricycle" means a self-propelled motor vehicle to which all of the following apply:

(a) The vehicle is self-propelled by an emission-free electric motor and may include pedals operated by the passengers.

(b) The vehicle has at least four wheels in contact with the ground.

(c) The vehicle seats at least eight passengers, including the driver.

(d) The vehicle is operable on a flat surface using solely the electric motor without assistance from the pedals or passengers.

(e) The vehicle is a commercial motor vehicle as defined in section 28-5201.

(f) The vehicle is a limousine operating under a vehicle for hire company permit issued pursuant to section 28-9503.

(g) The vehicle is manufactured by a motor vehicle manufacturer that is licensed pursuant to chapter 10 of this title.

(h) The vehicle complies with the definition and standards for low-speed vehicles set forth in federal motor vehicle safety standard 500 and 49 Code of Federal Regulations sections 571.3(b) and 571.500, respectively.

~~44.~~ 45. "Motor vehicle":

(a) Means either:

(i) A self-propelled vehicle.

(ii) For the purposes of the laws relating to the imposition of a tax on motor vehicle fuel, a vehicle that is operated on the highways of this state and that is propelled by the use of motor vehicle fuel.

(b) Does not include a scrap vehicle, a personal delivery device, a personal mobile cargo carrying device, a motorized wheelchair, an electric

personal assistive mobility device, an electric bicycle, an electric miniature scooter, an electric standup scooter or a motorized skateboard. For the purposes of this subdivision:

(i) "Motorized skateboard" means a self-propelled device that does not have handlebars and that has a motor, a deck on which a person may ride and at least two tandem wheels in contact with the ground.

(ii) "Motorized wheelchair" means a self-propelled wheelchair that is used by a person for mobility.

~~45.~~ 46. "Motor vehicle fuel" includes all products that are commonly or commercially known or sold as gasoline, including casinghead gasoline, natural gasoline and all flammable liquids, and that are composed of a mixture of selected hydrocarbons expressly manufactured and blended for the purpose of effectively and efficiently operating internal combustion engines. Motor vehicle fuel does not include inflammable liquids that are specifically manufactured for racing motor vehicles and that are distributed for and used by racing motor vehicles at a racetrack, use fuel as defined in section 28-5601, aviation fuel, fuel for jet or turbine powered aircraft or the mixture created at the interface of two different substances being transported through a pipeline, commonly known as transmix.

~~46.~~ 47. "Neighborhood electric vehicle" means a self-propelled electrically powered motor vehicle to which all of the following apply:

(a) The vehicle is emission free.

(b) The vehicle has at least four wheels in contact with the ground.

(c) The vehicle complies with the definition and standards for low-speed vehicles set forth in federal motor vehicle safety standard 500 and 49 Code of Federal Regulations sections 571.3(b) and 571.500, respectively.

~~47.~~ 48. "Nonresident" means a person who is not a resident of this state as defined in section 28-2001.

~~48.~~ 49. "Off-road recreational motor vehicle" means a motor vehicle that is designed primarily for recreational nonhighway all-terrain travel and that is not operated on a public highway. Off-road recreational motor vehicle does not mean a motor vehicle used for construction, building trade, mining or agricultural purposes.

~~49.~~ 50. "Operator" means a person who drives a motor vehicle on a highway, who is in actual physical control of a motor vehicle on a highway or who is exercising control over or steering a vehicle being towed by a motor vehicle.

~~50.~~ 51. "Owner" means:

(a) A person who holds the legal title of a vehicle.

(b) If a vehicle is the subject of an agreement for the conditional sale or lease with the right of purchase on performance of the conditions

1 stated in the agreement and with an immediate right of possession vested
2 in the conditional vendee or lessee, the conditional vendee or lessee.

3 (c) If a mortgagor of a vehicle is entitled to possession of the
4 vehicle, the mortgagor.

5 ~~51.~~ 52. "Pedestrian" means any person afoot. A person who uses an
6 electric personal assistive mobility device or a manual or motorized
7 wheelchair is considered a pedestrian unless the manual wheelchair
8 qualifies as a bicycle. For the purposes of this paragraph, "motorized
9 wheelchair" means a self-propelled wheelchair that is used by a person for
10 mobility.

11 ~~52.~~ 53. "Personal delivery device":

12 (a) Means a device that is both of the following:

13 (i) Manufactured for transporting cargo and goods in an area
14 described in section 28-1225.

15 (ii) ~~is~~ Equipped with automated driving technology, including
16 software and hardware, that enables the operation of the device with the
17 remote support and supervision of a human.

18 (b) Does not include a personal mobile cargo carrying device.

19 ~~53.~~ 54. "Personal mobile cargo carrying device" means an
20 electronically powered device that:

21 (a) Is operated primarily on sidewalks and within crosswalks and
22 that is designed to transport property.

23 (b) Weighs less than eighty pounds, excluding cargo.

24 (c) Operates at a maximum speed of twelve miles per hour.

25 (d) Is equipped with technology to transport personal property with
26 the active monitoring of a property owner and that is primarily designed
27 to remain within twenty-five feet of the property owner.

28 (e) Is equipped with a braking system that when active or engaged
29 enables the personal mobile cargo carrying device to come to a controlled
30 stop.

31 ~~54.~~ 55. "Power sweeper" means an implement, with or without motive
32 power, that is only incidentally operated or moved on a street or highway
33 and that is designed for the removal of debris, dirt, gravel, litter or
34 sand whether by broom, vacuum or regenerative air system from asphaltic
35 concrete or cement concrete surfaces, including parking lots, highways,
36 streets and warehouses, and a vehicle on which the implement is
37 permanently mounted.

38 ~~55.~~ 56. "Public transit" means the transportation of passengers on
39 scheduled routes by means of a conveyance on an individual passenger
40 fare-paying basis excluding transportation by a sightseeing bus, school
41 bus or taxi or a vehicle not operated on a scheduled route basis.

42 ~~56.~~ 57. "Reconstructed vehicle" means a vehicle that has been
43 assembled or constructed largely by means of essential parts, new or used,
44 derived from vehicles or makes of vehicles of various names, models and
45 types or that, if originally otherwise constructed, has been materially

1 altered by the removal of essential parts or by the addition or
2 substitution of essential parts, new or used, derived from other vehicles
3 or makes of vehicles. For the purposes of this paragraph, "essential
4 parts" means integral and body parts, the removal, alteration or
5 substitution of which will tend to conceal the identity or substantially
6 alter the appearance of the vehicle.

7 ~~57.~~ 58. "Residence district" means the territory contiguous to and
8 including a highway not comprising a business district if the property on
9 the highway for a distance of three hundred feet or more is in the main
10 improved with residences or residences and buildings in use for business.

11 ~~58.~~ 59. "Right-of-way" when used within the context of the
12 regulation of the movement of traffic on a highway means the privilege of
13 the immediate use of the highway. Right-of-way when used within the
14 context of the real property on which transportation facilities and
15 appurtenances to the facilities are constructed or maintained means the
16 lands or interest in lands within the right-of-way boundaries.

17 ~~59.~~ 60. "School bus" means a motor vehicle that is designed for
18 carrying more than ten passengers and that is either:

19 (a) Owned by any public or governmental agency or other institution
20 and operated for the transportation of children to or from home or school
21 on a regularly scheduled basis.

22 (b) Privately owned and operated for compensation for the
23 transportation of children to or from home or school on a regularly
24 scheduled basis.

25 ~~60.~~ 61. "Scrap metal dealer" has the same meaning prescribed in
26 section 44-1641.

27 ~~61.~~ 62. "Scrap vehicle" has the same meaning prescribed in section
28 44-1641.

29 ~~62.~~ 63. "Semitrailer" means a vehicle that is with or without
30 motive power, other than a pole trailer or single-axle tow dolly, that is
31 designed for carrying persons or property and for being drawn by a motor
32 vehicle and that is constructed so that some part of its weight and that
33 of its load rests on or is carried by another vehicle. For the purposes
34 of this paragraph, "pole trailer" has the same meaning prescribed in
35 section 28-601.

36 ~~63.~~ 64. "Single-axle tow dolly" means a nonvehicle device that is
37 drawn by a motor vehicle, that is designed and used exclusively to
38 transport another motor vehicle and on which the front or rear wheels of
39 the drawn motor vehicle are mounted on the tow dolly while the other
40 wheels of the drawn motor vehicle remain in contact with the ground.

41 ~~64.~~ 65. "State" means a state of the United States and the
42 District of Columbia.

43 ~~65.~~ 66. "State highway" means a state route or portion of a state
44 route that is accepted and designated by the board as a state highway and
45 that is maintained by the state.

~~66.~~ 67. "State route" means a right-of-way whether actually used as a highway or not that is designated by the board as a location for the construction of a state highway.

~~67.~~ 68. "Street" or "highway" means the entire width between the boundary lines of every way if a part of the way is open to the use of the public for purposes of vehicular travel.

~~68.~~ 69. "Taxi" means a motor vehicle that has a seating capacity not exceeding fifteen passengers, including the driver, that provides passenger services and that:

(a) Does not primarily operate on a regular route or between specified places.

(b) Offers local transportation for a fare determined on the basis of the distance traveled or prearranged ground transportation service as defined in section 28-141 for a predetermined fare.

~~69.~~ 70. "Title transfer form" means a paper or an electronic form that is prescribed by the department for the purpose of transferring a certificate of title from one owner to another owner.

~~70.~~ 71. "Traffic survival school" means a school that offers educational sessions to drivers who are required to attend and successfully complete educational sessions pursuant to this title that are designed to improve the safety and habits of drivers and that are approved by the department.

~~71.~~ 72. "Trailer" means a vehicle that is with or without motive power, other than a pole trailer or single-axle tow dolly, that is designed for carrying persons or property and for being drawn by a motor vehicle and that is constructed so that no part of its weight rests on the towing vehicle. A semitrailer equipped with an auxiliary front axle commonly known as a dolly is deemed to be a trailer. For the purposes of this paragraph, "pole trailer" has the same meaning prescribed in section 28-601.

~~72.~~ 73. "Transportation network company" has the same meaning prescribed in section 28-9551.

~~73.~~ 74. "Transportation network company vehicle" has the same meaning prescribed in section 28-9551.

~~74.~~ 75. "Transportation network service" has the same meaning prescribed in section 28-9551.

~~75.~~ 76. "Truck" means a motor vehicle designed or used primarily for the carrying of property other than the effects of the driver or passengers and includes a motor vehicle to which has been added a box, a platform or other equipment for such carrying.

~~76.~~ 77. "Truck tractor" means a motor vehicle that is designed and used primarily for drawing other vehicles and that is not constructed to carry a load other than a part of the weight of the vehicle and load drawn.

1 ~~77.~~ 78. "Vehicle":

2 (a) Means a device in, on or by which a person or property is or
3 may be transported or drawn on a public highway.

4 (b) Does not include:

5 (i) Electric bicycles, electric miniature scooters, electric
6 standup scooters and devices moved by human power.

7 (ii) Devices used exclusively on stationary rails or tracks.

8 (iii) Personal delivery devices.

9 (iv) Scrap vehicles.

10 (v) Personal mobile cargo carrying devices.

11 ~~78.~~ 79. "Vehicle transporter" means either:

12 (a) A truck tractor capable of carrying a load and drawing a
13 semitrailer.

14 (b) A truck tractor with a stinger-steered fifth wheel capable of
15 carrying a load and drawing a semitrailer or a truck tractor with a dolly
16 mounted fifth wheel that is securely fastened to the truck tractor at two
17 or more points and that is capable of carrying a load and drawing a
18 semitrailer.

19 Sec. 2. Section 28-601, Arizona Revised Statutes, is amended to
20 read:

21 28-601. Definitions

22 In this chapter, unless the context otherwise requires:

23 1. "Commercial motor vehicle" means a motor vehicle or combination
24 of vehicles that is designed, used or maintained to transport passengers
25 or property in the furtherance of a commercial enterprise, that is a
26 commercial motor vehicle as defined in section 28-5201 and that is not
27 exempt from gross weight fees as prescribed in section 28-5432,
28 subsection B.

29 2. "Controlled access highway" means a highway, street or roadway
30 to or from which owners or occupants of abutting lands and other persons
31 have no legal right of access except at such points only and in the manner
32 determined by the public authority that has jurisdiction over the highway,
33 street or roadway.

34 3. "Crosswalk" means:

35 (a) That part of a roadway at an intersection included within the
36 prolongations or connections of the lateral lines of the sidewalks on
37 opposite sides of the highway measured from the curbs or, in absence of
38 curbs, from the edges of the traversable roadway.

39 (b) Any portion of a roadway at an intersection or elsewhere that
40 is distinctly indicated for pedestrian crossing by lines or other markings
41 on the surface.

42 4. "Escort vehicle" means a vehicle that is required pursuant to
43 rules adopted by the department to escort motor vehicles or combinations
44 of vehicles that require issuance of a permit pursuant to article 18 or 19
45 of this chapter for operation on the highways of this state.

1 5. "Explosives" means any chemical compound, mixture or device that
2 is commonly used or intended for the purpose of producing an explosion and
3 that is defined in 49 Code of Federal Regulations part 173.

4 6. "Flammable liquid" means any liquid that has a flash point of
5 less than one hundred degrees Fahrenheit and that is defined in 49 Code of
6 Federal Regulations section 173.120.

7 7. "Gross weight" means the weight of a vehicle without a load plus
8 the weight of any load on the vehicle.

9 8. "Intersection" means the area embraced within the prolongation
10 or connection of the lateral curb lines, or if none, the lateral boundary
11 lines of the roadways of two highways that join one another at, or
12 approximately at, right angles, or the area within which vehicles
13 traveling on different highways joining at any other angle may come in
14 conflict. If a highway includes two roadways thirty or more feet apart,
15 each crossing of each roadway of the divided highway by an intersecting
16 highway is a separate intersection. If the intersecting highway also
17 includes two roadways thirty or more feet apart, each crossing of two
18 roadways of the highways is a separate intersection.

19 9. "License" means any license, temporary instruction permit or
20 temporary license issued under the laws of this state or any other state
21 that pertain to the licensing of persons to operate motor vehicles.

22 10. "Low emission and energy efficient vehicle" means a vehicle
23 that has been certified by the United States environmental protection
24 agency administrator in accordance with 23 United States Code section 166
25 or that is part of a federally approved pilot program.

26 11. "Motorized wheelchair" means any self-propelled wheelchair that
27 is used by a person for mobility.

28 12. "Official traffic control device" means any sign, signal,
29 marking or device that is not inconsistent with this chapter and that is
30 placed or erected by authority of a public body or official having
31 jurisdiction for the purpose of regulating, warning or guiding traffic.

32 13. "Park", if prohibited, means the standing of a vehicle, whether
33 occupied or not, otherwise than temporarily for the purpose of and while
34 actually engaged in loading or unloading.

35 ~~14. "Photo enforcement system" means a device substantially~~
36 ~~consisting of a radar unit or sensor linked to a camera or other recording~~
37 ~~device that produces one or more photographs, microphotographs, videotapes~~
38 ~~or digital or other recorded images of a vehicle's license plate for the~~
39 ~~purpose of identifying violators of articles 3 and 6 of this chapter.~~

40 ~~15.~~ 14. "Pneumatic tire" means a tire in which compressed air is
41 designed to support the load.

42 ~~16.~~ 15. "Pole trailer" means a vehicle that is all of the
43 following:

1 (a) Without motive power.

2 (b) Designed to be drawn by another vehicle and attached to the
3 towing vehicle by means of a reach or pole or by being boomed or otherwise
4 secured to the towing vehicle.

5 (c) Used ordinarily for transporting long or irregularly shaped
6 loads such as poles, pipes or structural members capable generally of
7 sustaining themselves as beams between the supporting connections.

8 ~~17.~~ 16. "Police officer" means an officer authorized to direct or
9 regulate traffic or make arrests for violations of traffic rules or other
10 offenses.

11 ~~18.~~ 17. "Private road or driveway" means a way or place that is in
12 private ownership and that is used for vehicular travel by the owner and
13 those persons who have express or implied permission from the owner but
14 not by other persons.

15 ~~19.~~ 18. "Railroad" means a carrier of persons or property on cars
16 operated on stationary rails.

17 ~~20.~~ 19. "Railroad sign or signal" means a sign, signal or device
18 erected by authority of a public body or official or by a railroad and
19 intended to give notice of the presence of railroad tracks or the approach
20 of a railroad train.

21 ~~21.~~ 20. "Railroad train" means a steam engine or any electric or
22 other motor that is with or without cars coupled to the steam engine or
23 electric or other motor and that is operated on rails.

24 ~~22.~~ 21. "Roadway" means that portion of a highway that is
25 improved, designed or ordinarily used for vehicular travel, exclusive of
26 the berm or shoulder. If a highway includes two or more separate
27 roadways, roadway refers to any such roadway separately but not to all
28 such roadways collectively.

29 ~~23.~~ 22. "Safety zone" means the area or space that is both:

30 (a) Officially set apart within a roadway for the exclusive use of
31 pedestrians.

32 (b) Protected or either marked or indicated by adequate signs as to
33 be plainly visible at all times while set apart as a safety zone.

34 ~~24.~~ 23. "Sidewalk" means that portion of a street that is between
35 the curb lines or the lateral lines of a roadway and the adjacent property
36 lines and that is intended for the use of pedestrians.

37 ~~25.~~ 24. "Stop", if required, means complete cessation from
38 movement.

39 ~~26.~~ 25. "Stop, stopping or standing", if prohibited, means any
40 stopping or standing of an occupied or unoccupied vehicle, except when
41 necessary to avoid conflict with other traffic or in compliance with
42 directions of a police officer or traffic control sign or signal.

43 ~~27.~~ 26. "Through highway" means a highway or portion of a highway
44 at the entrances to which vehicular traffic from intersecting highways is

1 required by law to stop before entering or crossing and when stop signs
2 are erected as provided in this chapter.

3 ~~28.~~ 27. "Traffic" means pedestrians, ridden or herded animals,
4 vehicles and other conveyances either singly or together while using a
5 highway for purposes of travel.

6 ~~29.~~ 28. "Traffic control signal" means a device, whether manually,
7 electrically or mechanically operated, by which traffic is alternately
8 directed to stop and to proceed.

9 ~~30.~~ 29. "Truck" means a motor vehicle that is designed, used or
10 maintained primarily for the transportation of property.

11 Sec. 3. Section 28-627, Arizona Revised Statutes, is amended to
12 read:

13 28-627. Powers of local authorities

14 A. This chapter and chapters 4 and 5 of this title do not prohibit
15 a local authority, with respect to streets and highways under its
16 jurisdiction and within the reasonable exercise of the police power, from:

- 17 1. Regulating the standing or parking of vehicles.
- 18 2. Regulating traffic by means of police officers, traffic control
19 signals or volunteer posse organization members authorized by the sheriff
20 under section 11-441 for the purpose of directing traffic only.
- 21 3. Regulating or prohibiting processions or assemblages on the
22 highways.
- 23 4. Designating particular highways as one-way highways and
24 requiring that all vehicles on one-way highways be moved in one specific
25 direction.
- 26 5. Regulating the speed of vehicles in public parks.
- 27 6. Designating any highway as a through highway and requiring that
28 all vehicles stop before entering or crossing the highway or designating
29 any intersection as a stop intersection and requiring all vehicles to stop
30 at one or more entrances to the intersection.
- 31 7. Restricting the use of highways as authorized in section
32 28-1106.
- 33 8. Regulating the operation of bicycles and requiring the
34 registration and licensing of bicycles, including the requirement of a
35 registration fee.
- 36 9. Regulating or prohibiting the turning of vehicles or specified
37 types of vehicles at intersections.
- 38 10. Altering the prima facie speed limits as authorized by this
39 chapter.
- 40 11. Designating routes over streets and highways for vehicles not
41 exceeding one hundred two inches in width, exclusive of safety equipment.
- 42 12. Adopting other traffic regulations that are specifically
43 authorized by this chapter or chapter 4 or 5 of this title.

1 13. Designating routes on certain streets and highways for the
2 purpose of allowing off-highway vehicle operators to gain access to or
3 from a designated off-highway recreation facility as defined in section
4 28-1171, off-highway vehicle trail as defined in section 28-1171 or
5 off-highway vehicle special event as defined in section 28-1171.

6 14. Regulating electric bicycles and electric standup scooters. A
7 local authority may consider the environmental benefits and traffic
8 benefits of electric bicycles and electric standup scooters when
9 regulating electric bicycles and electric standup scooters.

10 B. A local authority shall not erect or maintain a stop sign or
11 traffic control signal at any location that requires the traffic on any
12 state highway to stop before entering or crossing any intersecting highway
13 unless approval in writing has first been obtained from the director.

14 C. An ordinance or regulation enacted under subsection A, paragraph
15 4, 5, 6, 7, 9 or 10 of this section is not effective until signs giving
16 notice of the local traffic regulations are posted on or at the entrances
17 to the highway or part of the highway affected as is most appropriate.

18 D. The definition of motor vehicle prescribed in section 28-101
19 does not prevent a local authority from adopting ordinances that regulate
20 or prohibit the operation of motorized skateboards, except that a local
21 authority shall not adopt an ordinance that requires registration and
22 licensing of motorized skateboards. For the purposes of this subsection,
23 "motorized skateboard" means a self-propelled device that does not have
24 handlebars and that has a motor, a deck on which a person may ride and at
25 least two tandem wheels in contact with the ground.

26 E. In addition to the appointment of peace officers, a local
27 authority may provide by ordinance for the appointment of:

28 1. Unarmed police aides or municipally approved private contractors
29 who are employed or contracted by the police department and who are
30 empowered to commence an action or proceeding before a court or judge for
31 a violation of the local authority's ordinances regulating the standing or
32 parking of vehicles. A municipally approved private contractor shall not
33 include a relative of an employee or of an elected official of the
34 municipality. The authority of the unarmed police aide or municipally
35 approved private contractor as authorized in this section is limited to
36 the enforcement of the ordinances of local authorities regulating the
37 standing or parking of vehicles. Pursuant to rules established by the
38 supreme court, an unarmed police aide appointed pursuant to this paragraph
39 may serve any process originating out of a municipal court in the
40 municipality in which the unarmed police aide is employed. Service of
41 process under this paragraph shall only be made during the hours the
42 municipal court is open for the transaction of business and only on court
43 premises. This paragraph does not grant to unarmed police aides or
44 municipally approved private contractors other powers or benefits to which
45 peace officers of this state are entitled.

1 2. Traffic investigators who may:
2 (a) Investigate traffic accidents within the jurisdiction of the
3 local authority.
4 (b) Commence an action or proceeding before a court or judge for
5 any violation of a state statute or local ordinance relating to traffic,
6 if the violation is related to a traffic accident within the jurisdiction
7 of the local authority.
8 (c) Pursuant to rules established by the supreme court, serve any
9 process originating out of a municipal court in the municipality in which
10 the traffic investigator is employed. Service of process under paragraph
11 1 of this subsection shall only be made during the hours the municipal
12 court is open for the transaction of business and only on court premises.
13 F. A traffic investigator appointed pursuant to this section shall:
14 1. Be unarmed at all times during the course of the traffic
15 investigator's duties.
16 2. Be an employee of the appointing local authority.
17 3. File written reports as required pursuant to section 28-667.
18 G. Notwithstanding subsection E of this section, an unarmed police
19 aide, a municipally approved private contractor or a traffic investigator
20 shall not serve any process resulting from a citation issued for a
21 violation of article 3 or 6 of this chapter or of a city or town ordinance
22 for excessive speed or failure to obey a traffic control device that is
23 obtained using ~~a photo enforcement system~~ HIGHWAY VIDEO SURVEILLANCE.
24 H. This section does not grant other powers or benefits to traffic
25 investigators to which peace officers of this state are entitled.
26 I. Pursuant to section 28-1092, a local authority shall provide
27 reasonable access to and from terminals and service facilities on highways
28 under its jurisdiction.
29 Sec. 4. Repeal
30 Title 28, chapter 3, article 21, Arizona Revised Statutes, is
31 repealed.
32 Sec. 5. Title 28, chapter 3, Arizona Revised Statutes, is amended
33 by adding a new article 21, to read:
34 ARTICLE 21. HIGHWAY VIDEO SURVEILLANCE
35 28-1201. Highway video surveillance; prohibited
36 THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE MAY NOT CONDUCT
37 HIGHWAY VIDEO SURVEILLANCE ON A CONTROLLED ACCESS HIGHWAY AS DEFINED IN
38 SECTION 28-601 OR ON A SIDEWALK AS DEFINED IN SECTION 28-601.
39 28-1202. Violation; injury; damages; attorney fees
40 A PERSON WHO SUFFERS AN INJURY AS A RESULT OF A VIOLATION OF THIS
41 ARTICLE IS ENTITLED TO THE FOLLOWING DAMAGES:
42 1. AT LEAST \$1,000 FOR EACH VIOLATION.
43 2. COSTS AND REASONABLE ATTORNEY FEES.
44 Sec. 6. Repeal
45 Section 28-1602, Arizona Revised Statutes, is repealed.

REFERENCE TITLE: TPT; prime contracting classification

State of Arizona
Senate
Fifty-fifth Legislature
First Regular Session
2021

SB 1721

Introduced by
Senator Fann

AN ACT

AMENDING SECTIONS 41-1516, 41-1532, 42-5007, 42-5008.01 AND 42-5032.02, ARIZONA REVISED STATUTES; AMENDING SECTION 42-5061, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2019, CHAPTER 273, SECTION 7 AND CHAPTER 288, SECTION 1; AMENDING SECTION 42-5061, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2019, CHAPTER 273, SECTION 8 AND CHAPTER 288, SECTION 2; AMENDING SECTIONS 42-5075 AND 42-5159, ARIZONA REVISED STATUTES; AMENDING SECTION 42-6004, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2019, CHAPTER 163, SECTION 23 AND CHAPTER 189, SECTION 3; AMENDING SECTION 42-6004, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2019, CHAPTER 163, SECTION 24 AND CHAPTER 189, SECTION 4; AMENDING SECTION 49-290, ARIZONA REVISED STATUTES; RELATING TO TRANSACTION PRIVILEGE TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 41-1516, Arizona Revised Statutes, is amended to
3 read:

4 41-1516. Healthy forest enterprise incentives; definitions

5 A. The Arizona commerce authority shall:

6 1. Implement a program to encourage counties, cities and towns to
7 provide local incentives to economic enterprises that promote forest
8 health in this state.

9 2. Identify and certify to the department of revenue the names of
10 and relevant information relating to qualified businesses for the purposes
11 of available state tax incentives for economic enterprises that promote
12 forest health in this state.

13 B. To qualify for state tax incentives pursuant to this section, a
14 business:

15 1. Must be primarily engaged in a qualifying project. The business
16 shall submit to the authority evidence that it is engaged in a qualifying
17 project as follows:

18 (a) The business operation must enhance or sustain forest health,
19 sustain or recover watershed or improve public safety.

20 (b) If the qualifying forest product is on federal land, the
21 business shall submit a letter from the federal agency administering the
22 land, or official records or documents produced in connection with the
23 project, stating that the business is primarily engaged in the business of
24 harvesting or processing qualifying forest products for commercial use as
25 follows:

26 (i) At least seventy percent of the harvested or processed
27 products, measured by weight, must be qualifying forest products.

28 (ii) At least seventy-five percent of the qualifying forest
29 products, measured by weight, must be harvested from sources in this
30 state.

31 (c) If the qualifying forest product is not on federal land, the
32 business shall submit a letter from the state forester stating that the
33 business is primarily engaged in the business of harvesting or processing
34 qualifying forest products for commercial use as follows:

35 (i) At least seventy percent of the harvested or processed products
36 must be qualifying forest products.

37 (ii) At least seventy-five percent of the harvested or processed
38 products must be from areas in this state.

39 (d) If the business is engaged in transporting qualifying forest
40 products, it must submit a letter from the state forester or United States
41 forest service, or official records or documents produced in connection
42 with the project, stating that all of the qualifying forest products it
43 transports are harvested from areas in this state. In addition, the
44 business must submit evidence to the authority that at least seventy-five
45 percent of the mileage traveled by its units each year are for

1 transporting qualifying forest products from or to qualifying projects
2 described in subdivision (b) or (c) of this paragraph, unless a lower
3 mileage is due to forest closures or weather conditions that are beyond
4 the control of the business.

5 2. Must employ at least one permanent full-time employee.

6 3. Must agree to furnish to the authority information relating to
7 the amount of state tax benefits that the business receives each year.

8 4. Must enter into a memorandum of understanding with the authority
9 containing:

10 (a) Employment goals. Each year the business must report in
11 writing to the authority its performance in achieving the goals.

12 (b) A commitment to continue in business and use the qualifying
13 equipment primarily on qualifying projects in this state as described in
14 paragraph 1 of this subsection, other than for reasons beyond the control
15 of the business. The authority shall consult with the department of
16 revenue in designing the memorandum of understanding to incorporate the
17 legal qualifications for the available tax incentives and shall include
18 the requirement that any qualifying equipment that is purchased or leased
19 free of transaction privilege or use tax must continue to be used in this
20 state for the term of the memorandum of understanding or the duration of
21 its operational life, whichever is shorter.

22 (c) Provisions considered necessary by the authority to ensure the
23 competency and responsibility of businesses that qualify under this
24 section, including registration or other accreditation with trade and
25 professional organizations and compliance with best management and
26 operational practices used by governmental agencies in awarding forestry
27 contracts.

28 (d) The authorization for the authority to terminate, adjust or
29 recapture all or part of the tax benefits provided to the business on
30 noncompliance with the law, noncompliance with the terms of the memorandum
31 or violation of the terms of any contracts with the federal or state
32 government relating to the qualifying project. The authority shall notify
33 the department of revenue of the conditions of noncompliance. The
34 department of revenue may also terminate the certification if it obtains
35 information indicating a failure to qualify and comply. The department of
36 revenue may require the business to file appropriate amended tax returns
37 or to file appropriate use tax returns reflecting the recapture of the
38 direct or indirect tax benefits.

39 5. Must submit a copy of the certification to the department of
40 revenue for approval before using the certification for purposes of any
41 tax incentive. The department of revenue shall review and approve the
42 certification in a timely manner if the business is in good standing with
43 the department and is not delinquent in the payment of any tax collected
44 by the department. A failure to approve or deny the certification within

1 sixty days after the date the business submits it to the department
2 constitutes approval of the certification.

3 C. For the purposes of section 42-5075, subsection ~~B~~ C, paragraph
4 18, the authority shall certify prime contractors that contract for the
5 construction of any building, or other structure, project, development or
6 improvement owned by a qualified business for purposes of a qualifying
7 project described in subsection B, paragraph 1 of this section.

8 D. To obtain and maintain certification under this section, a
9 business must:

10 1. Apply to the authority.

11 2. Submit and retain copies of all required information, including
12 information relating to the actual or projected number of employees in
13 this state.

14 3. Allow inspections and audits to verify the qualification and
15 accuracy of information submitted to the authority.

16 E. Certification under this section is valid for sixty calendar
17 months from the date of issuance. A business must apply for
18 recertification at least thirty days before the current certification
19 expires. The application for recertification shall be in a form
20 prescribed by the authority and shall confirm that the business is
21 continuing in a qualifying project and is in compliance with all
22 requirements prescribed for certification.

23 F. Within sixty days after receiving a complete and correct
24 application and all required information as prescribed by this section,
25 the authority shall grant or deny certification and give written notice by
26 certified mail to the applicant. The applicant is certified as a
27 qualified business on the date the notice of certification is delivered to
28 the applicant. A failure to respond within sixty days after receiving a
29 complete and correct application constitutes approval of the application.

30 G. The certification shall state an effective date with respect to
31 each authorized tax incentive, which, in each case, must be at the start
32 of a taxable year or taxable period.

33 H. On or before March 1 of each year, each qualifying business
34 shall make a report to the authority on all business activity in the
35 preceding calendar year. Business information contained in the reports is
36 confidential and shall not be disclosed to the public except as provided
37 by this section and except that a copy of the report shall be transmitted
38 to the department of revenue. The report shall be in a form prescribed by
39 the authority and include:

40 1. Information prescribed by the authority with respect to both
41 qualifying projects and other projects and business activity that do not
42 qualify for purposes of this section.

43 2. Employment information necessary to confirm eligibility for **THE**
44 income tax credit as prescribed by section 43-1076.

1 3. The quantity, measured by weight, of qualifying forest products
2 harvested, transported or processed.

3 I. On or before May 1 of each year, the authority shall report to
4 the joint legislative budget committee:

5 1. The quantity, measured by weight, of qualifying forest products
6 reported by harvesters, by transporters and by processors in the preceding
7 calendar year.

8 2. The number of new full-time employees hired in qualified
9 employment positions in this state in the preceding calendar year and
10 reported for tax credit purposes.

11 3. The total number of all full-time employees employed in
12 qualified employment positions in this state in the preceding calendar
13 year and reported for tax credit purposes.

14 J. For the purposes of administering and ensuring compliance with
15 this section, agents of the authority may enter, and a qualified business
16 shall allow access to, a qualifying project site at reasonable times and
17 on reasonable notice to:

18 1. Inspect the facilities at the site.

19 2. Obtain factual data and records pertinent to and required by law
20 to be kept for purposes of tax incentives.

21 3. Otherwise ascertain compliance with law and the terms of the
22 memorandum of understanding.

23 K. The authority shall revoke the business' certification and
24 notify the department of revenue and county assessor if either:

25 1. Within thirty days after a formal request from the authority or
26 the department of revenue, the business fails or refuses to provide the
27 information or access for inspections required by this section.

28 2. The business no longer meets the terms and conditions required
29 for qualification for the applicable tax incentives.

30 L. For the purposes of this section:

31 1. "Forest health" means the degree to which the integrity of the
32 forest is sustained, including reducing the risk of catastrophic wildfire
33 and destructive insect infestation, benefiting wildland habitats,
34 watersheds and communities.

35 2. "Harvesting" means all operations relating to felling or
36 otherwise removing trees and other forest plant growth and preparing them
37 for transport for subsequent processing.

38 3. "Processing" means:

39 (a) Any change in the physical structure of qualifying forest
40 products removed from a qualifying project into a marketable commercial
41 product or component of a product that has commercial value to a consumer
42 or purchaser and that is ready to be used with or without further altering
43 its form.

44 (b) Burning qualifying forest products in the process of commercial
45 electrical generation or commercial thermal energy production for heating

1 or cooling, regardless of the physical structure of the forest product
2 before burning.

3 4. "Qualifying equipment" means equipment used directly in
4 harvesting or processing qualifying forest products removed from a
5 qualifying project. Qualifying equipment does not include self-propelled
6 vehicles required to be licensed by this state, but may include other
7 licensed vehicles as provided by this paragraph. Qualifying equipment
8 includes:

9 (a) Forest thinning and residue removal equipment, including
10 mulching and masticating equipment, feller-bunchers, skidders, log
11 loaders, portable chippers and grinders, slash bundlers, delimbers, log
12 trailers, chip trailers and other trailers that are uniquely designed for
13 handling forest products and that are licensed for operation on public
14 highways.

15 (b) Forest residue receiving and handling equipment, including
16 truck dumpers, log unloaders, scales, log decking facilities and equipment
17 and chip pile facilities.

18 (c) Sorting and processing equipment, including portable and
19 stationary log loaders, front-end loaders, forklifts and cranes, chippers
20 and grinders, screens, decks and debarkers, saws and sawmill equipment,
21 firewood processing, wood residue baling and bagging equipment, kilns,
22 planing and molding equipment and laminating and joining equipment.

23 (d) Forest waste and residue disposal and processing equipment,
24 including:

25 (i) Processing and sizing equipment, hogs, chippers, screens,
26 pelletizers and wood splitters.

27 (ii) Transporting and handling equipment, including loaders,
28 conveyors, blowers, receiving hoppers, truck dumpers and dozers.

29 (iii) Waste use equipment, including fuel feed, storage bins,
30 boilers and combustors.

31 (iv) Waste project use equipment, including generators, switchgear
32 and substations and on-site distribution systems.

33 (v) Generated waste disposal equipment, including ash silos and
34 wastewater treatment and disposal equipment.

35 (vi) Shop and maintenance equipment and major spares having a value
36 of more than \$5,000 each.

37 5. "Qualifying forest products" means dead standing and fallen
38 timber, and forest thinnings associated with the harvest of small diameter
39 timber, slash, wood chips, peelings, brush and other woody vegetation,
40 removed from federal, state and other public forest land and from private
41 forest land.

42 6. "Qualifying project" means harvesting, transporting or processing
43 qualifying forest products as required for certification pursuant to this
44 section.

1 Sec. 2. Section 41-1532, Arizona Revised Statutes, is amended to
2 read:

3 41-1532. Tax incentives; conditions

4 A. A prime contractor may qualify for an exemption from transaction
5 privilege tax with respect to activities in a military reuse zone as
6 provided, and subject to the terms and conditions prescribed, by section
7 42-5075, subsection ~~B~~ C, paragraph 4.

8 B. Taxable property in a military reuse zone that is devoted to
9 providing aviation or aerospace services or to manufacturing, assembling
10 or fabricating aviation or aerospace products qualifies for assessment as
11 class six property as provided, and subject to the terms and conditions
12 prescribed, by sections 42-12006 and 42-15006.

13 C. To qualify for a tax incentive described in subsection A or B of
14 this section, the taxpayer shall provide to the authority information
15 relating to the amount of tax benefits the taxpayer receives each year for
16 each year in which the taxpayer claims the incentives on forms prescribed
17 by the authority. If the taxpayer fails to provide the required
18 information, the authority shall immediately revoke the taxpayer's
19 certification of eligibility and notify the department of revenue.

20 D. Taxpayers who qualify for tax incentives under subsection B of
21 this section shall be certified by the authority as eligible for a
22 five-year period, subject to termination in the event of changed
23 circumstances rendering the taxpayer no longer eligible.

24 Sec. 3. Section 42-5007, Arizona Revised Statutes, is amended to
25 read:

26 42-5007. Taxpayer security; out-of-state prime contractors;
27 definition

28 A. In lieu of the bond required under section 42-1102 or 42-5006, a
29 person who is in the construction business, who does not have a principal
30 place of business in this state and who enters into a prime construction
31 contract to be performed in this state, at the time the contract is
32 entered into, shall furnish to the director or the director's agent a
33 surety bond or other acceptable security in an amount equal to the gross
34 receipts to be paid under the contract multiplied by the aggregate rates
35 of the applicable taxes imposed by this chapter to secure payment of the
36 tax imposed by this chapter on the gross receipts from the contract and
37 shall obtain a certificate from the director or the director's agent that
38 the requirements of this section have been met.

39 B. If the total amount to be paid under the contract is changed by
40 ten ~~per cent~~ PERCENT or more after the date the bond or other security is
41 furnished, the person shall increase or decrease, as the case may be, the
42 amount of the bond or security within fourteen days after the change.

43 C. If a person fails to comply with subsection A or B of this
44 section, the director or the director's agent may:

1 1. Demand by certified mail or in person that the person
2 comply. On the person's failure to comply within ten days after the date
3 of the mailing of such demand, the director may institute a proceeding to
4 enjoin the person's business as provided in section 42-1103.

5 2. When a serious and immediate risk exists that an amount of tax
6 due or reasonably expected to become due from the person on gross receipts
7 from a prime construction contract will not be paid, request the person to
8 comply, and, on failure to comply immediately, the director may without
9 further notice apply to tax court for an injunction under section 42-1103.

10 D. This section does not apply if the total gross receipts under
11 the construction contract, including any change in such amount, are to be
12 less than ~~fifty thousand dollars~~ \$100,000 PER RESIDENTIAL UNIT FOR A
13 RESIDENTIAL PROJECT OR \$1,000,000 FOR A NONRESIDENTIAL PROJECT.

14 E. A city, town or county or an agency of this state shall not
15 issue a building or other construction permit to any person who is subject
16 to the requirements of this section without having first been furnished by
17 the construction contractor with the certificate from the director or the
18 director's agent provided under subsection A of this section.

19 F. ~~in~~ FOR THE PURPOSES OF this section, "principal place of
20 business" means a location where a person has continuously operated a
21 facility with at least one full-time employee for the preceding twelve
22 consecutive months.

23 Sec. 4. Section 42-5008.01, Arizona Revised Statutes, is amended to
24 read:

25 42-5008.01. Liability for amounts equal to retail transaction
26 privilege tax due

27 A. A person that is either a prime contractor subject to tax under
28 section 42-5075 or a subcontractor working under the control of such a
29 prime contractor, that purchases tangible personal property, the purchase
30 price of which was excluded from the tax base under the retail
31 classification under section 42-5061, subsection A, paragraph 27 or was
32 excluded from the use tax under section 42-5159, subsection A, paragraph
33 13, subdivision (g) at the time of purchase, and that incorporates or
34 fabricates the tangible personal property into a project described in
35 section 42-5075, subsection ~~A~~ B is liable for an amount equal to any tax
36 that a seller would have been required to pay under section 42-5061 and
37 this article as follows:

38 1. The amount of liability shall be calculated and reported based
39 on the location of the project and the taxes imposed under this chapter
40 and chapter 6 of this title.

41 2. All deductions, exemptions and exclusions for the cost of
42 tangible personal property provided in section 42-5075 apply to the
43 tangible personal property incorporated or fabricated into the project.

44 3. This subsection does not apply to tangible personal property
45 that is incorporated or fabricated into any project under a contract that

1 would otherwise be excluded from the tax base under section 42-5075,
2 without regard to section 42-5075, subsection ~~⊖~~ B.

3 4. The amount of liability shall be reported within the reporting
4 period that includes the month in which the person incorporates or
5 fabricates the tangible personal property into the project.

6 5. The person is not liable for the amount if the contractor who
7 hired the person executes and provides to the person a certificate stating
8 that the contractor providing the certificate is liable for any amount due
9 under this subsection. The department shall prescribe the form of the
10 certificate. If the person has reason to believe that the information
11 contained on the certificate is erroneous or incomplete, the department
12 may disregard the certificate. The contractor providing the certificate
13 is liable for the amount that otherwise would be due from the person under
14 this subsection.

15 B. A person that purchased tangible personal property, the purchase
16 price of which was excluded from the tax base under section 42-5061,
17 subsection A, paragraph 27 or was excluded from the use tax under section
18 42-5159, subsection A, paragraph 13, subdivision (g) at the time of
19 purchase, that subsequently cancels its transaction privilege tax license
20 and that uses, consumes, sells or discards the tangible personal property
21 is liable for an amount of tax determined under this subsection. For the
22 purposes of this subsection:

23 1. If the tangible personal property is incorporated or fabricated
24 into a project described in section 42-5075, subsection ~~⊖~~ B, or otherwise
25 used or consumed by the person, the amount of liability shall be
26 calculated and reported based on the person's purchase price of the
27 tangible personal property, the location of the project, use or
28 consumption and the taxes imposed under this chapter and chapter 6 of this
29 title.

30 2. If the tangible personal property is sold in a manner that is
31 not subject to tax under this chapter or is discarded, the amount shall be
32 calculated and reported based on the payment received by the person, the
33 location of the person's principal place of business in this state and the
34 taxes imposed under this chapter and chapter 6 of this title.

35 3. The person is not liable under this subsection for any amount if
36 the person discards the tangible personal property and does not receive
37 payment of any kind.

38 4. The amount of liability shall be reported on or before the
39 business day preceding the last business day of the month following the
40 month in which the person uses the tangible personal property in a manner
41 described in paragraph 1 or 2 of this subsection. No amount is due under
42 this subsection at any time that the person stores the tangible personal
43 property without using it in a manner described in paragraph 1 or 2 of
44 this subsection.

5. All deductions, exemptions and exclusions for the cost of tangible personal property provided in section 42-5075 ~~OR 42-5061~~ apply to the tangible personal property incorporated or fabricated into a project described in section 42-5075, subsection ~~⊖~~ B.

6. This subsection does not apply to tangible personal property that is incorporated or fabricated into any project under a contract that would otherwise be excluded from the tax base under section 42-5075, without regard to section 42-5075, subsection ~~⊖~~ B.

7. The person is not liable for the amount if the contractor who hired the person executes and provides to the person a certificate stating that the contractor providing the certificate is liable for any amount due under this subsection for tangible personal property incorporated or fabricated into a project described in section 42-5075, subsection ~~⊖~~ B. The department shall prescribe the form of the certificate. If the person has reason to believe that the information contained on the certificate is erroneous or incomplete, the department may disregard the certificate. The contractor providing the certificate is liable for the amount that otherwise would be due from the person under this subsection.

C. A person that fails to report or pay any amount due under subsection A or B of this section is liable for interest in a manner consistent with section 42-1123 and penalties in a manner consistent with section 42-1125.

D. If a person has paid an amount described in this section on tangible personal property that the person reasonably believed to be described ~~IN~~ section 42-5075, subsection ~~⊖~~ B and a final determination is made that section 42-5075, subsection ~~⊖~~ B does not apply, the person is entitled to an offset for the amount paid under this section against the amount of tax liability assessed under this chapter and chapter 6 of this title.

Sec. 5. Section 42-5032.02, Arizona Revised Statutes, is amended to read:

42-5032.02. Distribution of revenues for city, town or county infrastructure improvements related to manufacturing facilities; definitions

A. Subject to subsection B of this section, from and after September 30, 2013 through September 30, 2023, each month the state treasurer shall pay a city, town or county the amount determined under subsection C of this section for the purpose of funding up to eighty percent of the cost of public infrastructure improvements for the benefit of a manufacturing facility.

B. The state treasurer shall not make any payments under subsection C of this section until both of the following apply:

1. Ten percent of the qualifying capital investment that is certified under subsection D of this section and that constitutes

1 construction phase services, as defined in section 42-5075, has been made
2 by the manufacturing facility.

3 2. From and after June 30, 2014.

4 C. The amount to be paid to a city, town or county under subsection
5 A of this section is the total amount of state transaction privilege tax
6 revenues collected under section 42-5010, subsection A from persons
7 conducting business under section 42-5075 derived from contracts to
8 construct buildings and associated improvements for the benefit of a
9 manufacturing facility. The total amount paid to all cities, towns and
10 counties under this subsection shall not exceed a maximum of ~~fifty million~~
11 ~~dollars~~ \$50,000,000.

12 D. Within one hundred eighty days after the commencement of the
13 construction of buildings and associated improvements for the benefit of a
14 manufacturing facility that will require a city, town or county to make
15 infrastructure improvements, the manufacturing facility shall file a sworn
16 certification with the Arizona commerce authority and submit a copy of
17 this sworn certification to the applicable city, town or county that the
18 manufacturing facility agrees to either:

19 1. Make at least ~~five hundred million dollars~~ \$500,000,000 in
20 capital investment if the manufacturing facility is located in a county
21 that has a population of eight hundred thousand persons or more.

22 2. Make at least ~~fifty million dollars~~ \$50,000,000 in capital
23 investment if the manufacturing facility is located in a county that has a
24 population of less than eight hundred thousand persons.

25 E. The certification under subsection D of this section shall
26 contain a sworn statement or certification, signed by an officer of the
27 manufacturing facility under penalty of perjury, that the information
28 contained is true and correct according to the best belief and knowledge
29 of the person submitting the information after a reasonable investigation
30 of the facts.

31 F. Before submitting the certification to the Arizona commerce
32 authority, the manufacturing facility and the city, town or county must
33 enter into a written agreement that:

34 1. Identifies and states the cost of the public infrastructure
35 improvements that will be constructed.

36 2. Identifies the sources of monies, including monies received
37 pursuant to this section, that will be used to pay for the public
38 infrastructure improvements.

39 G. On receipt of the sworn certification from a manufacturing
40 facility pursuant to subsection D of this section, the city, town or
41 county shall enter into a written agreement with the department. This
42 agreement and any amendments or changes to the agreement shall:

43 1. State the cost of the public infrastructure improvements and
44 separately identify the particular improvements that will be made.

1 2. State that the monies received under this section will be used
2 exclusively to pay for public infrastructure improvements that are
3 necessary to support the activities of the manufacturing facility.

4 3. State that the city, town or county will commit all of its
5 portion of the revenue received pursuant to section 42-5029, subsection D
6 derived from contracts subject to section 42-5075 for the construction of
7 buildings and associated improvements for the benefit of the manufacturing
8 facility for public infrastructure improvements that benefit the
9 manufacturing facility.

10 4. State that the city, town or county will immediately notify the
11 department when monies received under this section exceed eighty percent
12 of the cost of the infrastructure improvements and will return the amount
13 of the excess to the state treasurer for deposit in the state general
14 fund.

15 5. Stipulate the actual amount of the construction funding that
16 will be derived from sources other than the state.

17 6. Identify the persons who will be prime contractors on the
18 construction of buildings and associated improvements for the benefit of a
19 manufacturing facility and state that each prime contractor has been
20 notified as to which portion of the contractor's income shall be
21 separately identified to the department pursuant to section 42-5075,
22 subsection ~~H~~ I.

23 7. State that the city, town or county agrees that any amounts paid
24 by the department to a prime contractor as identified under paragraph 6 of
25 this subsection resulting from an audit adjustment or claim for credit or
26 refund of taxes described in subsection C of this section shall be
27 recovered by the department from the city, town or county by reducing the
28 amount paid to the city, town or county under section 42-5029 from monies
29 designated as distribution base in the month next succeeding the month in
30 which the adjustment or claim is paid.

31 8. State that the city, town or county agrees that the department
32 will use the amounts subject to any distribution required under subsection
33 A of this section in calculating the maximum amount set by subsection C of
34 this section.

35 9. State that the city, town or county agrees that if, on
36 notification by the department, the state treasurer ceases payments
37 because of the condition described in subsection H of this section, the
38 city, town or county has no claim to additional payments if the department
39 subsequently pays amounts to a prime contractor identified in an agreement
40 with any city, town or county, as described in paragraph 6 of this
41 subsection, due to an audit adjustment or claim for credit or refund of
42 taxes described in subsection C of this section.

43 10. Provide any other information deemed necessary by the
44 department.

1 H. On notification by the department, the state treasurer shall
2 cease payments under subsection A of this section if either of the
3 following occurs:

4 1. The city, town or county has received monies that meet or exceed
5 eighty percent of the cost of the public infrastructure improvements that
6 are necessary to support the activities related to the manufacturing
7 facility as described in the written agreement pursuant to subsection G of
8 this section.

9 2. The total amount subject to any distribution required under
10 subsection A of this section has met the maximum amount set by subsection
11 C of this section.

12 I. For the purposes of this section:

13 1. "Associated improvement" includes any public infrastructure
14 improvement that is made for the benefit of the manufacturing facility
15 outside of the parcel or parcels of real property where the manufacturing
16 facility is located.

17 2. "Capital investment" means an expenditure to acquire, lease or
18 improve property that is used for the benefit of a manufacturing facility,
19 including land, buildings, machinery and fixtures.

20 3. "Manufacturing facility":

21 (a) Means an establishment that is engaged in the mechanical,
22 physical or chemical transformation or fabrication of materials,
23 substances or components into new products in this state, that is
24 classified within sections 31 through 33 inclusive of the 2007 edition of
25 the north American industry classification system as published by the
26 national technical information service of the United States department of
27 commerce and that agrees to either:

28 (i) Make at least ~~five hundred million dollars~~ \$500,000,000 in
29 capital investment if the manufacturing facility is located in a county
30 that has a population of eight hundred thousand persons or more.

31 (ii) Make at least ~~fifty million dollars~~ \$50,000,000 in capital
32 investment if the manufacturing facility is located in a county that has a
33 population of less than eight hundred thousand persons.

34 (b) Does not include mining, milling or smelting mineral ore or
35 generating electricity.

36 4. "Population" means the population determined in the most recent
37 United States decennial census or the most recent special census as
38 provided in section 28-6532.

39 5. "Public infrastructure" means water production, delivery and
40 disposal facilities, wastewater production, delivery and disposal
41 facilities and roads that are necessary to support the activities of the
42 manufacturing facility.

1 Sec. 6. Section 42-5061, Arizona Revised Statutes, as amended by
2 Laws 2019, chapter 273, section 7 and chapter 288, section 1, is amended
3 to read:

4 42-5061. Retail classification; definitions

5 A. The retail classification is comprised of the business of
6 selling tangible personal property at retail. The tax base for the retail
7 classification is the gross proceeds of sales or gross income derived from
8 the business. The tax imposed on the retail classification does not apply
9 to the gross proceeds of sales or gross income from:

10 1. Professional or personal service occupations or businesses that
11 involve sales or transfers of tangible personal property only as
12 inconsequential elements.

13 2. Services rendered in addition to selling tangible personal
14 property at retail.

15 3. Sales of warranty or service contracts. The storage, use or
16 consumption of tangible personal property provided under the conditions of
17 such contracts is subject to tax under section 42-5156.

18 4. Sales of tangible personal property by any nonprofit
19 organization organized and operated exclusively for charitable purposes
20 and recognized by the United States internal revenue service under section
21 501(c)(3) of the internal revenue code.

22 5. Sales to persons engaged in business classified under the
23 restaurant classification of articles used by human beings for food, drink
24 or condiment, whether simple, mixed or compounded.

25 6. Business activity that is properly included in any other
26 business classification that is taxable under this article.

27 7. The sale of stocks and bonds.

28 8. Drugs and medical oxygen, including delivery hose, mask or tent,
29 regulator and tank, on the prescription of a member of the medical, dental
30 or veterinarian profession who is licensed by law to administer such
31 substances.

32 9. Prosthetic appliances as defined in section 23-501 and as
33 prescribed or recommended by a health professional who is licensed
34 pursuant to title 32, chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.

35 10. Insulin, insulin syringes and glucose test strips.

36 11. Prescription eyeglasses or contact lenses.

37 12. Hearing aids as defined in section 36-1901.

38 13. Durable medical equipment that has a centers for medicare and
39 medicaid services common procedure code, is designated reimbursable by
40 medicare, is prescribed by a person who is licensed under title 32,
41 chapter 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is
42 primarily and customarily used to serve a medical purpose, is generally
43 not useful to a person in the absence of illness or injury and is
44 appropriate for use in the home.

1 14. Sales of motor vehicles to nonresidents of this state for use
2 outside this state if the motor vehicle dealer ships or delivers the motor
3 vehicle to a destination out of this state.

4 15. Food, as provided in and subject to the conditions of article 3
5 of this chapter and sections 42-5074 and 42-6017.

6 16. Items purchased with United States department of agriculture
7 coupons issued under the supplemental nutrition assistance program
8 pursuant to the food and nutrition act of 2008 (P.L. 88-525; 78 Stat. 703;
9 7 United States Code sections 2011 through 2036b) by the United States
10 department of agriculture food and nutrition service or food instruments
11 issued under section 17 of the child nutrition act (P.L. 95-627; 92
12 Stat. 3603; P.L. 99-661, section 4302; P.L. 111-296; 42 United States Code
13 section 1786).

14 17. Textbooks by any bookstore that are required by any state
15 university or community college.

16 18. Food and drink to a person that is engaged in a business that
17 is classified under the restaurant classification and that provides such
18 food and drink without monetary charge to its employees for their own
19 consumption on the premises during the employees' hours of employment.

20 19. Articles of food, drink or condiment and accessory tangible
21 personal property to a school district or charter school if such articles
22 and accessory tangible personal property are to be prepared and served to
23 persons for consumption on the premises of a public school within the
24 district or on the premises of the charter school during school hours.

25 20. Lottery tickets or shares pursuant to title 5, chapter 5.1,
26 article 1.

27 21. The sale of cash equivalents and the sale of precious metal
28 bullion and monetized bullion to the ultimate consumer, but the sale of
29 coins or other forms of money for manufacture into jewelry or works of art
30 is subject to the tax and the gross proceeds of sales or gross income
31 derived from the redemption of any cash equivalent by the holder as a
32 means of payment for goods or services that are taxable under this article
33 is subject to the tax. For the purposes of this paragraph:

34 (a) "Cash equivalents" means items or intangibles, whether or not
35 negotiable, that are sold to one or more persons, through which a value
36 denominated in money is purchased in advance and may be redeemed in full
37 or in part for tangible personal property, intangibles or services. Cash
38 equivalents include gift cards, stored value cards, gift certificates,
39 vouchers, traveler's checks, money orders or other instruments, orders or
40 electronic mechanisms, such as an electronic code, personal identification
41 number or digital payment mechanism, or any other prepaid intangible right
42 to acquire tangible personal property, intangibles or services in the
43 future, whether from the seller of the cash equivalent or from another
44 person. Cash equivalents do not include either of the following:

1 (i) Items or intangibles that are sold to one or more persons,
2 through which a value is not denominated in money.

3 (ii) Prepaid calling cards or prepaid authorization numbers for
4 telecommunications services made taxable by subsection P of this section.

5 (b) "Monetized bullion" means coins and other forms of money that
6 are manufactured from gold, silver or other metals and that have been or
7 are used as a medium of exchange in this or another state, the United
8 States or a foreign nation.

9 (c) "Precious metal bullion" means precious metal, including gold,
10 silver, platinum, rhodium and palladium, that has been smelted or refined
11 so that its value depends on its contents and not on its form.

12 22. Motor vehicle fuel and use fuel that are subject to a tax
13 imposed under title 28, chapter 16, article 1, sales of use fuel to a
14 holder of a valid single trip use fuel tax permit issued under section
15 28-5739, sales of aviation fuel that are subject to the tax imposed under
16 section 28-8344 and sales of jet fuel that are subject to the tax imposed
17 under article 8 of this chapter.

18 23. Tangible personal property sold to a person engaged in the
19 business of leasing or renting such property under the personal property
20 rental classification if such property is to be leased or rented by such
21 person.

22 24. Tangible personal property sold in interstate or foreign
23 commerce if prohibited from being so taxed by the constitution of the
24 United States or the constitution of this state.

25 25. Tangible personal property sold to:

26 (a) A qualifying hospital as defined in section 42-5001.

27 (b) A qualifying health care organization as defined in section
28 42-5001 if the tangible personal property is used by the organization
29 solely to provide health and medical related educational and charitable
30 services.

31 (c) A qualifying health care organization as defined in section
32 42-5001 if the organization is dedicated to providing educational,
33 therapeutic, rehabilitative and family medical education training for
34 blind and visually impaired children and children with multiple
35 disabilities from the time of birth to age twenty-one.

36 (d) A qualifying community health center as defined in section
37 42-5001.

38 (e) A nonprofit charitable organization that has qualified under
39 section 501(c)(3) of the internal revenue code and that regularly serves
40 meals to the needy and indigent on a continuing basis at no cost.

41 (f) For taxable periods beginning from and after June 30, 2001, a
42 nonprofit charitable organization that has qualified under section
43 501(c)(3) of the internal revenue code and that provides residential
44 apartment housing for low income persons over sixty-two years of age in a
45 facility that qualifies for a federal housing subsidy, if the tangible

1 personal property is used by the organization solely to provide
2 residential apartment housing for low income persons over sixty-two years
3 of age in a facility that qualifies for a federal housing subsidy.

4 (g) A qualifying health sciences educational institution as defined
5 in section 42-5001.

6 (h) Any person representing or working on behalf of another person
7 described in subdivisions (a) through (g) of this paragraph if the
8 tangible personal property is incorporated or fabricated into a project
9 described in section 42-5075, subsection ~~⊖~~ B.

10 26. Magazines or other periodicals or other publications by this
11 state to encourage tourist travel.

12 27. Tangible personal property sold to:

13 (a) A person that is subject to tax under this article by reason of
14 being engaged in business classified under section 42-5075 or to a
15 subcontractor working under the control of a person engaged in business
16 classified under section 42-5075, if the property so sold is any of the
17 following:

18 (i) Incorporated or fabricated by the person into any real
19 property, structure, project, development or improvement as part of the
20 business.

21 (ii) Incorporated or fabricated by the person into any project
22 described in section 42-5075, subsection ~~⊖~~ B.

23 (iii) Used in environmental response or remediation activities
24 under section 42-5075, subsection ~~B~~ C, paragraph 6.

25 (b) A person that is not subject to tax under section 42-5075 and
26 that has been provided a copy of a certificate under section 42-5009,
27 subsection L, if the property so sold is incorporated or fabricated by the
28 person into the real property, structure, project, development or
29 improvement described in the certificate.

30 28. The sale of a motor vehicle to:

31 (a) A nonresident of this state if the purchaser's state of
32 residence does not allow a corresponding use tax exemption to the tax
33 imposed by article 1 of this chapter and if the nonresident has secured a
34 special ninety day nonresident registration permit for the vehicle as
35 prescribed by sections 28-2154 and 28-2154.01.

36 (b) An enrolled member of an Indian tribe who resides on the Indian
37 reservation established for that tribe.

38 29. Tangible personal property purchased in this state by a
39 nonprofit charitable organization that has qualified under section
40 501(c)(3) of the United States internal revenue code and that engages in
41 and uses such property exclusively in programs for persons with mental or
42 physical disabilities if the programs are exclusively for training, job
43 placement, rehabilitation or testing.

44 30. Sales of tangible personal property by a nonprofit organization
45 that is exempt from taxation under section 501(c)(3), 501(c)(4) or

1 501(c)(6) of the internal revenue code if the organization is associated
2 with a major league baseball team or a national touring professional
3 golfing association and no part of the organization's net earnings inures
4 to the benefit of any private shareholder or individual. This paragraph
5 does not apply to an organization that is owned, managed or controlled, in
6 whole or in part, by a major league baseball team, or its owners,
7 officers, employees or agents, or by a major league baseball association
8 or professional golfing association, or its owners, officers, employees or
9 agents, unless the organization conducted or operated exhibition events in
10 this state before January 1, 2018 that were exempt from taxation under
11 section 42-5073.

12 31. Sales of commodities, as defined by title 7 United States Code
13 section 2, that are consigned for resale in a warehouse in this state in
14 or from which the commodity is deliverable on a contract for future
15 delivery subject to the rules of a commodity market regulated by the
16 United States commodity futures trading commission.

17 32. Sales of tangible personal property by a nonprofit organization
18 that is exempt from taxation under section 501(c)(3), 501(c)(4),
19 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the
20 organization sponsors or operates a rodeo featuring primarily farm and
21 ranch animals and no part of the organization's net earnings inures to the
22 benefit of any private shareholder or individual.

23 33. Sales of propagative materials to persons who use those items
24 to commercially produce agricultural, horticultural, viticultural or
25 floricultural crops in this state. For the purposes of this paragraph,
26 "propagative materials":

27 (a) Includes seeds, seedlings, roots, bulbs, liners, transplants,
28 cuttings, soil and plant additives, agricultural minerals, auxiliary soil
29 and plant substances, micronutrients, fertilizers, insecticides,
30 herbicides, fungicides, soil fumigants, desiccants, rodenticides,
31 adjuvants, plant nutrients and plant growth regulators.

32 (b) Except for use in commercially producing industrial hemp as
33 defined in section 3-311, does not include any propagative materials used
34 in producing any part, including seeds, of any plant of the genus
35 cannabis.

36 34. Machinery, equipment, technology or related supplies that are
37 only useful to assist a person with a physical disability as defined in
38 section 46-191 or a person who has a developmental disability as defined
39 in section 36-551 or has a head injury as defined in section 41-3201 to be
40 more independent and functional.

41 35. Sales of natural gas or liquefied petroleum gas used to propel
42 a motor vehicle.

43 36. Paper machine clothing, such as forming fabrics and dryer
44 felts, sold to a paper manufacturer and directly used or consumed in paper
45 manufacturing.

1 37. Coal, petroleum, coke, natural gas, virgin fuel oil and
2 electricity sold to a qualified environmental technology manufacturer,
3 producer or processor as defined in section 41-1514.02 and directly used
4 or consumed in the generation or provision of on-site power or energy
5 solely for environmental technology manufacturing, producing or processing
6 or environmental protection. This paragraph shall apply for twenty full
7 consecutive calendar or fiscal years from the date the first paper
8 manufacturing machine is placed in service. In the case of an
9 environmental technology manufacturer, producer or processor who does not
10 manufacture paper, the time period shall begin with the date the first
11 manufacturing, processing or production equipment is placed in service.

12 38. Sales of liquid, solid or gaseous chemicals used in
13 manufacturing, processing, fabricating, mining, refining, metallurgical
14 operations, research and development and, beginning on January 1, 1999,
15 printing, if using or consuming the chemicals, alone or as part of an
16 integrated system of chemicals, involves direct contact with the materials
17 from which the product is produced for the purpose of causing or
18 permitting a chemical or physical change to occur in the materials as part
19 of the production process. This paragraph does not include chemicals that
20 are used or consumed in activities such as packaging, storage or
21 transportation but does not affect any deduction for such chemicals that
22 is otherwise provided by this section. For the purposes of this
23 paragraph, "printing" means a commercial printing operation and includes
24 job printing, engraving, embossing, copying and bookbinding.

25 39. Through December 31, 1994, personal property liquidation
26 transactions, conducted by a personal property liquidator. From and after
27 December 31, 1994, personal property liquidation transactions shall be
28 taxable under this section provided that nothing in this subsection shall
29 be construed to authorize the taxation of casual activities or
30 transactions under this chapter. For the purposes of this paragraph:

31 (a) "Personal property liquidation transaction" means a sale of
32 personal property made by a personal property liquidator acting solely on
33 behalf of the owner of the personal property sold at the dwelling of the
34 owner or on the death of any owner, on behalf of the surviving spouse, if
35 any, any devisee or heir or the personal representative of the estate of
36 the deceased, if one has been appointed.

37 (b) "Personal property liquidator" means a person who is retained
38 to conduct a sale in a personal property liquidation transaction.

39 40. Sales of food, drink and condiment for consumption within the
40 premises of any prison, jail or other institution under the jurisdiction
41 of the state department of corrections, the department of public safety,
42 the department of juvenile corrections or a county sheriff.

43 41. A motor vehicle and any repair and replacement parts and
44 tangible personal property becoming a part of such motor vehicle sold to a
45 motor carrier who is subject to a fee prescribed in title 28, chapter 16,

1 article 4 and who is engaged in the business of leasing or renting such
2 property.

3 42. Sales of:

4 (a) Livestock and poultry to persons engaging in the businesses of
5 farming, ranching or producing livestock or poultry.

6 (b) Livestock and poultry feed, salts, vitamins and other additives
7 for livestock or poultry consumption that are sold to persons for use or
8 consumption by their own livestock or poultry, for use or consumption in
9 the businesses of farming, ranching and producing or feeding livestock,
10 poultry, or livestock or poultry products or for use or consumption in
11 noncommercial boarding of livestock. For the purposes of this paragraph,
12 "poultry" includes ratites.

13 43. Sales of implants used as growth promotants and injectable
14 medicines, not already exempt under paragraph 8 of this subsection, for
15 livestock or poultry owned by or in possession of persons who are engaged
16 in producing livestock, poultry, or livestock or poultry products or who
17 are engaged in feeding livestock or poultry commercially. For the
18 purposes of this paragraph, "poultry" includes ratites.

19 44. Sales of motor vehicles at auction to nonresidents of this
20 state for use outside this state if the vehicles are shipped or delivered
21 out of this state, regardless of where title to the motor vehicles passes
22 or its free on board point.

23 45. Tangible personal property sold to a person engaged in business
24 and subject to tax under the transient lodging classification if the
25 tangible personal property is a personal hygiene item or articles used by
26 human beings for food, drink or condiment, except alcoholic beverages,
27 that are furnished without additional charge to and intended to be
28 consumed by the transient during the transient's occupancy.

29 46. Sales of alternative fuel, as defined in section 1-215, to a
30 used oil fuel burner who has received a permit to burn used oil or used
31 oil fuel under section 49-426 or 49-480.

32 47. Sales of materials that are purchased by or for publicly funded
33 libraries including school district libraries, charter school libraries,
34 community college libraries, state university libraries or federal, state,
35 county or municipal libraries for use by the public as follows:

36 (a) Printed or photographic materials, beginning August 7, 1985.

37 (b) Electronic or digital media materials, beginning July 17, 1994.

38 48. Tangible personal property sold to a commercial airline and
39 consisting of food, beverages and condiments and accessories used for
40 serving the food and beverages, if those items are to be provided without
41 additional charge to passengers for consumption in flight. For the
42 purposes of this paragraph, "commercial airline" means a person holding a
43 federal certificate of public convenience and necessity or foreign air
44 carrier permit for air transportation to transport persons, property or
45 United States mail in intrastate, interstate or foreign commerce.

1 49. Sales of alternative fuel vehicles if the vehicle was
2 manufactured as a diesel fuel vehicle and converted to operate on
3 alternative fuel and equipment that is installed in a conventional diesel
4 fuel motor vehicle to convert the vehicle to operate on an alternative
5 fuel, as defined in section 1-215.

6 50. Sales of any spirituous, vinous or malt liquor by a person that
7 is licensed in this state as a wholesaler by the department of liquor
8 licenses and control pursuant to title 4, chapter 2, article 1.

9 51. Sales of tangible personal property to be incorporated or
10 installed as part of environmental response or remediation activities
11 under section 42-5075, subsection ~~B~~ C, paragraph 6.

12 52. Sales of tangible personal property by a nonprofit organization
13 that is exempt from taxation under section 501(c)(6) of the internal
14 revenue code if the organization produces, organizes or promotes cultural
15 or civic related festivals or events and no part of the organization's net
16 earnings inures to the benefit of any private shareholder or individual.

17 53. Application services that are designed to assess or test
18 student learning or to promote curriculum design or enhancement purchased
19 by or for any school district, charter school, community college or state
20 university. For the purposes of this paragraph:

21 (a) "Application services" means software applications provided
22 remotely using hypertext transfer protocol or another network protocol.

23 (b) "Curriculum design or enhancement" means planning, implementing
24 or reporting on courses of study, lessons, assignments or other learning
25 activities.

26 54. Sales of motor vehicle fuel and use fuel to a qualified
27 business under section 41-1516 for off-road use in harvesting, processing
28 or transporting qualifying forest products removed from qualifying
29 projects as defined in section 41-1516.

30 55. Sales of repair parts installed in equipment used directly by a
31 qualified business under section 41-1516 in harvesting, processing or
32 transporting qualifying forest products removed from qualifying projects
33 as defined in section 41-1516.

34 56. Sales or other transfers of renewable energy credits or any
35 other unit created to track energy derived from renewable energy
36 resources. For the purposes of this paragraph, "renewable energy credit"
37 means a unit created administratively by the corporation commission or
38 governing body of a public power utility to track kilowatt hours of
39 electricity derived from a renewable energy resource or the kilowatt hour
40 equivalent of conventional energy resources displaced by distributed
41 renewable energy resources.

42 57. 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 58. Orthodontic devices dispensed by a dental professional who is
 6 licensed under title 32, chapter 11 to a patient as part of the practice
 7 of dentistry.

8 59. Sales of tangible personal property incorporated or fabricated
 9 into a project described in section 42-5075, subsection ~~⊖~~ B, that is
 10 located within the exterior boundaries of an Indian reservation for which
 11 the owner, as defined in section 42-5075, of the project is an Indian
 12 tribe or an affiliated Indian. For the purposes of this paragraph:

13 (a) "Affiliated Indian" means an individual Native American Indian
 14 who is duly registered on the tribal rolls of the Indian tribe for whose
 15 benefit the Indian reservation was established.

16 (b) "Indian reservation" means all lands that are within the limits
 17 of areas set aside by the United States for the exclusive use and
 18 occupancy of an Indian tribe by treaty, law or executive order and that
 19 are recognized as Indian reservations by the United States department of
 20 the interior.

21 (c) "Indian tribe" means any organized nation, tribe, band or
 22 community that is recognized as an Indian tribe by the United States
 23 department of the interior and includes any entity formed under the laws
 24 of the Indian tribe.

25 60. Sales of works of fine art, as defined in section 44-1771, at
 26 an art auction or gallery in this state to nonresidents of this state for
 27 use outside this state if the vendor ships or delivers the work of fine
 28 art to a destination outside this state.

29 61. Sales of tangible personal property by a marketplace seller
 30 that are facilitated by a marketplace facilitator in which the marketplace
 31 facilitator has remitted or will remit the applicable tax to the
 32 department pursuant to section 42-5014.

33 B. In addition to the deductions from the tax base prescribed by
 34 subsection A of this section, the gross proceeds of sales or gross income
 35 derived from sales of the following categories of tangible personal
 36 property shall be deducted from the tax base:

37 1. Machinery, or equipment, used directly in manufacturing,
 38 processing, fabricating, job printing, refining or metallurgical
 39 operations. The terms "manufacturing", "processing", "fabricating", "job
 40 printing", "refining" and "metallurgical" as used in this paragraph refer
 41 to and include those operations commonly understood within their ordinary
 42 meaning. "Metallurgical operations" includes leaching, milling,
 43 precipitating, smelting and refining.

44 2. Mining machinery, or equipment, used directly in the process of
 45 extracting ores or minerals from the earth for commercial purposes,

1 including equipment required to prepare the materials for extraction and
2 handling, loading or transporting such extracted material to the surface.
3 "Mining" includes underground, surface and open pit operations for
4 extracting ores and minerals.

5 3. Tangible personal property sold to persons engaged in business
6 classified under the telecommunications classification, including a person
7 representing or working on behalf of such a person in a manner described
8 in section 42-5075, subsection ~~A~~ B, and consisting of central office
9 switching equipment, switchboards, private branch exchange equipment,
10 microwave radio equipment and carrier equipment including optical fiber,
11 coaxial cable and other transmission media that are components of carrier
12 systems.

13 4. Machinery, equipment or transmission lines used directly in
14 producing or transmitting electrical power, but not including
15 distribution. Transformers and control equipment used at transmission
16 substation sites constitute equipment used in producing or transmitting
17 electrical power.

18 5. Neat animals, horses, asses, sheep, ratites, swine or goats used
19 or to be used as breeding or production stock, including sales of
20 breedings or ownership shares in such animals used for breeding or
21 production.

22 6. Pipes or valves four inches in diameter or larger used to
23 transport oil, natural gas, artificial gas, water or coal slurry,
24 including compressor units, regulators, machinery and equipment, fittings,
25 seals and any other part that is used in operating the pipes or valves.

26 7. Aircraft, navigational and communication instruments and other
27 accessories and related equipment sold to:

28 (a) A person:

29 (i) Holding, or exempted by federal law from obtaining, a federal
30 certificate of public convenience and necessity for use as, in conjunction
31 with or becoming part of an aircraft to be used to transport persons for
32 hire in intrastate, interstate or foreign commerce.

33 (ii) That is certificated or licensed under federal aviation
34 administration regulations (14 Code of Federal Regulations part 121 or
35 135) as a scheduled or unscheduled carrier of persons for hire for use as
36 or in conjunction with or becoming part of an aircraft to be used to
37 transport persons for hire in intrastate, interstate or foreign commerce.

38 (iii) Holding a foreign air carrier permit for air transportation
39 for use as or in conjunction with or becoming a part of aircraft to be
40 used to transport persons, property or United States mail in intrastate,
41 interstate or foreign commerce.

42 (iv) Operating an aircraft to transport persons in any manner for
43 compensation or hire, or for use in a fractional ownership program that
44 meets the requirements of federal aviation administration regulations (14
45 Code of Federal Regulations part 91, subpart K), including as an air

1 carrier, a foreign air carrier or a commercial operator or under a
2 restricted category, within the meaning of 14 Code of Federal Regulations,
3 regardless of whether the operation or aircraft is regulated or certified
4 under part 91, 119, 121, 133, 135, 136 or 137, or another part of 14 Code
5 of Federal Regulations.

6 (v) That will lease or otherwise transfer operational control,
7 within the meaning of federal aviation administration operations
8 specification A008, or its successor, of the aircraft, instruments or
9 accessories to one or more persons described in item (i), (ii), (iii) or
10 (iv) of this subdivision, subject to section 42-5009, subsection Q.

11 (b) Any foreign government.

12 (c) Persons who are not residents of this state and who will not
13 use such property in this state other than in removing such property from
14 this state. This subdivision also applies to corporations that are not
15 incorporated in this state, regardless of maintaining a place of business
16 in this state, if the principal corporate office is located outside this
17 state and the property will not be used in this state other than in
18 removing the property from this state.

19 8. Machinery, tools, equipment and related supplies used or
20 consumed directly in repairing, remodeling or maintaining aircraft,
21 aircraft engines or aircraft component parts by or on behalf of a
22 certificated or licensed carrier of persons or property.

23 9. Railroad rolling stock, rails, ties and signal control equipment
24 used directly to transport persons or property.

25 10. Machinery or equipment used directly to drill for oil or gas or
26 used directly in the process of extracting oil or gas from the earth for
27 commercial purposes.

28 11. Buses or other urban mass transit vehicles that are used
29 directly to transport persons or property for hire or pursuant to a
30 governmentally adopted and controlled urban mass transportation program
31 and that are sold to bus companies holding a federal certificate of
32 convenience and necessity or operated by any city, town or other
33 governmental entity or by any person contracting with such governmental
34 entity as part of a governmentally adopted and controlled program to
35 provide urban mass transportation.

36 12. Groundwater measuring devices required under section 45-604.

37 13. New machinery and equipment consisting of agricultural
38 aircraft, tractors, tractor-drawn implements, self-powered implements,
39 machinery and equipment necessary for extracting milk, and machinery and
40 equipment necessary for cooling milk and livestock, and drip irrigation
41 lines not already exempt under paragraph 6 of this subsection and that are
42 used for commercial production of agricultural, horticultural,
43 viticultural and floricultural crops and products in this state. For the
44 purposes of this paragraph:

1 (a) "New machinery and equipment" means machinery and equipment
2 that have never been sold at retail except pursuant to leases or rentals
3 that do not total two years or more.

4 (b) "Self-powered implements" includes machinery and equipment that
5 are electric-powered.

6 14. Machinery or equipment used in research and development. For
7 the purposes of this paragraph, "research and development" means basic and
8 applied research in the sciences and engineering, and designing,
9 developing or testing prototypes, processes or new products, including
10 research and development of computer software that is embedded in or an
11 integral part of the prototype or new product or that is required for
12 machinery or equipment otherwise exempt under this section to function
13 effectively. Research and development do not include manufacturing
14 quality control, routine consumer product testing, market research, sales
15 promotion, sales service, research in social sciences or psychology,
16 computer software research that is not included in the definition of
17 research and development, or other nontechnological activities or
18 technical services.

19 15. Tangible personal property that is used by either of the
20 following to receive, store, convert, produce, generate, decode, encode,
21 control or transmit telecommunications information:

22 (a) Any direct broadcast satellite television or data transmission
23 service that operates pursuant to 47 Code of Federal Regulations part 25.

24 (b) Any satellite television or data transmission facility, if both
25 of the following conditions are met:

26 (i) Over two-thirds of the transmissions, measured in megabytes,
27 transmitted by the facility during the test period were transmitted to or
28 on behalf of one or more direct broadcast satellite television or data
29 transmission services that operate pursuant to 47 Code of Federal
30 Regulations part 25.

31 (ii) Over two-thirds of the transmissions, measured in megabytes,
32 transmitted by or on behalf of those direct broadcast television or data
33 transmission services during the test period were transmitted by the
34 facility to or on behalf of those services. For the purposes of
35 subdivision (b) of this paragraph, "test period" means the three hundred
36 sixty-five day period beginning on the later of the date on which the
37 tangible personal property is purchased or the date on which the direct
38 broadcast satellite television or data transmission service first
39 transmits information to its customers.

40 16. Clean rooms that are used for manufacturing, processing,
41 fabrication or research and development, as defined in paragraph 14 of
42 this subsection, of semiconductor products. For the purposes of this
43 paragraph, "clean room" means all property that comprises or creates an
44 environment where humidity, temperature, particulate matter and
45 contamination are precisely controlled within specified parameters,

1 without regard to whether the property is actually contained within that
2 environment or whether any of the property is affixed to or incorporated
3 into real property. Clean room:

4 (a) Includes the integrated systems, fixtures, piping, movable
5 partitions, lighting and all property that is necessary or adapted to
6 reduce contamination or to control airflow, temperature, humidity,
7 chemical purity or other environmental conditions or manufacturing
8 tolerances, as well as the production machinery and equipment operating in
9 conjunction with the clean room environment.

10 (b) Does not include the building or other permanent, nonremovable
11 component of the building that houses the clean room environment.

12 17. Machinery and equipment used directly in the feeding of
13 poultry, the environmental control of housing for poultry, the movement of
14 eggs within a production and packaging facility or the sorting or cooling
15 of eggs. This exemption does not apply to vehicles used for transporting
16 eggs.

17 18. Machinery or equipment, including related structural
18 components, that is employed in connection with manufacturing, processing,
19 fabricating, job printing, refining, mining, natural gas pipelines,
20 metallurgical operations, telecommunications, producing or transmitting
21 electricity or research and development and that is used directly to meet
22 or exceed rules or regulations adopted by the federal energy regulatory
23 commission, the United States environmental protection agency, the United
24 States nuclear regulatory commission, the Arizona department of
25 environmental quality or a political subdivision of this state to prevent,
26 monitor, control or reduce land, water or air pollution.

27 19. Machinery and equipment that are sold to a person engaged in
28 the commercial production of livestock, livestock products or
29 agricultural, horticultural, viticultural or floricultural crops or
30 products in this state, including a person representing or working on
31 behalf of such a person in a manner described in section 42-5075,
32 subsection ~~A~~ B, if the machinery and equipment are used directly and
33 primarily to prevent, monitor, control or reduce air, water or land
34 pollution.

35 20. Machinery or equipment that enables a television station to
36 originate and broadcast or to receive and broadcast digital television
37 signals and that was purchased to facilitate compliance with the
38 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United
39 States Code section 336) and the federal communications commission order
40 issued April 21, 1997 (47 Code of Federal Regulations part 73). This
41 paragraph does not exempt any of the following:

42 (a) Repair or replacement parts purchased for the machinery or
43 equipment described in this paragraph.

1 (b) Machinery or equipment purchased to replace machinery or
2 equipment for which an exemption was previously claimed and taken under
3 this paragraph.

4 (c) Any machinery or equipment purchased after the television
5 station has ceased analog broadcasting, or purchased after November 1,
6 2009, whichever occurs first.

7 21. Qualifying equipment that is purchased from and after June 30,
8 2004 through June 30, 2024 by a qualified business under section 41-1516
9 for harvesting or processing qualifying forest products removed from
10 qualifying projects as defined in section 41-1516. To qualify for this
11 deduction, the qualified business at the time of purchase must present its
12 certification approved by the department.

13 C. The deductions provided by subsection B of this section do not
14 include sales of:

15 1. Expendable materials. For the purposes of this paragraph,
16 expendable materials do not include any of the categories of tangible
17 personal property specified in subsection B of this section regardless of
18 the cost or useful life of that property.

19 2. Janitorial equipment and hand tools.

20 3. Office equipment, furniture and supplies.

21 4. Tangible personal property used in selling or distributing
22 activities, other than the telecommunications transmissions described in
23 subsection B, paragraph 15 of this section.

24 5. Motor vehicles required to be licensed by this state, except
25 buses or other urban mass transit vehicles specifically exempted pursuant
26 to subsection B, paragraph 11 of this section, without regard to the use
27 of such motor vehicles.

28 6. Shops, buildings, docks, depots and all other materials of
29 whatever kind or character not specifically included as exempt.

30 7. Motors and pumps used in drip irrigation systems.

31 8. Machinery and equipment or other tangible personal property used
32 by a contractor in the performance of a contract.

33 D. In addition to the deductions from the tax base prescribed by
34 subsection A of this section, there shall be deducted from the tax base
35 the gross proceeds of sales or gross income derived from sales of
36 machinery, equipment, materials and other tangible personal property used
37 directly and predominantly to construct a qualified environmental
38 technology manufacturing, producing or processing facility as described in
39 section 41-1514.02. This subsection applies for ten full consecutive
40 calendar or fiscal years after the start of initial construction.

41 E. In computing the tax base, gross proceeds of sales or gross
42 income from retail sales of heavy trucks and trailers does not include any
43 amount attributable to federal excise taxes imposed by 26 United States
44 Code section 4051.

1 F. If a person is engaged in an occupation or business to which
2 subsection A of this section applies, the person's books shall be kept so
3 as to show separately the gross proceeds of sales of tangible personal
4 property and the gross income from sales of services, and if not so kept
5 the tax shall be imposed on the total of the person's gross proceeds of
6 sales of tangible personal property and gross income from services.

7 G. If a person is engaged in the business of selling tangible
8 personal property at both wholesale and retail, the tax under this section
9 applies only to the gross proceeds of the sales made other than at
10 wholesale if the person's books are kept so as to show separately the
11 gross proceeds of sales of each class, and if the books are not so kept,
12 the tax under this section applies to the gross proceeds of every sale so
13 made.

14 H. A person who engages in manufacturing, baling, crating, boxing,
15 barreling, canning, bottling, sacking, preserving, processing or otherwise
16 preparing for sale or commercial use any livestock, agricultural or
17 horticultural product or any other product, article, substance or
18 commodity and who sells the product of such business at retail in this
19 state is deemed, as to such sales, to be engaged in business classified
20 under the retail classification. This subsection does not apply to:

21 1. Agricultural producers who are owners, proprietors or tenants of
22 agricultural lands, orchards, farms or gardens where agricultural products
23 are grown, raised or prepared for market and who are marketing their own
24 agricultural products.

25 2. Businesses classified under the:

26 (a) Transporting classification.

27 (b) Utilities classification.

28 (c) Telecommunications classification.

29 (d) Pipeline classification.

30 (e) Private car line classification.

31 (f) Publication classification.

32 (g) Job printing classification.

33 (h) Prime contracting classification.

34 (i) Restaurant classification.

35 I. The gross proceeds of sales or gross income derived from the
36 following shall be deducted from the tax base for the retail
37 classification:

38 1. Sales made directly to the United States government or its
39 departments or agencies by a manufacturer, modifier, assembler or
40 repairer.

41 2. Sales made directly to a manufacturer, modifier, assembler or
42 repairer if such sales are of any ingredient or component part of products
43 sold directly to the United States government or its departments or
44 agencies by the manufacturer, modifier, assembler or repairer.

3. Overhead materials or other tangible personal property that is used in performing a contract between the United States government and a manufacturer, modifier, assembler or repairer, including property used in performing a subcontract with a government contractor who is a manufacturer, modifier, assembler or repairer, to which title passes to the government under the terms of the contract or subcontract.

4. Sales of overhead materials or other tangible personal property to a manufacturer, modifier, assembler or repairer if the gross proceeds of sales or gross income derived from the property by the manufacturer, modifier, assembler or repairer will be exempt under paragraph 3 of this subsection.

J. There shall be deducted from the tax base fifty percent of the gross proceeds or gross income from any sale of tangible personal property made directly to the United States government or its departments or agencies that is not deducted under subsection I of this section.

K. The department shall require every person claiming a deduction provided by subsection I or J of this section to file on forms prescribed by the department at such times as the department directs a sworn statement disclosing the name of the purchaser and the exact amount of sales on which the exclusion or deduction is claimed.

L. In computing the tax base, gross proceeds of sales or gross income does not include:

1. A manufacturer's cash rebate on the sales price of a motor vehicle if the buyer assigns the buyer's right in the rebate to the retailer.

2. The waste tire disposal fee imposed pursuant to section 44-1302.

M. There shall be deducted from the tax base the amount received from sales of solar energy devices. The retailer shall register with the department as a solar energy retailer. By registering, the retailer acknowledges that it will make its books and records relating to sales of solar energy devices available to the department for examination.

N. In computing the tax base in the case of the sale or transfer of wireless telecommunications equipment as an inducement to a customer to enter into or continue a contract for telecommunications services that are taxable under section 42-5064, gross proceeds of sales or gross income does not include any sales commissions or other compensation received by the retailer as a result of the customer entering into or continuing a contract for the telecommunications services.

O. For the purposes of this section, a sale of wireless telecommunications equipment to a person who holds the equipment for sale or transfer to a customer as an inducement to enter into or continue a contract for telecommunications services that are taxable under section 42-5064 is considered to be a sale for resale in the regular course of business.

1 P. Retail sales of prepaid calling cards or prepaid authorization
2 numbers for telecommunications services, including sales of
3 reauthorization of a prepaid card or authorization number, are subject to
4 tax under this section.

5 Q. For the purposes of this section, the diversion of gas from a
6 pipeline by a person engaged in the business of:

7 1. Operating a natural or artificial gas pipeline, for the sole
8 purpose of fueling compressor equipment to pressurize the pipeline, is not
9 a sale of the gas to the operator of the pipeline.

10 2. Converting natural gas into liquefied natural gas, for the sole
11 purpose of fueling compressor equipment used in the conversion process, is
12 not a sale of gas to the operator of the compressor equipment.

13 R. For the purposes of this section, the transfer of title or
14 possession of coal from an owner or operator of a power plant to a person
15 in the business of refining coal is not a sale of coal if both of the
16 following apply:

17 1. The transfer of title or possession of the coal is for the
18 purpose of refining the coal.

19 2. The title or possession of the coal is transferred back to the
20 owner or operator of the power plant after completion of the coal refining
21 process. For the purposes of this paragraph, "coal refining process"
22 means the application of a coal additive system that aids in the reduction
23 of power plant emissions during the combustion of coal and the treatment
24 of flue gas.

25 S. If a seller is entitled to a deduction pursuant to subsection B,
26 paragraph 15, subdivision (b) of this section, the department may require
27 the purchaser to establish that the requirements of subsection B,
28 paragraph 15, subdivision (b) of this section have been satisfied. If the
29 purchaser cannot establish that the requirements of subsection B,
30 paragraph 15, subdivision (b) of this section have been satisfied, the
31 purchaser is liable in an amount equal to any tax, penalty and interest
32 that the seller would have been required to pay under article 1 of this
33 chapter if the seller had not made a deduction pursuant to subsection B,
34 paragraph 15, subdivision (b) of this section. Payment of the amount
35 under this subsection exempts the purchaser from liability for any tax
36 imposed under article 4 of this chapter and related to the tangible
37 personal property purchased. The amount shall be treated as transaction
38 privilege tax to the purchaser and as tax revenues collected from the
39 seller to designate the distribution base pursuant to section 42-5029.

40 T. For the purposes of section 42-5032.01, the department shall
41 separately account for revenues collected under the retail classification
42 from businesses selling tangible personal property at retail:

43 1. On the premises of a multipurpose facility that is owned, leased
44 or operated by the tourism and sports authority pursuant to title 5,
45 chapter 8.

1 2. At professional football contests that are held in a stadium
2 located on the campus of an institution under the jurisdiction of the
3 Arizona board of regents.

4 U. In computing the tax base for the sale of a motor vehicle to a
5 nonresident of this state, if the purchaser's state of residence allows a
6 corresponding use tax exemption to the tax imposed by article 1 of this
7 chapter and the rate of the tax in the purchaser's state of residence is
8 lower than the rate prescribed in article 1 of this chapter or if the
9 purchaser's state of residence does not impose an excise tax, and the
10 nonresident has secured a special ninety day nonresident registration
11 permit for the vehicle as prescribed by sections 28-2154 and 28-2154.01,
12 there shall be deducted from the tax base a portion of the gross proceeds
13 or gross income from the sale so that the amount of transaction privilege
14 tax that is paid in this state is equal to the excise tax that is imposed
15 by the purchaser's state of residence on the nonexempt sale or use of the
16 motor vehicle.

17 V. For the purposes of this section:

18 1. "Agricultural aircraft" means an aircraft that is built for
19 agricultural use for the aerial application of pesticides or fertilizer or
20 for aerial seeding.

21 2. "Aircraft" includes:

22 (a) An airplane flight simulator that is approved by the federal
23 aviation administration for use as a phase II or higher flight simulator
24 under appendix H, 14 Code of Federal Regulations part 121.

25 (b) Tangible personal property that is permanently affixed or
26 attached as a component part of an aircraft that is owned or operated by a
27 certificated or licensed carrier of persons or property.

28 3. "Other accessories and related equipment" includes aircraft
29 accessories and equipment such as ground service equipment that physically
30 contact aircraft at some point during the overall carrier operation.

31 4. "Selling at retail" means a sale for any purpose other than for
32 resale in the regular course of business in the form of tangible personal
33 property, but transfer of possession, lease and rental as used in the
34 definition of sale mean only such transactions as are found on
35 investigation to be in lieu of sales as defined without the words lease or
36 rental.

37 W. For the purposes of subsection I of this section:

38 1. "Assembler" means a person who unites or combines products,
39 wares or articles of manufacture so as to produce a change in form or
40 substance without changing or altering the component parts.

41 2. "Manufacturer" means a person who is principally engaged in the
42 fabrication, production or manufacture of products, wares or articles for
43 use from raw or prepared materials, imparting to those materials new
44 forms, qualities, properties and combinations.

1 3. "Modifier" means a person who reworks, changes or adds to
2 products, wares or articles of manufacture.

3 4. "Overhead materials" means tangible personal property, the gross
4 proceeds of sales or gross income derived from that would otherwise be
5 included in the retail classification, and that are used or consumed in
6 the performance of a contract, the cost of which is charged to an overhead
7 expense account and allocated to various contracts based on generally
8 accepted accounting principles and consistent with government contract
9 accounting standards.

10 5. "Repairer" means a person who restores or renews products, wares
11 or articles of manufacture.

12 6. "Subcontract" means an agreement between a contractor and any
13 person who is not an employee of the contractor for furnishing of supplies
14 or services that, in whole or in part, are necessary to the performance of
15 one or more government contracts, or under which any portion of the
16 contractor's obligation under one or more government contracts is
17 performed, undertaken or assumed and that includes provisions causing
18 title to overhead materials or other tangible personal property used in
19 the performance of the subcontract to pass to the government or that
20 includes provisions incorporating such title passing clauses in a
21 government contract into the subcontract.

22 Sec. 7. Section 42-5061, Arizona Revised Statutes, as amended by
23 Laws 2019, chapter 273, section 8 and chapter 288, section 2, is amended
24 to read:

25 42-5061. Retail classification; definitions

26 A. The retail classification is comprised of the business of
27 selling tangible personal property at retail. The tax base for the retail
28 classification is the gross proceeds of sales or gross income derived from
29 the business. The tax imposed on the retail classification does not apply
30 to the gross proceeds of sales or gross income from:

31 1. Professional or personal service occupations or businesses that
32 involve sales or transfers of tangible personal property only as
33 inconsequential elements.

34 2. Services rendered in addition to selling tangible personal
35 property at retail.

36 3. Sales of warranty or service contracts. The storage, use or
37 consumption of tangible personal property provided under the conditions of
38 such contracts is subject to tax under section 42-5156.

39 4. Sales of tangible personal property by any nonprofit
40 organization organized and operated exclusively for charitable purposes
41 and recognized by the United States internal revenue service under section
42 501(c)(3) of the internal revenue code.

43 5. Sales to persons engaged in business classified under the
44 restaurant classification of articles used by human beings for food, drink
45 or condiment, whether simple, mixed or compounded.

1 6. Business activity that is properly included in any other
2 business classification that is taxable under this article.

3 7. The sale of stocks and bonds.

4 8. Drugs and medical oxygen, including delivery hose, mask or tent,
5 regulator and tank, on the prescription of a member of the medical, dental
6 or veterinarian profession who is licensed by law to administer such
7 substances.

8 9. Prosthetic appliances as defined in section 23-501 and as
9 prescribed or recommended by a health professional who is licensed
10 pursuant to title 32, chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.

11 10. Insulin, insulin syringes and glucose test strips.

12 11. Prescription eyeglasses or contact lenses.

13 12. Hearing aids as defined in section 36-1901.

14 13. Durable medical equipment that has a centers for medicare and
15 medicaid services common procedure code, is designated reimbursable by
16 medicare, is prescribed by a person who is licensed under title 32,
17 chapter 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is
18 primarily and customarily used to serve a medical purpose, is generally
19 not useful to a person in the absence of illness or injury and is
20 appropriate for use in the home.

21 14. Sales of motor vehicles to nonresidents of this state for use
22 outside this state if the motor vehicle dealer ships or delivers the motor
23 vehicle to a destination out of this state.

24 15. Food, as provided in and subject to the conditions of article 3
25 of this chapter and sections 42-5074 and 42-6017.

26 16. Items purchased with United States department of agriculture
27 coupons issued under the supplemental nutrition assistance program
28 pursuant to the food and nutrition act of 2008 (P.L. 88-525; 78 Stat. 703;
29 7 United States Code sections 2011 through 2036b) by the United States
30 department of agriculture food and nutrition service or food instruments
31 issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat.
32 3603; P.L. 99-661, section 4302; P.L. 111-296; 42 United States Code
33 section 1786).

34 17. Textbooks by any bookstore that are required by any state
35 university or community college.

36 18. Food and drink to a person that is engaged in a business that
37 is classified under the restaurant classification and that provides such
38 food and drink without monetary charge to its employees for their own
39 consumption on the premises during the employees' hours of employment.

40 19. Articles of food, drink or condiment and accessory tangible
41 personal property to a school district or charter school if such articles
42 and accessory tangible personal property are to be prepared and served to
43 persons for consumption on the premises of a public school within the
44 district or on the premises of the charter school during school hours.

1 20. Lottery tickets or shares pursuant to title 5, chapter 5.1,
2 article 1.

3 21. The sale of cash equivalents and the sale of precious metal
4 bullion and monetized bullion to the ultimate consumer, but the sale of
5 coins or other forms of money for manufacture into jewelry or works of art
6 is subject to the tax and the gross proceeds of sales or gross income
7 derived from the redemption of any cash equivalent by the holder as a
8 means of payment for goods or services that are taxable under this article
9 is subject to the tax. For the purposes of this paragraph:

10 (a) "Cash equivalents" means items or intangibles, whether or not
11 negotiable, that are sold to one or more persons, through which a value
12 denominated in money is purchased in advance and may be redeemed in full
13 or in part for tangible personal property, intangibles or services. Cash
14 equivalents include gift cards, stored value cards, gift certificates,
15 vouchers, traveler's checks, money orders or other instruments, orders or
16 electronic mechanisms, such as an electronic code, personal identification
17 number or digital payment mechanism, or any other prepaid intangible right
18 to acquire tangible personal property, intangibles or services in the
19 future, whether from the seller of the cash equivalent or from another
20 person. Cash equivalents do not include either of the following:

21 (i) Items or intangibles that are sold to one or more persons,
22 through which a value is not denominated in money.

23 (ii) Prepaid calling cards or prepaid authorization numbers for
24 telecommunications services made taxable by subsection P of this section.

25 (b) "Monetized bullion" means coins and other forms of money that
26 are manufactured from gold, silver or other metals and that have been or
27 are used as a medium of exchange in this or another state, the United
28 States or a foreign nation.

29 (c) "Precious metal bullion" means precious metal, including gold,
30 silver, platinum, rhodium and palladium, that has been smelted or refined
31 so that its value depends on its contents and not on its form.

32 22. Motor vehicle fuel and use fuel that are subject to a tax
33 imposed under title 28, chapter 16, article 1, sales of use fuel to a
34 holder of a valid single trip use fuel tax permit issued under section
35 28-5739, sales of aviation fuel that are subject to the tax imposed under
36 section 28-8344 and sales of jet fuel that are subject to the tax imposed
37 under article 8 of this chapter.

38 23. Tangible personal property sold to a person engaged in the
39 business of leasing or renting such property under the personal property
40 rental classification if such property is to be leased or rented by such
41 person.

42 24. Tangible personal property sold in interstate or foreign
43 commerce if prohibited from being so taxed by the constitution of the
44 United States or the constitution of this state.

1 25. Tangible personal property sold to:

2 (a) A qualifying hospital as defined in section 42-5001.

3 (b) A qualifying health care organization as defined in section
4 42-5001 if the tangible personal property is used by the organization
5 solely to provide health and medical related educational and charitable
6 services.

7 (c) A qualifying health care organization as defined in section
8 42-5001 if the organization is dedicated to providing educational,
9 therapeutic, rehabilitative and family medical education training for
10 blind and visually impaired children and children with multiple
11 disabilities from the time of birth to age twenty-one.

12 (d) A qualifying community health center as defined in section
13 42-5001.

14 (e) A nonprofit charitable organization that has qualified under
15 section 501(c)(3) of the internal revenue code and that regularly serves
16 meals to the needy and indigent on a continuing basis at no cost.

17 (f) For taxable periods beginning from and after June 30, 2001, a
18 nonprofit charitable organization that has qualified under section
19 501(c)(3) of the internal revenue code and that provides residential
20 apartment housing for low income persons over sixty-two years of age in a
21 facility that qualifies for a federal housing subsidy, if the tangible
22 personal property is used by the organization solely to provide
23 residential apartment housing for low income persons over sixty-two years
24 of age in a facility that qualifies for a federal housing subsidy.

25 (g) A qualifying health sciences educational institution as defined
26 in section 42-5001.

27 (h) Any person representing or working on behalf of another person
28 described in subdivisions (a) through (g) of this paragraph if the
29 tangible personal property is incorporated or fabricated into a project
30 described in section 42-5075, subsection ~~ⓐ~~ B.

31 26. Magazines or other periodicals or other publications by this
32 state to encourage tourist travel.

33 27. Tangible personal property sold to:

34 (a) A person that is subject to tax under this article by reason of
35 being engaged in business classified under section 42-5075 or to a
36 subcontractor working under the control of a person engaged in business
37 classified under section 42-5075, if the property so sold is any of the
38 following:

39 (i) Incorporated or fabricated by the person into any real
40 property, structure, project, development or improvement as part of the
41 business.

42 (ii) Incorporated or fabricated by the person into any project
43 described in section 42-5075, subsection ~~ⓐ~~ B.

44 (iii) Used in environmental response or remediation activities
45 under section 42-5075, subsection ~~B~~ C, paragraph 6.

(b) A person that is not subject to tax under section 42-5075 and that has been provided a copy of a certificate under section 42-5009, subsection L, if the property so sold is incorporated or fabricated by the person into the real property, structure, project, development or improvement described in the certificate.

28. The sale of a motor vehicle to:

(a) A nonresident of this state if the purchaser's state of residence does not allow a corresponding use tax exemption to the tax imposed by article 1 of this chapter and if the nonresident has secured a special ninety day nonresident registration permit for the vehicle as prescribed by sections 28-2154 and 28-2154.01.

(b) An enrolled member of an Indian tribe who resides on the Indian reservation established for that tribe.

29. Tangible personal property purchased in this state by a nonprofit charitable organization that has qualified under section 501(c)(3) of the United States internal revenue code and that engages in and uses such property exclusively in programs for persons with mental or physical disabilities if the programs are exclusively for training, job placement, rehabilitation or testing.

30. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is associated with a major league baseball team or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual. This paragraph does not apply to an organization that is owned, managed or controlled, in whole or in part, by a major league baseball team, or its owners, officers, employees or agents, or by a major league baseball association or professional golfing association, or its owners, officers, employees or agents, unless the organization conducted or operated exhibition events in this state before January 1, 2018 that were exempt from taxation under section 42-5073.

31. Sales of commodities, as defined by title 7 United States Code section 2, that are consigned for resale in a warehouse in this state in or from which the commodity is deliverable on a contract for future delivery subject to the rules of a commodity market regulated by the United States commodity futures trading commission.

32. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the organization sponsors or operates a rodeo featuring primarily farm and ranch animals and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

33. Sales of propagative materials to persons who use those items to commercially produce agricultural, horticultural, viticultural or

1 floricultural crops in this state. For the purposes of this paragraph,
2 "propagative materials":

3 (a) Includes seeds, seedlings, roots, bulbs, liners, transplants,
4 cuttings, soil and plant additives, agricultural minerals, auxiliary soil
5 and plant substances, micronutrients, fertilizers, insecticides,
6 herbicides, fungicides, soil fumigants, desiccants, rodenticides,
7 adjuvants, plant nutrients and plant growth regulators.

8 (b) Except for use in commercially producing industrial hemp as
9 defined in section 3-311, does not include any propagative materials used
10 in producing any part, including seeds, of any plant of the genus
11 cannabis.

12 34. Machinery, equipment, technology or related supplies that are
13 only useful to assist a person with a physical disability as defined in
14 section 46-191 or a person who has a developmental disability as defined
15 in section 36-551 or has a head injury as defined in section 41-3201 to be
16 more independent and functional.

17 35. Sales of natural gas or liquefied petroleum gas used to propel
18 a motor vehicle.

19 36. Paper machine clothing, such as forming fabrics and dryer
20 felts, sold to a paper manufacturer and directly used or consumed in paper
21 manufacturing.

22 37. Petroleum, coke, natural gas, virgin fuel oil and electricity
23 sold to a qualified environmental technology manufacturer, producer or
24 processor as defined in section 41-1514.02 and directly used or consumed
25 in the generation or provision of on-site power or energy solely for
26 environmental technology manufacturing, producing or processing or
27 environmental protection. This paragraph shall apply for twenty full
28 consecutive calendar or fiscal years from the date the first paper
29 manufacturing machine is placed in service. In the case of an
30 environmental technology manufacturer, producer or processor who does not
31 manufacture paper, the time period shall begin with the date the first
32 manufacturing, processing or production equipment is placed in service.

33 38. Sales of liquid, solid or gaseous chemicals used in
34 manufacturing, processing, fabricating, mining, refining, metallurgical
35 operations, research and development and, beginning on January 1, 1999,
36 printing, if using or consuming the chemicals, alone or as part of an
37 integrated system of chemicals, involves direct contact with the materials
38 from which the product is produced for the purpose of causing or
39 permitting a chemical or physical change to occur in the materials as part
40 of the production process. This paragraph does not include chemicals that
41 are used or consumed in activities such as packaging, storage or
42 transportation but does not affect any deduction for such chemicals that
43 is otherwise provided by this section. For the purposes of this
44 paragraph, "printing" means a commercial printing operation and includes
45 job printing, engraving, embossing, copying and bookbinding.

39. Through December 31, 1994, personal property liquidation transactions, conducted by a personal property liquidator. From and after December 31, 1994, personal property liquidation transactions shall be taxable under this section provided that nothing in this subsection shall be construed to authorize the taxation of casual activities or transactions under this chapter. For the purposes of this paragraph:

(a) "Personal property liquidation transaction" means a sale of personal property made by a personal property liquidator acting solely on behalf of the owner of the personal property sold at the dwelling of the owner or on the death of any owner, on behalf of the surviving spouse, if any, any devisee or heir or the personal representative of the estate of the deceased, if one has been appointed.

(b) "Personal property liquidator" means a person who is retained to conduct a sale in a personal property liquidation transaction.

40. Sales of food, drink and condiment for consumption within the premises of any prison, jail or other institution under the jurisdiction of the state department of corrections, the department of public safety, the department of juvenile corrections or a county sheriff.

41. A motor vehicle and any repair and replacement parts and tangible personal property becoming a part of such motor vehicle sold to a motor carrier who is subject to a fee prescribed in title 28, chapter 16, article 4 and who is engaged in the business of leasing or renting such property.

42. Sales of:

(a) Livestock and poultry to persons engaging in the businesses of farming, ranching or producing livestock or poultry.

(b) Livestock and poultry feed, salts, vitamins and other additives for livestock or poultry consumption that are sold to persons for use or consumption by their own livestock or poultry, for use or consumption in the businesses of farming, ranching and producing or feeding livestock, poultry, or livestock or poultry products or for use or consumption in noncommercial boarding of livestock. For the purposes of this paragraph, "poultry" includes ratites.

43. Sales of implants used as growth promotants and injectable medicines, not already exempt under paragraph 8 of this subsection, for livestock or poultry owned by or in possession of persons who are engaged in producing livestock, poultry, or livestock or poultry products or who are engaged in feeding livestock or poultry commercially. For the purposes of this paragraph, "poultry" includes ratites.

44. Sales of motor vehicles at auction to nonresidents of this state for use outside this state if the vehicles are shipped or delivered out of this state, regardless of where title to the motor vehicles passes or its free on board point.

45. Tangible personal property sold to a person engaged in business and subject to tax under the transient lodging classification if the

1 tangible personal property is a personal hygiene item or articles used by
2 human beings for food, drink or condiment, except alcoholic beverages,
3 that are furnished without additional charge to and intended to be
4 consumed by the transient during the transient's occupancy.

5 46. Sales of alternative fuel, as defined in section 1-215, to a
6 used oil fuel burner who has received a permit to burn used oil or used
7 oil fuel under section 49-426 or 49-480.

8 47. Sales of 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 48. Tangible personal property sold to a commercial airline and
15 consisting of food, beverages and condiments and accessories used for
16 serving the food and beverages, if those items are to be provided without
17 additional charge to passengers for consumption in flight. For the
18 purposes of this paragraph, "commercial airline" means a person holding a
19 federal certificate of public convenience and necessity or foreign air
20 carrier permit for air transportation to transport persons, property or
21 United States mail in intrastate, interstate or foreign commerce.

22 49. Sales of alternative fuel vehicles if the vehicle was
23 manufactured as a diesel fuel vehicle and converted to operate on
24 alternative fuel and equipment that is installed in a conventional diesel
25 fuel motor vehicle to convert the vehicle to operate on an alternative
26 fuel, as defined in section 1-215.

27 50. Sales of any spirituous, vinous or malt liquor by a person that
28 is licensed in this state as a wholesaler by the department of liquor
29 licenses and control pursuant to title 4, chapter 2, article 1.

30 51. Sales of tangible personal property to be incorporated or
31 installed as part of environmental response or remediation activities
32 under section 42-5075, subsection ~~B~~ C, paragraph 6.

33 52. Sales of tangible personal property by a nonprofit organization
34 that is exempt from taxation under section 501(c)(6) of the internal
35 revenue code if the organization produces, organizes or promotes cultural
36 or civic related festivals or events and no part of the organization's net
37 earnings inures to the benefit of any private shareholder or individual.

38 53. Application services that are designed to assess or test
39 student learning or to promote curriculum design or enhancement purchased
40 by or for any school district, charter school, community college or state
41 university. For the purposes of this paragraph:

42 (a) "Application services" means software applications provided
43 remotely using hypertext transfer protocol or another network protocol.

1 (b) "Curriculum design or enhancement" means planning, implementing
2 or reporting on courses of study, lessons, assignments or other learning
3 activities.

4 54. Sales of motor vehicle fuel and use fuel to a qualified
5 business under section 41-1516 for off-road use in harvesting, processing
6 or transporting qualifying forest products removed from qualifying
7 projects as defined in section 41-1516.

8 55. Sales of repair parts installed in equipment used directly by a
9 qualified business under section 41-1516 in harvesting, processing or
10 transporting qualifying forest products removed from qualifying projects
11 as defined in section 41-1516.

12 56. Sales or other transfers of renewable energy credits or any
13 other unit created to track energy derived from renewable energy
14 resources. For the purposes of this paragraph, "renewable energy credit"
15 means a unit created administratively by the corporation commission or
16 governing body of a public power utility to track kilowatt hours of
17 electricity derived from a renewable energy resource or the kilowatt hour
18 equivalent of conventional energy resources displaced by distributed
19 renewable energy resources.

20 57. Computer data center equipment sold to the owner, operator or
21 qualified colocation tenant of a computer data center that is certified by
22 the Arizona commerce authority under section 41-1519 or an authorized
23 agent of the owner, operator or qualified colocation tenant during the
24 qualification period for use in the qualified computer data center. For
25 the purposes of this paragraph, "computer data center", "computer data
26 center equipment", "qualification period" and "qualified colocation
27 tenant" have the same meanings prescribed in section 41-1519.

28 58. Orthodontic devices dispensed by a dental professional who is
29 licensed under title 32, chapter 11 to a patient as part of the practice
30 of dentistry.

31 59. Sales of tangible personal property incorporated or fabricated
32 into a project described in section 42-5075, subsection ~~A~~ B, that is
33 located within the exterior boundaries of an Indian reservation for which
34 the owner, as defined in section 42-5075, of the project is an Indian
35 tribe or an affiliated Indian. For the purposes of this paragraph:

36 (a) "Affiliated Indian" means an individual Native American Indian
37 who is duly registered on the tribal rolls of the Indian tribe for whose
38 benefit the Indian reservation was established.

39 (b) "Indian reservation" means all lands that are within the limits
40 of areas set aside by the United States for the exclusive use and
41 occupancy of an Indian tribe by treaty, law or executive order and that
42 are recognized as Indian reservations by the United States department of
43 the interior.

44 (c) "Indian tribe" means any organized nation, tribe, band or
45 community that is recognized as an Indian tribe by the United States

1 department of the interior and includes any entity formed under the laws
2 of the Indian tribe.

3 60. Sales of works of fine art, as defined in section 44-1771, at
4 an art auction or gallery in this state to nonresidents of this state for
5 use outside this state if the vendor ships or delivers the work of fine
6 art to a destination outside this state.

7 61. Sales of coal.

8 62. Sales of tangible personal property by a marketplace seller
9 that are facilitated by a marketplace facilitator in which the marketplace
10 facilitator has remitted or will remit the applicable tax to the
11 department pursuant to section 42-5014.

12 B. In addition to the deductions from the tax base prescribed by
13 subsection A of this section, the gross proceeds of sales or gross income
14 derived from sales of the following categories of tangible personal
15 property shall be deducted from the tax base:

16 1. Machinery, or equipment, used directly in manufacturing,
17 processing, fabricating, job printing, refining or metallurgical
18 operations. The terms "manufacturing", "processing", "fabricating", "job
19 printing", "refining" and "metallurgical" as used in this paragraph refer
20 to and include those operations commonly understood within their ordinary
21 meaning. "Metallurgical operations" includes leaching, milling,
22 precipitating, smelting and refining.

23 2. Mining machinery, or equipment, used directly in the process of
24 extracting ores or minerals from the earth for commercial purposes,
25 including equipment required to prepare the materials for extraction and
26 handling, loading or transporting such extracted material to the surface.
27 "Mining" includes underground, surface and open pit operations for
28 extracting ores and minerals.

29 3. Tangible personal property sold to persons engaged in business
30 classified under the telecommunications classification, including a person
31 representing or working on behalf of such a person in a manner described
32 in section 42-5075, subsection ~~A~~ B, and consisting of central office
33 switching equipment, switchboards, private branch exchange equipment,
34 microwave radio equipment and carrier equipment including optical fiber,
35 coaxial cable and other transmission media that are components of carrier
36 systems.

37 4. Machinery, equipment or transmission lines used directly in
38 producing or transmitting electrical power, but not including
39 distribution. Transformers and control equipment used at transmission
40 substation sites constitute equipment used in producing or transmitting
41 electrical power.

42 5. Neat animals, horses, asses, sheep, ratites, swine or goats used
43 or to be used as breeding or production stock, including sales of
44 breedings or ownership shares in such animals used for breeding or
45 production.

1 6. Pipes or valves four inches in diameter or larger used to
2 transport oil, natural gas, artificial gas, water or coal slurry,
3 including compressor units, regulators, machinery and equipment, fittings,
4 seals and any other part that is used in operating the pipes or valves.

5 7. Aircraft, navigational and communication instruments and other
6 accessories and related equipment sold to:

7 (a) A person:

8 (i) Holding, or exempted by federal law from obtaining, a federal
9 certificate of public convenience and necessity for use as, in conjunction
10 with or becoming part of an aircraft to be used to transport persons for
11 hire in intrastate, interstate or foreign commerce.

12 (ii) That is certificated or licensed under federal aviation
13 administration regulations (14 Code of Federal Regulations part 121 or
14 135) as a scheduled or unscheduled carrier of persons for hire for use as
15 or in conjunction with or becoming part of an aircraft to be used to
16 transport persons for hire in intrastate, interstate or foreign commerce.

17 (iii) Holding a foreign air carrier permit for air transportation
18 for use as or in conjunction with or becoming a part of aircraft to be
19 used to transport persons, property or United States mail in intrastate,
20 interstate or foreign commerce.

21 (iv) Operating an aircraft to transport persons in any manner for
22 compensation or hire, or for use in a fractional ownership program that
23 meets the requirements of federal aviation administration regulations
24 (14 Code of Federal Regulations part 91, subpart K), including as an air
25 carrier, a foreign air carrier or a commercial operator or under a
26 restricted category, within the meaning of 14 Code of Federal Regulations,
27 regardless of whether the operation or aircraft is regulated or certified
28 under part 91, 119, 121, 133, 135, 136 or 137, or another part of 14 Code
29 of Federal Regulations.

30 (v) That will lease or otherwise transfer operational control,
31 within the meaning of federal aviation administration operations
32 specification A008, or its successor, of the aircraft, instruments or
33 accessories to one or more persons described in item (i), (ii), (iii) or
34 (iv) of this subdivision, subject to section 42-5009, subsection Q.

35 (b) Any foreign government.

36 (c) Persons who are not residents of this state and who will not
37 use such property in this state other than in removing such property from
38 this state. This subdivision also applies to corporations that are not
39 incorporated in this state, regardless of maintaining a place of business
40 in this state, if the principal corporate office is located outside this
41 state and the property will not be used in this state other than in
42 removing the property from this state.

43 8. Machinery, tools, equipment and related supplies used or
44 consumed directly in repairing, remodeling or maintaining aircraft,

1 aircraft engines or aircraft component parts by or on behalf of a
2 certificated or licensed carrier of persons or property.

3 9. Railroad rolling stock, rails, ties and signal control equipment
4 used directly to transport persons or property.

5 10. Machinery or equipment used directly to drill for oil or gas or
6 used directly in the process of extracting oil or gas from the earth for
7 commercial purposes.

8 11. Buses or other urban mass transit vehicles that are used
9 directly to transport persons or property for hire or pursuant to a
10 governmentally adopted and controlled urban mass transportation program
11 and that are sold to bus companies holding a federal certificate of
12 convenience and necessity or operated by any city, town or other
13 governmental entity or by any person contracting with such governmental
14 entity as part of a governmentally adopted and controlled program to
15 provide urban mass transportation.

16 12. Groundwater measuring devices required under section 45-604.

17 13. New machinery and equipment consisting of agricultural
18 aircraft, tractors, tractor-drawn implements, self-powered implements,
19 machinery and equipment necessary for extracting milk, and machinery and
20 equipment necessary for cooling milk and livestock, and drip irrigation
21 lines not already exempt under paragraph 6 of this subsection and that are
22 used for commercial production of agricultural, horticultural,
23 viticultural and floricultural crops and products in this state. For the
24 purposes of this paragraph:

25 (a) "New machinery and equipment" means machinery and equipment
26 that have never been sold at retail except pursuant to leases or rentals
27 that do not total two years or more.

28 (b) "Self-powered implements" includes machinery and equipment that
29 are electric-powered.

30 14. Machinery or equipment used in research and development. For
31 the purposes of this paragraph, "research and development" means basic and
32 applied research in the sciences and engineering, and designing,
33 developing or testing prototypes, processes or new products, including
34 research and development of computer software that is embedded in or an
35 integral part of the prototype or new product or that is required for
36 machinery or equipment otherwise exempt under this section to function
37 effectively. Research and development do not include manufacturing
38 quality control, routine consumer product testing, market research, sales
39 promotion, sales service, research in social sciences or psychology,
40 computer software research that is not included in the definition of
41 research and development, or other nontechnological activities or
42 technical services.

43 15. Tangible personal property that is used by either of the
44 following to receive, store, convert, produce, generate, decode, encode,
45 control or transmit telecommunications information:

1 (a) Any direct broadcast satellite television or data transmission
2 service that operates pursuant to 47 Code of Federal Regulations part 25.

3 (b) Any satellite television or data transmission facility, if both
4 of the following conditions are met:

5 (i) Over two-thirds of the transmissions, measured in megabytes,
6 transmitted by the facility during the test period were transmitted to or
7 on behalf of one or more direct broadcast satellite television or data
8 transmission services that operate pursuant to 47 Code of Federal
9 Regulations part 25.

10 (ii) Over two-thirds of the transmissions, measured in megabytes,
11 transmitted by or on behalf of those direct broadcast television or data
12 transmission services during the test period were transmitted by the
13 facility to or on behalf of those services.

14 For the purposes of subdivision (b) of this paragraph, "test period" means
15 the three hundred sixty-five day period beginning on the later of the date
16 on which the tangible personal property is purchased or the date on which
17 the direct broadcast satellite television or data transmission service
18 first transmits information to its customers.

19 16. Clean rooms that are used for manufacturing, processing,
20 fabrication or research and development, as defined in paragraph 14 of
21 this subsection, of semiconductor products. For the purposes of this
22 paragraph, "clean room" means all property that comprises or creates an
23 environment where humidity, temperature, particulate matter and
24 contamination are precisely controlled within specified parameters,
25 without regard to whether the property is actually contained within that
26 environment or whether any of the property is affixed to or incorporated
27 into real property. Clean room:

28 (a) Includes the integrated systems, fixtures, piping, movable
29 partitions, lighting and all property that is necessary or adapted to
30 reduce contamination or to control airflow, temperature, humidity,
31 chemical purity or other environmental conditions or manufacturing
32 tolerances, as well as the production machinery and equipment operating in
33 conjunction with the clean room environment.

34 (b) Does not include the building or other permanent, nonremovable
35 component of the building that houses the clean room environment.

36 17. Machinery and equipment used directly in the feeding of
37 poultry, the environmental control of housing for poultry, the movement of
38 eggs within a production and packaging facility or the sorting or cooling
39 of eggs. This exemption does not apply to vehicles used for transporting
40 eggs.

41 18. Machinery or equipment, including related structural
42 components, that is employed in connection with manufacturing, processing,
43 fabricating, job printing, refining, mining, natural gas pipelines,
44 metallurgical operations, telecommunications, producing or transmitting
45 electricity or research and development and that is used directly to meet

1 or exceed rules or regulations adopted by the federal energy regulatory
2 commission, the United States environmental protection agency, the United
3 States nuclear regulatory commission, the Arizona department of
4 environmental quality or a political subdivision of this state to prevent,
5 monitor, control or reduce land, water or air pollution.

6 19. Machinery and equipment that are sold to a person engaged in
7 the commercial production of livestock, livestock products or
8 agricultural, horticultural, viticultural or floricultural crops or
9 products in this state, including a person representing or working on
10 behalf of such a person in a manner described in section 42-5075,
11 subsection ~~A~~ B, if the machinery and equipment are used directly and
12 primarily to prevent, monitor, control or reduce air, water or land
13 pollution.

14 20. Machinery or equipment that enables a television station to
15 originate and broadcast or to receive and broadcast digital television
16 signals and that was purchased to facilitate compliance with the
17 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United
18 States Code section 336) and the federal communications commission order
19 issued April 21, 1997 (47 Code of Federal Regulations part 73). This
20 paragraph does not exempt any of the following:

21 (a) Repair or replacement parts purchased for the machinery or
22 equipment described in this paragraph.

23 (b) Machinery or equipment purchased to replace machinery or
24 equipment for which an exemption was previously claimed and taken under
25 this paragraph.

26 (c) Any machinery or equipment purchased after the television
27 station has ceased analog broadcasting, or purchased after November 1,
28 2009, whichever occurs first.

29 21. Qualifying equipment that is purchased from and after June 30,
30 2004 through June 30, 2024 by a qualified business under section 41-1516
31 for harvesting or processing qualifying forest products removed from
32 qualifying projects as defined in section 41-1516. To qualify for this
33 deduction, the qualified business at the time of purchase must present its
34 certification approved by the department.

35 C. The deductions provided by subsection B of this section do not
36 include sales of:

37 1. Expendable materials. For the purposes of this paragraph,
38 expendable materials do not include any of the categories of tangible
39 personal property specified in subsection B of this section regardless of
40 the cost or useful life of that property.

41 2. Janitorial equipment and hand tools.

42 3. Office equipment, furniture and supplies.

43 4. Tangible personal property used in selling or distributing
44 activities, other than the telecommunications transmissions described in
45 subsection B, paragraph 15 of this section.

5. Motor vehicles required to be licensed by this state, except buses or other urban mass transit vehicles specifically exempted pursuant to subsection B, paragraph 11 of this section, without regard to the use of such motor vehicles.

6. Shops, buildings, docks, depots and all other materials of whatever kind or character not specifically included as exempt.

7. Motors and pumps used in drip irrigation systems.

8. Machinery and equipment or other tangible personal property used by a contractor in the performance of a contract.

D. In addition to the deductions from the tax base prescribed by subsection A of this section, there shall be deducted from the tax base the gross proceeds of sales or gross income derived from sales of machinery, equipment, materials and other tangible personal property used directly and predominantly to construct a qualified environmental technology manufacturing, producing or processing facility as described in section 41-1514.02. This subsection applies for ten full consecutive calendar or fiscal years after the start of initial construction.

E. In computing the tax base, gross proceeds of sales or gross income from retail sales of heavy trucks and trailers does not include any amount attributable to federal excise taxes imposed by 26 United States Code section 4051.

F. If a person is engaged in an occupation or business to which subsection A of this section applies, the person's books shall be kept so as to show separately the gross proceeds of sales of tangible personal property and the gross income from sales of services, and if not so kept the tax shall be imposed on the total of the person's gross proceeds of sales of tangible personal property and gross income from services.

G. If a person is engaged in the business of selling tangible personal property at both wholesale and retail, the tax under this section applies only to the gross proceeds of the sales made other than at wholesale if the person's books are kept so as to show separately the gross proceeds of sales of each class, and if the books are not so kept, the tax under this section applies to the gross proceeds of every sale so made.

H. A person who engages in manufacturing, baling, crating, boxing, barreling, canning, bottling, sacking, preserving, processing or otherwise preparing for sale or commercial use any livestock, agricultural or horticultural product or any other product, article, substance or commodity and who sells the product of such business at retail in this state is deemed, as to such sales, to be engaged in business classified under the retail classification. This subsection does not apply to:

1. Agricultural producers who are owners, proprietors or tenants of agricultural lands, orchards, farms or gardens where agricultural products are grown, raised or prepared for market and who are marketing their own agricultural products.

1 2. Businesses classified under the:
2 (a) Transporting classification.
3 (b) Utilities classification.
4 (c) Telecommunications classification.
5 (d) Pipeline classification.
6 (e) Private car line classification.
7 (f) Publication classification.
8 (g) Job printing classification.
9 (h) Prime contracting classification.
10 (i) Restaurant classification.
11 I. The gross proceeds of sales or gross income derived from the
12 following shall be deducted from the tax base for the retail
13 classification:
14 1. Sales made directly to the United States government or its
15 departments or agencies by a manufacturer, modifier, assembler or
16 repairer.
17 2. Sales made directly to a manufacturer, modifier, assembler or
18 repairer if such sales are of any ingredient or component part of products
19 sold directly to the United States government or its departments or
20 agencies by the manufacturer, modifier, assembler or repairer.
21 3. Overhead materials or other tangible personal property that is
22 used in performing a contract between the United States government and a
23 manufacturer, modifier, assembler or repairer, including property used in
24 performing a subcontract with a government contractor who is a
25 manufacturer, modifier, assembler or repairer, to which title passes to
26 the government under the terms of the contract or subcontract.
27 4. Sales of overhead materials or other tangible personal property
28 to a manufacturer, modifier, assembler or repairer if the gross proceeds
29 of sales or gross income derived from the property by the manufacturer,
30 modifier, assembler or repairer will be exempt under paragraph 3 of this
31 subsection.
32 J. There shall be deducted from the tax base fifty percent of the
33 gross proceeds or gross income from any sale of tangible personal property
34 made directly to the United States government or its departments or
35 agencies that is not deducted under subsection I of this section.
36 K. The department shall require every person claiming a deduction
37 provided by subsection I or J of this section to file on forms prescribed
38 by the department at such times as the department directs a sworn
39 statement disclosing the name of the purchaser and the exact amount of
40 sales on which the exclusion or deduction is claimed.
41 L. In computing the tax base, gross proceeds of sales or gross
42 income does not include:
43 1. A manufacturer's cash rebate on the sales price of a motor
44 vehicle if the buyer assigns the buyer's right in the rebate to the
45 retailer.

1 2. The waste tire disposal fee imposed pursuant to section 44-1302.
2 M. There shall be deducted from the tax base the amount received
3 from sales of solar energy devices. The retailer shall register with the
4 department as a solar energy retailer. By registering, the retailer
5 acknowledges that it will make its books and records relating to sales of
6 solar energy devices available to the department for examination.
7 N. In computing the tax base in the case of the sale or transfer of
8 wireless telecommunications equipment as an inducement to a customer to
9 enter into or continue a contract for telecommunications services that are
10 taxable under section 42-5064, gross proceeds of sales or gross income
11 does not include any sales commissions or other compensation received by
12 the retailer as a result of the customer entering into or continuing a
13 contract for the telecommunications services.
14 O. For the purposes of this section, a sale of wireless
15 telecommunications equipment to a person who holds the equipment for sale
16 or transfer to a customer as an inducement to enter into or continue a
17 contract for telecommunications services that are taxable under section
18 42-5064 is considered to be a sale for resale in the regular course of
19 business.
20 P. Retail sales of prepaid calling cards or prepaid authorization
21 numbers for telecommunications services, including sales of
22 reauthorization of a prepaid card or authorization number, are subject to
23 tax under this section.
24 Q. For the purposes of this section, the diversion of gas from a
25 pipeline by a person engaged in the business of:
26 1. Operating a natural or artificial gas pipeline, for the sole
27 purpose of fueling compressor equipment to pressurize the pipeline, is not
28 a sale of the gas to the operator of the pipeline.
29 2. Converting natural gas into liquefied natural gas, for the sole
30 purpose of fueling compressor equipment used in the conversion process, is
31 not a sale of gas to the operator of the compressor equipment.
32 R. If a seller is entitled to a deduction pursuant to subsection B,
33 paragraph 15, subdivision (b) of this section, the department may require
34 the purchaser to establish that the requirements of subsection B,
35 paragraph 15, subdivision (b) of this section have been satisfied. If the
36 purchaser cannot establish that the requirements of subsection B,
37 paragraph 15, subdivision (b) of this section have been satisfied, the
38 purchaser is liable in an amount equal to any tax, penalty and interest
39 that the seller would have been required to pay under article 1 of this
40 chapter if the seller had not made a deduction pursuant to subsection B,
41 paragraph 15, subdivision (b) of this section. Payment of the amount
42 under this subsection exempts the purchaser from liability for any tax
43 imposed under article 4 of this chapter and related to the tangible
44 personal property purchased. The amount shall be treated as transaction

1 privilege tax to the purchaser and as tax revenues collected from the
2 seller to designate the distribution base pursuant to section 42-5029.

3 S. For the purposes of section 42-5032.01, the department shall
4 separately account for revenues collected under the retail classification
5 from businesses selling tangible personal property at retail:

6 1. On the premises of a multipurpose facility that is owned, leased
7 or operated by the tourism and sports authority pursuant to title 5,
8 chapter 8.

9 2. At professional football contests that are held in a stadium
10 located on the campus of an institution under the jurisdiction of the
11 Arizona board of regents.

12 T. In computing the tax base for the sale of a motor vehicle to a
13 nonresident of this state, if the purchaser's state of residence allows a
14 corresponding use tax exemption to the tax imposed by article 1 of this
15 chapter and the rate of the tax in the purchaser's state of residence is
16 lower than the rate prescribed in article 1 of this chapter or if the
17 purchaser's state of residence does not impose an excise tax, and the
18 nonresident has secured a special ninety day nonresident registration
19 permit for the vehicle as prescribed by sections 28-2154 and 28-2154.01,
20 there shall be deducted from the tax base a portion of the gross proceeds
21 or gross income from the sale so that the amount of transaction privilege
22 tax that is paid in this state is equal to the excise tax that is imposed
23 by the purchaser's state of residence on the nonexempt sale or use of the
24 motor vehicle.

25 U. For the purposes of this section:

26 1. "Agricultural aircraft" means an aircraft that is built for
27 agricultural use for the aerial application of pesticides or fertilizer or
28 for aerial seeding.

29 2. "Aircraft" includes:

30 (a) An airplane flight simulator that is approved by the federal
31 aviation administration for use as a phase II or higher flight simulator
32 under appendix H, 14 Code of Federal Regulations part 121.

33 (b) Tangible personal property that is permanently affixed or
34 attached as a component part of an aircraft that is owned or operated by a
35 certificated or licensed carrier of persons or property.

36 3. "Other accessories and related equipment" includes aircraft
37 accessories and equipment such as ground service equipment that physically
38 contact aircraft at some point during the overall carrier operation.

39 4. "Selling at retail" means a sale for any purpose other than for
40 resale in the regular course of business in the form of tangible personal
41 property, but transfer of possession, lease and rental as used in the
42 definition of sale mean only such transactions as are found on
43 investigation to be in lieu of sales as defined without the words lease or
44 rental.

1 V. 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 the
6 fabrication, production or manufacture of 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 the performance of a contract, the cost of which is charged to an overhead
15 expense account and allocated to various contracts based on generally
16 accepted accounting principles and consistent with government contract
17 accounting 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 of supplies
22 or services that, in whole or in part, are necessary to the performance of
23 one or more government contracts, or under which any portion of the
24 contractor's obligation under one or more government contracts is
25 performed, undertaken or assumed and that includes provisions causing
26 title to overhead materials or other tangible personal property used in
27 the performance of the subcontract to pass to the government or that
28 includes provisions incorporating such title passing clauses in a
29 government contract into the subcontract.

30 Sec. 8. Section 42-5075, Arizona Revised Statutes, is amended to
31 read:

32 42-5075. Prime contracting classification; exemptions;
33 definitions

34 A. The prime contracting classification is comprised of the
35 business of prime contracting and the business of manufactured building
36 dealer. Sales for resale to another manufactured building dealer are not
37 subject to tax. Sales for resale do not include sales to a lessor of
38 manufactured buildings. The sale of a used manufactured building is not
39 taxable under this chapter. The prime contracting classification does not
40 include any work or operation performed by a person that is not required
41 to be licensed by the registrar of contractors pursuant to section
42 32-1121.

43 B. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A
44 CONSTRUCTION CONTRACT WITH AN OWNER OF REAL PROPERTY OR THE IMPROVEMENTS
45 TO REAL PROPERTY THAT DOES NOT EXCEED \$100,000 PER UNIT FOR A RESIDENTIAL

1 PROJECT OR \$1,000,000 FOR A NONRESIDENTIAL PROJECT IS NOT SUBJECT TO TAX
2 UNDER THIS SECTION. FOR THE PURPOSES OF THIS SUBSECTION:

3 1. ONLY THE CONTRACT PRICE SHALL BE USED TO DETERMINE WHETHER A
4 CONTRACT EXCEEDS THE THRESHOLD AMOUNT DESCRIBED IN THIS SUBSECTION WITH NO
5 SUBTRACTIONS FOR AMOUNTS PAID TO SUBCONTRACTORS OR ANY DEDUCTIONS OR
6 EXEMPTIONS ALLOWED UNDER THIS SECTION.

7 2. TANGIBLE PERSONAL PROPERTY THAT IS INCORPORATED OR FABRICATED
8 INTO A PROJECT DESCRIBED IN THIS SUBSECTION MAY BE SUBJECT TO THE AMOUNT
9 PRESCRIBED IN SECTION 42-5008.01.

10 3. PROJECT ELEMENTS MAY NOT BE ARTIFICIALLY SEPARATED FROM A
11 CONTRACT TO CAUSE A PROJECT TO QUALIFY FOR THE EXEMPTION UNDER THIS
12 SUBSECTION. THE DEPARTMENT HAS THE BURDEN OF PROVING THAT PROJECT ELEMENTS
13 HAVE BEEN ARTIFICIALLY SEPARATED FROM A CONTRACT.

14 4. EACH CONTRACT IS INDEPENDENT OF ANY OTHER CONTRACT, EXCEPT THAT
15 ANY CHANGE ORDER THAT DIRECTLY RELATES TO THE SCOPE OF WORK OF THE
16 ORIGINAL CONTRACT SHALL BE TREATED THE SAME AS THE ORIGINAL CONTRACT UNDER
17 THIS CHAPTER IF THE RESULTING TOTAL CONTRACT AMOUNT DOES NOT EXCEED THE
18 APPLICABLE THRESHOLD DESCRIBED IN THIS SUBSECTION BY MORE THAN TWENTY-FIVE
19 PERCENT. IF A CHANGE ORDER DIRECTLY RELATES TO THE SCOPE OF WORK OF THE
20 ORIGINAL CONTRACT AND THE RESULTING TOTAL CONTRACT PRICE EXCEEDS THE
21 APPLICABLE THRESHOLD BY MORE THAN TWENTY-FIVE PERCENT, THE ORIGINAL
22 CONTRACT AND ALL SUBSEQUENT CHANGE ORDERS ARE SUBJECT TO THE TAX UNDER
23 THIS SECTION. IF A CHANGE ORDER DOES NOT DIRECTLY RELATE TO THE SCOPE OF
24 WORK OF THE ORIGINAL CONTRACT, THE CHANGE ORDER SHALL BE TREATED AS A NEW
25 CONTRACT.

26 ~~B.~~ C. The tax base for the prime contracting classification is
27 sixty-five percent of the gross proceeds of sales or gross income derived
28 from the business. The following amounts shall be deducted from the gross
29 proceeds of sales or gross income before computing the tax base:

30 1. The sales price of land, which shall not exceed the fair market
31 value.

32 2. Sales and installation of groundwater measuring devices required
33 under section 45-604 and groundwater monitoring wells required by law,
34 including monitoring wells installed for acquiring information for a
35 permit required by law.

36 3. The sales price of furniture, furnishings, fixtures, appliances
37 and attachments that are not incorporated as component parts of or
38 attached to a manufactured building or the setup site. The sale of such
39 items may be subject to the taxes imposed by article 1 of this chapter
40 separately and distinctly from the sale of the manufactured building.

41 4. The gross proceeds of sales or gross income received from a
42 contract entered into for the modification of any building, highway, road,
43 railroad, excavation, manufactured building or other structure, project,
44 development or improvement located in a military reuse zone for providing
45 aviation or aerospace services or for a manufacturer, assembler or

1 fabricator of aviation or aerospace products within an active military
2 reuse zone after the zone is initially established or renewed under
3 section 41-1531. To be eligible to qualify for this deduction, before
4 beginning work under the contract, the prime contractor must have applied
5 for a letter of qualification from the department of revenue.

6 5. The gross proceeds of sales or gross income derived from a
7 contract to construct a qualified environmental technology manufacturing,
8 producing or processing facility, as described in section 41-1514.02, and
9 from subsequent construction and installation contracts that begin within
10 ten years after the start of initial construction. To qualify for this
11 deduction, before beginning work under the contract, the prime contractor
12 must obtain a letter of qualification from the department of revenue.
13 This paragraph shall apply for ten full consecutive calendar or fiscal
14 years after the start of initial construction.

15 6. The gross proceeds of sales or gross income from a contract to
16 provide for one or more of the following actions, or a contract for site
17 preparation, constructing, furnishing or installing machinery, equipment
18 or other tangible personal property, including structures necessary to
19 protect exempt incorporated materials or installed machinery or equipment,
20 and tangible personal property incorporated into the project, to perform
21 one or more of the following actions in response to a release or suspected
22 release of a hazardous substance, pollutant or contaminant from a facility
23 to the environment, unless the release was authorized by a permit issued
24 by a governmental authority:

25 (a) Actions to monitor, assess and evaluate such a release or a
26 suspected release.

27 (b) Excavation, removal and transportation of contaminated soil and
28 its treatment or disposal.

29 (c) Treatment of contaminated soil by vapor extraction, chemical or
30 physical stabilization, soil washing or biological treatment to reduce the
31 concentration, toxicity or mobility of a contaminant.

32 (d) Pumping and treatment or in situ treatment of contaminated
33 groundwater or surface water to reduce the concentration or toxicity of a
34 contaminant.

35 (e) The installation of structures, such as cutoff walls or caps,
36 to contain contaminants present in groundwater or soil and prevent them
37 from reaching a location where they could threaten human health or welfare
38 or the environment.

39 This paragraph does not include asbestos removal or the construction or
40 use of ancillary structures such as maintenance sheds, offices or storage
41 facilities for unattached equipment, pollution control equipment,
42 facilities or other control items required or to be used by a person to
43 prevent or control contamination before it reaches the environment.

44 7. The gross proceeds of sales or gross income that is derived from
45 a contract for the installation, assembly, repair or maintenance of

1 machinery, equipment or other tangible personal property that is either
2 deducted from the tax base of the retail classification under section
3 42-5061, subsection B or that is exempt from use tax under section
4 42-5159, subsection B and that has independent functional utility,
5 pursuant to the following provisions:

6 (a) The deduction provided in this paragraph includes the gross
7 proceeds of sales or gross income derived from all of the following:

8 (i) Any activity performed on machinery, equipment or other
9 tangible personal property with independent functional utility.

10 (ii) Any activity performed on any tangible personal property
11 relating to machinery, equipment or other tangible personal property with
12 independent functional utility in furtherance of any of the purposes
13 provided for under subdivision (d) of this paragraph.

14 (iii) Any activity that is related to the activities described in
15 items (i) and (ii) of this subdivision, including inspecting the
16 installation of or testing the machinery, equipment or other tangible
17 personal property.

18 (b) The deduction provided in this paragraph does not include gross
19 proceeds of sales or gross income from the portion of any contracting
20 activity that consists of the development of, or modification to, real
21 property in order to facilitate the installation, assembly, repair,
22 maintenance or removal of machinery, equipment or other tangible personal
23 property that is either deducted from the tax base of the retail
24 classification under section 42-5061, subsection B or exempt from use tax
25 under section 42-5159, subsection B.

26 (c) The deduction provided in this paragraph shall be determined
27 without regard to the size or useful life of the machinery, equipment or
28 other tangible personal property.

29 (d) For the purposes of this paragraph, "independent functional
30 utility" means that the machinery, equipment or other tangible personal
31 property can independently perform its function without attachment to real
32 property, other than attachment for any of the following purposes:

33 (i) Assembling the machinery, equipment or other tangible personal
34 property.

35 (ii) Connecting items of machinery, equipment or other tangible
36 personal property to each other.

37 (iii) Connecting the machinery, equipment or other tangible
38 personal property, whether as an individual item or as a system of items,
39 to water, power, gas, communication or other services.

40 (iv) Stabilizing or protecting the machinery, equipment or other
41 tangible personal property during operation by bolting, burying or
42 performing other similar nonpermanent connections to either real property
43 or real property improvements.

8. The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from transaction privilege and use tax under:

- (a) Section 42-5061, subsection A, paragraph 25, 29, 57 or 59.
- (b) Section 42-5061, subsection B.
- (c) Section 42-5159, subsection A, paragraph 13, subdivision (a), (b), (c), (d), (e), (f), (j), (k), (m) or (n) or paragraph 54 or 56.
- (d) Section 42-5159, subsection B.

9. The gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility for the raising of poultry for the production of eggs and the sorting, cooling and packaging of eggs.

10. The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state for the modification of any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent, monitor, control or reduce air, water or land pollution.

11. The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of clean rooms that are deducted from the tax base of the retail classification pursuant to section 42-5061, subsection B, paragraph 16.

12. For taxable periods beginning from and after June 30, 2001, the gross proceeds of sales or gross income derived from a contract entered into for the construction of a residential apartment housing facility that qualifies for a federal housing subsidy for low income persons over sixty-two years of age and that is owned by a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code.

13. For taxable periods beginning from and after December 31, 1996 and ending before January 1, 2017, the gross proceeds of sales or gross income derived from a contract to provide and install a solar energy device. The contractor shall register with the department as a solar energy contractor. By registering, the contractor acknowledges that it will make its books and records relating to sales of solar energy devices available to the department for examination.

14. The gross proceeds of sales or gross income derived from a contract entered into for the construction of a launch site, as defined in 14 Code of Federal Regulations section 401.5.

15. The gross proceeds of sales or gross income derived from a contract entered into for the construction of a domestic violence shelter that is owned and operated by a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code.

1 16. The gross proceeds of sales or gross income derived from
2 contracts to perform postconstruction treatment of real property for
3 termite and general pest control, including wood-destroying organisms.

4 17. The gross proceeds of sales or gross income received from
5 contracts entered into before July 1, 2006 for constructing a state
6 university research infrastructure project if the project has been
7 reviewed by the joint committee on capital review before the university
8 enters into the construction contract for the project. For the purposes
9 of this paragraph, "research infrastructure" has the same meaning
10 prescribed in section 15-1670.

11 18. The gross proceeds of sales or gross income received from a
12 contract for the construction of any building, or other structure,
13 project, development or improvement owned by a qualified business under
14 section 41-1516 for harvesting or processing qualifying forest products
15 removed from qualifying projects as defined in section 41-1516 if actual
16 construction begins before January 1, 2024. To qualify for this
17 deduction, the prime contractor must obtain a letter of qualification from
18 the Arizona commerce authority before beginning work under the contract.

19 19. Any amount of the gross proceeds of sales or gross income
20 attributable to development fees that are incurred in relation to a
21 contract for construction, development or improvement of real property and
22 that are paid by a prime contractor or subcontractor. For the purposes of
23 this paragraph:

24 (a) The attributable amount shall not exceed the value of the
25 development fees actually imposed.

26 (b) The attributable amount is equal to the total amount of
27 development fees paid by the prime contractor or subcontractor, and the
28 total development fees credited in exchange for the construction of,
29 contribution to or dedication of real property for providing public
30 infrastructure, public safety or other public services necessary to the
31 development. The real property must be the subject of the development
32 fees.

33 (c) "Development fees" means fees imposed to offset capital costs
34 of providing public infrastructure, public safety or other public services
35 to a development and authorized pursuant to section 9-463.05, section
36 11-1102 or title 48 regardless of the jurisdiction to which the fees are
37 paid.

38 20. The gross proceeds of sales or gross income derived from a
39 contract entered into for the construction of a mixed waste processing
40 facility that is located on a municipal solid waste landfill and that is
41 constructed for the purpose of recycling solid waste or producing
42 renewable energy from landfill waste. For the purposes of this paragraph:

43 (a) "Mixed waste processing facility" means a solid waste facility
44 that is owned, operated or used for the treatment, processing or disposal
45 of solid waste, recyclable solid waste, conditionally exempt small

1 quantity generator waste or household hazardous waste. For the purposes
2 of this subdivision, "conditionally exempt small quantity generator
3 waste", "household hazardous waste" and "solid waste facility" have the
4 same meanings prescribed in section 49-701, except that solid waste
5 facility does include a site that stores, treats or processes paper,
6 glass, wood, cardboard, household textiles, scrap metal, plastic,
7 vegetative waste, aluminum, steel or other recyclable material.

8 (b) "Municipal solid waste landfill" has the same meaning
9 prescribed in section 49-701.

10 (c) "Recycling" means collecting, separating, cleansing, treating
11 and reconstituting recyclable solid waste that would otherwise become
12 solid waste, but does not include incineration or other similar processes.

13 (d) "Renewable energy" has the same meaning prescribed in section
14 41-1511.

15 ~~C.~~ D. Entitlement to the deduction pursuant to subsection ~~B~~ C,
16 paragraph 7 of this section is subject to the following provisions:

17 1. A prime contractor may establish entitlement to the deduction by
18 both:

19 (a) Marking the invoice for the transaction to indicate that the
20 gross proceeds of sales or gross income derived from the transaction was
21 deducted from the base.

22 (b) Obtaining a certificate executed by the purchaser indicating
23 the name and address of the purchaser, the precise nature of the business
24 of the purchaser, the purpose for which the purchase was made, the
25 necessary facts to establish the deductibility of the property under
26 section 42-5061, subsection B, and a certification that the person
27 executing the certificate is authorized to do so on behalf of the
28 purchaser. The certificate may be disregarded if the prime contractor has
29 reason to believe that the information contained in the certificate is not
30 accurate or complete.

31 2. A person who does not comply with paragraph 1 of this subsection
32 may establish entitlement to the deduction by presenting facts necessary
33 to support the entitlement, but the burden of proof is on that person.

34 3. The department may prescribe a form for the certificate
35 described in paragraph 1, subdivision (b) of this subsection. The
36 department may also adopt rules that describe the transactions with
37 respect to which a person is not entitled to rely solely on the
38 information contained in the certificate provided in paragraph 1,
39 subdivision (b) of this subsection but must instead obtain such additional
40 information as required in order to be entitled to the deduction.

41 4. If a prime contractor is entitled to a deduction by complying
42 with paragraph 1 of this subsection, the department may require the
43 purchaser who caused the execution of the certificate to establish the
44 accuracy and completeness of the information required to be contained in
45 the certificate that would entitle the prime contractor to the deduction.

1 If the purchaser cannot establish the accuracy and completeness of the
2 information, the purchaser is liable in an amount equal to any tax,
3 penalty and interest that the prime contractor would have been required to
4 pay under article 1 of this chapter if the prime contractor had not
5 complied with paragraph 1 of this subsection. Payment of the amount under
6 this paragraph exempts the purchaser from liability for any tax imposed
7 under article 4 of this chapter. The amount shall be treated as a
8 transaction privilege tax to the purchaser and as tax revenues collected
9 from the prime contractor in order to designate the distribution base for
10 purposes of section 42-5029.

11 ~~D.~~ E. Subcontractors or others who perform modification activities
12 are not subject to tax if they can demonstrate ACCEPTANCE OF AN ARIZONA
13 FORM 5005 OR AN EQUIVALENT SUCCESSOR FORM DESIGNATED BY THE DEPARTMENT
14 INDICATING that the job was within the control of a prime contractor or
15 contractors or a dealership of manufactured buildings and that the prime
16 contractor or dealership is liable for the tax on the gross income, gross
17 proceeds of sales or gross receipts attributable to the job and from which
18 the subcontractors or others were paid.

19 ~~E.~~ F. Amounts received by a contractor for a project are excluded
20 from the contractor's gross proceeds of sales or gross income derived from
21 the business if the person who hired the contractor executes and provides
22 a certificate to the contractor stating that the person providing the
23 certificate is a prime contractor and is liable for the tax under article
24 1 of this chapter. The department shall prescribe the form of the
25 certificate. If the contractor has reason to believe that the information
26 contained on the certificate is erroneous or incomplete, the department
27 may disregard the certificate. If the person who provides the certificate
28 is not liable for the tax as a prime contractor, that person is
29 nevertheless deemed to be the prime contractor in lieu of the contractor
30 and is subject to the tax under this section on the gross receipts or
31 gross proceeds received by the contractor.

32 ~~F. Every person engaging or continuing in this state in the~~
33 ~~business of prime contracting or dealership of manufactured buildings~~
34 ~~shall present to the purchaser of such prime contracting or manufactured~~
35 ~~building a written receipt of the gross income or gross proceeds of sales~~
36 ~~from such activity and shall separately state the taxes to be paid~~
37 ~~pursuant to this section.~~

38 G. NOTWITHSTANDING SUBSECTION B OF THIS SECTION, A CONTRACT THAT
39 PRIMARILY INVOLVES CONSTRUCTION OF ANY ELECTRICITY GENERATING FACILITY OR
40 SYSTEM INCLUDING RENEWABLE ENERGY SYSTEMS INSTALLED ON ANY COMMERCIAL,
41 RESIDENTIAL OR GOVERNMENTAL PROPERTY, INCLUDING THE MAINTENANCE, REPAIR,
42 REPLACEMENT OR ALTERATION OF EXISTING IMPROVEMENTS OF AN ELECTRICITY
43 GENERATING OR DISTRIBUTION FACILITY, IS NOT SUBJECT TO TAX UNDER THIS
44 SECTION.

~~H.~~ H. For the purposes of section 42-5032.01, the department shall separately account for revenues collected under the prime contracting classification from any prime contractor engaged in the preparation or construction of a multipurpose facility, and related infrastructure, that is owned, operated or leased by the tourism and sports authority pursuant to title 5, chapter 8.

~~H.~~ I. For the purposes of section 42-5032.02, from and after September 30, 2013, the department shall separately account for revenues reported and collected under the prime contracting classification from any prime contractor engaged in the construction of any buildings and associated improvements that are for the benefit of a manufacturing facility. For the purposes of this subsection, "associated improvements" and "manufacturing facility" have the same meanings prescribed in section 42-5032.02.

~~J.~~ J. The gross proceeds of sales or gross income derived from a contract for lawn maintenance services is not subject to tax under this section if the contract does not include landscaping activities. Lawn maintenance service is a service pursuant to section 42-5061, subsection A, paragraph 1, and includes lawn mowing and edging, weeding, repairing sprinkler heads or drip irrigation heads, seasonal replacement of flowers, refreshing gravel, lawn dethatching, seeding winter lawns, leaf and debris collection and removal, tree or shrub pruning or clipping, garden and gravel raking and applying pesticides, as defined in section 3-361, and fertilizer materials, as defined in section 3-262.

~~J.~~ K. Except as provided in subsection ~~B~~ of this section, the gross proceeds of sales or gross income derived from landscaping activities is subject to tax under this section. Landscaping includes installing lawns, grading or leveling ground, installing gravel or boulders, planting trees and other plants, felling trees, removing or mulching tree stumps, removing other imbedded plants, building irrigation berms, installing railroad ties and installing underground sprinkler or watering systems.

~~K.~~ L. The portion of gross proceeds of sales or gross income attributable to the actual direct costs of providing architectural or engineering services that are incorporated in a contract is not subject to tax under this section. For the purposes of this subsection, "direct costs" means the portion of the actual costs that are directly expended in providing architectural or engineering services.

~~L.~~ M. Operating a landfill or a solid waste disposal facility is not subject to taxation under this section, including filling, compacting and creating vehicle access to and from cell sites within the landfill. Constructing roads to a landfill or solid waste disposal facility and constructing cells within a landfill or solid waste disposal facility may be deemed prime contracting under this section.

1 ~~M.~~ N. The following apply in determining the taxable situs of
2 sales of manufactured buildings:

3 1. For sales in this state where the manufactured building dealer
4 contracts to deliver the building to a setup site or to perform the setup
5 in this state, the taxable situs is the setup site.

6 2. For sales in this state where the manufactured building dealer
7 does not contract to deliver the building to a setup site or does not
8 perform the setup, the taxable situs is the location of the dealership
9 where the building is delivered to the buyer.

10 3. For sales in this state where the manufactured building dealer
11 contracts to deliver the building to a setup site that is outside this
12 state, the situs is outside this state and the transaction is excluded
13 from tax.

14 ~~N.~~ O. The gross proceeds of sales or gross income attributable to
15 a written contract for design phase services or professional services,
16 executed before modification begins and with terms, conditions and pricing
17 of all of these services separately stated in the contract from those for
18 construction phase services, is not subject to tax under this section,
19 regardless of whether the services are provided sequential to or
20 concurrent with prime contracting activities that are subject to tax under
21 this section. This subsection does not include the gross proceeds of
22 sales or gross income attributable to construction phase services. For
23 the purposes of this subsection:

24 1. "Construction phase services" means services for the execution
25 and completion of any modification, including the following:

26 (a) Administration or supervision of any modification performed on
27 the project, including team management and coordination, scheduling, cost
28 controls, submittal process management, field management, safety program,
29 close-out process and warranty period services.

30 (b) Administration or supervision of any modification performed
31 pursuant to a punch list. For the purposes of this subdivision, "punch
32 list" means minor items of modification work performed after substantial
33 completion and before final completion of the project.

34 (c) Administration or supervision of any modification performed
35 pursuant to change orders. For the purposes of this subdivision, "change
36 order" means a written instrument issued after execution of a contract for
37 modification work, providing for all of the following:

38 (i) The scope of a change in the modification work, contract for
39 modification work or other contract documents.

40 (ii) The amount of an adjustment, if any, to the guaranteed maximum
41 price as set in the contract for modification work. For the purposes of
42 this item, "guaranteed maximum price" means the amount guaranteed to be
43 the maximum amount due to a prime contractor for the performance of all
44 modification work for the project.

1 (iii) The extent of an adjustment, if any, to the contract time of
2 performance set forth in the contract.

3 (d) Administration or supervision of any modification performed
4 pursuant to change directives. For the purposes of this subdivision,
5 "change directive" means a written order directing a change in
6 modification work before agreement on an adjustment of the guaranteed
7 maximum price or contract time.

8 (e) Inspection to determine the dates of substantial completion or
9 final completion.

10 (f) Preparation of any manuals, warranties, as-built drawings,
11 spares or other items the prime contractor must furnish pursuant to the
12 contract for modification work. For the purposes of this subdivision,
13 "as-built drawing" means a drawing that indicates field changes made to
14 adapt to field conditions, field changes resulting from change orders or
15 buried and concealed installation of piping, conduit and utility services.

16 (g) Preparation of status reports after modification work has begun
17 detailing the progress of work performed, including preparation of any of
18 the following:

19 (i) Master schedule updates.

20 (ii) Modification work cash flow projection updates.

21 (iii) Site reports made on a periodic basis.

22 (iv) Identification of discrepancies, conflicts or ambiguities in
23 modification work documents that require resolution.

24 (v) Identification of any health and safety issues that have arisen
25 in connection with the modification work.

26 (h) Preparation of daily logs of modification work, including
27 documentation of personnel, weather conditions and on-site occurrences.

28 (i) Preparation of any submittals or shop drawings used by the
29 prime contractor to illustrate details of the modification work performed.

30 (j) Administration or supervision of any other activities for which
31 a prime contractor receives a certificate for payment or certificate for
32 final payment based on the progress of modification work performed on the
33 project.

34 2. "Design phase services" means services for developing and
35 completing a design for a project that are not construction phase
36 services, including the following:

37 (a) Evaluating surveys, reports, test results or any other
38 information on-site conditions for the project, including physical
39 characteristics, legal limitations and utility locations for the site.

40 (b) Evaluating any criteria or programming objectives for the
41 project to ascertain requirements for the project, such as physical
42 requirements affecting cost or projected utilization of the project.

1 (c) Preparing drawings and specifications for architectural program
2 documents, schematic design documents, design development documents,
3 modification work documents or documents that identify the scope of or
4 materials for the project.

5 (d) Preparing an initial schedule for the project, excluding the
6 preparation of updates to the master schedule after modification work has
7 begun.

8 (e) Preparing preliminary estimates of costs of modification work
9 before completion of the final design of the project, including an
10 estimate or schedule of values for any of the following:

11 (i) Labor, materials, machinery and equipment, tools, water, heat,
12 utilities, transportation and other facilities and services used in the
13 execution and completion of modification work, regardless of whether they
14 are temporary or permanent or whether they are incorporated in the
15 modifications.

16 (ii) The cost of labor and materials to be furnished by the owner
17 of the real property.

18 (iii) The cost of any equipment of the owner of the real property
19 to be assigned by the owner to the prime contractor.

20 (iv) The cost of any labor for installation of equipment separately
21 provided by the owner of the real property that has been designed,
22 specified, selected or specifically provided for in any design document
23 for the project.

24 (v) Any fee paid by the owner of the real property to the prime
25 contractor pursuant to the contract for modification work.

26 (vi) Any bond and insurance premiums.

27 (vii) Any applicable taxes.

28 (viii) Any contingency fees for the prime contractor that may be
29 used before final completion of the project.

30 (f) Reviewing and evaluating cost estimates and project documents
31 to prepare recommendations on site use, site improvements, selection of
32 materials, building systems and equipment, modification feasibility,
33 availability of materials and labor, local modification activity as
34 related to schedules and time requirements for modification work.

35 (g) Preparing the plan and procedures for selection of
36 subcontractors, including any prequalification of subcontractor
37 candidates.

38 3. "Professional services" means architect services, engineer
39 services, geologist services, land surveying services or landscape
40 architect services that are within the scope of those services as provided
41 in title 32, chapter 1 and for which gross proceeds of sales or gross
42 income has not otherwise been deducted under subsection ~~4~~ L of this
43 section.

~~0. The gross proceeds of sales or gross income derived from a contract with the owner of real property or improvements to real property for the maintenance, repair, replacement or alteration of existing property is not subject to tax under this section if the contract does not include modification activities, except as specified in this subsection. The gross proceeds of sales or gross income derived from a de minimis amount of modification activity does not subject the contract or any part of the contract to tax under this section. For the purposes of this subsection:~~

~~1. Tangible personal property that is incorporated or fabricated into a project described in this subsection may be subject to the amount prescribed in section 42-5008.01.~~

~~2. Each contract is independent of any other contract, except that any change order that directly relates to the scope of work of the original contract shall be treated the same as the original contract under this chapter, regardless of the amount of modification activities included in the change order. If a change order does not directly relate to the scope of work of the original contract, the change order shall be treated as a new contract, with the tax treatment of any subsequent change order to follow the tax treatment of the contract to which the scope of work of the subsequent change order directly relates.~~

~~P. Notwithstanding subsection 0 of this section, a contract that primarily involves surface or subsurface improvements to land and that is subject to title 28, chapter 19, 20 or 22 or title 34, chapter 2 or 6 is taxable under this section, even if the contract also includes vertical improvements. Agencies that are subject to procurement processes under those provisions shall include in the request for proposals a notice to bidders when those projects are subject to this section. This subsection does not apply to contracts with:~~

~~1. Community facilities districts, fire districts, county television improvement districts, community park maintenance districts, cotton pest control districts, hospital districts, pest abatement districts, health service districts, agricultural improvement districts, county free library districts, county jail districts, county stadium districts, special health care districts, public health services districts, theme park districts or revitalization districts.~~

~~2. Any special taxing district not specified in paragraph 1 of this subsection if the district does not substantially engage in the modification, maintenance, repair, replacement or alteration of surface or subsurface improvements to land.~~

~~Q. P.~~ Notwithstanding subsection ~~R~~ **Q**, paragraph ~~10~~ **9** of this section **AND SUBJECT TO SUBSECTION B OF THIS SECTION**, a person owning real property who enters into a contract for sale of the real property, who is responsible to the new owner of the property for modifications made to the property in the period subsequent to the transfer of title and who

1 receives a consideration for the modifications is considered a prime
2 contractor solely for purposes of taxing the gross proceeds of sale or
3 gross income received for the modifications made subsequent to the
4 transfer of title. The original owner's gross proceeds of sale or gross
5 income received for the modifications shall be determined according to the
6 following methodology:

7 1. If any part of the contract for sale of the property specifies
8 amounts to be paid to the original owner for the modifications to be made
9 in the period subsequent to the transfer of title, the amounts are
10 included in the original owner's gross proceeds of sale or gross income
11 under this section. Proceeds from the sale of the property that are
12 received after transfer of title and that are unrelated to the
13 modifications made subsequent to the transfer of title are not considered
14 gross proceeds of sale or gross income from the modifications.

15 2. If the original owner enters into an agreement separate from the
16 contract for sale of the real property providing for amounts to be paid to
17 the original owner for the modifications to be made in the period
18 subsequent to the transfer of title to the property, the amounts are
19 included in the original owner's gross proceeds of sale or gross income
20 received for the modifications made subsequent to the transfer of title.

21 3. If the original owner is responsible to the new owner for
22 modifications made to the property in the period subsequent to the
23 transfer of title and derives any gross proceeds of sale or gross income
24 from the project subsequent to the transfer of title other than a delayed
25 disbursement from escrow unrelated to the modifications, it is presumed
26 that the amounts are received for the modifications made subsequent to the
27 transfer of title unless the contrary is established by the owner through
28 its books, records and papers kept in the regular course of business.

29 4. The tax base of the original owner is computed in the same
30 manner as a prime contractor under this section.

31 ~~R. Q.~~ Q. For the purposes of this section:

32 ~~1. "Alteration" means an activity or action that causes a direct~~
33 ~~physical change to existing property. For the purposes of this paragraph:~~

34 ~~(a) For existing property that is properly classified as class two~~
35 ~~property under section 42-12002, paragraph 1, subdivision (c) or paragraph~~
36 ~~2, subdivision (c) and that is used for residential purposes, class three~~
37 ~~property under section 42-12003 or class four property under section~~
38 ~~42-12004, this paragraph does not apply if the contract amount is more~~
39 ~~than twenty-five percent of the most recent full cash value established~~
40 ~~under chapter 13, article 2 of this title as of the date of any bid for~~
41 ~~the work or the date of the contract, whichever value is higher.~~

42 ~~(b) For all existing property other than existing property~~
43 ~~described in subdivision (a) of this paragraph, this paragraph does not~~
44 ~~apply if the contract amount is more than seven hundred fifty thousand~~
45 ~~dollars.~~

~~(c) Project elements may not be artificially separated from a contract to cause a project to qualify as an alteration. The department has the burden of proof that project elements have been artificially separated from a contract.~~

~~(d) If a project for which the owner and the person performing the work reasonably believed, at the inception of the contract, would be treated as an alteration under this paragraph and, on completion of the project, the project exceeded the applicable threshold described in either subdivision (a) or (b) of this paragraph by no more than twenty-five percent of the applicable threshold for any reason, the work performed under the contract qualifies as an alteration.~~

~~(e) A change order that directly relates to the scope of work of the original contract shall be treated as part of the original contract, and the contract amount shall include any amount attributable to a change order that directly relates to the scope of work of the original contract.~~

~~(f) Alteration does not include maintenance, repair or replacement.~~

~~2.~~ 1. "Contracting" means engaging in business as a contractor.

~~3.~~ 2. "Contractor" is synonymous with the term "builder" and means any person or organization that undertakes to or offers to undertake to, or purports to have the capacity to undertake to, or submits a bid to, or does personally or by or through others, modify any building, highway, road, railroad, excavation, manufactured building or other structure, project, development or improvement, or to do any part of such a project, including the erection of scaffolding or other structure or works in connection with such a project, and includes subcontractors and specialty contractors. For all purposes of taxation or deduction, this definition shall govern without regard to whether or not such a contractor is acting in fulfillment of a contract.

~~4.~~ 3. "Manufactured building" means a manufactured home, mobile home or factory-built building, as defined in section 41-4001.

~~5.~~ 4. "Manufactured building dealer" means a dealer who either:

(a) Is licensed pursuant to title 41, chapter 37, article 4 and who sells manufactured buildings to the final consumer.

(b) Supervises, performs or coordinates the excavation and completion of site improvements or the setup of a manufactured building, including the contracting, if any, with any subcontractor or specialty contractor for the completion of the contract.

~~6.~~ 5. "Modification":

(a) Means construction, grading and leveling ground, wreckage or demolition. ~~Modification~~

(b) Does not include:

~~(a)~~ any project described in subsection ~~0~~ B of this section.

~~(b) Any wreckage or demolition of existing property, or any other activity that is a necessary component of a project described in subsection 0 of this section.~~

~~(c) Any mobilization or demobilization related to a project described in subsection 0 of this section, such as the erection or removal of temporary facilities to be used by those persons working on the project.~~

~~7.~~ 6. "Modify" means to make a modification or cause a modification to be made.

~~8.~~ 7. "Owner" means the person that holds title to the real property or improvements to real property that is the subject of the work, as well as an agent of the title holder and any person with the authority to perform or authorize work on the real property or improvements, including a tenant and a property manager. For the purposes of subsection ~~0~~ B of this section, a person who is hired by a general contractor that is hired by an owner, or a subcontractor of a general contractor that is hired by an owner, is considered to be hired by the owner.

~~9.~~ 8. "Prime contracting" means engaging in business as a prime contractor.

~~10.~~ 9. "Prime contractor" means a contractor who supervises, performs or coordinates the modification of any building, highway, road, railroad, excavation, manufactured building or other structure, project, development or improvement, including the contracting, if any, with any subcontractors or specialty contractors and who is responsible for the completion of the contract. Except as provided in subsections ~~F~~ F and ~~P~~ P of this section, a person who owns real property, who engages one or more contractors to modify that real property and who does not itself modify that real property is not a prime contractor within the meaning of this paragraph regardless of the existence of a contract for sale or the subsequent sale of that real property.

~~11. "Replacement" means the removal from service of one component or system of existing property or tangible personal property installed in existing property, including machinery or equipment, and the installation of a new component or system or new tangible personal property, including machinery or equipment, that provides the same, a similar or an upgraded design or functionality, regardless of the contract amount and regardless of whether the existing component or system or existing tangible personal property is physically removed from the existing property.~~

10. "RESIDENTIAL PROJECT":

(a) MEANS THE VERTICAL CONSTRUCTION OF A NEW HOME, APARTMENT OR OTHER DWELLING UNIT WHERE AN INDIVIDUAL CAN REGULARLY RESIDE, OTHER THAN A HOTEL OR MANUFACTURED HOME, AND THE MAINTENANCE, REPAIR OR ALTERATION OF AN EXISTING DWELLING UNIT.

(b) DOES NOT INCLUDE RELATED OFF-SITE CONSTRUCTION, LANDSCAPING OR GRADING OR OTHER SITE PREPARATION ACTIVITIES.

~~12.~~ 11. ~~"Sale of a used manufactured building"~~ does not include a lease of a used manufactured building.

1 Sec. 9. Section 42-5159, Arizona Revised Statutes, is amended to
2 read:

3 42-5159. Exemptions

4 A. The tax levied by this article does not apply to the storage,
5 use or consumption in this state of the following described tangible
6 personal property:

7 1. Tangible personal property, sold in this state, the gross
8 receipts from the sale of which are included in the measure of the tax
9 imposed by articles 1 and 2 of this chapter.

10 2. Tangible personal property, the sale or use of which has already
11 been subjected to an excise tax at a rate equal to or exceeding the tax
12 imposed by this article under the laws of another state of the United
13 States. If the excise tax imposed by the other state is at a rate less
14 than the tax imposed by this article, the tax imposed by this article is
15 reduced by the amount of the tax already imposed by the other state.

16 3. Tangible personal property, the storage, use or consumption of
17 which the constitution or laws of the United States prohibit this state
18 from taxing or to the extent that the rate or imposition of tax is
19 unconstitutional under the laws of the United States.

20 4. Tangible personal property that directly enters into and becomes
21 an ingredient or component part of any manufactured, fabricated or
22 processed article, substance or commodity for sale in the regular course
23 of business.

24 5. Motor vehicle fuel and use fuel, the sales, distribution or use
25 of which in this state is subject to the tax imposed under title 28,
26 chapter 16, article 1, use fuel that is sold to or used by a person
27 holding a valid single trip use fuel tax permit issued under
28 section 28-5739, aviation fuel, the sales, distribution or use of which in
29 this state is subject to the tax imposed under section 28-8344, and jet
30 fuel, the sales, distribution or use of which in this state is subject to
31 the tax imposed under article 8 of this chapter.

32 6. Tangible personal property brought into this state by an
33 individual who was a nonresident at the time the property was purchased
34 for storage, use or consumption by the individual if the first actual use
35 or consumption of the property was outside this state, unless the property
36 is used in conducting a business in this state.

37 7. Purchases of implants used as growth promotants and injectable
38 medicines, not already exempt under paragraph 16 of this subsection, for
39 livestock and poultry owned by, or in possession of, persons who are
40 engaged in producing livestock, poultry, or livestock or poultry products,
41 or who are engaged in feeding livestock or poultry commercially. For the
42 purposes of this paragraph, "poultry" includes ratites.

43 8. Purchases of:

44 (a) Livestock and poultry to persons engaging in the businesses of
45 farming, ranching or producing livestock or poultry.

1 (b) Livestock and poultry feed, salts, vitamins and other additives
2 sold to persons for use or consumption in the businesses of farming,
3 ranching and producing or feeding livestock or poultry or for use or
4 consumption in noncommercial boarding of livestock. For the purposes of
5 this paragraph, "poultry" includes ratites.

6 9. Propagative materials for use in commercially producing
7 agricultural, horticultural, viticultural or floricultural crops in this
8 state. For the purposes of this paragraph, "propagative materials":
9

10 (a) Includes seeds, seedlings, roots, bulbs, liners, transplants,
11 cuttings, soil and plant additives, agricultural minerals, auxiliary soil
12 and plant substances, micronutrients, fertilizers, insecticides,
13 herbicides, fungicides, soil fumigants, desiccants, rodenticides,
adjuvants, plant nutrients and plant growth regulators.

14 (b) Except for use in commercially producing industrial hemp as
15 defined in section 3-311, does not include any propagative materials used
16 in producing any part, including seeds, of any plant of the genus
17 cannabis.

18 10. Tangible personal property not exceeding \$200 in any one month
19 purchased by an individual at retail outside the continental limits of the
20 United States for the individual's own personal use and enjoyment.

21 11. Advertising supplements that are intended for sale with
22 newspapers published in this state and that have already been subjected to
23 an excise tax under the laws of another state in the United States that
24 equals or exceeds the tax imposed by this article.

25 12. Materials that are purchased by or for publicly funded
26 libraries including school district libraries, charter school libraries,
27 community college libraries, state university libraries or federal, state,
28 county or municipal libraries for use by the public as follows:

29 (a) Printed or photographic materials, beginning August 7, 1985.

30 (b) Electronic or digital media materials, beginning July 17, 1994.

31 13. Tangible personal property purchased by:

32 (a) A hospital organized and operated exclusively for charitable
33 purposes, no part of the net earnings of which inures to the benefit of
34 any private shareholder or individual.

35 (b) A hospital operated by this state or a political subdivision of
36 this state.

37 (c) A licensed nursing care institution or a licensed residential
38 care institution or a residential care facility operated in conjunction
39 with a licensed nursing care institution or a licensed kidney dialysis
40 center, which provides medical services, nursing services or health
41 related services and is not used or held for profit.

42 (d) A qualifying health care organization, as defined in section
43 42-5001, if the tangible personal property is used by the organization
44 solely to provide health and medical related educational and charitable
45 services.

(e) A qualifying health care organization as defined in section 42-5001 if the organization is dedicated to providing educational, therapeutic, rehabilitative and family medical education training for blind and visually impaired children and children with multiple disabilities from the time of birth to age twenty-one.

(f) A nonprofit charitable organization that has qualified under section 501(c)(3) of the United States internal revenue code and that engages in and uses such property exclusively in programs for persons with mental or physical disabilities if the programs are exclusively for training, job placement, rehabilitation or testing.

(g) A person that is subject to tax under this chapter by reason of being engaged in business classified under section 42-5075, or a subcontractor working under the control of a person that is engaged in business classified under section 42-5075, if the tangible personal property is any of the following:

(i) Incorporated or fabricated by the person into a structure, project, development or improvement in fulfillment of a contract.

(ii) Incorporated or fabricated by the person into any project described in section 42-5075, subsection ~~B~~ B.

(iii) Used in environmental response or remediation activities under section 42-5075, subsection ~~B~~ C, paragraph 6.

(h) A person that is not subject to tax under section 42-5075 and that has been provided a copy of a certificate described in section 42-5009, subsection L, if the property purchased is incorporated or fabricated by the person into the real property, structure, project, development or improvement described in the certificate.

(i) A nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code if the property is purchased from the parent or an affiliate organization that is located outside this state.

(j) A qualifying community health center as defined in section 42-5001.

(k) A nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that regularly serves meals to the needy and indigent on a continuing basis at no cost.

(l) A person engaged in business under the transient lodging classification if the property is a personal hygiene item or articles used by human beings for food, drink or condiment, except alcoholic beverages, which are furnished without additional charge to and intended to be consumed by the transient during the transient's occupancy.

(m) For taxable periods beginning from and after June 30, 2001, a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that provides residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy, if the tangible

personal property is used by the organization solely to provide residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy.

(n) A qualifying health sciences educational institution as defined in section 42-5001.

(o) A person representing or working on behalf of any person described in subdivision (a), (b), (c), (d), (e), (f), (i), (j), (k), (m) or (n) of this paragraph, if the tangible personal property is incorporated or fabricated into a project described in section 42-5075, subsection ~~A~~ B.

14. Commodities, as defined by title 7 United States Code section 2, that are consigned for resale in a warehouse in this state in or from which the commodity is deliverable on a contract for future delivery subject to the rules of a commodity market regulated by the United States commodity futures trading commission.

15. Tangible personal property sold by:

(a) Any nonprofit organization organized and operated exclusively for charitable purposes and recognized by the United States internal revenue service under section 501(c)(3) of the internal revenue code.

(b) A nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is associated with a major league baseball team or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual. This subdivision does not apply to an organization that is owned, managed or controlled, in whole or in part, by a major league baseball team, or its owners, officers, employees or agents, or by a major league baseball association or professional golfing association, or its owners, officers, employees or agents, unless the organization conducted or operated exhibition events in this state before January 1, 2018 that were exempt from transaction privilege tax under section 42-5073.

(c) A nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the organization sponsors or operates a rodeo featuring primarily farm and ranch animals and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

16. Drugs and medical oxygen, including delivery hose, mask or tent, regulator and tank, on the prescription of a member of the medical, dental or veterinarian profession who is licensed by law to administer such substances.

17. Prosthetic appliances, as defined in section 23-501, prescribed or recommended by a person who is licensed, registered or otherwise

1 professionally credentialed as a physician, dentist, podiatrist,
2 chiropractor, naturopath, homeopath, nurse or optometrist.

3 18. Prescription eyeglasses and contact lenses.

4 19. Insulin, insulin syringes and glucose test strips.

5 20. Hearing aids as defined in section 36-1901.

6 21. Durable medical equipment that has a centers for medicare and
7 medicaid services common procedure code, is designated reimbursable by
8 medicare, is prescribed by a person who is licensed under title 32,
9 chapter 7, 13, 17 or 29, can withstand repeated use, is primarily and
10 customarily used to serve a medical purpose, is generally not useful to a
11 person in the absence of illness or injury and is appropriate for use in
12 the home.

13 22. Food, as provided in and subject to the conditions of article 3
14 of this chapter and sections 42-5074 and 42-6017.

15 23. Items purchased with United States department of agriculture
16 coupons issued under the supplemental nutrition assistance program
17 pursuant to the food and nutrition act of 2008 (P.L. 88-525; 78 Stat. 703;
18 7 United States Code sections 2011 through 2036b) by the United States
19 department of agriculture food and nutrition service or food instruments
20 issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat.
21 3603; P.L. 99-661, section 4302; P.L. 111-296; 42 United States Code
22 section 1786).

23 24. Food and drink provided without monetary charge by a taxpayer
24 that is subject to section 42-5074 to its employees for their own
25 consumption on the premises during the employees' hours of employment.

26 25. Tangible personal property that is used or consumed in a
27 business subject to section 42-5074 for human food, drink or condiment,
28 whether simple, mixed or compounded.

29 26. Food, drink or condiment and accessory tangible personal
30 property that are acquired for use by or provided to a school district or
31 charter school if they are to be either served or prepared and served to
32 persons for consumption on the premises of a public school in the school
33 district or on the premises of the charter school during school hours.

34 27. Lottery tickets or shares purchased pursuant to title 5,
35 chapter 5.1, article 1.

36 28. Textbooks, sold by a bookstore, that are required by any state
37 university or community college.

38 29. Magazines, other periodicals or other publications produced by
39 this state to encourage tourist travel.

40 30. Paper machine clothing, such as forming fabrics and dryer
41 felts, purchased by a paper manufacturer and directly used or consumed in
42 paper manufacturing.

43 31. Coal, petroleum, coke, natural gas, virgin fuel oil and
44 electricity purchased by a qualified environmental technology
45 manufacturer, producer or processor as defined in section 41-1514.02 and

1 directly used or consumed in the generation or provision of on-site power
 2 or energy solely for environmental technology manufacturing, producing or
 3 processing or environmental protection. This paragraph shall apply for
 4 twenty full consecutive calendar or fiscal years from the date the first
 5 paper manufacturing machine is placed in service. In the case of an
 6 environmental technology manufacturer, producer or processor who does not
 7 manufacture paper, the time period shall begin with the date the first
 8 manufacturing, processing or production equipment is placed in service.

9 32. Motor vehicles that are removed from inventory by a motor
 10 vehicle dealer as defined in section 28-4301 and that are provided to:

11 (a) Charitable or educational institutions that are exempt from
 12 taxation under section 501(c)(3) of the internal revenue code.

13 (b) Public educational institutions.

14 (c) State universities or affiliated organizations of a state
 15 university if no part of the organization's net earnings inures to the
 16 benefit of any private shareholder or individual.

17 33. Natural gas or liquefied petroleum gas used to propel a motor
 18 vehicle.

19 34. Machinery, equipment, technology or related supplies that are
 20 only useful to assist a person with a physical disability as defined in
 21 section 46-191 or a person who has a developmental disability as defined
 22 in section 36-551 or has a head injury as defined in section 41-3201 to be
 23 more independent and functional.

24 35. Liquid, solid or gaseous chemicals used in manufacturing,
 25 processing, fabricating, mining, refining, metallurgical operations,
 26 research and development and, beginning on January 1, 1999, printing, if
 27 using or consuming the chemicals, alone or as part of an integrated system
 28 of chemicals, involves direct contact with the materials from which the
 29 product is produced for the purpose of causing or permitting a chemical or
 30 physical change to occur in the materials as part of the production
 31 process. This paragraph does not include chemicals that are used or
 32 consumed in activities such as packaging, storage or transportation but
 33 does not affect any exemption for such chemicals that is otherwise
 34 provided by this section. For the purposes of this paragraph, "printing"
 35 means a commercial printing operation and includes job printing,
 36 engraving, embossing, copying and bookbinding.

37 36. Food, drink and condiment purchased for consumption within the
 38 premises of any prison, jail or other institution under the jurisdiction
 39 of the state department of corrections, the department of public safety,
 40 the department of juvenile corrections or a county sheriff.

41 37. A motor vehicle and any repair and replacement parts and
 42 tangible personal property becoming a part of such motor vehicle sold to a
 43 motor carrier who is subject to a fee prescribed in title 28, chapter 16,
 44 article 4 and who is engaged in the business of leasing or renting such
 45 property.

38. Tangible personal property that is or directly enters into and becomes an ingredient or component part of cards used as prescription plan identification cards.

39. Overhead materials or other tangible personal property that is used in performing a contract between the United States government and a manufacturer, modifier, assembler or repairer, including property used in performing a subcontract with a government contractor who is a manufacturer, modifier, assembler or repairer, to which title passes to the government under the terms of the contract or subcontract. For the purposes of this paragraph:

(a) "Overhead materials" means tangible personal property, the gross proceeds of sales or gross income derived from which would otherwise be included in the retail classification, that is used or consumed in the performance of a contract, the cost of which is charged to an overhead expense account and allocated to various contracts based on generally accepted accounting principles and consistent with government contract accounting standards.

(b) "Subcontract" means an agreement between a contractor and any person who is not an employee of the contractor for furnishing of supplies or services that, in whole or in part, are necessary to the performance of one or more government contracts, or under which any portion of the contractor's obligation under one or more government contracts is performed, undertaken or assumed, and that includes provisions causing title to overhead materials or other tangible personal property used in the performance of the subcontract to pass to the government or that includes provisions incorporating such title passing clauses in a government contract into the subcontract.

40. Through December 31, 1994, tangible personal property sold pursuant to a personal property liquidation transaction, as defined in section 42-5061. From and after December 31, 1994, tangible personal property sold pursuant to a personal property liquidation transaction, as defined in section 42-5061, if the gross proceeds of the sales were included in the measure of the tax imposed by article 1 of this chapter or if the personal property liquidation was a casual activity or transaction.

41. Wireless telecommunications equipment that is held for sale or transfer to a customer as an inducement to enter into or continue a contract for telecommunications services that are taxable under section 42-5064.

42. Alternative fuel, as defined in section 1-215, purchased by a used oil fuel burner who has received a permit to burn used oil or used oil fuel under section 49-426 or 49-480.

43. Tangible personal property purchased by a commercial airline and consisting of food, beverages and condiments and accessories used for serving the food and beverages, if those items are to be provided without additional charge to passengers for consumption in flight. For the

purposes of this paragraph, "commercial airline" means a person holding a federal certificate of public convenience and necessity or foreign air carrier permit for air transportation to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

44. Alternative fuel vehicles if the vehicle was manufactured as a diesel fuel vehicle and converted to operate on alternative fuel and equipment that is installed in a conventional diesel fuel motor vehicle to convert the vehicle to operate on an alternative fuel, as defined in section 1-215.

45. Gas diverted from a pipeline, by a person engaged in the business of:

(a) Operating a natural or artificial gas pipeline, and used or consumed for the sole purpose of fueling compressor equipment that pressurizes the pipeline.

(b) Converting natural gas into liquefied natural gas, and used or consumed for the sole purpose of fueling compressor equipment used in the conversion process.

46. Tangible personal property that is excluded, exempt or deductible from transaction privilege tax pursuant to section 42-5063.

47. Tangible personal property purchased to be incorporated or installed as part of environmental response or remediation activities under section 42-5075, subsection ~~B~~ C, paragraph 6.

48. Tangible personal property sold by a nonprofit organization that is exempt from taxation under section 501(c)(6) of the internal revenue code if the organization produces, organizes or promotes cultural or civic related festivals or events and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

49. Prepared food, drink or condiment donated by a restaurant as classified in section 42-5074, subsection A to a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that regularly serves meals to the needy and indigent on a continuing basis at no cost.

50. Application services that are designed to assess or test student learning or to promote curriculum design or enhancement purchased by or for any school district, charter school, community college or state university. For the purposes of this paragraph:

(a) "Application services" means software applications provided remotely using hypertext transfer protocol or another network protocol.

(b) "Curriculum design or enhancement" means planning, implementing or reporting on courses of study, lessons, assignments or other learning activities.

51. Motor vehicle fuel and use fuel to a qualified business under section 41-1516 for off-road use in harvesting, processing or transporting qualifying forest products removed from qualifying projects as defined in section 41-1516.

1 52. Repair parts installed in equipment used directly by a
2 qualified business under section 41-1516 in harvesting, processing or
3 transporting qualifying forest products removed from qualifying projects
4 as defined in section 41-1516.

5 53. Renewable energy credits or any other unit created to track
6 energy derived from renewable energy resources. For the purposes of this
7 paragraph, "renewable energy credit" means a unit created administratively
8 by the corporation commission or governing body of a public power entity
9 to track kilowatt hours of electricity derived from a renewable energy
10 resource or the kilowatt hour equivalent of conventional energy resources
11 displaced by distributed renewable energy resources.

12 54. Computer data center equipment sold to the owner, operator or
13 qualified colocation tenant of a computer data center that is certified by
14 the Arizona commerce authority under section 41-1519 or an authorized
15 agent of the owner, operator or qualified colocation tenant during the
16 qualification period for use in the qualified computer data center. For
17 the purposes of this paragraph, "computer data center", "computer data
18 center equipment", "qualification period" and "qualified colocation
19 tenant" have the same meanings prescribed in section 41-1519.

20 55. Coal acquired from an owner or operator of a power plant by a
21 person who is responsible for refining coal if both of the following
22 apply:

23 (a) The transfer of title or possession of the coal is for the
24 purpose of refining the coal.

25 (b) The title or possession of the coal is transferred back to the
26 owner or operator of the power plant after completion of the coal refining
27 process. For the purposes of this subdivision, "coal refining process"
28 means the application of a coal additive system that aids the reduction of
29 power plant emissions during the combustion of coal and the treatment of
30 flue gas.

31 56. Tangible personal property incorporated or fabricated into a
32 project described in section 42-5075, subsection ~~Ⓟ~~ B, that is located
33 within the exterior boundaries of an Indian reservation for which the
34 owner, as defined in section 42-5075, of the project is an Indian tribe or
35 an affiliated Indian. For the purposes of this paragraph:

36 (a) "Affiliated Indian" means an individual Native American Indian
37 who is duly registered on the tribal rolls of the Indian tribe for whose
38 benefit the Indian reservation was established.

39 (b) "Indian reservation" means all lands that are within the limits
40 of areas set aside by the United States for the exclusive use and
41 occupancy of an Indian tribe by treaty, law or executive order and that
42 are recognized as Indian reservations by the United States department of
43 the interior.

44 (c) "Indian tribe" means any organized nation, tribe, band or
45 community that is recognized as an Indian tribe by the United States

department of the interior and includes any entity formed under the laws of the Indian tribe.

57. Cash equivalents, precious metal bullion and monetized bullion purchased by the ultimate consumer, but coins or other forms of money for manufacture into jewelry or works of art are subject to tax, and tangible personal property that is purchased through the redemption of any cash equivalent by the holder as a means of payment for goods that are subject to tax under this article is subject to tax. For the purposes of this paragraph:

(a) "Cash equivalents" means items, whether or not negotiable, that are sold to one or more persons, through which a value denominated in money is purchased in advance and that may be redeemed in full or in part for tangible personal property, intangibles or services. Cash equivalents include gift cards, stored value cards, gift certificates, vouchers, traveler's checks, money orders or other tangible instruments or orders. Cash equivalents do not include either of the following:

(i) Items that are sold to one or more persons and through which a value is not denominated in money.

(ii) Prepaid calling cards for telecommunications services.

(b) "Monetized bullion" means coins and other forms of money that are manufactured from gold, silver or other metals and that have been or are used as a medium of exchange in this or another state, the United States or a foreign nation.

(c) "Precious metal bullion" means precious metal, including gold, silver, platinum, rhodium and palladium, that has been smelted or refined so that its value depends on its contents and not on its form.

B. In addition to the exemptions allowed by subsection A of this section, the following categories of tangible personal property are also exempt:

1. Machinery, or equipment, used directly in manufacturing, processing, fabricating, job printing, refining or metallurgical operations. The terms "manufacturing", "processing", "fabricating", "job printing", "refining" and "metallurgical" as used in this paragraph refer to and include those operations commonly understood within their ordinary meaning. "Metallurgical operations" includes leaching, milling, precipitating, smelting and refining.

2. Machinery, or equipment, used directly in the process of extracting ores or minerals from the earth for commercial purposes, including equipment required to prepare the materials for extraction and handling, loading or transporting such extracted material to the surface. "Mining" includes underground, surface and open pit operations for extracting ores and minerals.

3. Tangible personal property sold to persons engaged in business classified under the telecommunications classification under section 42-5064, including a person representing or working on behalf of such a

1 person in a manner described in section 42-5075, subsection ~~B~~ B, and
 2 consisting of central office switching equipment, switchboards, private
 3 branch exchange equipment, microwave radio equipment and carrier equipment
 4 including optical fiber, coaxial cable and other transmission media that
 5 are components of carrier systems.

6 4. Machinery, equipment or transmission lines used directly in
 7 producing or transmitting electrical power, but not including
 8 distribution. Transformers and control equipment used at transmission
 9 substation sites constitute equipment used in producing or transmitting
 10 electrical power.

11 5. Neat animals, horses, asses, sheep, ratites, swine or goats used
 12 or to be used as breeding or production stock, including sales of
 13 breedings or ownership shares in such animals used for breeding or
 14 production.

15 6. Pipes or valves four inches in diameter or larger used to
 16 transport oil, natural gas, artificial gas, water or coal slurry,
 17 including compressor units, regulators, machinery and equipment, fittings,
 18 seals and any other part that is used in operating the pipes or valves.

19 7. Aircraft, navigational and communication instruments and other
 20 accessories and related equipment sold to:

21 (a) A person:

22 (i) Holding, or exempted by federal law from obtaining, a federal
 23 certificate of public convenience and necessity for use as, in conjunction
 24 with or becoming part of an aircraft to be used to transport persons for
 25 hire in intrastate, interstate or foreign commerce.

26 (ii) That is certificated or licensed under federal aviation
 27 administration regulations (14 Code of Federal Regulations part 121 or
 28 135) as a scheduled or unscheduled carrier of persons for hire for use as
 29 or in conjunction with or becoming part of an aircraft to be used to
 30 transport persons for hire in intrastate, interstate or foreign commerce.

31 (iii) Holding a foreign air carrier permit for air transportation
 32 for use as or in conjunction with or becoming a part of aircraft to be
 33 used to transport persons, property or United States mail in intrastate,
 34 interstate or foreign commerce.

35 (iv) Operating an aircraft to transport persons in any manner for
 36 compensation or hire, or for use in a fractional ownership program that
 37 meets the requirements of federal aviation administration regulations (14
 38 Code of Federal Regulations part 91, subpart K), including as an air
 39 carrier, a foreign air carrier or a commercial operator or under a
 40 restricted category, within the meaning of 14 Code of Federal Regulations,
 41 regardless of whether the operation or aircraft is regulated or certified
 42 under part 91, 119, 121, 133, 135, 136 or 137, or another part of 14 Code
 43 of Federal Regulations.

44 (v) That will lease or otherwise transfer operational control,
 45 within the meaning of federal aviation administration operations

1 specification A008, or its successor, of the aircraft, instruments or
2 accessories to one or more persons described in item (i), (ii), (iii) or
3 (iv) of this subdivision, subject to section 42-5009, subsection Q.

4 (b) Any foreign government.

5 (c) Persons who are not residents of this state and who will not
6 use such property in this state other than in removing such property from
7 this state. This subdivision also applies to corporations that are not
8 incorporated in this state, regardless of maintaining a place of business
9 in this state, if the principal corporate office is located outside this
10 state and the property will not be used in this state other than in
11 removing the property from this state.

12 8. Machinery, tools, equipment and related supplies used or
13 consumed directly in repairing, remodeling or maintaining aircraft,
14 aircraft engines or aircraft component parts by or on behalf of a
15 certificated or licensed carrier of persons or property.

16 9. Rolling stock, rails, ties and signal control equipment used
17 directly to transport persons or property.

18 10. Machinery or equipment used directly to drill for oil or gas or
19 used directly in the process of extracting oil or gas from the earth for
20 commercial purposes.

21 11. Buses or other urban mass transit vehicles that are used
22 directly to transport persons or property for hire or pursuant to a
23 governmentally adopted and controlled urban mass transportation program
24 and that are sold to bus companies holding a federal certificate of
25 convenience and necessity or operated by any city, town or other
26 governmental entity or by any person contracting with such governmental
27 entity as part of a governmentally adopted and controlled program to
28 provide urban mass transportation.

29 12. Groundwater measuring devices required under section 45-604.

30 13. New machinery and equipment consisting of agricultural
31 aircraft, tractors, tractor-drawn implements, self-powered implements,
32 machinery and equipment necessary for extracting milk, and machinery and
33 equipment necessary for cooling milk and livestock, and drip irrigation
34 lines not already exempt under paragraph 6 of this subsection and that are
35 used for commercial production of agricultural, horticultural,
36 viticultural and floricultural crops and products in this state. For the
37 purposes of this paragraph:

38 (a) "New machinery and equipment" means machinery or equipment that
39 has never been sold at retail except pursuant to leases or rentals that do
40 not total two years or more.

41 (b) "Self-powered implements" includes machinery and equipment that
42 are electric-powered.

43 14. Machinery or equipment used in research and development. For
44 the purposes of this paragraph, "research and development" means basic and
45 applied research in the sciences and engineering, and designing,

1 developing or testing prototypes, processes or new products, including
 2 research and development of computer software that is embedded in or an
 3 integral part of the prototype or new product or that is required for
 4 machinery or equipment otherwise exempt under this section to function
 5 effectively. Research and development do not include manufacturing
 6 quality control, routine consumer product testing, market research, sales
 7 promotion, sales service, research in social sciences or psychology,
 8 computer software research that is not included in the definition of
 9 research and development, or other nontechnological activities or
 10 technical services.

11 15. Tangible personal property that is used by either of the
 12 following to receive, store, convert, produce, generate, decode, encode,
 13 control or transmit telecommunications information:

14 (a) Any direct broadcast satellite television or data transmission
 15 service that operates pursuant to 47 Code of Federal Regulations part 25.

16 (b) Any satellite television or data transmission facility, if both
 17 of the following conditions are met:

18 (i) Over two-thirds of the transmissions, measured in megabytes,
 19 transmitted by the facility during the test period were transmitted to or
 20 on behalf of one or more direct broadcast satellite television or data
 21 transmission services that operate pursuant to 47 Code of Federal
 22 Regulations part 25.

23 (ii) Over two-thirds of the transmissions, measured in megabytes,
 24 transmitted by or on behalf of those direct broadcast television or data
 25 transmission services during the test period were transmitted by the
 26 facility to or on behalf of those services.

27 For the purposes of subdivision (b) of this paragraph, "test period" means
 28 the three hundred sixty-five day period beginning on the later of the date
 29 on which the tangible personal property is purchased or the date on which
 30 the direct broadcast satellite television or data transmission service
 31 first transmits information to its customers.

32 16. Clean rooms that are used for manufacturing, processing,
 33 fabrication or research and development, as defined in paragraph 14 of
 34 this subsection, of semiconductor products. For the purposes of this
 35 paragraph, "clean room" means all property that comprises or creates an
 36 environment where humidity, temperature, particulate matter and
 37 contamination are precisely controlled within specified parameters,
 38 without regard to whether the property is actually contained within that
 39 environment or whether any of the property is affixed to or incorporated
 40 into real property. Clean room:

41 (a) Includes the integrated systems, fixtures, piping, movable
 42 partitions, lighting and all property that is necessary or adapted to
 43 reduce contamination or to control airflow, temperature, humidity,
 44 chemical purity or other environmental conditions or manufacturing

1 tolerances, as well as the production machinery and equipment operating in
2 conjunction with the clean room environment.

3 (b) Does not include the building or other permanent, nonremovable
4 component of the building that houses the clean room environment.

5 17. Machinery and equipment that are used directly in the feeding
6 of poultry, the environmental control of housing for poultry, the movement
7 of eggs within a production and packaging facility or the sorting or
8 cooling of eggs. This exemption does not apply to vehicles used for
9 transporting eggs.

10 18. Machinery or equipment, including related structural
11 components, that is employed in connection with manufacturing, processing,
12 fabricating, job printing, refining, mining, natural gas pipelines,
13 metallurgical operations, telecommunications, producing or transmitting
14 electricity or research and development and that is used directly to meet
15 or exceed rules or regulations adopted by the federal energy regulatory
16 commission, the United States environmental protection agency, the United
17 States nuclear regulatory commission, the Arizona department of
18 environmental quality or a political subdivision of this state to prevent,
19 monitor, control or reduce land, water or air pollution.

20 19. Machinery and equipment that are used in the commercial
21 production of livestock, livestock products or agricultural,
22 horticultural, viticultural or floricultural crops or products in this
23 state, including production by a person representing or working on behalf
24 of such a person in a manner described in section 42-5075, subsection
25 ~~⊖~~ B, if the machinery and equipment are used directly and primarily to
26 prevent, monitor, control or reduce air, water or land pollution.

27 20. Machinery or equipment that enables a television station to
28 originate and broadcast or to receive and broadcast digital television
29 signals and that was purchased to facilitate compliance with the
30 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United
31 States Code section 336) and the federal communications commission order
32 issued April 21, 1997 (47 Code of Federal Regulations part 73). This
33 paragraph does not exempt any of the following:

34 (a) Repair or replacement parts purchased for the machinery or
35 equipment described in this paragraph.

36 (b) Machinery or equipment purchased to replace machinery or
37 equipment for which an exemption was previously claimed and taken under
38 this paragraph.

39 (c) Any machinery or equipment purchased after the television
40 station has ceased analog broadcasting, or purchased after November 1,
41 2009, whichever occurs first.

42 21. Qualifying equipment that is purchased from and after June 30,
43 2004 through June 30, 2024 by a qualified business under section 41-1516
44 for harvesting or processing qualifying forest products removed from
45 qualifying projects as defined in section 41-1516. To qualify for this

1 exemption, the qualified business must obtain and present its
2 certification from the Arizona commerce authority at the time of purchase.

3 22. Machinery, equipment, materials and other tangible personal
4 property used directly and predominantly to construct a qualified
5 environmental technology manufacturing, producing or processing facility
6 as described in section 41-1514.02. This paragraph applies for ten full
7 consecutive calendar or fiscal years after the start of initial
8 construction.

9 C. The exemptions provided by subsection B of this section do not
10 include:

11 1. Expendable materials. For the purposes of this paragraph,
12 expendable materials do not include any of the categories of tangible
13 personal property specified in subsection B of this section regardless of
14 the cost or useful life of that property.

15 2. Janitorial equipment and hand tools.

16 3. Office equipment, furniture and supplies.

17 4. Tangible personal property used in selling or distributing
18 activities, other than the telecommunications transmissions described in
19 subsection B, paragraph 15 of this section.

20 5. Motor vehicles required to be licensed by this state, except
21 buses or other urban mass transit vehicles specifically exempted pursuant
22 to subsection B, paragraph 11 of this section, without regard to the use
23 of such motor vehicles.

24 6. Shops, buildings, docks, depots and all other materials of
25 whatever kind or character not specifically included as exempt.

26 7. Motors and pumps used in drip irrigation systems.

27 8. Machinery and equipment or tangible personal property used by a
28 contractor in the performance of a contract.

29 D. The following shall be deducted in computing the purchase price
30 of electricity by a retail electric customer from a utility business:

31 1. Revenues received from sales of ancillary services, electric
32 distribution services, electric generation services, electric transmission
33 services and other services related to providing electricity to a retail
34 electric customer who is located outside this state for use outside this
35 state if the electricity is delivered to a point of sale outside this
36 state.

37 2. Revenues received from providing electricity, including
38 ancillary services, electric distribution services, electric generation
39 services, electric transmission services and other services related to
40 providing electricity with respect to which the transaction privilege tax
41 imposed under section 42-5063 has been paid.

42 E. The tax levied by this article does not apply to the purchase of
43 solar energy devices from a retailer that is registered with the
44 department as a solar energy retailer or a solar energy contractor.

1 F. The following shall be deducted in computing the purchase price
2 of electricity by a retail electric customer from a utility business:

3 1. Fees charged by a municipally owned utility to persons
4 constructing residential, commercial or industrial developments or
5 connecting residential, commercial or industrial developments to a
6 municipal utility system or systems if the fees are segregated and used
7 only for capital expansion, system enlargement or debt service of the
8 utility system or systems.

9 2. Reimbursement or contribution compensation to any person or
10 persons owning a utility system for property and equipment installed to
11 provide utility access to, on or across the land of an actual utility
12 consumer if the property and equipment become the property of the utility.
13 This deduction shall not exceed the value of such property and equipment.

14 G. The tax levied by this article does not apply to the purchase
15 price of electricity, natural gas or liquefied petroleum gas by:

16 1. A qualified manufacturing or smelting business. A utility that
17 claims this deduction shall report each month, on a form prescribed by the
18 department, the name and address of each qualified manufacturing or
19 smelting business for which this deduction is taken. This paragraph
20 applies to gas transportation services. For the purposes of this
21 paragraph:

22 (a) "Gas transportation services" means the services of
23 transporting natural gas to a natural gas customer or to a natural gas
24 distribution facility if the natural gas was purchased from a supplier
25 other than the utility.

26 (b) "Manufacturing" means the performance as a business of an
27 integrated series of operations that places tangible personal property in
28 a form, composition or character different from that in which it was
29 acquired and transforms it into a different product with a distinctive
30 name, character or use. Manufacturing does not include job printing,
31 publishing, packaging, mining, generating electricity or operating a
32 restaurant.

33 (c) "Qualified manufacturing or smelting business" means one of the
34 following:

35 (i) A business that manufactures or smelts tangible products in
36 this state, of which at least fifty-one percent of the manufactured or
37 smelted products will be exported out of state for incorporation into
38 another product or sold out of state for a final sale.

39 (ii) A business that derives at least fifty-one percent of its
40 gross income from the sale of manufactured or smelted products
41 manufactured or smelted by the business.

42 (iii) A business that uses at least fifty-one percent of its square
43 footage in this state for manufacturing or smelting and business
44 activities directly related to manufacturing or smelting.

1 (iv) A business that employs at least fifty-one percent of its
2 workforce in this state in manufacturing or smelting and business
3 activities directly related to manufacturing or smelting.

4 (v) A business that uses at least fifty-one percent of the value of
5 its capitalized assets in this state, as reflected on the business's books
6 and records, for manufacturing or smelting and business activities
7 directly related to manufacturing or smelting.

8 (d) "Smelting" means to melt or fuse a metalliferous mineral, often
9 with an accompanying chemical change, usually to separate the metal.

10 2. A business that operates an international operations center in
11 this state and that is certified by the Arizona commerce authority
12 pursuant to section 41-1520.

13 H. A city or town may exempt proceeds from sales of paintings,
14 sculptures or similar works of fine art if such works of fine art are sold
15 by the original artist. For the purposes of this subsection, fine art
16 does not include an art creation such as jewelry, macrame, glasswork,
17 pottery, woodwork, metalwork, furniture or clothing if the art creation
18 has a dual purpose, both aesthetic and utilitarian, whether sold by the
19 artist or by another person.

20 I. For the purposes of subsection B of this section:

21 1. "Agricultural aircraft" means an aircraft that is built for
22 agricultural use for the aerial application of pesticides or fertilizer or
23 for aerial seeding.

24 2. "Aircraft" includes:

25 (a) An airplane flight simulator that is approved by the federal
26 aviation administration for use as a phase II or higher flight simulator
27 under appendix H, 14 Code of Federal Regulations part 121.

28 (b) Tangible personal property that is permanently affixed or
29 attached as a component part of an aircraft that is owned or operated by a
30 certificated or licensed carrier of persons or property.

31 3. "Other accessories and related equipment" includes aircraft
32 accessories and equipment such as ground service equipment that physically
33 contact aircraft at some point during the overall carrier operation.

34 J. For the purposes of subsection D of this section, "ancillary
35 services", "electric distribution service", "electric generation service",
36 "electric transmission service" and "other services" have the same
37 meanings prescribed in section 42-5063.

38 Sec. 10. Section 42-6004, Arizona Revised Statutes, as amended by
39 Laws 2019, chapter 163, section 23 and chapter 189, section 3, is amended
40 to read:

41 42-6004. Exemption from municipal tax; definitions

42 A. A city, town or special taxing district shall not levy a
43 transaction privilege, sales, use or other similar tax on:

44 1. Exhibition events in this state sponsored, conducted or operated
45 by a nonprofit organization that is exempt from taxation under section

1 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the
2 organization is associated with a major league baseball team or a national
3 touring professional golfing association and no part of the organization's
4 net earnings inures to the benefit of any private shareholder or
5 individual. This paragraph does not apply to an organization that is
6 owned, managed or controlled, in whole or in part, by a major league
7 baseball team, or its owners, officers, employees or agents, or by a major
8 league baseball association or professional golfing association, or its
9 owners, officers, employees or agents, unless the organization conducted
10 or operated exhibition events in this state before January 1, 2018 that
11 were exempt from state transaction privilege tax under section 42-5073.

12 2. Interstate telecommunications services, which include that
13 portion of telecommunications services, such as subscriber line service,
14 allocable by federal law to interstate telecommunications service.

15 3. Sales of warranty or service contracts.

16 4. Sales of motor vehicles to nonresidents of this state for use
17 outside this state if the motor vehicle dealer ships or delivers the motor
18 vehicle to a destination outside this state.

19 5. Interest on finance contracts.

20 6. Dealer documentation fees on the sales of motor vehicles.

21 7. Orthodontic devices dispensed by a dental professional who is
22 licensed under title 32, chapter 11 to a patient as part of the practice
23 of dentistry.

24 8. Sales of internet access services to the person's subscribers
25 and customers. For the purposes of this paragraph:

26 (a) "Internet" means the computer and telecommunications facilities
27 that comprise the interconnected worldwide network of networks that employ
28 the transmission control protocol or internet protocol, or any predecessor
29 or successor protocol, to communicate information of all kinds by wire or
30 radio.

31 (b) "Internet access" means a service that enables users to access
32 content, information, electronic mail or other services over the internet.
33 Internet access does not include telecommunication services provided by a
34 common carrier.

35 9. The gross proceeds of sales or gross income retained by the
36 Arizona exposition and state fair board from ride ticket sales at the
37 annual Arizona state fair.

38 10. Leasing real property between affiliated companies, businesses,
39 persons or reciprocal insurers. For the purposes of this paragraph:

40 (a) "Affiliated companies, businesses, persons or reciprocal
41 insurers" means the lessor holds a controlling interest in the lessee, the
42 lessee holds a controlling interest in the lessor, affiliated persons hold
43 a controlling interest in both the lessor and the lessee, or an unrelated
44 person holds a controlling interest in both the lessor and lessee.

1 (b) "Affiliated persons" means members of the individual's family
2 or persons who have ownership or control of a business entity.

3 (c) "Controlling interest" means direct or indirect ownership of at
4 least eighty percent of the voting shares of a corporation or of the
5 interests in a company, business or person other than a corporation.

6 (d) "Members of the individual's family" means the individual's
7 spouse and brothers and sisters, whether by whole or half blood, including
8 adopted persons, ancestors and lineal descendants.

9 (e) "Reciprocal insurer" has the same meaning prescribed in section
10 20-762.

11 11. The gross proceeds of sales or gross income derived from a
12 contract for the installation, assembly, repair or maintenance of
13 machinery, equipment or other tangible personal property that is described
14 in section 42-5061, subsection B and that has independent functional
15 utility, pursuant to the following provisions:

16 (a) The deduction provided in this paragraph includes the gross
17 proceeds of sales or gross income derived from all of the following:

18 (i) Any activity performed on machinery, equipment or other
19 tangible personal property with independent functional utility.

20 (ii) Any activity performed on any tangible personal property
21 relating to machinery, equipment or other tangible personal property with
22 independent functional utility in furtherance of any of the purposes
23 provided for under subdivision (d) of this paragraph.

24 (iii) Any activity that is related to the activities described in
25 items (i) and (ii) of this subdivision, including inspecting the
26 installation of or testing the machinery, equipment or other tangible
27 personal property.

28 (b) The deduction provided in this paragraph does not include gross
29 proceeds of sales or gross income from the portion of any contracting
30 activity that consists of the development of, or modification to, real
31 property in order to facilitate the installation, assembly, repair,
32 maintenance or removal of machinery, equipment or other tangible personal
33 property described in section 42-5061, subsection B.

34 (c) The deduction provided in this paragraph shall be determined
35 without regard to the size or useful life of the machinery, equipment or
36 other tangible personal property.

37 (d) For the purposes of this paragraph, "independent functional
38 utility" means that the machinery, equipment or other tangible personal
39 property can independently perform its function without attachment to real
40 property, other than attachment for any of the following purposes:

41 (i) Assembling the machinery, equipment or other tangible personal
42 property.

43 (ii) Connecting items of machinery, equipment or other tangible
44 personal property to each other.

(iii) Connecting the machinery, equipment or other tangible personal property, whether as an individual item or as a system of items, to water, power, gas, communication or other services.

(iv) Stabilizing or protecting the machinery, equipment or other tangible personal property during operation by bolting, burying or performing other dissimilar nonpermanent connections to either real property or real property improvements.

12. The leasing or renting of certified ignition interlock devices installed pursuant to the requirements prescribed by section 28-1461. For the purposes of this paragraph, "certified ignition interlock device" has the same meaning prescribed in section 28-1301.

13. Computer data center equipment sold to the owner, operator or qualified colocation tenant of a computer data center that is certified by the Arizona commerce authority under section 41-1519 or an authorized agent of the owner, operator or qualified colocation tenant during the qualification period for use in the qualified computer data center. For the purposes of this paragraph, "computer data center", "computer data center equipment", "qualification period" and "qualified colocation tenant" have the same meanings prescribed in section 41-1519.

~~14. The gross proceeds of sales or gross income derived from a contract with the owner of real property or improvements to real property for the maintenance, repair, replacement or alteration of existing property, except as specified in this paragraph. The gross proceeds of sales or gross income derived from a de minimis amount of modification activity does not subject the contract or any part of the contract to tax. For the purposes of this paragraph:~~

~~(a) Each contract is independent of another contract, except that any change order that directly relates to the scope of work of the original contract shall be treated the same as the original contract under this paragraph, regardless of the amount of modification activities included in the change order. If a change order does not directly relate to the scope of work of the original contract, the change order shall be treated as a new contract, with the tax treatment of any subsequent change order to follow the tax treatment of the contract to which the scope of work of the subsequent change order directly relates.~~

~~(b) Any term not defined in this paragraph that is defined in section 42-5075 has the same meaning prescribed in section 42-5075.~~

~~(c) This paragraph does not apply to a contract that primarily involves surface or subsurface improvements to land and that is subject to title 28, chapter 19, 20 or 22 or title 34, chapter 2 or 6 even if the contract also includes vertical improvements. If a city or town imposes a tax on contracts that are subject to procurement processes under those provisions, the city or town shall include in the request for proposals a notice to bidders when those projects are subject to the tax. This subdivision does not apply to contracts with:~~

~~(i) Community facilities districts, fire districts, county television improvement districts, community park maintenance districts, cotton pest control districts, hospital districts, pest abatement districts, health service districts, agricultural improvement districts, county free library districts, county jail districts, county stadium districts, special health care districts, public health services districts, theme park districts or revitalization districts.~~

~~(ii) Any special taxing district not specified in item (i) of this subdivision if the district does not substantially engage in the modification, maintenance, repair, replacement or alteration of surface or subsurface improvements to land.~~

14. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A CONSTRUCTION CONTRACT WITH AN OWNER OF REAL PROPERTY OR THE IMPROVEMENTS TO REAL PROPERTY THAT DOES NOT EXCEED \$100,000 PER UNIT FOR A RESIDENTIAL PROJECT OR \$1,000,000 FOR A NONRESIDENTIAL PROJECT. FOR THE PURPOSES OF THIS PARAGRAPH:

(a) ONLY THE CONTRACT PRICE SHALL BE USED TO DETERMINE WHETHER A CONTRACT EXCEEDS THE THRESHOLD AMOUNT DESCRIBED IN THIS PARAGRAPH WITH NO SUBTRACTIONS FOR AMOUNTS PAID TO SUBCONTRACTORS OR ANY DEDUCTIONS OR EXEMPTIONS ALLOWED UNDER SECTION 42-5075.

(b) TANGIBLE PERSONAL PROPERTY THAT IS INCORPORATED OR FABRICATED INTO A PROJECT DESCRIBED IN THIS PARAGRAPH MAY BE SUBJECT TO THE AMOUNT PRESCRIBED IN SECTION 42-5008.01.

(c) PROJECT ELEMENTS MAY NOT BE ARTIFICIALLY SEPARATED FROM A CONTRACT TO CAUSE A PROJECT TO QUALIFY FOR THE EXEMPTION UNDER THIS PARAGRAPH. THE DEPARTMENT HAS THE BURDEN OF PROVING THAT PROJECT ELEMENTS HAVE BEEN ARTIFICIALLY SEPARATED FROM A CONTRACT.

(d) EACH CONTRACT IS INDEPENDENT OF ANY OTHER CONTRACT, EXCEPT THAT ANY CHANGE ORDER THAT DIRECTLY RELATES TO THE SCOPE OF WORK OF THE ORIGINAL CONTRACT SHALL BE TREATED THE SAME AS THE ORIGINAL CONTRACT UNDER THIS PARAGRAPH IF THE RESULTING TOTAL CONTRACT AMOUNT DOES NOT EXCEED THE APPLICABLE THRESHOLD DESCRIBED IN THIS PARAGRAPH BY MORE THAN TWENTY-FIVE PERCENT. IF THE RESULTING TOTAL CONTRACT PRICE EXCEEDS THE APPLICABLE THRESHOLD BY MORE THAN TWENTY-FIVE PERCENT, THE ORIGINAL CONTRACT AND ALL SUBSEQUENT CHANGE ORDERS ARE SUBJECT TO THE TAX ON CONTRACTING. IF A CHANGE ORDER DOES NOT DIRECTLY RELATE TO THE SCOPE OF WORK OF THE ORIGINAL CONTRACT, THE CHANGE ORDER SHALL BE TREATED AS A NEW CONTRACT.

15. A CONTRACT THAT PRIMARILY INVOLVES CONSTRUCTION OF ANY ELECTRICITY GENERATING FACILITY OR SYSTEM INCLUDING RENEWABLE ENERGY SYSTEMS INSTALLED ON ANY COMMERCIAL, RESIDENTIAL OR GOVERNMENTAL PROPERTY, INCLUDING THE MAINTENANCE, REPAIR, REPLACEMENT OR ALTERATION OF EXISTING IMPROVEMENTS OF AN ELECTRICITY GENERATING OR DISTRIBUTION FACILITY.

~~15.~~ 16. Monitoring services relating to an alarm system as defined in section 32-101.

1 ~~16.~~ 17. Tangible personal property, job printing or publications
2 sold to or purchased by, or tangible personal property leased, rented or
3 licensed for use to or by, a qualifying health sciences educational
4 institution as defined in section 42-5001.

5 ~~17.~~ 18. The transfer of title or possession of coal back and forth
6 between an owner or operator of a power plant and a person who is
7 responsible for refining coal if both of the following apply:

8 (a) The transfer of title or possession of the coal is for the
9 purpose of refining the coal.

10 (b) The title or possession of the coal is transferred back to the
11 owner or operator of the power plant after completion of the coal refining
12 process. For the purposes of this subdivision, "coal refining process"
13 means the application of a coal additive system that aids the reduction of
14 power plant emissions during the combustion of coal and the treatment of
15 flue gas.

16 ~~18.~~ 19. Tangible personal property incorporated or fabricated into
17 a project described in paragraph 14 of this subsection, that is located
18 within the exterior boundaries of an Indian reservation for which the
19 owner, as defined in section 42-5075, of the project is an Indian tribe or
20 an affiliated Indian. For the purposes of this paragraph:

21 (a) "Affiliated Indian" means an individual Native American Indian
22 who is duly registered on the tribal rolls of the Indian tribe for whose
23 benefit the Indian reservation was established.

24 (b) "Indian reservation" means all lands that are within the limits
25 of areas set aside by the United States for the exclusive use and
26 occupancy of an Indian tribe by treaty, law or executive order and that
27 are recognized as Indian reservations by the United States department of
28 the interior.

29 (c) "Indian tribe" means any organized nation, tribe, band or
30 community that is recognized as an Indian tribe by the United States
31 department of the interior and includes any entity formed under the laws
32 of that Indian tribe.

33 ~~19.~~ 20. The charges for the leasing or renting of space to make
34 attachments to utility poles as follows:

35 (a) By a person that is engaged in the business of providing or
36 furnishing electrical services or telecommunication services or that is a
37 cable operator.

38 (b) To a person that is engaged in the business of providing or
39 furnishing electrical services or telecommunication services or that is a
40 cable operator.

41 ~~20.~~ 21. Until March 1, 2017, the gross proceeds of sales or gross
42 income derived from entry fees paid by participants for events that
43 consist of a run, walk, swim or bicycle ride or a similar event, or any
44 combination of these events.

~~21.~~ 22. The gross proceeds of sales or gross income derived from entry fees paid by participants for events that are operated or conducted by nonprofit organizations that are exempt from taxation under section 501(c)(3) of the internal revenue code and of which no part of the organization's net earnings inures to the benefit of any private shareholder or individual, if the event consists of a run, walk, swim or bicycle ride or a similar event, or any combination of these events.

B. A city, town or other taxing jurisdiction shall not levy a transaction privilege, sales, use, franchise or other similar tax or fee, however denominated, on natural gas or liquefied petroleum gas used to propel a motor vehicle.

C. A city, town or other taxing jurisdiction shall not levy a transaction privilege, sales, gross receipts, use, franchise or other similar tax or fee, however denominated, on gross proceeds of sales or gross income derived from any of the following:

1. A motor carrier's use on the public highways in this state if the motor carrier is subject to a fee prescribed in title 28, chapter 16, article 4.

2. Leasing, renting or licensing a motor vehicle subject to and on which the fee has been paid under title 28, chapter 16, article 4.

3. The sale of a motor vehicle and any repair and replacement parts and tangible personal property becoming a part of such motor vehicle to a motor carrier who is subject to a fee prescribed in title 28, chapter 16, article 4 and who is engaged in the business of leasing, renting or licensing such property.

4. Incarcerating or detaining in a privately operated prison, jail or detention facility prisoners who are under the jurisdiction of the United States, this state or any other state or a political subdivision of this state or of any other state.

5. Transporting for hire persons, freight or property by light motor vehicles subject to a fee under title 28, chapter 15, article 4.

6. Any amount attributable to development fees that are incurred in relation to the construction, development or improvement of real property and paid by the taxpayer as defined in the model city tax code or by a contractor providing services to the taxpayer. For the purposes of this paragraph:

(a) The attributable amount shall not exceed the value of the development fees actually imposed.

(b) The attributable amount is equal to the total amount of development fees paid by the taxpayer or by a contractor providing services to the taxpayer and the total development fees credited in exchange for the construction of, contribution to or dedication of real property for providing public infrastructure, public safety or other public services necessary to the development. The real property must be the subject of the development fees.

1 (c) "Development fees" means fees imposed to offset capital costs
2 of providing public infrastructure, public safety or other public services
3 to a development and authorized pursuant to section 9-463.05, section
4 11-1102 or title 48 regardless of the jurisdiction to which the fees are
5 paid.

6 7. Any amount attributable to fees collected by transportation
7 network companies issued a permit pursuant to section 28-9552.

8 8. Transporting for hire persons by transportation network company
9 drivers on transactions involving transportation network services as
10 defined in section 28-9551.

11 9. Transporting for hire persons by vehicle for hire companies that
12 are issued permits pursuant to section 28-9503.

13 10. Transporting for hire persons by vehicle for hire drivers on
14 transactions involving vehicle for hire services as defined in section
15 28-9501.

16 D. A city, town or other taxing jurisdiction shall not levy a
17 transaction privilege, sales, use, franchise or other similar tax or fee,
18 however denominated, in excess of one-tenth of one percent of the value of
19 the entire product mined, smelted, extracted, refined, produced or
20 prepared for sale, profit or commercial use, on persons engaged in the
21 business of mineral processing, except to the extent that the tax is
22 computed on the gross proceeds or gross income from sales at retail.

23 E. In computing the tax base, any city, town or other taxing
24 jurisdiction shall not include in the gross proceeds of sales or gross
25 income:

26 1. A manufacturer's cash rebate on the sales price of a motor
27 vehicle if the buyer assigns the buyer's right in the rebate to the
28 retailer.

29 2. The waste tire disposal fee imposed pursuant to section 44-1302.

30 F. A city or town shall not levy a use tax on the storage, use or
31 consumption of tangible personal property in the city or town by a school
32 district or charter school.

33 G. A city, town or taxing jurisdiction shall not levy a transaction
34 privilege, sales, gross receipts, use, franchise or other similar tax or
35 fee, however denominated, on gross proceeds of sales or gross income
36 derived from over-the-top services. For the purposes of this subsection,
37 "over-the-top services" means audio or video programming services that are
38 received by the purchaser by means of an internet connection, regardless
39 of the technology used, that include linear or live programming and that
40 are generally considered comparable to programming provided by a radio or
41 television broadcast station and includes related on-demand programming
42 that is provided at no additional charge, regardless of whether the
43 services are provided independently or packaged with other audio or video
44 programming.

45 H. For the purposes of this section:

1 1. "Cable operator" has the same meaning prescribed in section
2 9-505 and includes a video service provider.

3 2. "Electrical services" means transmitting or distributing
4 electricity, electric lights, current or power over lines, wires or
5 cables.

6 3. "RESIDENTIAL PROJECT" HAS THE SAME MEANING PRESCRIBED IN SECTION
7 42-5075.

8 ~~3.~~ 4. "Telecommunication services" means transmitting or relaying
9 sound, visual image, data, information, images or material over lines,
10 wires or cables by radio signal, light beam, telephone, telegraph or other
11 electromagnetic means.

12 ~~4.~~ 5. "Utility pole" means any wooden, metal or other pole used
13 for utility purposes and the pole's appurtenances that are attached or
14 authorized for attachment by the person controlling the pole.

15 Sec. 11. Section 42-6004, Arizona Revised Statutes, as amended by
16 Laws 2019, chapter 163, section 24 and chapter 189, section 4, is amended
17 to read:

18 42-6004. Exemption from municipal tax; definitions

19 A. A city, town or special taxing district shall not levy a
20 transaction privilege, sales, use or other similar tax on:

21 1. Exhibition events in this state sponsored, conducted or operated
22 by a nonprofit organization that is exempt from taxation under section
23 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the
24 organization is associated with a major league baseball team or a national
25 touring professional golfing association and no part of the organization's
26 net earnings inures to the benefit of any private shareholder or
27 individual. This paragraph does not apply to an organization that is
28 owned, managed or controlled, in whole or in part, by a major league
29 baseball team, or its owners, officers, employees or agents, or by a major
30 league baseball association or professional golfing association, or its
31 owners, officers, employees or agents, unless the organization conducted
32 or operated exhibition events in this state before January 1, 2018 that
33 were exempt from state transaction privilege tax under section 42-5073.

34 2. Interstate telecommunications services, which include that
35 portion of telecommunications services, such as subscriber line service,
36 allocable by federal law to interstate telecommunications service.

37 3. Sales of warranty or service contracts.

38 4. Sales of motor vehicles to nonresidents of this state for use
39 outside this state if the motor vehicle dealer ships or delivers the motor
40 vehicle to a destination outside this state.

41 5. Interest on finance contracts.

42 6. Dealer documentation fees on the sales of motor vehicles.

43 7. Orthodontic devices dispensed by a dental professional who is
44 licensed under title 32, chapter 11 to a patient as part of the practice
45 of dentistry.

1 8. Sales of internet access services to the person's subscribers
2 and customers. For the purposes of this paragraph:

3 (a) "Internet" means the computer and telecommunications facilities
4 that comprise the interconnected worldwide network of networks that employ
5 the transmission control protocol or internet protocol, or any predecessor
6 or successor protocol, to communicate information of all kinds by wire or
7 radio.

8 (b) "Internet access" means a service that enables users to access
9 content, information, electronic mail or other services over the internet.
10 Internet access does not include telecommunication services provided by a
11 common carrier.

12 9. The gross proceeds of sales or gross income retained by the
13 Arizona exposition and state fair board from ride ticket sales at the
14 annual Arizona state fair.

15 10. Leasing real property between affiliated companies, businesses,
16 persons or reciprocal insurers. For the purposes of this paragraph:

17 (a) "Affiliated companies, businesses, persons or reciprocal
18 insurers" means the lessor holds a controlling interest in the lessee, the
19 lessee holds a controlling interest in the lessor, affiliated persons hold
20 a controlling interest in both the lessor and the lessee, or an unrelated
21 person holds a controlling interest in both the lessor and lessee.

22 (b) "Affiliated persons" means members of the individual's family
23 or persons who have ownership or control of a business entity.

24 (c) "Controlling interest" means direct or indirect ownership of at
25 least eighty percent of the voting shares of a corporation or of the
26 interests in a company, business or person other than a corporation.

27 (d) "Members of the individual's family" means the individual's
28 spouse and brothers and sisters, whether by whole or half blood, including
29 adopted persons, ancestors and lineal descendants.

30 (e) "Reciprocal insurer" has the same meaning prescribed in section
31 20-762.

32 11. The gross proceeds of sales or gross income derived from a
33 contract for the installation, assembly, repair or maintenance of
34 machinery, equipment or other tangible personal property that is described
35 in section 42-5061, subsection B and that has independent functional
36 utility, pursuant to the following provisions:

37 (a) The deduction provided in this paragraph includes the gross
38 proceeds of sales or gross income derived from all of the following:

39 (i) Any activity performed on machinery, equipment or other
40 tangible personal property with independent functional utility.

41 (ii) Any activity performed on any tangible personal property
42 relating to machinery, equipment or other tangible personal property with
43 independent functional utility in furtherance of any of the purposes
44 provided for under subdivision (d) of this paragraph.

1 (iii) Any activity that is related to the activities described in
2 items (i) and (ii) of this subdivision, including inspecting the
3 installation of or testing the machinery, equipment or other tangible
4 personal property.

5 (b) The deduction provided in this paragraph does not include gross
6 proceeds of sales or gross income from the portion of any contracting
7 activity that consists of the development of, or modification to, real
8 property in order to facilitate the installation, assembly, repair,
9 maintenance or removal of machinery, equipment or other tangible personal
10 property described in section 42-5061, subsection B.

11 (c) The deduction provided in this paragraph shall be determined
12 without regard to the size or useful life of the machinery, equipment or
13 other tangible personal property.

14 (d) For the purposes of this paragraph, "independent functional
15 utility" means that the machinery, equipment or other tangible personal
16 property can independently perform its function without attachment to real
17 property, other than attachment for any of the following purposes:

18 (i) Assembling the machinery, equipment or other tangible personal
19 property.

20 (ii) Connecting items of machinery, equipment or other tangible
21 personal property to each other.

22 (iii) Connecting the machinery, equipment or other tangible
23 personal property, whether as an individual item or as a system of items,
24 to water, power, gas, communication or other services.

25 (iv) Stabilizing or protecting the machinery, equipment or other
26 tangible personal property during operation by bolting, burying or
27 performing other dissimilar nonpermanent connections to either real
28 property or real property improvements.

29 12. The leasing or renting of certified ignition interlock devices
30 installed pursuant to the requirements prescribed by section 28-1461. For
31 the purposes of this paragraph, "certified ignition interlock device" has
32 the same meaning prescribed in section 28-1301.

33 13. Computer data center equipment sold to the owner, operator or
34 qualified colocation tenant of a computer data center that is certified by
35 the Arizona commerce authority under section 41-1519 or an authorized
36 agent of the owner, operator or qualified colocation tenant during the
37 qualification period for use in the qualified computer data center. For
38 the purposes of this paragraph, "computer data center", "computer data
39 center equipment", "qualification period" and "qualified colocation
40 tenant" have the same meanings prescribed in section 41-1519.

41 ~~14. The gross proceeds of sales or gross income derived from a~~
42 ~~contract with the owner of real property or improvements to real property~~
43 ~~for the maintenance, repair, replacement or alteration of existing~~
44 ~~property, except as specified in this paragraph. The gross proceeds of~~
45 ~~sales or gross income derived from a de minimis amount of modification~~

~~activity does not subject the contract or any part of the contract to tax. For the purposes of this paragraph:~~

~~(a) Each contract is independent of another contract, except that any change order that directly relates to the scope of work of the original contract shall be treated the same as the original contract under this paragraph, regardless of the amount of modification activities included in the change order. If a change order does not directly relate to the scope of work of the original contract, the change order shall be treated as a new contract, with the tax treatment of any subsequent change order to follow the tax treatment of the contract to which the scope of work of the subsequent change order directly relates.~~

~~(b) Any term not defined in this paragraph that is defined in section 42-5075 has the same meaning prescribed in section 42-5075.~~

~~(c) This paragraph does not apply to a contract that primarily involves surface or subsurface improvements to land and that is subject to title 28, chapter 19, 20 or 22 or title 34, chapter 2 or 6 even if the contract also includes vertical improvements. If a city or town imposes a tax on contracts that are subject to procurement processes under those provisions, the city or town shall include in the request for proposals a notice to bidders when those projects are subject to the tax. This subdivision does not apply to contracts with:~~

~~(i) Community facilities districts, fire districts, county television improvement districts, community park maintenance districts, cotton pest control districts, hospital districts, pest abatement districts, health service districts, agricultural improvement districts, county free library districts, county jail districts, county stadium districts, special health care districts, public health services districts, theme park districts or revitalization districts.~~

~~(ii) Any special taxing district not specified in item (i) of this subdivision if the district does not substantially engage in the modification, maintenance, repair, replacement or alteration of surface or subsurface improvements to land.~~

14. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A CONSTRUCTION CONTRACT WITH AN OWNER OF REAL PROPERTY OR THE IMPROVEMENTS TO REAL PROPERTY THAT DOES NOT EXCEED \$100,000 PER UNIT FOR A RESIDENTIAL PROJECT OR \$1,000,000 FOR A NONRESIDENTIAL PROJECT. FOR THE PURPOSES OF THIS PARAGRAPH:

(a) ONLY THE CONTRACT PRICE SHALL BE USED TO DETERMINE WHETHER A CONTRACT EXCEEDS THE THRESHOLD AMOUNT DESCRIBED IN THIS PARAGRAPH WITH NO SUBTRACTIONS FOR AMOUNTS PAID TO SUBCONTRACTORS OR ANY DEDUCTIONS OR EXEMPTIONS ALLOWED UNDER SECTION 42-5075.

(b) TANGIBLE PERSONAL PROPERTY THAT IS INCORPORATED OR FABRICATED INTO A PROJECT DESCRIBED IN THIS PARAGRAPH MAY BE SUBJECT TO THE AMOUNT PRESCRIBED IN SECTION 42-5008.01.

(c) PROJECT ELEMENTS MAY NOT BE ARTIFICIALLY SEPARATED FROM A CONTRACT TO CAUSE A PROJECT TO QUALIFY FOR THE EXEMPTION UNDER THIS PARAGRAPH. THE DEPARTMENT HAS THE BURDEN OF PROVING THAT PROJECT ELEMENTS HAVE BEEN ARTIFICIALLY SEPARATED FROM A CONTRACT.

(d) EACH CONTRACT IS INDEPENDENT OF ANY OTHER CONTRACT, EXCEPT THAT ANY CHANGE ORDER THAT DIRECTLY RELATES TO THE SCOPE OF WORK OF THE ORIGINAL CONTRACT SHALL BE TREATED THE SAME AS THE ORIGINAL CONTRACT UNDER THIS PARAGRAPH IF THE RESULTING TOTAL CONTRACT AMOUNT DOES NOT EXCEED THE APPLICABLE THRESHOLD DESCRIBED IN THIS PARAGRAPH BY MORE THAN TWENTY-FIVE PERCENT. IF THE RESULTING TOTAL CONTRACT PRICE EXCEEDS THE APPLICABLE THRESHOLD BY MORE THAN TWENTY-FIVE PERCENT, THE ORIGINAL CONTRACT AND ALL SUBSEQUENT CHANGE ORDERS ARE SUBJECT TO THE TAX ON CONTRACTING. IF A CHANGE ORDER DOES NOT DIRECTLY RELATE TO THE SCOPE OF WORK OF THE ORIGINAL CONTRACT, THE CHANGE ORDER SHALL BE TREATED AS A NEW CONTRACT.

15. A CONTRACT THAT PRIMARILY INVOLVES CONSTRUCTION OF ANY ELECTRICITY GENERATING FACILITY OR SYSTEM INCLUDING RENEWABLE ENERGY SYSTEMS INSTALLED ON ANY COMMERCIAL, RESIDENTIAL OR GOVERNMENTAL PROPERTY, INCLUDING THE MAINTENANCE, REPAIR, REPLACEMENT OR ALTERATION OF EXISTING IMPROVEMENTS OF AN ELECTRICITY GENERATING OR DISTRIBUTION FACILITY.

~~15.~~ 16. Monitoring services relating to an alarm system as defined in section 32-101.

~~16.~~ 17. Tangible personal property, job printing or publications sold to or purchased by, or tangible personal property leased, rented or licensed for use to or by, a qualifying health sciences educational institution as defined in section 42-5001.

~~17.~~ 18. The sale of coal.

~~18.~~ 19. Tangible personal property incorporated or fabricated into a project described in paragraph 14 of this subsection, that is located within the exterior boundaries of an Indian reservation for which the owner, as defined in section 42-5075, of the project is an Indian tribe or an affiliated Indian. For the purposes of this paragraph:

(a) "Affiliated Indian" means an individual Native American Indian who is duly registered on the tribal rolls of the Indian tribe for whose benefit the Indian reservation was established.

(b) "Indian reservation" means all lands that are within the limits of areas set aside by the United States for the exclusive use and occupancy of an Indian tribe by treaty, law or executive order and that are recognized as Indian reservations by the United States department of the interior.

(c) "Indian tribe" means any organized nation, tribe, band or community that is recognized as an Indian tribe by the United States department of the interior and includes any entity formed under the laws of that Indian tribe.

~~19.~~ 20. The charges for the leasing or renting of space to make attachments to utility poles as follows:

1 (a) By a person that is engaged in the business of providing or
2 furnishing electrical services or telecommunication services or that is a
3 cable operator.

4 (b) To a person that is engaged in the business of providing or
5 furnishing electrical services or telecommunication services or that is a
6 cable operator.

7 ~~20.~~ 21. Until March 1, 2017, the gross proceeds of sales or gross
8 income derived from entry fees paid by participants for events that
9 consist of a run, walk, swim or bicycle ride or a similar event, or any
10 combination of these events.

11 ~~21.~~ 22. The gross proceeds of sales or gross income derived from
12 entry fees paid by participants for events that are operated or conducted
13 by nonprofit organizations that are exempt from taxation under section
14 501(c)(3) of the internal revenue code and of which no part of the
15 organization's net earnings inures to the benefit of any private
16 shareholder or individual, if the event consists of a run, walk, swim or
17 bicycle ride or a similar event, or any combination of these events.

18 B. A city, town or other taxing jurisdiction shall not levy a
19 transaction privilege, sales, use, franchise or other similar tax or fee,
20 however denominated, on natural gas or liquefied petroleum gas used to
21 propel a motor vehicle.

22 C. A city, town or other taxing jurisdiction shall not levy a
23 transaction privilege, sales, gross receipts, use, franchise or other
24 similar tax or fee, however denominated, on gross proceeds of sales or
25 gross income derived from any of the following:

26 1. A motor carrier's use on the public highways in this state if
27 the motor carrier is subject to a fee prescribed in title 28, chapter 16,
28 article 4.

29 2. Leasing, renting or licensing a motor vehicle subject to and on
30 which the fee has been paid under title 28, chapter 16, article 4.

31 3. The sale of a motor vehicle and any repair and replacement parts
32 and tangible personal property becoming a part of such motor vehicle to a
33 motor carrier who is subject to a fee prescribed in title 28, chapter 16,
34 article 4 and who is engaged in the business of leasing, renting or
35 licensing such property.

36 4. Incarcerating or detaining in a privately operated prison, jail
37 or detention facility prisoners who are under the jurisdiction of the
38 United States, this state or any other state or a political subdivision of
39 this state or of any other state.

40 5. Transporting for hire persons, freight or property by light
41 motor vehicles subject to a fee under title 28, chapter 15, article 4.

42 6. Any amount attributable to development fees that are incurred in
43 relation to the construction, development or improvement of real property
44 and paid by the taxpayer as defined in the model city tax code or by a

1 contractor providing services to the taxpayer. For the purposes of this
2 paragraph:

3 (a) The attributable amount shall not exceed the value of the
4 development fees actually imposed.

5 (b) The attributable amount is equal to the total amount of
6 development fees paid by the taxpayer or by a contractor providing
7 services to the taxpayer and the total development fees credited in
8 exchange for the construction of, contribution to or dedication of real
9 property for providing public infrastructure, public safety or other
10 public services necessary to the development. The real property must be
11 the subject of the development fees.

12 (c) "Development fees" means fees imposed to offset capital costs
13 of providing public infrastructure, public safety or other public services
14 to a development and authorized pursuant to section 9-463.05, section
15 11-1102 or title 48 regardless of the jurisdiction to which the fees are
16 paid.

17 7. Any amount attributable to fees collected by transportation
18 network companies issued a permit pursuant to section 28-9552.

19 8. Transporting for hire persons by transportation network company
20 drivers on transactions involving transportation network services as
21 defined in section 28-9551.

22 9. Transporting for hire persons by vehicle for hire companies that
23 are issued permits pursuant to section 28-9503.

24 10. Transporting for hire persons by vehicle for hire drivers on
25 transactions involving vehicle for hire services as defined in section
26 28-9501.

27 D. A city, town or other taxing jurisdiction shall not levy a
28 transaction privilege, sales, use, franchise or other similar tax or fee,
29 however denominated, in excess of one-tenth of one percent of the value of
30 the entire product mined, smelted, extracted, refined, produced or
31 prepared for sale, profit or commercial use, on persons engaged in the
32 business of mineral processing, except to the extent that the tax is
33 computed on the gross proceeds or gross income from sales at retail.

34 E. In computing the tax base, any city, town or other taxing
35 jurisdiction shall not include in the gross proceeds of sales or gross
36 income:

37 1. A manufacturer's cash rebate on the sales price of a motor
38 vehicle if the buyer assigns the buyer's right in the rebate to the
39 retailer.

40 2. The waste tire disposal fee imposed pursuant to section 44-1302.

41 F. A city or town shall not levy a use tax on the storage, use or
42 consumption of tangible personal property in the city or town by a school
43 district or charter school.

44 G. A city, town or taxing jurisdiction shall not levy a transaction
45 privilege, sales, gross receipts, use, franchise or other similar tax or

1 fee, however denominated, on gross proceeds of sales or gross income
 2 derived from over-the-top services. For the purposes of this subsection,
 3 "over-the-top services" means audio or video programming services that are
 4 received by the purchaser by means of an internet connection, regardless
 5 of the technology used, that include linear or live programming and that
 6 are generally considered comparable to programming provided by a radio or
 7 television broadcast station and includes related on-demand programming
 8 that is provided at no additional charge, regardless of whether the
 9 services are provided independently or packaged with other audio or video
 10 programming.

11 H. For the purposes of this section:

12 1. "Cable operator" has the same meaning prescribed in section
 13 9-505 and includes a video service provider.

14 2. "Electrical services" means transmitting or distributing
 15 electricity, electric lights, current or power over lines, wires or
 16 cables.

17 3. "RESIDENTIAL PROJECT" HAS THE SAME MEANING PRESCRIBED IN SECTION
 18 42-5075.

19 ~~3.~~ 4. "Telecommunication services" means transmitting or relaying
 20 sound, visual image, data, information, images or material over lines,
 21 wires or cables by radio signal, light beam, telephone, telegraph or other
 22 electromagnetic means.

23 ~~4.~~ 5. "Utility pole" means any wooden, metal or other pole used
 24 for utility purposes and the pole's appurtenances that are attached or
 25 authorized for attachment by the person controlling the pole.

26 Sec. 12. Section 49-290, Arizona Revised Statutes, is amended to
 27 read:

28 49-290. Exemption from permit requirements; definition

29 A. Notwithstanding any other statute, a person who performs a
 30 remedial action or a portion of a remedial action that has been approved
 31 by the department if that action or portion is conducted in compliance
 32 with this article is not subject to any requirement to obtain any permit
 33 or approval that may otherwise be required by the department.

34 B. Except as prescribed in subsection D of this section, a person
 35 who conducts a portion of a remedial action, where that portion is
 36 entirely on site and is conducted in compliance with this article, may be
 37 exempted from a requirement to obtain any other state or local permit or
 38 approval, other than any requirement of title 45, at the written request
 39 of the person conducting the remedial action. The written request shall
 40 identify the specific permit to be exempted and the reasons the exemption
 41 is requested. The permit may be exempted if the director finds both of
 42 the following:

43 1. The requirement does not arise out of any permit or regulatory
 44 program that is required pursuant to the laws of the United States.

1 2. The requirement presents a substantial impediment to effective
2 performance of the remedial action selected by the department.

3 C. The director may waive any regulatory requirement adopted
4 pursuant to this title with respect to a site or portion of a site as part
5 of a record of decision adopted pursuant to section 49-287.04 for that
6 site or portion of a site if the regulatory requirement conflicts with the
7 implementation of the selected remedy, provided that the waiver does not
8 result in adverse impacts to public health or the environment. No waiver
9 may be granted under this subsection if it is prohibited by federal law or
10 if the waiver would jeopardize the continued delegation to the state of
11 authority to implement a federal environmental program.

12 D. Discharge of wastewater to off-site publicly owned treatment
13 works and sewer systems does not constitute an activity conducted entirely
14 on site for purposes of subsection B of this section.

15 E. The director shall give written notice of any request for
16 exemption made pursuant to subsection B of this section to the remedial
17 action coordinator designated pursuant to subsection G of this section by
18 the governmental entity whose permit requirements are the subject of the
19 request. Before making any finding pursuant to subsection B of this
20 section, the director or the director's designee shall meet and confer
21 with the remedial action coordinator and the person conducting the
22 remedial action to identify alternatives to exemption.

23 F. Any finding made by the director pursuant to subsection B of
24 this section shall be in writing. The governmental entity whose permit
25 requirement is preempted as a result of such finding is not liable for
26 property damage, personal injury damage or violations of state or local
27 law resulting from the exemption. The director shall notify the affected
28 governmental entity of any finding made pursuant to subsection B of this
29 section. A finding of the director made pursuant to subsection B of this
30 section is a final administrative decision as defined in section 41-1092
31 and is subject to judicial review pursuant to title 12, chapter 7,
32 article 6.

33 G. Each city, town and county shall designate a remedial action
34 coordinator who shall have responsibility for monitoring and facilitating
35 any remedial actions conducted within its jurisdiction. The designated
36 remedial action coordinator shall:

37 1. Regularly consult, as needed, with the department and the person
38 conducting a remedial action throughout the duration of the remedial
39 action.

40 2. Expedite the processing and issuance of permits, approvals or
41 other authorizations required by the governmental entity represented by
42 the remedial action coordinator, to facilitate the prompt conduct of a
43 remedial action.

1 3. Provide information to the department and the person conducting
2 the remedial action regarding applicable requirements of the governmental
3 entity represented by the remedial action coordinator and the potential
4 for waiver of such requirements.

5 H. In order to encourage remediation activities under this article
6 and to conserve the fund, neither this state nor any county that imposes
7 an excise or similar tax that is levied at a rate applied as a percentage
8 of the rates on each business class subject to the tax imposed by title
9 42, chapter 5, article 1 may impose a tax on the sale or purchase of
10 tangible personal property incorporated or fabricated into any real
11 property, structure, project, development or improvement under a contract
12 specified in section 42-5075, subsection ~~B~~ C, paragraph 6.

13 I. For purposes of this section, "on site" means the areal extent
14 of contamination and all suitable areas in close proximity to the
15 contamination that are reasonably necessary for implementation of the
16 remedial action.

17 Sec. 13. Retroactivity; applicability

18 A. This act applies retroactively to contracts entered into from
19 and after June 30, 2021.

20 B. For contracts that were bid or entered into, or for any other
21 binding obligation executed, from and after December 31, 2014 and before
22 July 1, 2021:

23 1. A person may treat the contract as a contract that is taxable
24 under 42-5075, Arizona Revised Statutes, in effect before the effective
25 date of this act, and model city tax code section 415 or 417.

26 2. A person shall be held harmless from any additional tax, penalty
27 and interest if the department of revenue determines under audit that the
28 person's treatment of the contract as either subject to tax under section
29 42-5075, Arizona Revised Statutes, in effect before the effective date of
30 this act, or excludable from tax under section 42-5075, subsection B or G,
31 as added by this act, or section 42-5075, subsection O or P, Arizona
32 Revised Statutes, in effect before the effective date of this act, was
33 incorrect. This paragraph applies to determinations under the model city
34 tax code sections 415 and 417.

35 3. A claim for a refund is not allowed for any tax paid under
36 section 42-5075, Arizona Revised Statutes, in effect before the effective
37 date of this act, and model city tax code sections 415 and 417 or
38 excludable from tax under section 42-5075, subsection B or G, as added by
39 this act, or section 42-5075, subsection O or P, Arizona Revised Statutes,
40 in effect before the effective date of this act, or model city tax code
41 section 415 or 416.

1 Sec. 14. Conditional enactment

2 Section 42-5061, Arizona Revised Statutes, as amended by Laws 2019,
3 chapter 273, section 8 and chapter 288, section 2 and this act, and
4 section 42-6004, Arizona Revised Statutes, as amended by Laws 2019,
5 chapter 163, section 24 and chapter 189, section 4 and this act, become
6 effective on the date prescribed by Laws 2018, chapter 263, section 5 but
7 only on the occurrence of the condition prescribed by Laws 2018, chapter
8 265, section 5.



Town of Paradise Valley

6401 E Lincoln Dr
Paradise Valley, AZ 85253

Action Report

File #: 21-049

AGENDA TITLE:

Interviews for Committee, Commission, and Board Appointments

STAFF CONTACT:

TOWN *Of* **PARADISE VALLEY**



STAFF REPORT

TO: Mayor Bien-Willner and Town Council Members

FROM: Jill Keimach, Town Manager
Duncan Miller, Town Clerk

DATE: February 11, 2021

DEPARTMENT: Town Manager
Duncan Miller, 480-348-3610

AGENDA TITLE:
Interviews of Committee, Commission, and Board Applicants

SUMMARY STATEMENT:

The Town of Paradise Valley has a proud history of volunteer service to the community. In addition to all-volunteer Town Council Members and Municipal Court Judges, more than 50 residents donate their time and expertise to the Town by serving on various committees, commissions, and boards.

Residents are invited to submit applications online throughout the year expressing their interest in volunteering. All applications received by the first week in February are reviewed and considered by the Mayor and Council during the committee appointment and reappointment process. Those applicants not appointed to a committee still have an opportunity to serve if vacancies come up during the year.

Consistent with past practice, committee members whose terms expire this year were contacted to ascertain their interest in being reappointed. The attached Committee and Commission Reappointment Matrix lists the committee members who have requested to be reappointed and the two vacancies that have been identified.

A total of 26 applications were received by the deadline including five applicants who applied last year. All applicants have been invited to meet with the Council on February 11, February 25 or March 11. Interviews are scheduled for 10-minutes each. Applicants were given committee summaries and three questions to prepare for ahead of time. Committee appointments will be made on March 25. The new terms will start April 1.

ATTACHMENT(S):

1. List of Committee, Commission, and Board Expiring Terms and Vacancies
2. Interview Schedule (subject to change)
3. Applications

2021 BOARDS, COMMITTEES AND COMMISSION APPOINTMENTS / RE-APPOINTMENTS

Committee	Created	Term	Membership Defined	Qualifications	Expiring Terms Vacancies
Advisory Committee on Public Safety Council Appts	Mar 2015	Staggered 2-yr Term	Res. 1330 Res. 2016-10 Res. 2017-21 Res. 2020-01	<ul style="list-style-type: none"> Resident Annual Background Check 	Recommendation from ACOPS: 2023 = Jay Ozer, Ryan Woody and Jeff Gaia 2022 = Tim Dickman Paul Moore, Mike Cummiskey
Board of Adjustment Mayor Appts	Oct 1961	Staggered 3-yr Term	TC § 2-5-3(A) ARS §9-462.06	Resident	Emily Kile (2004) Rohan Sahani (2019) Vacant (Leibsohn) Rick Chambliss (2012)
Hillside Building Committee Mayor Appts	Aug 1973	Staggered 2-yr Term	TC §2-5-6(B)	Citizen members must be residents, but not Planning Commissioners or Town Staff	Scott Jarson (2013)
Historical Advisory Committee Council Appts	Jul 1997	Staggered 3-yr Term	Council Action 7/13/2000	Resident	Catherine Kauffman (1997) Katrina Lessard (2018) Maureen Strom (2004) Beth Wickstrom (2015) Anne Andeen (1997)
Municipal Property Corp Council Appts	Oct 1993	Staggered 3-yr Term	Articles of Incorp Bylaws 3.04 Res 2018-04	Resident	Vacant (Thompson – expires 2022)
Personnel Appeals Board Council Appts	Jan 1986	Staggered 3-yr Term	TC § 2-5-5(A) ARS §38-847	<ul style="list-style-type: none"> Resident May not be employees or an official of the Town 	Richard Herold (2013) Vacant (Coulston)

Committee	Created	Term	Membership Defined	Qualifications	Expiring Terms Vacancies
Planning Commission Council Appts	Aug 1961	Staggered 3-yr Term	TC § 2-5-2(A)	Resident	Pamela Georgelos (2018) Daran Wastchak (2015) Jonathan Wainwright (2013)
PV Arts Board Council Appts	Jul 1999	Staggered 3-yr Term	Resolution 2018-17	Resident	Janie Russo (2010)
PV Mountain Preserve Trust Mayor Appts	Nov 1997	Staggered 3-yr Term	Resolution 923 Trust Articles 2018 Crt Order	<ul style="list-style-type: none"> Resident At least 21 years old 	John Graham (2018) Teresa Zachariah (2018)
PSPRS Mayor Appts	June 1980	Staggered 4-yr Term	ARS §38-847(A)(1)	<ul style="list-style-type: none"> Resident 1 member designated as mayor's rep. 	None in 2021

Council Assignments

Committee	Assignment
Advisory Committee on Public Safety	
Experience Scottsdale Board of Directors	
Historical Advisory Committee	
HOA Forum	
League of Cities and Towns Resolutions Cmte	Mayor
MAG Regional Council	Mayor
Planning Commission	Vice Mayor (per §2-2-7(B))
PV Arts Board	

Interview Schedule

	2/11/2021	2/25/2021	3/11/2021
7:00 PM	Jonathan Wainwright	June Shapiro	Ron Clarke
7:15 PM	Christine Labelle	Blair Portigal	Marianne Mallia
7:30 PM	Bill Wilder	Becky Keenan	Susan Erie
7:45 PM	Bob Brown	Rachelle Leibsohn	Shawna Glazier
8:00 PM	Jennifer Gustafson	Mark Winograd	Karen Liepmann
8:15 PM	Phyllis Barbee	Kathryn Petsas	Jennifer Berry
8:30 PM	Priti Kaur	Jan Lindell	Jeff Hollifield
8:45 PM	Jenny Bryant Nagel	Jim Hawthorne	Richard Hoffman
9:00 PM	Joe Ladigrin		

*Schedule is subject to change

Volunteer Opportunities

TOWN OF PARADISE VALLEY COMMITTEE VOLUNTEER APPLICATION FORM

Thank you for your interest in volunteering with the Town. Appointments to committees, commissions, and boards are made in late March of each year and terms begin April 1. Applications are accepted throughout the year. The deadline to be considered for appointment is February 4th at 5:00 PM. Applications received after that time will be kept on file and may be considered for mid-term vacancies. It is not necessary to list a committee preference. During the interview with the Mayor and Council, consideration will be given to the applicant's background, skills, and interests to assist in determining the best fit.

Please provide the following background information.

Name*

Phyllis Barbee

Address*

Belmont cir

Email*

Home Phone

Employer

Occupation

Retired/ artist

Business Phone

Cell Phone

Number of years as PV resident

17+

Professional experience highlights

I have had my own business. Since I have retired I have dabbled in Different levels of art. Did metal smithing, Enameling, And now I am a 3D beadists.

What experience do you think qualifies you to be a committee member?

Being around other artists and their works.

Community Activities

I have been on the board of the Phoenix rescue mission for 12years and I am currently on the board for Urban Youth Excel.

I belong to the Town of Paradise valley women's group.

Information on each of the committees including summaries, annual reports, and meeting minutes are located on the Boards & Commissions page.

[Information on Committees](#)

Have you familiarized yourself with the duties of the committee(s) in which you are interested?*

☒ Yes

☐ No

Attach resume and cover letter

No file chosen

Convert to PDF? ☐

(DOC, DOCX, XLS, XLSX, TXT)

* indicates required fields.

Volunteer Opportunities

TOWN OF PARADISE VALLEY COMMITTEE VOLUNTEER APPLICATION FORM

Thank you for your interest in volunteering with the Town. Appointments to committees, commissions, and boards are made in late March of each year and terms begin April 1. Applications are accepted throughout the year. The deadline to be considered for appointment is February 4th at 5:00 PM. Applications received after that time will be kept on file and may be considered for mid-term vacancies. It is not necessary to list a committee preference. During the interview with the Mayor and Council, consideration will be given to the applicant's background, skills, and interests to assist in determining the best fit.

Please provide the following background information.

Name*

Jennifer Berry

Address*

50th Street

Email*

Home Phone

Employer

Occupation

Business Phone

Cell Phone

Number of years as PV resident

1

Professional experience highlights

Worked in residential and commercial real estate, management and non-profit for last 20 years

What experience do you think qualifies you to be a committee member?

Opportunities with the Paradise Valley Mountain Preserve Trust are high on my list of interest but also Planning Commission and Hillside Building Committee are of interest.

Community Activities

Trail running
Road cyclist

Information on each of the committees including summaries, annual reports, and meeting minutes are located on the Boards & Commissions page.

[Information on Committees](#)

Have you familiarized yourself with the duties of the committee(s) in which you are interested?*

☒ Yes

☐ No

Attach resume and cover letter

No file chosen

Convert to PDF? ☐

(DOC, DOCX, XLS, XLSX, TXT)

* indicates required fields.

Volunteer Opportunities

TOWN OF PARADISE VALLEY COMMITTEE VOLUNTEER APPLICATION FORM

Thank you for your interest in volunteering with the Town. Appointments to committees, commissions, and boards are made in late March of each year and terms begin April 1. Applications are accepted throughout the year. The deadline to be considered for appointment is January 30. Applications received after that time will be kept on file and may be considered for mid-term vacancies. It is not necessary to list a committee preference. During the interview with the Mayor and Council, consideration will be given to the applicant's background, skills, and interests to assist in determining the best fit.

Please provide the following background information.

Name*

Robert Brown

Address*

[REDACTED] Huntress Dr

Email*

[REDACTED]

Home Phone

[REDACTED]

Employer

Brown Community Management, Inc

Occupation

Business Owner

Business Phone

[REDACTED]

Cell Phone

[REDACTED]

Number of years as PV resident

6

Professional experience highlights

1. Built a service business from the ground up to become one of the largest in our space in AZ according to the AZ Business Journal.
2. Prior to operating my own business, held various management positions with Wells Fargo Bank and 1st Interstate Bank
3. Current Arizona awards - Top Company to Work for, and Top Philanthropic Co
4. Our firm services over 35,000 households and employs 110 employees in AZ

What experience do you think qualifies you to be a committee member?

I have worked on several philanthropic boards and committees with various responsibilities including budgeting, architectural review and control, board training and professional standards. I am currently a member of the board and Chair-elect for the AACM (Arizona Association of Community Managers)

Community Activities

PVPD Volunteer

Recent HOA Board member and Architectural committee Member

Information on each of the committees including summaries, annual reports, and meeting minutes are located on the Boards & Commissions page.

[Information on Committees](#)

Have you familiarized yourself with the duties of the committee(s) in which you are interested?*

☒ Yes

☐ No

Attach resume and cover letter

No file chosen

Convert to PDF? ☐

(DOC, DOCX, XLS, XLSX, TXT)

* indicates required fields.

Volunteer Opportunities

TOWN OF PARADISE VALLEY COMMITTEE VOLUNTEER APPLICATION FORM

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Please provide the following background information.

Name*

Ron Clarke

Address*

cactus wren rd

Email*

Home Phone

Employer

Retired

Occupation

retired

Business Phone

Cell Phone

Number of years as PV resident

53

Professional experience highlights

Sales mgr, IBM

What experience do you think qualifies you to be a committee member?

Mayor, chairman planning commission

Community Activities

As above, co-founded PV car show

Information on each of the committees including summaries, annual reports, and meeting minutes are located on the Boards & Commissions page.

[Information on Committees](#)

Have you familiarized yourself with the duties of the committee(s) in which you are interested?*

☒ Yes

☐ No

Attach resume and cover letter

No file chosen

Convert to PDF? ☐

(DOC, DOCX, XLS, XLSX, TXT)

* indicates required fields.

Volunteer Opportunities

TOWN OF PARADISE VALLEY COMMITTEE VOLUNTEER APPLICATION FORM

Thank you for your interest in volunteering with the Town. Appointments to committees, commissions, and boards are made in late March of each year and terms begin April 1. Applications are accepted throughout the year. The deadline to be considered for appointment is February 4th at 5:00 PM. Applications received after that time will be kept on file and may be considered for mid-term vacancies. It is not necessary to list a committee preference. During the interview with the Mayor and Council, consideration will be given to the applicant's background, skills, and interests to assist in determining the best fit.

Please provide the following background information.

Name*	Susan Erie
Address*	██████████ Camelback Manor Drive
Email*	██████████
Home Phone	██████████
Employer	Maricopa Integrated Health Systems (Retired)
Occupation	RN - Manager (Retired)
Business Phone	N/A
Cell Phone	██████████
Number of years as PV resident	19 years
Professional experience highlights	

I was a RN Nurse Manager in the Department of Psychiatry for Maricopa Medical Center (Now Valleywise Health) for approximately 20 years. The Department of Psychiatry is a facility for court ordered evaluations to determine if a person is danger to self, danger to others, persistently or acutely disabled or gravely disabled. I was responsible twenty-four hours a day for patient care, staffing, regulatory compliance and employee issues including hiring, education, and disciplinary follow up. After retirement from the manager position I remained on as a nursing supervisor in charge of quality assurance. I reviewed all seclusion or restraint for alternatives used prior to the intervention, medical assessments, safety checks and length of time the intervention was used. I also met with and responded to all concerns from outside agencies which often involved investigation and lengthy written responses.

What experience do you think qualifies you to be a committee member?

I have served on multiple committees both psychiatric and medical and have contributed to positive change for both our patients and staff. I am an excellent negotiator and have been called to intervene in often tense or dangerous situations. I have excellent critical thinking skills, have a healthy respect for the opinions of others and believe in listening to all sides prior to making a decision. I am fair and reliable. I am professional, energetic and personable. I love Paradise Valley and am very proud to live here. I would like to contribute to an ongoing positive environment for all those who choose to make Paradise Valley their home.

Community Activities

I have explored different options for volunteer opportunities. I belong to a golf league that supports First Tee which is a non-profit organization to make golf accessible to young people of all backgrounds. I collect stray golf balls which are plentiful around this area and donate them to the organization as well as attend organized activities that provide monetary support. My husband and I have also participated in the annual fall car show at town hall for many years.

Information on each of the committees including summaries, annual reports, and meeting minutes are located on the Boards & Commissions page. [Information on Committees](#)

Have you familiarized yourself with the duties of the committee(s) in which you are interested?*

☒ Yes

☐ No

Attach resume and cover letter

No file chosen

Convert to PDF? ☐
(DOC, DOCX, XLS, XLSX, TXT)

* indicates required fields.

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Please provide the following background information.

Name*

Shawna Glazier

Address*

San Miguel Ave, Paradise valley

Email*

Home Phone

Employer

beSpoke real estate

Occupation

real estate broker/owner

Business Phone

Cell Phone

Number of years as PV resident

Professional experience highlights

See resume

What experience do you think qualifies you to be a committee member?

See resume

Community Activities

See resume

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[Information on Committees](#)

Have you familiarized yourself with the duties of the committee(s) in which you are interested?*

☒ Yes

☐ No

Attach resume and cover letter

[Resume PV.docx](#)

* indicates required fields.

Shawna Glazier

San Miguel Ave, Paradise Valley, AZ 85253 – Personal

Osborn Rd, Phoenix, AZ 85016 –Business

Phone:

E-Mail:

Website:

Objective:

- be a voice for cyclist in Paradise Valley
- troubleshoot and solve the towns ped + bike issues
- help educate the town and public about cyclists/motorists safety

Professional Experience:

beSpoke real estate

October 2015 to present

- designated broker/ owner
- residential / commercial / land development
- specializing in luxury real estate with modern architectural significance

1st USA realty

July 2005 to October 2015

- Associate broker/ realtor
- Property management

Boards & Associations :

NAR-national association of Realtors, AAR- Arizona association of Realtors

2005 to present

SAAR- Scottsdale area association of Realtors, MLS- Multiple listing service,

CoStar- Commercial listing service.

Luxury Home Tour/Scottsdale-Paradise Valley-Phoenix & The Arcadia Camelback Tour

2017 to present

Athletic Experience:

- 12 time Ironman finisher (Ironman is: swim 2.4 miles, bike 112 miles and run 26.2 miles)
- Qualified for and raced Ironman world championships in Kona HI, Oct 2016
- Qualified and raced xterra world championships in Maui HI, Oct 2018 (off road triathlon)
- 2019 AZ Gravel female champion
- Two time Leadville 100 MTB finisher
- Currently hold a category 1 racing MTB license and a category 2 road racing license
- Raced for TriScottsdale for 6years and continue close relationships with the members. TriScottsdale is a triathlon team that mainly trains in PV.
- I Participate weekly in all of PV's group road rides: Gainey and Hour of Power.

In summery: I ride my bikes every single day and all around Paradise Valley.

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Please provide the following background information.

Name*

Jennifer Gustafson

Address*

Redwing Road

Email*

Home Phone

Employer

Self

Occupation

Property Manager

Business Phone

Cell Phone

Number of years as PV resident

5

Professional experience highlights

Living and working in Australasia I value different perspectives and effectively communicate to meet goals.

Graduating with a degree in Economics/Accounting I approach positions and projects with detail and appreciate the impact decisions make.

Embrace opportunities to develop personally and professionally. Obtained Certificate in Appraisal Studies, worked as a Docent and in Art Galleries to pivot career to mesh with family life.

What experience do you think qualifies you to be a committee member?

Good rapport with town staff having remodeled my property 2016-2018.

Attending meetings that impact town residents - noise, traffic, water, development.

Research area history utilizing ASU Architectural Archives, FLW Center, Maricopa County Public Works, Burton Barr Library Arizona Room, Scottsdale Historical Society, Town of PV and Town of Scottsdale records, Maricopa County records.

Initiative to start projects and support others for team success.

Community Activities

Duet Volunteer

Volunteer Special Olympics/Officer McGhee Program

Volunteer Town of Paradise Valley Women's Association

Neighborhood Book Club initiated

Information on each of the committees including summaries, annual reports, and meeting minutes are located on the Boards & Commissions page.

[Information on Committees](#)

Have you familiarized yourself with the duties of the committee(s) in which you are interested?*

☒ Yes

☐ No

Attach resume and cover letter

[Town of PV Volunteer Cover.docx](#)

* indicates required fields.

January 29, 2021

Dear Town of Paradise Valley Town Council Members,

In 1997 we moved from Sydney, Australia to the Town of Paradise Valley with our young family. We loved living here and enjoyed all the area offers. We moved on to Boston, Singapore and California and returned to the Camelback Inn for vacations. When the last one graduated from high school in California, we moved back to settle down in the Town of Paradise Valley. We are very happy here.

I enjoy being involved in the town activities and thought that perhaps I could contribute to the Historical Advisory Committee. I like to listen to people's stories, value their achievements and contributions and know the importance of maintaining history for the future.

Thank you for your consideration,

Jennifer Gustafson

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Please provide the following background information.

Name*

James R Hawthorne

Address*

52nd Place

Email*

Home Phone

Employer

Retired

Occupation

Pharmaceutical Executive

Business Phone

Cell Phone

Number of years as PV resident

5 Years

Professional experience highlights

40 years in the US Pharmaceutical Industry in a variety of positions as an executive and manager.

Functional areas of expertise are as follows: sales, marketing, strategic planning, marketing research, operations, information technology, and government affairs interfacing with state and US governmental healthcare officials.

Developed and led a boutique strategic planning, forecasting, and licensing consulting company in 1996 that grew to approximately 25 employees before it was acquired by Kantar Health in 2005.

What experience do you think qualifies you to be a committee member?

In order to fulfill my job responsibilities my family has had to live in a number of different cities throughout the US. We've been able to see "what has worked" and "what hasn't worked" in terms of local government.

Part of my job was to observe and also give advice in terms of companies being able to work jointly with local, state, and federal governmental agencies in achieving common objectives.

I would like to think that I've always strived to be a good neighbor.

I know how to successfully manage through conflict.

I've been happily married for over 45 years. Have four children all of whom have graduated from college and are pursuing careers in the valley. My wife and I are blessed with seven grandchildren.

Community Activities

Served on the board of the Phoenix Boys Choir.

Served as a part-time minister at 1st Southern Baptist Church of Scottsdale, and Camelback Bible Church of Paradise Valley.

Served as a deacon at 1st Southern Baptist Church of Scottsdale.

Served as a member of the Licensing Executive Society

Served on the board of the Radio & TV Commission of the Southern Baptist Convention.

Information on each of the committees including summaries, annual [Information on Committees](#) reports, and meeting minutes are located on the Boards & Commissions page.

Have you familiarized yourself with the duties of the committee(s) in which you are interested?*

☒ Yes

☐ No

Attach resume and cover letter

[Jim Hawthorne Short Resume.doc](#)

* indicates required fields.

James R. Hawthorne
[REDACTED] 52nd Place
Paradise Valley, AZ 85253

Cell: [REDACTED]
Home: [REDACTED]
E-Mail: [REDACTED]

CAREER SUMMARY

I have thirty-eight years of successful general management and leadership experience involving strategic planning, business development, licensing, marketing research, finance, and government affairs within the pharmaceutical and biotech industries and with a non-profit entity. I am experienced in leading, directing, developing, managing, and optimizing the operations of for profit or non-profit organizations. Due to my experiences and academic training, I possess superior writing and verbal communication skills.

Using the experiences and skills listed above, I have successfully helped organizations overcome significant challenges in dynamic competitive environments by identifying and implementing optimum solutions in the following areas:

- Due Diligence
- Issue Identification / Problem Resolution
- Strategic Planning
- Marketing Research
- New Business Development
- Operations Optimization

PROFESSIONAL ACCOMPLISHMENTS

- Analyzed, led, and executed numerous projects developing target “hit-lists” for pharmaceutical client companies; lists that have generated valid and productive in-licensing and out-licensing discussions.
- Conducted numerous scientific and commercial analyses on product and company acquisitions that have led to clients acquiring products and/or large commercial entities.
- Created non-confidential and confidential documentation on early to late-stage pharmaceutical products for clients, made initial solicitations, and have assisted in all stages of licensing discussions including preparation of term sheets.
- Analyzed market dynamics, corrected product deficiencies, and rapidly executed tactical plans, causing successful launch or revival of 5 pharmaceutical products. All products exceeded revenue/profit projections and achieved dominant positions in their respective markets.
- Conducted portfolio optimization, commercialization scenario analysis, and promotional response modeling project that enabled emerging biotech company to successfully partner a Phase II anti-infective compound with a Japanese company for a deal in excess of \$400 Million.
- Led a team of analysts and created strategic recommendations for mid-size European pharmaceutical company that led directly to an acquisition offer for a larger pharmaceutical

company. This unsuccessful bid led to client creating an additional \$800 million in cash that funded the successful acquisition of another European pharmaceutical company.

PROFESSIONAL EXPERIENCE

APPLE, Scottsdale, Arizona	2015 - 2020
Technical Specialist (2019 – 2020 Retired)	
Sales Specialist (2015 – 2019)	
ASHESI GLOBAL SERVICES, Phoenix, Arizona	2013 - 2015
Vice President of Operations	
CAMELBACK BIBLE CHURCH, Paradise Valley, Arizona	2008 - 2013
Director of Administration (2012 – 2013)	
Church Treasurer (2008 – 2013)	
THE MATTSON JACK GROUP, Scottsdale, Arizona	1997 - 2008
Executive VP (2003 – 2008)	
Vice President & Managing Director (1996 – 2003)	
WALSH AMERICA, Phoenix, Arizona	1994 – 1996
Vice President, Operations & Customer Service (1994 – 1996)	
SMITHKLINE BEECHAM, Philadelphia, Pennsylvania	1988 – 1994
Vice President, Marketing Research & Planning (1991 – 1994)	
Vice President, Strategic Planning & BD (1990 – 1991)	
Director, Planning & New Product Development (1988 – 1989)	
BRISTOL-MYERS, Evansville, Indiana	1984 – 1988
ABBOTT LABORATORIES, North Chicago, Illinois	1973 – 1984

EDUCATION

BA History, Texas A&M University, 1967 – 1971
 BS Biology, University of Arkansas, 1971 – 1972
 MASTERS (uncompleted) Physiology, University of Arkansas, 1972 – 1973
 MBA (with Highest Honors), Lake Forest School of Management, 1981- 1983
 MA Military History (with Highest Honors), Norwich University, 2011 – 2013
 PhD Candidate in Archaeology, Trinity Southwest University, 2015 to Present Day

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Please provide the following background information.

Name*	richard hoffman
Address*	██████████ Marston Drive
Email*	██████████
Home Phone	██████████
Employer	n/a
Occupation	retired
Business Phone	██████████
Cell Phone	██████████
Number of years as PV resident	three
Professional experience highlights	

This application is for the Public Safety Committee.
I am a 33 year veteran of the U.S. Marine Corps. I have an understanding and appreciation of the need for adherence to lawful rules and regulations.
I am a graduate of the USC Safety School. I have been trained and have extensive experience in accident prevention.

What experience do you think qualifies you to be a committee member?

I am civilian volunteer with the PVPD (V72). I have an excellent relationship with some of our sworn, uniformed, officers. I have been an active member of "vacation watch". Educating our citizens what the PVPD can do for them while they are out of town and then doing it. While on routine patrol, I came upon a three car accident a minute after it happened. We were able to notify the PVPD Dispatcher with relevant info and have uniformed officers on the scene within minutes, taking charge. One woman had a neck injury and we facilitated timely EMS response. I mention this because it is a personal experience of what we must do to educate and enhance public safety.

Community Activities

I have been an active participant in "Blue Wednesdays". Visiting with school age children and discussing with them the importance of the PVPD and what they do. The kids love it when I give them a "Junior Crime Fighter" sticker. HUMOR: I was having lunch with one group of students when I asked the question, "What do you think is the most important thing that cops do?" A girl of eight on my left said, "They give out tickets". That. right there, brought home to me the importance of a Public Safety Committee. The Committee has an important function to help enhance the well being of all our citizens. I do NOT believe the Committee has any business in command and control. It is advisory, only, with decisions the purview of the Chief of Police. However, civilian experience and input could be helpful in helping him make his decisions.
On my first training ride as a new volunteer, My training officer asked me what city/town was the best I had ever lived. We had previously established that I had lived in cities across the globe. I had to think for a few moments, but the answer was obvious. Paradise Valley. I volunteer because I want to be a giver, not a taker.

Information on each of the committees including summaries, annual reports, and meeting minutes are located on the Boards & Commissions page.

[Information on Committees](#)

Have you familiarized yourself with the duties of the committee(s) in which you are interested?*

☒ Yes

☐ No

Attach resume and cover letter

No file chosen

Convert to PDF? ☐

(DOC, DOCX, XLS, XLSX, TXT)

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Please provide the following background information.

Name*

Jeff Hollifield

Address*

Lincoln Dr

Email*

Home Phone

Employer

Occupation

Business Phone

Cell Phone

Number of years as PV resident

17

Professional experience highlights

Photographer, I built my own guesthouse in 2006 as owner/ builder.
Your website is a little messed up.
I know Vice Mayor Mark Stanton from my Ch10 days.
Does that help or hurt?:)

What experience do you think qualifies you to be a committee member?

Building/planning/arts/traffic management/speed

Community Activities

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☒ Yes

☐ No

Attach resume and cover letter

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Please provide the following background information.

Name*

Priti Kaur

Address*

Marlette Ave

Email*

Home Phone

Employer

Occupation

Business Phone

Cell Phone

Number of years as PV resident

Professional experience highlights

Serial entrepreneur and volunteer with expertise in Technology, Finance, Real Estate, Biotech to name few.

What experience do you think qualifies you to be a committee member?

With my diverse background involving Finance, Technology, Biotech, Manufacturing, Non-Profits, Law enforcement and Real Estate to name few, I will bring a different angle in identifying an issue, understanding the problem and providing a potential solution. One of my strongest skills is problem identification and solving, be it in organization, process or real estate development. I don't just stop at identifying the issue, I would like to propose solutions as well, brain storm with the team and try to work thru till we get to a win win solution. The best outcome of a situation are when everyone feels that their input has been evaluated and the most appropriate decision has been made.

Community Activities

I have been working with numerous non profit organization for the past many years. For the past 4 years i have been involved with PV Police Volunteer Team and am currently serving as the Chair. Have really enjoyed working with the town and giving back to the community that we call our home.

Information on each of the committees including summaries, annual reports, and meeting minutes are located on the Boards & Commissions page.

[Information on Committees](#)

Have you familiarized yourself with the duties of the committee(s) in which you are interested?*

☒ Yes

☐ No

Attach resume and cover letter

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Please provide the following background information.

Name*

becky keenan

Address*

42nd st PV az 85253

Email*

Home Phone

Employer

self employed

Occupation

Sales

Business Phone

Cell Phone

Number of years as PV resident

1

Professional experience highlights

MBA

Licensed Real Estate agent

What experience do you think qualifies you to be a committee member?

Creative and energetic sales professional who consistently exceeds expectations

High level of integrity

Sense of urgency

Heavily invested in the Real Estate market

Years of sales training with top organizations which makes me an effective negotiator

Professionalism

Dedicated

Reliable

Community Activities

Foster for AZ Humane Society 10 years

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[Information on Committees](#)

Have you familiarized yourself with the duties of the committee(s) in which you are interested?*

☒ Yes

☐ No

Attach resume and cover letter

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Please provide the following background information.

Name*	milan kesic
Address*	Mockingbird Ln
Email*	
Home Phone	
Employer	self employed
Occupation	business owner
Business Phone	
Cell Phone	
Number of years as PV resident	1
Professional experience highlights	

Business owner for the last 25 years. President Chaparosa Ranch

What experience do you think qualifies you to be a committee member?

I was on different boards in Scottsdale and have now moved to PV and would like help here now.

Community Activities

Information on each of the committees including summaries, annual reports, and meeting minutes are located on the Boards & Commissions page.

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☐ Yes

☒ No

Attach resume and cover letter

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Please provide the following background information.

Name*	Christine Labelle
Address*	52nd Street
Email*	
Home Phone	
Employer	Self
Occupation	Realtor
Business Phone	
Cell Phone	
Number of years as PV resident	44
Professional experience highlights	

Realtor: 2006- Present
Russ Lyon, Realty Executives, Homesmart Corporate-
Flight Attendant Southwest Airlines and Union Negotiating Task Force: 1989- Present
Capitol Records, International Marketing Intern 1997

What experience do you think qualifies you to be a committee member?

Knowledge of Community, Negotiating, Relationships, Land Use and Zoning of our Town are forefront. Knowledge gained through Real Estate transactions, Subdividing of Residential Lots, Permitting for New construction and remodels, and Setbacks. Meetings with Residential Real Estate Attorneys re: Various Aspects of Encroachment, Adverse Possession, Lot splits, etc. References Available.

Volunteering for my 18 year old Twins events throughout school years at Cherokee, Cocopah, Chaparral. Negotiating Task Force for the Union 556 for Southwest Airlines, as well as daily relationship and negotiating skills needed for Residential Real Estate Work. I am committed and will make the time to do the job effectively and correctly.

Community Activities

Neighborhood Activism as it pertains to amending Tatum Garden Estates CC&Rs; Negotiating for the Flight Attendants at Southwest Airlines, Volunteering for my daughters various Activities including AHJA; Chaparral High School Cheer and Band, and other activities.

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☒ Yes

☐ No

Attach resume and cover letter

No file chosen

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Please provide the following background information.

Name*	Joe Ladrigan
Address*	46th. Street
Email*	
Home Phone	
Employer	N/A Retired
Occupation	Formerly commercial real estate broker
Business Phone	
Cell Phone	
Number of years as PV resident	25
Professional experience highlights	

Owner of Landmark Property Mgmt., a commercial property management and leasing company which I sold in 2016 & then retired in 2018 after assisting with transition for 3 years. Some of the more notable projects managed and leased include: Brookwood Commerce Center, One North First Street, Tempe City Center, and Ray Road Medical Center to name a few.

What experience do you think qualifies you to be a committee member?

I have a B.S. degree in accounting from Notre Dame and an MBA from ASU which have assisted me with general accounting and budgeting duties over the last 40 years. I have dealt with budgeting and cost accounting issues for many renovation and repurposing projects over many decades which may be relevant to the Town.

Community Activities

Phoenix Symphony, Northern Arizona University, Arizona State University, Boys Hope Girls Hope.

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[Information on Committees](#)

Have you familiarized yourself with the duties of the committee(s) in which you are interested?*

☒ Yes ☐ No

Attach resume and cover letter

No file chosen

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Please provide the following background information.

Name*

Rachelle Leibsohn

Address*

[REDACTED] Ridgeview Drive Paradise Valley Az 85253

Email*

[REDACTED]

Home Phone

[REDACTED]

Employer

Retired Maricopa County Civil Attorney and current Justice of the Peace Pro
Attorney

Occupation

Attorney

Business Phone

[REDACTED]

Cell Phone

[REDACTED]

Number of years as PV resident

10

Professional experience highlights

I retired from the Maricopa County Attorney's Office as a Civil Attorney after 31 years. During that time I represented Maricopa County in property tax disputes. I also gave advise to elected and appointed officials on various legal matters which are referred to in my resume.

What experience do you think qualifies you to be a committee member?

I am very thoughtful in the way I approach problems. I have a wide range of experience in governmental matters since I have been employed in a governmental setting for 31 years. I believe my background would prove useful in serving on one of Paradise Valley's Boards or Commissions.

Community Activities

See attached resume

Information on each of the committees including summaries, annual reports, and meeting minutes are located on the Boards & Commissions page.

[Information on Committees](#)

Have you familiarized yourself with the duties of the committee(s) in which you are interested?*

☐ Yes

☒ No

Attach resume and cover letter

[RZL.Resume_08.2020.doc](#)

* indicates required fields.

RACHELLE ZOLLER LEIBSOHN

EDUCATION

Tulane University School of Law, J.D. 1982, *Cum Laude*
3.26/4.0 cumulative GPA, class rank 39/223

Tulane University School of Business, B.S. in Management, 1979, *Summa Cum Laude*.
3.89/4.0 cumulative GPA, class rank 2/71

PROFESSIONAL ADMISSIONS

Arizona State Bar
Louisiana State Bar, *inactive*
Texas State Bar Association, *inactive*

WORK EXPERIENCE

May 2020–Present
Justice of the Peace Pro Tem, Maricopa County Justice Courts

1987–August 2019, *retired*
Attorney, Maricopa County Attorney's Office, Civil Services Division

Major Assignments

2008–August 2019

Representation of Maricopa County in small claims and regular property tax appeal cases that have exponentially grown to become entire caseload. Handled mental health commitment hearings on an as needed basis. Made court appearances for Public Fiduciary.

2001–2008

Counsel in charge of civil representation provided by Maricopa County Attorney to the following County agencies, over various periods of time: Correctional Health Services, Recorder's Office, Justice Courts, Maricopa County Constables, Maricopa County Superior Court Clerk's Office, Legal Defender, Public Defender, Victim Compensation Board, Medical Examiner and Library District.

1998–2000

Lead Counsel, Criminal Justice Practice

Lead attorney responsible for civil representation provided by Maricopa County Attorney to Maricopa County Sheriff's Office in litigation matters; monitoring of in-house and outside attorneys.

1994–1998

Lead Counsel, Tax Practice

Lead attorney responsible for civil representation provided by Maricopa County Attorney to Maricopa County Assessor's Office regarding day to day advice and representation in tax appeal matters; monitoring of in-house and outside attorneys.

1987–1994

Representation of Maricopa County in property tax appeals; provided day-to-day advice to Assessor and Treasurer.

1996–1999

Member, Maricopa County Attorney's Office Opinion Review Committee

Chairman, 1997 — 1998

1986–1987

Associate in commercial section, Gust, Rosenfeld, Phoenix, AZ

1982–1985

Tax Consultant, Touche Ross & Company, (now Deloitte & Touche), Houston, TX and Phoenix, AZ

AWARDS

Maricopa County Attorney - Civil Attorney of the Year, 1990 and 1998

SEMINARS

Speaker at seminars sponsored by the Arizona Bar Association, Arizona Department of Revenue and Arizona Property Taxpayer's Association on property tax matters. Chairman and speaker at Arizona State Bar seminar on mentoring.

STATE BAR ACTIVITIES

2000–2006, Member of Mentoring Committee (Chairman 2004-2006)

2001–2005, Participant in Courtroom Experience, Project of the Superior Court of Arizona

COMMUNITY SERVICE ACTIVITIES

Served on the Board of Directors of the following organizations: Women's Division, Jewish Federation, Jewish Women's Business and Professional Women, American Jewish Committee, State of Israel Bonds.

ADDITIONAL CREDENTIALS

Arizona Real Estate Salesperson's License

Volunteer Opportunities

TOWN OF PARADISE VALLEY COMMITTEE VOLUNTEER APPLICATION FORM

Thank you for your interest in volunteering with the Town. Appointments to committees, commissions, and boards are made in late March of each year and terms begin April 1. Applications are accepted throughout the year. The deadline to be considered for appointment is February 4th at 5:00 PM. Applications received after that time will be kept on file and may be considered for mid-term vacancies. It is not necessary to list a committee preference. During the interview with the Mayor and Council, consideration will be given to the applicant's background, skills, and interests to assist in determining the best fit.

Please provide the following background information.

Name*	Karen Liepmann
Address*	
Email*	
Home Phone	
Employer	
Occupation	lawyer - recently retired
Business Phone	
Cell Phone	
Number of years as PV resident	31
Professional experience highlights	

I am a recently retired attorney who practiced law in Arizona for over 30 years, both in large law firms (26 years), and as Associate General Counsel for ASU (6 years).
Legal areas of expertise include: intellectual property, education, privacy, contracts, businesses law, real estate, procurement, tribal law, ethics, advising and serving of boards of directors, and governmental and regulatory law and compliance.

What experience do you think qualifies you to be a committee member?

As a lawyer and community member, I have served on, led, and advised numerous public, private, profit, non-profit, and government boards of directors, tribal councils, and committees, such as the following:
Member, board of directors, Edkey, Inc., nonprofit charter school operator (including schools for homeless and hard of hearing children);
Prior board member, Phoenix Symphony and Fresh Start Women's Foundation;
Chair, State Bar of Arizona Business Law Section;
Chair and board member, Arizona Venture Capital Conference (now Invest Southwest);
Advisor to the Hualapai Tribal Council, and Gila River Telecommunications company; and
Advisor and member of numerous committees at ASU, including technology incident response team, and trademark brand council.

Community Activities

After working full time as an attorney in the Phoenix area, I would like to become more involved in my local community, namely, Paradise Valley. In addition to the community boards and committees listed in the prior answer, I have recently volunteered in the 2020 national and state elections, and most recently, I volunteered with COVID-19 vaccinations at State Farm Arena.

Information on each of the committees including summaries, annual reports, and meeting minutes are located on the Boards & Commissions page. [Information on Committees](#)

Have you familiarized yourself with the duties of the committee(s) in which you are interested?*

☒ Yes

☐ No

Attach resume and cover letter

[Resume 2020 Liepmann.pdf](#)

* indicates required fields.

PROFILE

Experienced corporate, education, and technology attorney with both in-house and national law firm partnership experience as a trusted advisor to c-suite executives and boards of directors of public, private, government, nonprofit, and tribal clients in a diverse array of industries and content areas. Recognized expert in mergers and acquisitions, technology, privacy and cybersecurity, intellectual property, governance, regulatory, employment, real estate, compliance, administrative, and complex contract and licensing matters. Excels at developing and implementing innovative business solutions and strategic initiatives, forging strong relationships with stakeholders, and facilitating effective communication.

PROFESSIONAL EXPERIENCE**Arizona State University, Tempe, Arizona****2013 - 2019**

University Technology Office, Senior Consultant, Compliance Advisor, IT Regulation and Governance, 2018 - 2019. Developed and implemented ASU's international data privacy compliance and privacy by design programs, including drafting policies and guidance, responding to auditors, providing enterprise-wide training, and structuring and reviewing contracts and transactions for privacy and cybersecurity compliance. Also managed university's trademark prosecution and licensing program

Office of the General Counsel, Associate General Counsel, 2013 - 2018

Represented ASU in connection with complex business transactions, administrative, procurement, technology, trademark, copyright, and privacy matters, and litigation oversight.

Significant responsibilities:

- ◆ Updating ASU's Privacy Statement and drafting guidance for compliance with new privacy laws.
- ◆ Drafting and negotiating complex technology contracts, including with internet and telecommunications services, online courseware developers, and collaborations and pilots in ed tech, ad tech, and smart tech matters.
- ◆ Serving on Data Oversight Council, Brand Council, Privacy Group, Intellectual Property Internal Review Committee, and Information Security Incident Response Team.
- ◆ Managing corporate formalities and compliance for Thunderbird School of Global Management and its 16 domestic and international subsidiaries.
- ◆ Implementing strategic reorganization of ASU charter schools for compliance and operational efficiencies.
- ◆ Developing international trademark registration strategy and overseeing infringement actions and litigation.
- ◆ Creating system-wide standard contract terms.
- ◆ Drafting and negotiating banking, athletic, real property, employment, and sponsorships arrangements.
- ◆ Teaching and presenting on contract negotiation, copyright, privacy, and compliance matters.

Stinson LLP, Phoenix Arizona office, Partner**2007 - 2013**

Oversaw a variety of business, intellectual and real property, financing, employment, administrative, real property and transactional matters for public, private, start up, profit, nonprofit, and tribal clients in a broad array of industries and content areas. Advised boards of directors and acted as outside general counsel for clients.

Representative lead counsel activities:

- ◆ Representing an online education and software company, including its sale to a private equity fund.
- ◆ Representing a nonprofit charter school district regarding constitutional, administrative, and business matters.
- ◆ Defending a technology company accused of falsifying data privacy compliance certifications.
- ◆ Advising on employment matters, including handbooks, employment and noncompete agreements.
- ◆ Representing start up entities with venture capital and seed financing, and stock offerings, grants, and options.
- ◆ Structuring a solar joint venture between an Italian firm and an Arizona construction company.
- ◆ Managing national and international trademark portfolios and developing brand strategy for numerous clients.

Gallagher & Kennedy, P.A., Phoenix, Arizona, Shareholder,**1999 - 2007**

Practiced in all facets of business, intellectual and real property, administrative, transactional, and employment law. Coordinated outside legal services for public, private, and tribal entities, and managed and trained attorneys and staff.

Representative lead counsel activities:

- ◆ Negotiating joint development and technology licensing arrangements on behalf of a pharmaceutical start-up.
- ◆ Drafting and negotiating licenses, distribution agreements, joint development agreements, and technology transfer and commercialization arrangements for a technology company.
- ◆ Updating franchise offering documents and real estate and financing agreements for two national franchisors.
- ◆ Representing a private pharmaceutical company in connection with raising over \$30 million in start-up and mezzanine financing through a series of United States and overseas debt and equity offerings.

O'Connor, Cavanagh, Phoenix, Arizona,

1986 - 1999

Senior Equity Member, 1995 - 1999, Member, Associate, and Summer Associate, 1986 - 1995

This was Arizona's second largest law firm. The firm dissolved in 1999. Practiced in the areas of corporate, finance, real property, intellectual property, and securities law. Established and chaired the Business & Technology Services Practice Group. Trained and supervised associate attorneys.

Representative services:

- ◆ Preparing securities filings, including for IPOs, secondary offerings, and private offerings.
- ◆ Representing the acquiror of seven automotive dealerships.
- ◆ Assisting an Arizona tribal corporation with financing and acquiring ownership of a tribal telephone company.
- ◆ Drafting and negotiating development, supply, manufacturing, and licensing arrangements on behalf of a pharmaceutical company and a microchip manufacturer.
- ◆ Assisting a fire and ambulance company with an IPO, acquisitions, and Hart-Scott-Rodino compliance.
- ◆ Serving as Secretary to the Board of a public technology company.

SELECTED RECOGNITIONS

The Best Lawyers in America® 2011, 2012, 2013 and 2014 editions.

"Best of Arizona" in Corporate Law, Franchise Law, Healthcare Law, and Intellectual Property Law, 2010 and 2011, by Ranking Arizona.

"Top Lawyers in Arizona," 2009, 2010 and 2011, Arizona Business Magazine.

Top "50 Women in Business," 2007, The Phoenix Business Journal.

"Best of the Bar" in Franchising and Licensing, 2005, The Phoenix Business Journal.

"Who's Who in Law," 2002, The Phoenix Business Journal.

AV Preeminent® rating with Martindale Hubbell.

EDUCATION

Sandra Day O'Connor College of Law, Arizona State University, Tempe, Arizona

LL.M., Biotechnology and Genomics, 2008

- ◆ Willard H. Pedrick Scholar

Boston College Law School, Newton Centre, Massachusetts

J.D., *cum laude*, 1987

- ◆ *Boston College Environmental Affairs Law Review*, Executive Editor and author of published article

Wesleyan University, Middletown Connecticut

Master of Arts in Liberal Studies, 1983

Bachelor of Arts, 1983 (Wesleyan awards honors only for honors theses; I earned a Master's Degree instead.)

- ◆ National Merit Scholar

BAR AND COURT ADMISSIONS

Arizona, 1987

United States District Court for the District of Arizona, 1987

Washington, D.C., 1990 (inactive)

Hualapai Tribal Court, 2008 - 2009

Fort Mohave Tribal Court, 2010 - 2011

SELECTED BOARD MEMBERSHIPS AND LEADERSHIP POSITIONS

- ◆ Edkey, Inc., nonprofit charter school operator (and former client). Schools include schools for the deaf, homeless children, and online education to students in underserved communities, Board of Directors, 2014 – present
- ◆ State Bar of Arizona Business Law Section:
 - Executive Committee, Chair 2016 - 2017, Member 2011 - 2018
 - Committee to Update the Corporate Laws, Co-Chair 2010 – 2016
- ◆ Co-author Arizona SB 1356, the Arizona Business Entities Competitive Omnibus Act, effective August, 2016
- ◆ Economic Club of Phoenix, sponsored by W.P. Carey School of Business, Board of Directors, 2012 – 2013
- ◆ Arizona State University Edson Entrepreneurship Competition, Judge, 2004 – 2013
- ◆ Arizona BioIndustry Association, Legal and Regulatory Affairs Committee, Co-Chair 2006 – 2008
- ◆ Invest Southwest (formerly Arizona Venture Capital Conference), Chair 2015, Executive Committee 1999 – 2009
- ◆ Fresh Start Women's Foundation, Board of Directors, 1995 – 2000
- ◆ The Phoenix Symphony, Board of Directors, 1995 - 2000; served on the Finance and Education Committees

SELECTED PRESENTATIONS AND PUBLICATIONS

- ◆ “GDPR: What You Need to Know about Collecting and Using Data,” Arizona State University Marketing Academy, Digital Camp, July 2019; speaker.
- ◆ “The Rules: What You Need to Know about Trademarks and Licensing,” Arizona State University Marketing Academy, Communications Camp, July 2019; speaker.
- ◆ “The New Privacy Laws, and What Arizona Businesses Need to do to Comply. Focusing on New Laws in the European Union, California, and Arizona,” State Bar of Arizona Business Law Section, March 2019; speaker.
- ◆ Business & Security Lawyers Panel, Sandra Day O'Connor College of Law, Arizona State University, Corporate and Business Law Student Society, February 2018, April 2017 and March 2016; panelist and moderator (2018 and 2017).
- ◆ “The Legal and Contracting Process,” R&D Administration within Large Organizations course, School for the Future of Innovation in Society, Arizona State University, April 2017; guest lecturer.
- ◆ “Arizona Benefit Corporations: Nuts and Bolts (the Act, Formation, Documentation, Choice of Entity Issues),” State Bar of Arizona, June 2015; co-chair and speaker.
- ◆ Professionalism Course, State Bar of Arizona, November 2013, May 2013, February 2012, January 2011, October 2009, October 1996, and April 1996; speaker.
- ◆ "Women in Corporate Law," Sandra Day O'Connor College of Law, Arizona State University, November 2012; panel member. "Proposed Changes to Arizona Laws Governing Business Entities: Making our Business Entity Laws More Efficient and Competitive," State Bar of Arizona Business Law Section, April and November 2012 (Phoenix and Tucson); speaker.
- ◆ “The Breadth of Opportunity: The Scope of Practice in Business Law,” Sandra Day O'Connor College of Law, Arizona State University, March 2012; panel member.
- ◆ "Recent Developments in the Law," Association of Corporate Counsel, Arizona Chapter, December 2011; speaker.
- ◆ "Surprise! You're Operating a Ponzi Scheme! Or a Franchise, or a Multilevel Marketing Scheme, or a Business Opportunity," Stinson Morrison Hecker LLP, April 2010; speaker.
- ◆ "What Every Lawyer Should Know about Franchising and Distribution Laws," Stinson Morrison Hecker LLP seminar, February 2009; speaker.
- ◆ "Communications with Clients; Applying Sound Legal Writing and Client Counseling Principles," Stinson Morrison Hecker LLP seminar, October 2008; speaker.

- ◆ "Structuring Energy Companies and Financing Tribal Projects/Types of business structures; advantages and disadvantages of creating a separate company; getting the details right; alternative ways to finance," Tribal Energy in the Southwest Conference, sponsored by Law Seminars International, December 2007; speaker.
- ◆ "The Legal Nuts and Bolts: Entity Choice and Formation of Tribal Economic Development Organizations," Stinson Morrison Hecker LLP Conference, May 2007; speaker.
- ◆ "Fiduciary Duties of Officers and Directors," Legal Aspects of Entrepreneurship course, W.P. Carey School of Business, Arizona State University, Spring 2006, 2005 and 2004; guest lecturer.
- ◆ "Topics in Intellectual Property and Fiduciary Duties," State Bar of Arizona, January 2005; speaker.
- ◆ Arizona Venture Capital Conference, November 2005; conference chair and moderator.
- ◆ "Insights into Entrepreneurial Success," and "You May Not be Subject to Sarbanes-Oxley, But Business Ethics Still Matter," 2003 Entrepreneur Summit, Arizona Venture Capital Conference, December, 2003; moderator.
- ◆ "Protecting Your Thoughts: Intellectual Property Considerations in Mergers and Acquisitions in Arizona," National Business Institute, May 2003; speaker.
- ◆ "Intellectual Property - Protecting Your Ideas," Entrepreneurial University, sponsored by the Arizona Chamber of Commerce, April 2003; speaker.
- ◆ "What Financial Executives Need to Know About Arizona and Delaware Corporate Law," Financial Executives International, April 2003; speaker.
- ◆ "Officer, Director and Member Liability - What are Your Fiduciary Obligations," The Changing Playing Field seminar sponsored by Gallagher & Kennedy, P.A., November 2002; speaker.
- ◆ "Profiles of Members of the AZ Software and Internet Association," Arizona Business Magazine, November/December, 2001; featured.
- ◆ "Horizon Changes Intellectual Property Scene," Arizona Business Magazine, July/August, 1999; featured.
- ◆ "Considerations in Buying or Selling a Business in Arizona," National Business Institute, August 1999; speaker.
- ◆ "The Hart-Scott-Rodino Antitrust Improvements Act of 1996," State Bar of Arizona, Business Law Section, October 1997; speaker.
- ◆ "She Simply Likes Complex Deals," Profile of the Week, The Arizona Business Gazette, October 1997; featured.
- ◆ "Antitrust Issues in Everyday Transactions," Maricopa County Bar Association, January 1996; speaker.
- ◆ "The New Arizona Business Corporation Act – Issues for Accountants," Arizona Society of Certified Public Accountants, November 1995; speaker.
- ◆ "Sidekicks or Saddlebags, Business Partnering for Success," The Women Entrepreneurs Conference, August 1994 and the Arizona Governor's Conference for Women, March 1994; speaker.
- ◆ "Model Guidelines for Outside Counsel; Conflicts of Interest," Maricopa County Bar Association, Corporate Counsel Division, September 1993; speaker.
- ◆ "Ethical Dilemmas in Business Transactions," Maricopa County Bar Association, October 1990; seminar chair.
- ◆ "Incorporating," State Bar of Arizona, November 1989; speaker.
- ◆ Environmental Mediation: Should Third Parties Have Access to the Process? BOSTON COLLEGE ENVIRONMENTAL AFFAIRS LAW REVIEW, Volume 14, 1986; author.

Volunteer Opportunities

TOWN OF PARADISE VALLEY COMMITTEE VOLUNTEER APPLICATION FORM

Thank you for your interest in volunteering with the Town. Appointments to committees, commissions, and boards are made in late March of each year and terms begin April 1. Applications are accepted throughout the year. The deadline to be considered for appointment is January 30. Applications received after that time will be kept on file and may be considered for mid-term vacancies. It is not necessary to list a committee preference. During the interview with the Mayor and Council, consideration will be given to the applicant's background, skills, and interests to assist in determining the best fit.

Please provide the following background information.

Name*	Marianne Mallia
Address*	Smoke Tree Ln
Email*	
Home Phone	
Employer	Mayo Clinic
Occupation	Scientific Publications writer/editor
Business Phone	
Cell Phone	
Number of years as PV resident	5
Professional experience highlights	

Please see my attached CV, which delineates my experience and work history. I am currently employed by Mayo Clinic. I work with Mayo Clinic authors on academic research papers being submitted for publication in scientific peer-reviewed journals. I am a faculty member of the Mayo Clinic School of Medicine. I have received awards for my teaching, including the highest teaching award given by the American Medical Writers Association. I also received the highest award given by the American Medical Writers Association: the Swanberg award for distinguished service to medicine or medical communication. I have given numerous professional talks, have published manuscripts and co-written books and have helped secure millions in grant funding for institutions where I have worked.

What experience do you think qualifies you to be a committee member?

I have a myriad of experience managing and running large groups. I was president of the American Medical Writers Association (8,000 members) and manager of Scientific Publications at the Texas Heart institute for 35 years. I have chaired and participated in numerous committees and on various Boards. I have studied various forms of design, including mid-century, contemporary, and ultramodern in continuing adult education (non-degree) on my own and in courses at Rice University in Houston, and I could bring that knowledge to the Hillside Committee and the Board of Adjustment. I am interested in hillside and other types of building within the city and that may change variances. I have been a member of museums in Houston and Phoenix and involved in special art forums. I have taken courses in art history. My husband and I have an art collection that has been featured in the American Art Collector and other periodicals. Our former home was part of the 2019 ASU Art and Architecture Tour. My art knowledge obviously would lend itself to the Art Advisory Committee. Please see my CV for additional information.

Community Activities

I was involved in my community (Colonia Miramonte) before we recently moved, regularly show my classic '63 Corvette split-window coupe at the Veterans Day car show in Paradise Valley, and am a participating member of the Town of Paradise Valley Women's Association. I co-share responsibility for organizing one of the book clubs. I was involved in other similar types of activities in my former home, West University Place, Texas (Houston area).

Information on each of the committees including summaries, annual reports, and meeting minutes are located on the Boards & Commissions page.

[Information on Committees](#)

Have you familiarized yourself with the duties of the committee(s) in which you are interested?*

☒ Yes

☐ No

Attach resume and cover letter

[Application CL and CV.pdf](#)

* indicates required fields.

January 11, 2020,

Town of Paradise Valley

Please accept my application for committee membership in the town of Paradise Valley. I am qualified for membership on the Board of Adjustment, Arts Advisory Committee, and the Hillside Committee, which is the order I prefer.

I have a myriad of experience managing and running large groups. I was president of the American Medical Writers Association (8,000 members) and manager of Scientific Publications at the Texas Heart Institute for 35 years. I have chaired and participated in numerous committees and on various Boards. I have studied various forms of design, including mid-century, contemporary, and ultramodern in continuing adult education (non-degree) on my own and in courses at Rice University in Houston, and I could bring that knowledge to the Hillside Committee and the Board of Adjustment. I have always been concerned about hillside and other types of building that change variance. I have been a member of museums in Houston and Phoenix and involved in special forums. I have taken courses in art history. My husband and I have an art collection that has been featured in the *American Art Collector* and other periodicals. Our former home was part of the 2019 ASU Art and Architecture Tour. My art knowledge obviously would lend itself to the Art Advisory Committee.

In my current position at Mayo Clinic, I am required to learn new, complicated material daily. I am certain I could learn whatever is required of committee membership. I know and understand statistical concepts and have awards for my writing and speaking, including grant writing. I was responsible for securing millions of dollars in grants for the Texas Heart Institute, my former employer. I am planning to decrease hours in the full-time position I now hold at Mayo, so I will have more time to devote myself and my talents, including grant writing and arts knowledge to community activities.

I was involved in my community (Colonia Miramonte) before we recently moved, regularly show my classic '63 Corvette split-window coupe at the Veterans Day car show in Paradise Valley, and am a participating member of the Town of Paradise Valley Women's Association. I co-share responsibility for organizing one of the book clubs. I was involved in other similar types of activities in my former home, West University Place, Texas (Houston area).

I am also a faculty member of the Mayo Clinic School of Medicine. I have received awards for my teaching. I received the highest award given by the American Medical Writers Association: the Swanberg award for distinguished service to medicine or medical communication. I hope I will be given an opportunity to apply my skills for the town of Paradise Valley. My CV is attached, which further describes my qualifications.

Sincerely,

Marianne Mallia
Smoke Tree Ln
Paradise Valley, AZ 85253

Attachment below: CV

Curriculum Vitae and Bibliography

Marianne Mallia, ELS, MWC

1. Personal Information

Work Address: Mayo Clinic
13400 East Mayo Boulevard
Scottsdale, Arizona 85259

Email Address:

2. Present Academic Rank and Position

Editor - Scientific Publications, Mayo Clinic, Scottsdale, AZ 06/2015-Present

Assistant Professor of Biomedical Communications - Mayo Clinic College of Medicine and Science 2017-Present

3. Education

University of Iowa, Iowa City, IA
BA - English (minors: chemistry, education, French)

4. Certifications

Board Certifications

American Medical Writers Association

Editing/Writing Certificate	1984
Advanced Curriculum Certificate	1989
Science Fundamental Certificate	2009
Regulatory and Research Certificate	2015

Board of Editors in the Life Sciences

Editor in the Life Sciences Certification	2002
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Medical Writing Certification Commission

Medical Writer Certified	2015
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5. Licensure

6. Honors/Awards

Outstanding Young Educator - Houston Independent School District, Sponsored by the Houston Jaycees, Houston, TX	1972
International Authors and Writers Who's Who - Marquis	1985-Present
Who's Who of American Women - Marquis	1985-Present
Illustrated Medical Book Award - Association of Medical Illustrators	1986
Who's Who of Emerging Leaders in America - Marquis	1987-Present
Outstanding Teacher - School of Allied Health Sciences, University of Texas Health Science Center, Houston	1990-1992
Honor Roll, Workshop Leaders - American Medical Writers Association	1992-Present

First Place, Writing/Technical Article, Matrix Awards Competition - Association for Women in Communication	1996
Second Place, Writing/Speech, Matrix Awards Competition - Association for Women in Communication	1996
Award of Achievement, Writing/Books, Matrix Awards Competition - Association for Women in Communication	1997
Fellow - American Medical Writers Association	1997
Who's Who in Medicine and Healthcare - Marquis	1997-Present
Honorable Mention, Technical Article, Matrix Awards Competition - Association for Women in Communication	1998
Recipient, Golden Apple Award - American Medical Writers Association (for teaching excellence)	1998
Second Place, Writing/Other, Matrix Awards Competition - Association for Women in Communication	1999
Who's Who in the World - Marquis	1999-Present
First Place, Writing/Technical, Matrix Awards Competition - Association for Women in Communication	1999
Honorable Mention, Writing/Speech, Matrix Awards Competition - Association for Women in Communication	1999
First Place, Writing/Technical, Matrix Awards Competition - Association for Women in Communication	2000
Who's Who in America - Marquis	2006-Present
Who's Who of Women - Marquis	2009-Present
Swanberg Distinguished Service Award - American Medical Writers Association (highest award given by this 5,000-member organization. For distinguished contributions to medical communication or for unusual and distinguished services to the medical profession)	2010
Distinguished Service Award - Texas Heart Institute, Houston, TX	2011

7. Military Service

8. Previous Professional Positions and Major Appointments

Curriculum Writer - Houston Independent School District (Curriculum Development Committee), Houston, TX	1970-1976 (summers)
Department Chair - English Department, Houston Independent School District/Baylor College of Medicine (High School for Health Professions), Houston, TX	09/1970-09/1976
Laboratory Coordinator/Editorial Associate - Cardiovascular Surgical Research Laboratories, St. Lukes Episcopal Hospital, Houston, TX	09/1976-09/1982
Medical Writer - Texas Heart Institute at St. Luke's Episcopal Hospital, Houston, TX	09/1982-09/1986
Manager and Senior Medical Writer - Texas Heart Institute at St. Luke's Episcopal Hospital, Houston, TX	09/1986-06/2015

9. Professional & Community Memberships, Societies and Services

Professional Memberships & Services

American Medical Writers Association

Member	1976-Present
Administrator of Education	2000-2001
President-Elect	2001-2002
President	2002-2003
Past President	2003-2004
Annual Conference, How Adults Learn	
Networking Leader	1987
Annual Conference, Organizing the Biomedical Paper	
Workshop Leader	1987-2000
Annual Conference, Writing Medical Manuscripts	
Workshop Developer and Leader	1988-1989
Advanced Curriculum Program	
Coordinator	1988-1989
Onsite Presentations	
Workshop Leader	1989-Present
Can We Talk? Issues and Answers for Medical Communicators	
Panelist	1989
How to Organize and Run Medical Writing Internships	
Workshop Developer and Leader	1992-1994
Swanberg Awards Committee	
Member	1992, 2014-2017
Trade Book Awards	
Chair	1993-1994
Annual Conference - Book Awards	
Presenter	1993-1995
Annual Conference, Manuscripts Other Than the Biomedical Paper	
Workshop Developer and Leader	1994-2006
Annual Conference, Advanced Writing	
Workshop Developer and Leader	1995-Present
Annual Conference, The Editing Clinic	2019-Present
Workshop Developer and Co-Leader	
Executive Committee	
Member	1996-2004
Annual Conference	
Workshop Coordinator	1996-1998
Annual Conference	

Conference Chair (5000-plus member organization)	1999
Nominating Committee	
Member	2005
Task Force on Ethical Standards	
Member	2004-Present
Fellowship Committee	
Member	2006
Chair	2009
Task Force - Promoting Ethics for Medical Communicators	
Member	2007-2008
Nominating and Education Committee	
Member	2007-2010
Task Force - Credentialing	
Member	2009
Annual Conference - Panel Discussions and Evening Program	
Coordinator	2009
Task Force - Grievance Process	
Member	2009-2010
Editing/Writing Conference	
Chair	2010
Task Force - Ethical Standards in Publications	
Member	2010
Annual Conference	
General Sessions Chair	2011
Education Committee, Bylaws Committee	
Member	2011-2014
Search Committee for AMWA Journal Editor and Executive Director	
Member	2011
Certification Commission	
Member	2011-Present
Medical Writing Certification Commission	
Co-Chair	2013-2014
Chair	2015-2018
Member	2018-Present
American Medical Writers Association Florida Chapter	
Conference Workshop Leader	1997
American Medical Writers Association Southwest Chapter	
President	1995-1996
Past President and Board Member	1996-1997
Advisory Board Member	1986-1987
Ethical Issues for Authors and Editors	
Panel Developer and Participant	1988

McGovern Award Committee	
Chair	1994
American Medical Writers Association West Point Regional Conference	
Workshop Leader	1997
American Medical Writers Association Carolinas Regional Conference	
Workshop Leader	2001
American Medical Writers Association Mid-Ohio Regional Conference	
Workshop Leader	2001
Board of Editors in the Life Sciences, member	2002-Present
Task Force on Certification Process Review	2019-2020
American Medical Writers Association	
Endowment Fund, creator	2004
Phi Beta Phi Sorority	
Member	1967-Present
Scholarship Chair	1967-1970
National Council of Teachers in English	
Member	1971-1980
Society for Technical Communications	
Member	1984-1988
Council of Science Editors	
Member	1984-Present
Board Member	1992-1995
Aplastic Anemia Foundation, Southwest Chapter	
Advisory Board Member	1985-1990
Association of Teachers of Technical Writing	
Member	1992
Young Editors Society	
Advisor	1996
Community Memberships & Services	
Museum of Fine Arts - Houston	
Member	1974-Present
Houston Trial Lawyers Foundation	
Secretary	1995-1996
Texas Trial Lawyers Foundation (FANS)	
Board of Directors	1996-1999
Scholarship Chair - Region 6	1997
Desert Botanical Garden - Scottsdale	2015-present
Scottsdale Society for Contemporary Arts - Scottsdale	2015-present
Museum of Fine Art - Phoenix	2015-present
Friends of Contemporary Art	2015-present

10. Journal Responsibilities

Journal Editorial Responsibilities

Texas Heart Institute Journal	
Editorial Consultant, Board	1976-1986
Manuscript reviewer	1985-2014

11. Educational Activities

A. Curriculum/Course Development

Responsible for Evaluating Existing Programs and Developing New Courses American Medical Writers Association	1988-Present
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B. Teaching Intramural

Taught courses in chemistry, English, and technical writing Baylor faculty, students, and reference librarians Texas Medical Center Library Houston, TX	
Instructor - Scientific Writing Course University of Texas School of Allied Health Sciences University of Texas Health Science Center Houston, TX	1990-1992
Leader - Writing Workshops University of Texas School of Public Health Houston, TX	1990-1994
Organizing the Biomedical Paper American Medical Writers Association On-Site Workshop American College of Clinical Pharmacy Ft. Lauderdale, FL	1991
Organizing a Research Paper Houston Area Dietetic Association Houston, TX	1993
Careers for English Majors Career Seminar University of Houston Houston, TX	1993
Instructor - Improving Your Writing Skills (graduate course) University of Texas School of Public Health Houston, TX	1993-1994
Organizing the Biomedical Paper American Medical Writers On-Site Workshops Amgen Inc. Thousand Oaks, CA	1996

Manuscripts Other Than Biomedical Paper American Medical Writers On-Site Workshops Amgen Inc. Thousand Oaks, CA	1996
Introduction to Biomedical Manuscript Writing Radiation Oncology Mayo Clinic - AZ	12/2015
Introduction to Biomedical Manuscript Writing Professor Rounds - Cardiology Mayo Clinic - AZ	2015-Present
Organizing the Biomedical Paper Professor Rounds - Cardiology Mayo Clinic - AZ	2015-Present
Writing Case Reports for Publication Professor Rounds - Cardiology Mayo Clinic - AZ	2015-Present
How to Write an Abstract Professor Rounds - Cardiology Mayo Clinic - AZ	2015-Present
Common Mistakes in Grammar and Punctuation Professor Rounds - Cardiology Mayo Clinic - AZ	2015-Present
How to Write a Better Sentence Professor Rounds - Cardiology Mayo Clinic - AZ	2015-Present
Introduction to Biomedical Manuscript Writing Professor Rounds - Radiation Oncology Trainees Mayo Clinic - AZ	2015-Present
Organizing the Biomedical Paper Professor Rounds - Radiation Oncology Trainees	2015-Present
Writing Case Reports for Publication Professor Rounds - Radiation Oncology Mayo Clinic - AZ	2015-Present
How to Write an Abstract Professor Rounds - Radiation Oncology Trainees Mayo Clinic - AZ	2015-Present
Common Mistakes in Grammar and Punctuation Professor Rounds - Radiation Oncology Trainees Mayo Clinic - AZ	2015-Present
How to Write a Better Sentence Professor Rounds - Radiation Oncology Trainees Mayo Clinic - AZ	2015-Present
Introduction to Scientific Writing Gastroenterology, Nephrology, Radiation Oncology Trainees Mayo Clinic - AZ	2017-Present

How to Write a Scientific Paper Gastroenterology, Nephrology, Radiation Oncology Trainees Mayo Clinic - AZ	2017-Present
How to Write a Case Report Gastroenterology, Nephrology, Radiation Oncology Trainees Mayo Clinic - AZ	2017-Present
Tips to Improve Clarity in Writing Gastroenterology, Nephrology, Radiation Oncology Trainees Mayo Clinic - AZ	2017-Present
Introduction to Scientific Writing Hematology/Oncology, Pulmonary, Clinical Cardiac Electrophysiology, Gynecology, and Palliative Care Trainees	2017
How to Write a Scientific Paper Oncology, Pulmonary, Clinical Cardiac Electrophysiology, Gynecology, and Palliative Care Trainees	2017
How to Write a Case Report Oncology, Pulmonary, Clinical Cardiac Electrophysiology, Gynecology, and Palliative Care Trainees	2017
How to Improve Clarity in Writing Oncology, Pulmonary, Clinical Cardiac Electrophysiology, Gynecology, and Palliative Care Trainees	2017
Essentials of Writing and Publishing (5 days of course work) Selective Course, Mayo Clinic School of Medicine – Scottsdale	2 times per year 2017-Present

C. Mentorship

New hires (editors): Florida campus; Scottsdale campus	2017-Present
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D. Academic Career Development –**12. Institutional/Departmental Administrative Responsibilities, Committee Memberships and Other Activities****Texas Heart Institute**

Clinical Research Committee

Member

2000-2015

Mayo Clinic

Clinical Education Committee

Member at Large

2017-2019

13. Presentations Extramural**National/International****Invited**

How to Write a Scientific Paper:
International School of Cardiac Surgery (session 3)
Ettore Majorana Foundation and Center for Scientific Culture
Erice, Sicily

11/2005

Improving Scientific Writing (Grand Rounds) Felsenstein Medical Research Center, Beilinson Hospital, Rabin Medical Center Tel Aviv, Israel	03/2007
How to Write a Scientific Publication (Meet the Expert Session) Third Annual Congress Update in Cardiology and Cardiovascular Surgery Antalya, Turkey	12/2007
Scientific Publishing in the Field of Heart Failure, Innovations and New Treatment Strategies in Heart Failure First Branislav Radovancevic International Heart Failure Symposium Portoroz, Slovenia	09/2008
An Overview of Scientific Publishing Second Branislav Radovancevic International Heart Failure Symposium Portoroz, Slovenia	09/2009
Challenges of Scientific Publishing Fourth International Brano Heart Failure Forum Belgrade, Serbia	09/2011
Tips for Getting a Manuscript Published in a Scientific Journal (Grand Rounds) Bilim Medical Faculty and Florence Nightingale Hospital Groups Istanbul, Turkey	09/2012

14. Visiting Professorships**15. Clinical Practice, Interests, and Accomplishments****16. Research Interests**

Ethical Issues in Scientific Publishing
Clarity in Writing and Its Effect on Understanding in Research Publications

17. Educational Practice, Interests, and Accomplishments

Integrating educational and research interests

18. Research Grants Awarded**19. Patents**

20. Bibliography

Non Peer-reviewed Articles

1. Mallia M. Ethical and policy dilemmas. CBE Views. 1991;14:85-6
2. Mallia M. Strategies for excellence in scientific research and reporting. CBE Views. 1992;15:121-2
3. Mallia M. Annual conference workshops: what you should know. AMWA Journal. 1998;13:6-10
4. Mallia M. Forging our future in Philadelphia. AMWA Journal. 1999;14:9-15
5. Mallia M. Philadelphia: Hear ye, come! AMWA Journal. 1999;14:19-23
6. Mallia M. President's inaugural message. AMWA Journal. 2002;17:4-7
7. Mallia M. Highlights of the January Executive Committee meeting. AMWA Journal. 2003;18:3-5
8. Mallia M. From your AMWA president. AMWA Journal. 2003;18:93-6
9. Mallia M. Report from the March Board of Directors meeting. AMWA Journal. 2003;18:45-7
10. Baker L, Hamilton C, Mallia M. AMWA establishes permanent endowment fund. AMWA Journal. 2004;19:117-8
11. Foote MA, Hamilton CW, Mallia M. Comments on European Medical Writers Association (EMWA) guidelines on the role of medical writers in developing peer-reviewed publications. Curr Med Res Opin. 2005;21:703-4
12. Hamilton CW, Mallia M, Mitrany D, Foote MA. Comments on "the corporate author". J Gen Intern Med. 2005;20:972-3
13. Mallia M. A question of internship organization. Science Editor. 2010;33:94
14. Mallia M, Wogan C, Roberts R. Getting your manuscript published. 2010;25:12
15. Mallia M. Demons and idols... and a blue Corvette (2010 Swanberg Address). AMWA Journal. 2011;26:12-6
16. Gegeny T, Mallia M. Update from the Certification Commission. AMWA Journal. 2014;29:47 (quarterly publications thereafter, continued to present)

Peer-reviewed Articles

1. Mallia M. funds for science: strategies for excellence in scientific research and reporting. CBE Views. 1999;15:121-3
2. Royer M, Mallia M, Cozzarin J. Pathways to the presidency: Making the journey. AMWA Journal. 2004;19:172-4
3. Palmer S, Mallia M. The section of Scientific Publications at the Texas Heart Institute. Medical Writing. 2015;24:128-31

Books and Chapters (edited or written)

1. Cooley DA, Mallia M. *Reflections and Observations*. Austin, Eakin Press, 1984
2. Cooley DA, Mallia M. *Texas Heart Institute Heart Owner's Handbook*. Philadelphia, John Wiley & Sons, 1996
3. Mallia M (editor). *Surgical Treatment of Aortic Aneurysms* (Cooley DA, author). Philadelphia, WB Saunders Company, 1985
4. Mallia M (editor). *Techniques in Cardiac Surgery* (Cooley DA, author). Philadelphia, WB Saunders Company, 1985
5. Mallia M (editor). *Eat Smart for a Healthy Heart Cookbook* (Cooley DA, Moore CE, authors). New York, Barron's, 1988
6. Mallia M, Cooley DA. *Twenty-Five Years of Excellence: A History of the Texas Heart Institute*. Houston, Texas Heart Institute Foundation, 1989
7. Mallia M (editor). *Coronary and Peripheral Angiography and Angioplasty* (Leachman R, Leachman RD, authors). London, Edward Arnold Publishers, 1989
8. Mallia M (editor). *How I Do It, Cardiac Surgery: State-of-the-Art Reviews* (Cooley DA, author). Philadelphia, Hanley & Belfus, 1990
9. Mallia M (editor). *Support and Replacement of the Failing Heart* (Frazier OH, physician editor). Philadelphia, Lippincott-Raven, 1996
10. Mallia M: Advanced Writing. Chapter in *Essays for Biomedical Communicators: A Practical Guide for Writers, Editors, and Presenters of Health Science Information* (vol 2). Bethesda, American Medical Writers Association, pp 162-74, 1997 (peer reviewed)
11. Mallia M. Organizing the biomedical paper. *Essays for Biomedical Communicators: A Practical Guide for Writers, Editors, and Presenters of Health Science Information* (vol 1, 2nd printing). Bethesda, American Medical Writers Association, pp 101-16, 2001 (peer reviewed)
12. Cooley DA (author) with Mallia M (editor/writer): *100,000 Hearts: A Surgeon's Memoir*. Austin, University of Texas Press, 2012.

Letters

1. Gegeny T, Lang T, Coles T, Ross MF, Hudson S. Mallia M, Royer R, Whitman M. Letter to the editor, in response to Sismondo S: Ghost management: how much of the medical literature is shaped behind the scenes by the pharmaceutical industry? *PLoS Med*. 2007;4(9):e286

Abstracts

1. Mitrany D, Berman SK, Foote MA, Hamilton CW, Mallia M, Phillips SG, Schwedel B. How to acknowledge a biomedical communicator. American Medical Writers Association Annual Conference. 2003

Book Reviews

1. Mallia M. *The Wellness Encyclopedia of Food and Nutrition: How to Buy, Store, and Prepare Every Variety of Fresh Food* (Margen). AMWA Journal 8:106-107, 1993
2. Mallia M. *Is It Hot in Here or Is It Me?* (Sand). AMWA Journal 9:102-103, 1994
3. Mallia M. *The Wellness Low-fat Cookbook* (Margen). AMWA Journal 10:24-25, 1995
4. Mallia M. *Catching My Breath: An Asthmatic Explores His Illness* (Brookes). AMWA Journal 10:779-80, 1995
5. Mallia M. *How to Report Statistics in Medicine: Annotated Guidelines for Authors, Editors, and Reviewers* (Lang and Secic). AMWA Journal 13:34-35, 1998
6. Mallia M. *Essentials of Writing Biomedical Research Papers*, 2nd Edition (Zeiger). AMWA Journal 16:38-39, 2001

Volunteer Opportunities

TOWN OF PARADISE VALLEY COMMITTEE VOLUNTEER APPLICATION FORM

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Please provide the following background information.

Name*

Jennifer Bryant Nagel

Address*

██████ BELMONT CIR

Email*

████████████████████

Home Phone

██████████

Employer

Northern Arizona University; Phoenix Country Day School

Occupation

Lecturer / Instructor

Business Phone

Cell Phone

Number of years as PV resident

less than 1

Professional experience highlights

I have been a university instructor/lecturer in English and the humanities for 20 years, currently for Northern Arizona University (since 2017). Until the beginning of the pandemic, my husband and I owned and operated two Sedona fine art galleries, and were recognized by Phoenix Home and Gardens in 2018 and 2019 as Faces of Fine Art. I hold an MFA in fine arts from Notre Dame and a PhD in English Literature from the University of Washington. I am also currently pursuing a Masters degree in Public History from Norwich University (expected June 2022), with a special focus on archival management and operation. I serve on the Advisory Committee for NAU's College of Arts and Sciences, and also currently work as a long-term substitute teacher for Phoenix Country Day School.

What experience do you think qualifies you to be a committee member?

I have decades of experience in the fields of arts and education, and am undergoing practical graduate-level training in archive management and museum curation. I have experience as a professional writer and editor. As a an educator, I possess strong communication skills, both orally and in writing.

Community Activities

We are new to this community, but I have volunteered for animal rescue organizations in Flagstaff. We are active supporters of local historical organizations, as supporting members of the Arizona Historical Society and the Arizona Jewish Historical Society. While in Sedona, we hosted monthly fine arts lectures and demonstrations free for the community.

Information on each of the committees including summaries, annual reports, and meeting minutes are located on the Boards & Commissions page.

[Information on Committees](#)

Have you familiarized yourself with the duties of the committee(s) in which you are interested?*

☒ Yes

☐ No

Attach resume and cover letter

[bryant_nagel_cv_PV volunteer.pdf](#)

* indicates required fields.

Jennifer Bryant Nagel, MFA PhD
[REDACTED] Belmont Circle
Paradise Valley AZ 85253
[REDACTED]
[REDACTED]

16 January 2021

To whom it may concern:

Please accept my application to volunteer for the town of Paradise Valley. I am currently a lecturer for the English Department at Northern Arizona University, where I have been employed since 2017. I also work in Paradise Valley as a long-term substitute teacher for Phoenix Country Day School.

I hold a master's degree in Fine Arts from the University of Notre Dame and a Ph.D. in English literature from the University of Washington. Since 2001, I have worked as an educator at various colleges and universities in Arizona, Washington, Illinois, and Indiana. Currently, I am pursuing a master's degree in Public History, with special foci on archival management and museum curation, to be completed in June of 2022.

With my current practical training in public history, I am especially interested in serving as a member of the Historical Advisory Committee. I also have experience owning and operating fine arts galleries in Sedona, and so would be interested in serving on the Arts Advisory Committee, should a position on the Historical Advisory Committee be unavailable. I appreciate this opportunity and look forward to hearing from you soon.

Sincerely,

Jennifer Bryant Nagel, MFA PhD

Jennifer Bryant Nagel

• EDUCATION

Ph.D., with Honors, in English Literature and Language, with a Certificate in Textual Studies, 2011
University of Washington, Seattle WA
Dissertation: "Still Points, Turning Worlds: Memorial Dynamics and the Materiality of Memory"
Dissertation Committee: Herbert Blau (chair), Raimonda Modiano, Robert Abrams, Kathleen Woodward

M.A. History, in progress, expected 2022
Norwich University, Northfield VT

M.F.A. Creative Writing, Poetry, 2002
University of Notre Dame, Notre Dame IN
Master's Thesis: "Connections"
Thesis Committee: John Matthias (chair), Sonia Gernes, Orlando Menes

B.A. English Literature, 1999
Reed College, Portland OR
Study Abroad: **University of East Anglia**, Norwich UK, 1997 – 1998

• ACADEMIC APPOINTMENTS

Northern Arizona University, Flagstaff AZ
Lecturer, Dept of English, Fall 2019—present
Instructor, Dept of English, Fall 2017— Spring 2019

Highline College, Des Moines WA
Instructor, Dept of English, Fall 2010 – Winter 2016

Cornish College of the Arts, Seattle WA
Instructor, Dept of Humanities and Sciences, Fall 2014

University of Washington, Seattle WA
Acting Instructor, Dept of English, Winter 2012 – Summer 2013

University of Washington, Seattle WA
Predoctoral Graduate Instructor, Expository Writing Program, Fall 2004 – Fall 2009, Winter 2011 – Spring 2011

University of Washington, Seattle WA

Predoctoral Graduate Instructor, Dept of English (200-level Instructor), Winter 2007 – Spring 2008

University of Illinois at Chicago, Chicago IL

Writing Center Tutor, Fall 2003 – Winter 2004

University of Illinois at Chicago, Chicago IL

Graduate Instructor, Expository Writing Program, Fall 2003 – Spring 2004

University of Notre Dame, Notre Dame IN

Creative Writing Instructor, Creative Writing Program, Dept of English, Fall 2002 – Spring 2003

University of Notre Dame, Notre Dame IN

Graduate Instructor, Expository Writing Program, Dept of English, Fall 2001 – Spring 2002

• GRANTS AND AWARDS

Heilman Dissertation Prize for Most Distinguished Dissertation in English, University of Washington, 2011

Joseph and Yetta Blau Award for Excellence in Research, University of Washington, 2011

Koller Fellowship for Interdisciplinary Research in American Literature and Art, University of Washington, 2010 – 2011

Textual Studies Travel and Research Grant, University of Washington, 2009

University Fellowship, University of Illinois at Chicago, 2003 – 2004

Sparks Writer-in-Residence, University of Notre Dame, 2002 – 2003

Sparks Fellowship in Creative Writing, University of Notre Dame, 2002

Intro to Journals Award, Associated Writing Programs, April 2002

Award for Academic Excellence, Reed College, 1999

• COLLEGE AND UNIVERSITY TEACHING EXPERIENCE

Courses at Northern Arizona University

English 130: Exploring Literature

“Adaptations,” Fall 2019

English 242: Early American Literature

Spring 2018, Fall 2017

English 245: US Multi-Ethnic Literature Survey

Spring 2019, Fall 2018

English 247: Introduction to African American Literature

Spring 2019, Spring 2018, Fall 2019

English 247 Online: Introduction to African American Literature

Fall 2018, Fall 2017

English 270: Into to Creative Writing: Fiction
Spring 2020

English 337: Studies in Poetry
Spring 2020

English 341: American Fiction
"Southern Literature," Spring 2019, Fall 2018
"American Gothic," Spring 2018, Fall 2017

English 345: Topics in US Multi-Ethnic Literature
"The Neo-Slave Narrative," Spring 2019
"Fantasy, Fabulation, and Magical Realism in Multi-Ethnic Literature," Spring 2021

English 364W: Popular Literature
"Gothic and Horror," Spring 2019

English 365: Contemporary Fiction
"The Postmodern Novel," Spring 2020

English 370W: Intermediate Fiction Writing
Spring 2020

English 516: Women Writers and Feminist Theory
Fall 2017

English 516 Online: Women Writers and Feminist Theory
Spring 2018

English 547: African American Literature
"The Neo-Slave Narrative," Fall 2018, Spring 2021

English 560 Online: Literary Criticism and Theory
Fall 2019

Courses at Highline College

English 101 Online: Intro to Composition
"Monsters," Fall 2015

English 101: Intro to Composition
"Monsters," Winter 2014, Fall 2013
"Literature of Horror and the Uncanny," Winter 2013, Fall 2012, Spring 2012, Winter 2012
"Narratives of Time Travel," Fall 2011, Summer 2011
"The Meaning of Memory," Fall 2010

English 111: Introduction to Literature

"Literary Genres," Fall 2014

English 205: Research and Argument

"Memory, History, and Identity," Spring 2015, Winter 2015, Fall 2014, Spring 2014, Winter 2014

Courses at Cornish College of the Arts

Humanities and Sciences 260

"The Future of Ruin," Fall 2014

Courses at the University of Washington:

English 111: Exposition: Literature

"Literature of Horror and the Uncanny," Winter 2012

English 111: Exposition: Literature

"Reading Culture Through Fairy Tales," Fall 2009

"History, Memory, and the Graphic Novel," Spring 2007, Summer 2007, Fall 2006

"The Unreliable Narrator," Spring 2006, Winter 2006, Fall 2005

English 131: Exposition: Composition

"The Meaning of Memory," Winter 2011, Spring 2011

"Monuments, Media, and the Making of Public History," Winter 2009, Fall 2008, Spring 2005,
Winter 2005, Fall 2004

English 200: Reading Literary Forms

"Literature of the American Gothic," Summer 2013

"The Devil and the Details," Winter 2013

"Visions of War in the Twentieth Century," Winter 2007

English 242: Reading Fiction

"Memory, Self, and the Southern Gothic," Spring 2013

"The Evolving Epistemology of Horror," Fall 2012

"Nationalism and the American Short Story," Winter 2008

English 243: Reading Poetry

"Poetry and Poetics," Fall 2007

English 249: Science Fiction and Fantasy

"Introduction to Sci-Fi in Film and Literature," Winter 2013

English 250: Intro to American Literature

"American Metaphysical Literature," Spring 2008

English 355: Contemporary American Literature

"American Horror Story: Postmodern Literature of the Unsettled and Unsettling," Spring 2012

English 468: Women Writers

“Women Writers on War and Violence,” Fall 2012

Courses at the University of Illinois at Chicago

English 161: First Year Writing
“Leisure and Culture,” Fall 2003, Spring 2004

Courses at the University of Notre Dame

English 13100: First Year Composition
“Introduction to Cultural Studies,” Spring 2002, Fall 2001

English 20002: Intro to Creative Writing
“Intro to Writing Poetry,” Spring 2003

• INSTRUCTOR TRAINING AND EDUCATION

University of Washington, Seattle WA
Theory and Practice of Teaching Literature, Fall 2006
Approaches to Teaching Composition, Fall 2004

University of Illinois at Chicago, Chicago IL
Teaching College Writing, Fall 2003

University of Notre Dame, Notre Dame IN
Practicum: Teaching Composition and Literature, Spring 2001

• PUBLICATIONS

“Writing Manifesto” in Feldman, Ann M. *Making Writing Matter: Composition in the Engaged University*. New York: State U of New York P, 2009. 187 – 193.

• POETRY PUBLICATIONS

“Recovery Triptych” in *Notre Dame Review*, Winter 2012

“Mitterand’s Last Meal” in *Notre Dame Review*, Winter 2011

“Minerva’s Owl” in *Notre Dame Review*, Winter 2011

“Poem Because of Max Jacob and Paula Becker” in *Notre Dame Review*, Winter 2011

“Norwich Walks” in *Notre Dame Review*, Winter 2006

"Connections" in *Shenandoah*, Fall 2002

- **CONFERENCE PAPERS**

"Material Memory in the Digital World: The Future of Textual Studies"
Society for Textual Scholarship conference, March 2013

"Author, Editor, Anthology: Wilfred Owen's Poetry and the Memory of the First World War"
South Atlantic Modern Language Association conference, November 2011

- **MEMBERSHIPS**

Phi Beta Kappa
Arizona Historical Society
Arizona Jewish Historical Society
Advisory Committee for the College of Arts and Sciences, Northern Arizona University

- **ADDITIONAL WORK EXPERIENCE**

Bryant Nagel Galleries, Sedona AZ
Owner, July 2017-January 2020

Amazon.com, Seattle WA
Freelance Copywriter, January 2013-July 2014
Duties in this position include researching, writing, and editing sales and marketing copy for the Industrial and Technological branch of Amazon.com and AmazonSupply.com.

University Preparatory Academy, Seattle WA
On-Call Substitute Teacher, 2013-2014

JEI / eWay Korean Learning Center, Bellevue WA
English Writing and Literature Instructor for Grades 6-9, June- August 2010
Duties in this position included teaching and tutoring English Language and Literature for middle- and high-school age students, developing lesson plans, and preparing and grading assignments and exams.

University of Notre Dame, Notre Dame IN
Editorial Assistant, Notre Dame Review, September 2000-June 2002
Duties in this position included reading and evaluating manuscripts and helping to prepare the journal for publication.

University of Notre Dame, Notre Dame IN
Assistant to Public Relations Specialist, College of Arts and Letters, Dec 2000 – July 2003
Duties in this position included photographing department events, lectures, and classes; editing photographs using Photoshop; cataloging and organizing event photographs; creating and maintaining department webpages using Dreamweaver; composing

narrative descriptions of event used in various publicity materials; and training new PR workers.

University of East Anglia, Norwich UK

Admissions Secretary (Temporary), School of Nursing and Midwifery, Hellesdon Hospital, June 1999 – January 2000

Duties in this position included managing incoming applications, corresponding with applicants, liaising with new students, creating and organizing filing systems, managing applicant databases, assisting with department staff meetings, and training the new hire.

• **ADDITIONAL SKILLS**

Teaching in computer-integrated classrooms and on-line courses, using Canvas, Catalyst, Angel, and Blackboard

Computer Programs: Camtasia Studio, Microsoft Word, Excel, Access, Power Point; Adobe Dreamweaver and Photoshop

• **PROFESSIONAL REFERENCEES**

Kathleen Woodward
Director, Walter Chapin Simpson Center for the Humanities
Professor, English
University of Washington
[REDACTED]

Steven Rosendale
Professor, English
Northern Arizona University
[REDACTED]

Donelle Ruwe
Professor and Chair, English
Northern Arizona University
[REDACTED]

Matt Schwisow
Professor, English
Highline College
[REDACTED]

Raimonda Modiano
Professor, English and Comparative Literature
University of Washington
[REDACTED]

Robert Abrams
Professor, English

University of Washington



Volunteer Opportunities

TOWN OF PARADISE VALLEY COMMITTEE VOLUNTEER APPLICATION FORM

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Please provide the following background information.

Name*	Kathryn Petsas
Address*	East Berneil Lane
Email*	
Home Phone	
Employer	Self
Occupation	Design, public relations
Business Phone	
Cell Phone	
Number of years as PV resident	18
Professional experience highlights	

Advertising / Communications Exec for large utility
Media relations - Kids Voting Az
Political campaign organization

What experience do you think qualifies you to be a committee member?

Over the decades I have served on numerous charitable boards and committees and understand the importance of being a team player, and when to step up to lead.
I am a native Arizonan and have lived in the town or very near it all my life. Thus I have had the pleasure to work with many in our PV community in other capacities. I am resourceful, quick study and have the ability to view the systemic nature of a situation to avoid potential challenge or undesired outcome.
Overall I believe clear communication and opening lines of communication is the key to success in any professional or volunteer organization .

Community Activities

O'Connor Institute Patrons Circle
Phoenix Art Museum Circles member, Independent Woman Luncheon Designer Chair,
American Heart Association
Trends Charitable Foundation Board of Directors
Children's Authors Luncheon
National Charity League, president ; Boys Team Charity
30 years serving as a political precinct /state committeeman, chairman of legislative district
Ran for the state house in 2018

Information on each of the committees including summaries, annual reports, and meeting minutes are located on the Boards & Commissions page.

[Information on Committees](#)

Have you familiarized yourself with the duties of the committee(s) in which you are interested?*

☒ Yes

☐ No

Attach resume and cover letter

No file chosen

Convert to PDF? ☐

(DOC, DOCX, XLS, XLSX, TXT)

* indicates required fields.

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Please provide the following background information.

Name*

Blair Portugal

Address*

Village Drive PV 85253

Email*

Home Phone

Employer

Artemis Capital

Occupation

Finance/Bridge Financing/Private Equity

Business Phone

Cell Phone

Number of years as PV resident

5

Professional experience highlights

. Current-Board of Trustee-Phoenix Art Museum,Current Treasurer(3 year term), Sit on Audit Committee, Executive Committee, and Endowment Committee
. Thirty Years of Philanthropic
. Thirty years of business activity covering all facets of fiance, law, structuring of solutions to complex solutions, and working with both local officials.

What experience do you think qualifies you to be a committee member?

I have over thirty years of working within various philanthropic organizations that includes interaction with staff at all levels. For example currently at the Phx. Art Museum I have daily interaction with all staff levels in an effort to work and assist side by side. As the current Treasurer I am involved with all facets of the Museum as well as outside organizations. As founder of Artemis Capital, I have broad experience in analyzing, underwriting, structuring, and funding capital to Sponsors, which includes legal analysis, City and State analysis(current applicable City rules and regulations , zoning laws, ect.), and working with a broad array of professionals, such as engineers, architects, lawyers, and accountants.

Community Activities

. Free Arts of Arizona
. UMOM
. Phoenix Art Museum
. various other volunteer activities

Information on each of the committees including summaries, annual reports, and meeting minutes are located on the Boards & Commissions page.

[Information on Committees](#)

Have you familiarized yourself with the duties of the committee(s) in which you are interested?*

☒ Yes

☐ No

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Please provide the following background information.

Name*

June Shapiro

Address*

██████ Via Los Caballos

Email*

████████████████████

Home Phone

██████████

Employer

Realty Executives

Occupation

Real Estate Broker

Business Phone

██████████

Cell Phone

██████████

Number of years as PV resident

26

Professional experience highlights

Licensed Real Estate Broker for over 40 years servicing Paradise Valley
Expert Witness for Real Estate legal cases
Special Real Estate Commissioner for the Court
Arizona Regional MLS grievance committee
AZ Luxury Home Tour co -chair
Member of the Board of AZ Luxury Home Tour
MBA University of Arizona
Former Business Consultant under contract from the SBA
Salesperson for Fortune 500 Company

What experience do you think qualifies you to be a committee member?

My extensive Real Estate experience and understanding of residential zoning rules in Paradise Valley is my strongest asset. Additionally, I have experience working on committees and boards, business experience as an Entrepreneur, and am a longtime resident of Paradise Valley. I am very committed to my community and take volunteer jobs with enthusiasm and commitment.

Community Activities

Valley Leadership Class of XX
Former Board Member Sojourner Center
Numerous Charitable committees including John C. Lincoln hospital, AZ Women's Foundation, Jewish Federation, Kivel Nursing Home, Trends Charitable Fund, Sojourner Center, Junior League
Homeowners Association President

Information on each of the committees including summaries, annual reports, and meeting minutes are located on the Boards & Commissions page.

[Information on Committees](#)

Have you familiarized yourself with the duties of the committee(s) in which you are interested?*

☒ Yes

☐ No

Attach resume and cover letter

No file chosen

Convert to PDF? ☐

(DOC, DOCX, XLS, XLSX, TXT)

* indicates required fields.

Volunteer Opportunities

TOWN OF PARADISE VALLEY COMMITTEE VOLUNTEER APPLICATION FORM

Thank you for your interest in volunteering with the Town. Appointments to committees, commissions, and boards are made in late March of each year and terms begin April 1. Applications are accepted throughout the year. The deadline to be considered for appointment is February 4th at 5:00 PM. Applications received after that time will be kept on file and may be considered for mid-term vacancies. It is not necessary to list a committee preference. During the interview with the Mayor and Council, consideration will be given to the applicant's background, skills, and interests to assist in determining the best fit.

Please provide the following background information.

Name*

Jonathan Wainwright

Address*

██████ casa blanca dr.

Email*

████████████████████

Home Phone

██████████

Employer

Wainwright-American

Occupation

Home building / Investment real estate

Business Phone

██████████

Cell Phone

██████████

Number of years as PV resident

55

Professional experience highlights

Thirty five years of experience in construction finance and home building.

What experience do you think qualifies you to be a committee member?

I have served in a number of different positions with the Town of Paradise Valley since the late 1970s which include but are not limited to:
Seven years Planning Commission and current Chairman
Fifteen years Board of Adjustment served as Chairman
Town Bailiff
Annexation Solicitor
Member of the Paradise Valley Street Department

Community Activities

Have served on numerous boards of 501(c)(3) corporations, including roles as president/chairman
Served as an officer and president of numerous HOA's including ones in Paradise Valley
Volunteered as a driver in the Town for the Special Olympics run/walk and Police Department Torch Pass

Information on each of the committees including summaries, annual reports, and meeting minutes are located on the Boards & Commissions page.

[Information on Committees](#)

Have you familiarized yourself with the duties of the committee(s) in which you are interested?*

☒ Yes

☐ No

Attach resume and cover letter

No file chosen

Convert to PDF? ☐

(DOC, DOCX, XLS, XLSX, TXT)

* indicates required fields.

WILLIAM F. WILDER
[REDACTED] Homestead Lane
Paradise Valley, AZ 85253

January 13, 2021

Please accept this letter and the enclosure as my Application for appointment, as a volunteer to a Town of Paradise Valley committee, commission or Board

I do not have a preference as to the entity I would be appointed to and request that the Town make a determination as to how I may best volunteer to be of assistance

My Name is:-

William F. Wilder

My Address is:-

My Email is:-

My Home Phone is:- 602 [REDACTED]

My Occupation is:- semi-retired attorney

My Employer is:- Ryley, Carlock & Applewhite, PC

My Business Phone is:- [REDACTED]

My Cell Phone is:- [REDACTED]

WILLIAM F. WILDER
[REDACTED] Homestead Lane
Paradise Valley, AZ 85253

②

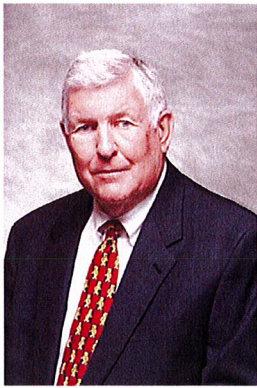
My wife Lina and I purchased a lot in Paradise Valley in 1989 and built a home starting in 1987 and have lived in the Town since late 1998.

Please see the enclosed Biography which I hope provides further information.

I am pleased to be in a position to provide volunteer services and feel that based on my background and experience that I am able to offer a wide range of experience that may be useful to the Town.

Sincerely,

[REDACTED]



William F. Wilder

Senior Counsel | Phoenix



Solutions

- Public Finance and Corporate Trust
- Business
- Lending
- Real Estate

Bill joined Ryley Carlock & Applewhite in 1964 following his graduation from the University of Arizona College of Law and served as the firm's Managing Shareholder from 1988 to 1998.

He has a diversified practice in the areas of public finance, corporate and securities law, real estate, probate and estate planning, and representation of corporate fiduciaries, with a primary emphasis on the representation of clients in all aspects of public finance law. Bill has extensive experience in representing public entities and in serving as counsel to issuers, underwriters, indenture trustees, borrowing entities, and as bond counsel in connection with public financing transactions. He also serves as a general counsel to a number of profit and nonprofit corporations.

A native Arizonan, Bill was born in Prescott on August 29, 1938, is married to Liisa and has two adult children, Rebecca Butcher and Andrew Wilder, and five grandchildren.

Scouting has always been a part of Bill's life and as a young man he was active in scouting, was a camp counselor and water safety instructor and is an Eagle Scout.

Bill graduated from Tucson High School in 1956 and upon graduation reported for active duty aboard the U.S.S. Mansfield, DD 728, where he served as a signalman. He returned to Tucson in 1958 and entered the University of Arizona, completed his naval reserve duty and was honorably discharged in 1962.

Bill is active in the business, civic and cultural affairs of the greater Phoenix area. In his free time Bill enjoys hunting, fishing, hiking, skiing, tennis, exploring the southwest, traveling, studying history of any era, and spending time with his family.

Publications & Speaking Experience

Bill is a frequent lecturer at various legal and continuing education seminars and programs.

Civic Memberships & Associations

- Arizona Desert Bighorn Sheep Society, Member
- Arizona Historical Society, Member
- Roosevelt Rough Riders, Member
- Phoenix Art Museum, Member
- Desert Botanical Garden, Trustee (2009-2018 and 1997-2007), President of Board of Trustees (2004-2006)
- Volunteer at the Desert Botanical Garden (2019-present)

- Phoenix Community Alliance, Director (1994-present)
- Audubon Arizona, Director (2006-2012)
- Arizonans for Cultural Development, Director (1994-2000)
- The Arizona Club, Director (1993-1997), President (1995-1996)
- Assistance League of Phoenix, Chapter Advisory Board (1989-1993)
- National Municipal League, Regional Vice President (1985-1986)
- American Heart Association Arizona Affiliate, Director (1975-1983), Chairman of Board (1982-1983)
- Ducks Unlimited, Phoenix Area Chairman (1974-1976)
- Boy Scouts of America, Assistant Scoutmaster (1965-1975)

Professional Memberships & Associations

- AV-Rated Attorney by *Martindale-Hubbell*.
- Listed in *Best Lawyers in America*®
- Named to *Legal Leaders'* Top Rated Lawyer List
- National Association of Bond Lawyers, Member
- Arizona and Maricopa County Bar Associations, Member
- Arizona Bar Foundation, Founding Fellow

Admitted to Practice

- Arizona, 1964
- U.S. District Court, District of Arizona, 1964

Education

- B.S., University of Arizona, 1962
- LL.B., University of Arizona, 1964 (Graduated 3rd in class)

Addresses

▪ Business

Riley, Carlock & Applewhite
3200 North Central Avenue
Suite 1600
Phoenix, AZ 85012

▪ Residence

- [REDACTED] Homestead Lane
- Paradise Valley, AZ 85023



William F. Wilder



Public Finance Law
Phoenix, Arizona



William F. Wilder



Public Finance Law
Phoenix, Arizona



Volunteer Opportunities

TOWN OF PARADISE VALLEY COMMITTEE VOLUNTEER APPLICATION FORM

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Please provide the following background information.

Name*

Mark Winograd

Address*

CRYSTAL LN

Email*

Home Phone

Employer

Retired

Occupation

Physician

Business Phone

NA

Cell Phone

Number of years as PV resident

31

Professional experience highlights

As a physician, I have international experience. I founded the Division of Neurology at the University of the West Indies, Kingston Jamaica. Returning to the U.S. I first had a teaching hospital based position and then private practice; I had significant administrative responsibilities throughout my career. (See accompanying letter for more details.)

What experience do you think qualifies you to be a committee member?

I have a unique blend of professional and community activities, which demonstrates my interest in both the local community and the world at large. I will take the perspectives, insights and experiences I've had and use them in service for Paradise Valley.

Community Activities

AZ director of Physicians for a National Health Plan
Precinct captain, LD28, Democratic Party (current)
Member, AZ Democratic Party State Committee (current)
Founded Paradise Valley Democratic Club
Member Temple Solel, 30 years

Information on each of the committees including summaries, annual reports, and meeting minutes are located on the Boards & Commissions page.

[Information on Committees](#)

Have you familiarized yourself with the duties of the committee(s) in which you are interested?*

☒ Yes

☐ No

Attach resume and cover letter

[Cover letter, Mark Winograd, MD 02_03_2021.pdf](#)

* indicates required fields.

Mark Winograd, MD

02/03/2021

██████████ Crystal lane
Paradise Valley, AZ, 85253
████████████████████
██████████

Town Clerk's Office
Town Of Paradise Valley, AZ

To whom it may concern,

I wish to share my time and life experiences with the Town of Paradise Valley by serving on one of its volunteer committees. I am an almost retired neurologist and have lived in Paradise Valley since 1980. Throughout my life I have been involved in community and medical affairs.. I am currently a precinct committee person for the Clearwater precinct, and am a member of the State Committee of the AZ Democratic Party. In the 2000s I founded the Paradise Valley Democratic Club.. This lasted about a decade, with it eventually melding into the AZ LD28 Democratic organization. In the 1990s I was the state director for Physicians for a National Health Plan. In addition to political activities, I have been an active member of the medical community. My first position out of training was in the Department of Medicine, University of the West Indies, Kingston Jamaica. I was the first trained neurologist to work fulltime in the English speaking West Indies. My task was to set up an ongoing Division of Neurology and to train medical students and residents. After returning to the U.S. I worked at Maricopa Medical Center, a teaching hospital, before going into private practice in western Maricopa County. At MMC I served on many committees, including as a long term chairman of the Credentials Committee. Later, I served as director of the stroke unit at Banner Thunderbird Hospital. After closing my medical practice, I have continued my work for the AZ Board of Medical Examiners as a reviewer. I have been an active member of Temple Solel for 30 years.

I would like to add that serving Paradise Valley runs in my family. My wife, Sandra Slaton, was a two decade long volunteer judge in Paradise Valley.

I believe that I will bring my many skills and experiences to any committee I would serve. I am a committed long time resident of Paradise Valley. My activities over the years demonstrate a desire to do something of value for the community. I have extensive experience in administration and teaching; I have been politically active for many years, and have a feeling for how things get done.

Thank you for your consideration,

Mark Winograd, MD



Action Report

File #: 21-047

TO: Mayor Bien-Willner and Town Council Members

FROM: Jill B. Keimach, Town Manager
Duncan Miller, Town Clerk

DEPARTMENT: Town Manager

AGENDA TITLE:
Consideration of Requests for Future Agenda Items

Council Goals or Other Policies / Statutory Requirements:
Resolution 2018-09: Town Council Rules of Procedure

RECOMMENDATION:
Review the current list of pending agenda topics.

SUMMARY STATEMENT:
Attached is the most recent Town Council Study Session Topic Schedule. Pursuant to the Council's Rules and Procedures, as adopted by Resolution Number 2018-09, any member of the Council may move to have the Town Manager add an item to a future agenda. Upon concurrence of two or more Council Members, which may include the Mayor, the item will be added to the pre-business meeting study session agenda within the next two regularly scheduled Town Council meetings.

Discussion on the motion to add an item to a future agenda shall be limited to the propriety of placing the item on an agenda and shall not include discussion on the merits of the topic itself.

BUDGETARY IMPACT:
None

ATTACHMENT(S):
Future agenda topics schedule

TOWN COUNCIL STUDY SESSION TOPIC SCHEDULE

February 5, 2021

02/25	03/11	03/XX	03/25
<p>3 PM EXECUTIVE SESSION</p> <p>4 PM STUDY SESSION</p> <ul style="list-style-type: none"> Monthly Financial Update Wall and Fence Setback Code Direction to PC <p>PRESENTATION</p> <p>CONSENT</p> <ul style="list-style-type: none"> Amend Cingular/AT&T Lease Agreement for Public Works Building Town Manager Contract <p>PUBLIC HEARING</p> <ul style="list-style-type: none"> Recreational Marijuana <p>ACTION ITEMS</p> <ul style="list-style-type: none"> Street Maintenance Contract Extension and Lincoln Dr Overlay <p>STUDY SESSION CONTINUED 7 PM</p> <ul style="list-style-type: none"> Committee Volunteer Interviews 	<p>3 PM EXECUTIVE SESSION</p> <p>4 PM STUDY SESSION</p> <p>PRESENTATION</p> <ul style="list-style-type: none"> Experience Scottsdale Update <p>CONSENT</p> <p>PUBLIC HEARING</p> <p>ACTION ITEMS</p> <ul style="list-style-type: none"> <p>STUDY SESSION CONTINUED 7 PM</p> <ul style="list-style-type: none"> Committee Volunteer Interviews <p>EXECUTIVE SESSION</p> <p>Committee, Commission, Board Applicant Discussions</p>	<p>SPECIAL MEETING GOVERNANCE DISCUSSION</p>	<p>3 PM EXECUTIVE SESSION</p> <p>4 PM STUDY SESSION</p> <ul style="list-style-type: none"> Extension of Resolution 2020-15 Rescission of certain code provisions for COVID Pad Height Unruly gathering and special events ordinances Reasonable accommodation guide <p>PRESENTATION</p> <p>CONSENT</p> <p>PUBLIC HEARING</p> <p>ACTION ITEMS</p> <ul style="list-style-type: none"> Extension of Res. 2020-15 Rescission of certain code provisions for COVID Committee, Commission, & Board Reappointments <p>STUDY SESSION CONTINUED</p>

